

CODIFICATION

Another section 6005 of Pub. L. 89-272 is classified to section 6966 of this title.

§ 6966b. Use of granular mine tailings**(a) Mine tailings****(1) In general**

Not later than 180 days after August 10, 2005, the Administrator, in consultation with the Secretary of Transportation and heads of other Federal agencies, shall establish criteria (including an evaluation of whether to establish a numerical standard for concentration of lead and other hazardous substances) for the safe and environmentally protective use of granular mine tailings from the Tar Creek, Oklahoma Mining District, known as “chat”, for—

(A) cement or concrete projects; and

(B) transportation construction projects (including transportation construction projects involving the use of asphalt) that are carried out, in whole or in part, using Federal funds.

(2) Requirements

In establishing criteria under paragraph (1), the Administrator shall consider—

(A) the current and previous uses of granular mine tailings as an aggregate for asphalt; and

(B) any environmental and public health risks and benefits derived from the removal, transportation, and use in transportation projects of granular mine tailings.

(3) Public participation

In establishing the criteria under paragraph (1), the Administrator shall solicit and consider comments from the public.

(4) Applicability of criteria

On the establishment of the criteria under paragraph (1), any use of the granular mine tailings described in paragraph (1) in a transportation project that is carried out, in whole or in part, using Federal funds, shall meet the criteria established under paragraph (1).

(b) Effect of sections

Nothing in this section or section 6966a of this title affects any requirement of any law (including a regulation) in effect on August 10, 2005.

(Pub. L. 89-272, title II, §6006, as added Pub. L. 109-59, title VI, §6018(a), Aug. 10, 2005, 119 Stat. 1890.)

REFERENCES IN TEXT

Section 6966a of this title, referred to in subsec. (b), was in the original “section 6005” meaning section 6005 of Pub. L. 89-272, which was translated as meaning the section 6005 of Pub. L. 89-272 as added by section 6017(a) of Pub. L. 109-59, to reflect the probable intent of Congress.

SUBCHAPTER VII—MISCELLANEOUS PROVISIONS

§ 6971. Employee protection**(a) General**

No person shall fire, or in any other way discriminate against, or cause to be fired or dis-

criminated against, any employee or any authorized representative of employees by reason of the fact that such employee or representative has filed, instituted, or caused to be filed or instituted any proceeding under this chapter or under any applicable implementation plan, or has testified or is about to testify in any proceeding resulting from the administration or enforcement of the provisions of this chapter or of any applicable implementation plan.

(b) Remedy

Any employee or a representative of employees who believes that he has been fired or otherwise discriminated against by any person in violation of subsection (a) of this section may, within thirty days after such alleged violation occurs, apply to the Secretary of Labor for a review of such firing or alleged discrimination. A copy of the application shall be sent to such person who shall be the respondent. Upon receipt of such application, the Secretary of Labor shall cause such investigation to be made as he deems appropriate. Such investigation shall provide an opportunity for a public hearing at the request of any party to such review to enable the parties to present information relating to such alleged violation. The parties shall be given written notice of the time and place of the hearing at least five days prior to the hearing. Any such hearing shall be of record and shall be subject to section 554 of title 5. Upon receiving the report of such investigation, the Secretary of Labor shall make findings of fact. If he finds that such violation did occur, he shall issue a decision, incorporating an order therein and his findings, requiring the party committing such violation to take such affirmative action to abate the violation as the Secretary of Labor deems appropriate, including, but not limited to, the rehiring or reinstatement of the employee or representative of employees to his former position with compensation. If he finds that there was no such violation, he shall issue an order denying the application. Such order issued by the Secretary of Labor under this subparagraph shall be subject to judicial review in the same manner as orders and decisions of the Administrator or subject to judicial review under this chapter.

(c) Costs

Whenever an order is issued under this section to abate such violation, at the request of the applicant, a sum equal to the aggregate amount of all costs and expenses (including the attorney’s fees) as determined by the Secretary of Labor, to have been reasonably incurred by the applicant for, or in connection with, the institution and prosecution of such proceedings, shall be assessed against the person committing such violation.

(d) Exception

This section shall have no application to any employee who, acting without direction from his employer (or his agent) deliberately violates any requirement of this chapter.

(e) Employment shifts and loss

The Administrator shall conduct continuing evaluations of potential loss or shifts of employment which may result from the administration