

Oct. 18, 1972, 86 Stat. 816, which is classified generally to chapter 26 (§1251 et seq.) of Title 33, Navigation and Navigable Waters. For complete classification of this Act to the Code, see Short Title note set out under section 1251 of Title 33 and Tables.

The Department of Energy Organization Act, referred to in subsec. (a), is Pub. L. 95-91, Aug. 4, 1977, 91 Stat. 565, as amended, which is classified principally to chapter 84 (§7101 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 7101 of Title 42 and Tables.

§ 1304. Surface owner protection

(a) Applicability

The provisions of this section shall apply where coal owned by the United States under land the surface rights to which are owned by a surface owner as defined in this section is to be mined by methods other than underground mining techniques.

(b) Lease of coal deposits governed by section 201 of this title

Any coal deposits subject to this section shall be offered for lease pursuant to section 201(a) of this title.

(c) Consent to lease by surface owner

The Secretary shall not enter into any lease of Federal coal deposits until the surface owner has given written consent to enter and commence surface mining operations and the Secretary has obtained evidence of such consent. Valid written consent given by any surface owner prior to August 3, 1977, shall be deemed sufficient for the purposes of complying with this section.

(d) Preferences

In order to minimize disturbance to surface owners from surface coal mining of Federal coal deposits and to assist in the preparation of comprehensive land-use plans required by section 201(a) of this title, the Secretary shall consult with any surface owner whose land is proposed to be included in a leasing tract and shall ask the surface owner to state his preference for or against the offering of the deposit under his land for lease. The Secretary shall, in his discretion but to the maximum extent practicable, refrain from leasing coal deposits for development by methods other than underground mining techniques in those areas where a significant number of surface owners have stated a preference against the offering of the deposits for lease.

(e) "Surface owner" defined

For the purpose of this section the term "surface owner" means the natural person or persons (or corporation, the majority stock of which is held by a person or persons who meet the other requirements of this section) who—

(1) hold legal or equitable title to the land surface;

(2) have their principal place of residence on the land; or personally conduct farming or ranching operations upon a farm or ranch unit to be affected by surface coal mining operations; or receive directly a significant portion of their income, if any, from such farming or ranching operations; and

(3) have met the conditions of paragraphs (1) and (2) for a period of at least three years prior to the granting of the consent.

In computing the three-year period the Secretary may include periods during which title was owned by a relative of such person by blood or marriage during which period such relative would have met the requirements of this subsection.

(f) Exception

This section shall not apply to Indian lands.

(g) Effect on property rights of United States or any other landowner

Nothing in this section shall be construed as increasing or diminishing any property rights by the United States or by any other landowner.

(Pub. L. 95-87, title VII, §714, Aug. 3, 1977, 91 Stat. 524.)

§ 1305. Federal lessee protection

In those instances where the coal proposed to be mined by surface coal mining operations is owned by the Federal Government and the surface is subject to a lease or a permit issued by the Federal Government, the application for a permit shall include either:

(1) the written consent of the permittee or lessee of the surface lands involved to enter and commence surface coal mining operations on such land, or in lieu thereof;

(2) evidence of the execution of a bond or undertaking to the United States or the State, whichever is applicable, for the use and benefit of the permittee or lessee of the surface lands involved to secure payment of any damages to the surface estate which the operations will cause to the crops, or to the tangible improvements of the permittee or lessee of the surface lands as may be determined by the parties involved, or as determined and fixed in an action brought against the operator or upon the bond in a court of competent jurisdiction. This bond is in addition to the performance bond required for reclamation under this chapter.

(Pub. L. 95-87, title VII, §715, Aug. 3, 1977, 91 Stat. 525.)

§ 1306. Effect on rights of owner of coal in Alaska to conduct surface mining operations

Nothing in this chapter shall be construed as increasing or diminishing the rights of any owner of coal in Alaska to conduct or authorize surface coal mining operations for coal which has been or is hereafter conveyed out of Federal ownership to the State of Alaska or pursuant to the Alaska Native Claims Settlement Act [43 U.S.C. 1601 et seq.]: *Provided*, That such surface coal mining operations meet the requirements of this chapter.

(Pub. L. 95-87, title VII, §716, Aug. 3, 1977, 91 Stat. 526.)

REFERENCES IN TEXT

The Alaska Native Claims Settlement Act, referred to in text, is Pub. L. 92-203, Dec. 18, 1971, 85 Stat. 688, as amended, which is classified generally to chapter 33 (§1601 et seq.) of Title 43, Public Lands. For complete classification of this Act to the Code, see Short Title note set out under section 1601 of Title 43 and Tables.

§ 1307. Water rights and replacement

(a) Nothing in this chapter shall be construed as affecting in any way the right of any person

to enforce or protect, under applicable law, his interest in water resources affected by a surface coal mining operation.

(b) The operator of a surface coal mine shall replace the water supply of an owner of interest in real property who obtains all or part of his supply of water for domestic, agricultural, industrial, or other legitimate use from an underground or surface source where such supply has been affected by contamination, diminution, or interruption proximately resulting from such surface coal mine operation.

(Pub. L. 95-87, title VII, §717, Aug. 3, 1977, 91 Stat. 526.)

§ 1308. Advance appropriations

Notwithstanding any other provision of this chapter, no authority to make payments under this chapter shall be effective except to such extent or in such amounts as are provided in advance in appropriation Acts.

(Pub. L. 95-87, title VII, §718, Aug. 3, 1977, 91 Stat. 526.)

§ 1308a. Use of civil penalty funds to reclaim lands

In fiscal year 2009 and thereafter, the Secretary of the Interior, pursuant to regulations, may use directly or through grants to States, moneys collected for civil penalties assessed under section 1268 of this title, to reclaim lands adversely affected by coal mining practices after August 3, 1977, to remain available until expended.

(Pub. L. 111-8, div. E, title I, Mar. 11, 2009, 123 Stat. 712.)

CODIFICATION

Section was enacted as part of the Department of the Interior, Environment, and Related Agencies Appropriations Act, 2009, and also as part of the Omnibus Appropriations Act, 2009, and not as part of the Surface Mining Control and Reclamation Act of 1977 which comprises this chapter.

§ 1309. Certification and training of blasters

In accordance with this chapter, the Secretary of the Interior (or the approved State regulatory authority as provided for in section 1253 of this title) shall promulgate regulations requiring the training, examination, and certification of persons engaging in or directly responsible for blasting or use of explosives in surface coal mining operations.

(Pub. L. 95-87, title VII, §719, Aug. 3, 1977, 91 Stat. 526.)

§ 1309a. Subsidence

(a) Requirements

Underground coal mining operations conducted after October 24, 1992, shall comply with each of the following requirements:

(1) Promptly repair, or compensate for, material damage resulting from subsidence caused to any occupied residential dwelling and structures related thereto, or non-commercial building due to underground coal mining operations. Repair of damage shall include

rehabilitation, restoration, or replacement of the damaged occupied residential dwelling and structures related thereto, or non-commercial building. Compensation shall be provided to the owner of the damaged occupied residential dwelling and structures related thereto or non-commercial building and shall be in the full amount of the diminution in value resulting from the subsidence. Compensation may be accomplished by the purchase, prior to mining, of a noncancellable premium-prepaid insurance policy.

(2) Promptly replace any drinking, domestic, or residential water supply from a well or spring in existence prior to the application for a surface coal mining and reclamation permit, which has been affected by contamination, diminution, or interruption resulting from underground coal mining operations.

Nothing in this section shall be construed to prohibit or interrupt underground coal mining operations.

(b) Regulations

Within one year after October 24, 1992, the Secretary shall, after providing notice and opportunity for public comment, promulgate final regulations to implement subsection (a) of this section.

(Pub. L. 95-87, title VII, §720, as added Pub. L. 102-486, title XXV, §2504(a)(1), Oct. 24, 1992, 106 Stat. 3104.)

REVIEW OF EXISTING REQUIREMENTS AND REPORT TO CONGRESS

Section 2504(a)(2) of Pub. L. 102-486 directed Secretary of the Interior to review existing requirements related to underground coal mine subsidence and natural gas and petroleum pipeline safety, submit a report detailing results of review to Committee on Energy and Natural Resources of Senate and Committee on Interior and Insular Affairs of House of Representatives within 18 months of Oct. 24, 1992, and, where appropriate, to commence a rulemaking to address any deficiencies in existing law determined in the review regarding notification, coordination and mitigation.

§ 1309b. Research

The Office of Surface Mining Reclamation and Enforcement is authorized to conduct studies, research and demonstration projects relating to the implementation of, and compliance with, subchapter V of this chapter, and provide technical assistance to states¹ for that purpose. Prior to approving any such studies, research or demonstration projects the Director, Office of Surface Mining Reclamation and Enforcement, shall first consult with the Director, Bureau of Mines, and obtain a determination from such Director that the Bureau of Mines is not already conducting like or similar studies, research or demonstration projects. Studies, research and demonstration projects for the purposes of subchapter IV of this chapter shall only be conducted in accordance with section 1231(c)(6)² of this title.

(Pub. L. 95-87, title VII, §721, as added Pub. L. 102-486, title XXV, §2504(c)(3), Oct. 24, 1992, 106 Stat. 3105.)

¹ So in original. Probably should be capitalized.

² See References in Text note below.