

(Pub. L. 95–87, title V, § 527, Aug. 3, 1977, 91 Stat. 513.)

**§ 1278. Surface mining operations not subject to this chapter**

The provisions of this chapter shall not apply to any of the following activities:

- (1) the extraction of coal by a landowner for his own noncommercial use from land owned or leased by him; and
- (2) the extraction of coal as an incidental part of Federal, State or local government-financed highway or other construction under regulations established by the regulatory authority.

(Pub. L. 95–87, title V, § 528, Aug. 3, 1977, 91 Stat. 514; Pub. L. 100–34, title II, § 201(a), May 7, 1987, 101 Stat. 300.)

AMENDMENTS

1987—Pub. L. 100–34 inserted “and” after “him;” in par. (1), redesignated par. (3) as (2), and struck out former par. (2) which read as follows: “the extraction of coal for commercial purposes where the surface mining operation affects two acres or less; and”.

EFFECTIVE DATE OF 1987 AMENDMENT

Pub. L. 100–34, title II, § 201(b)–(e), May 7, 1987, 101 Stat. 300, provided that:

“(b) EFFECTIVE DATE FOR NEW OPERATIONS.—The amendments made by this section [amending this section] shall take effect on the date 30 days after the enactment of this Act [May 7, 1987] with respect to each operator commencing surface coal mining operations on or after such date.

“(c) EFFECTIVE DATE FOR EXISTING OPERATIONS.—The amendments made by this section shall take effect on the date 6 months after the enactment of this Act with respect to each operator commencing surface coal mining operations pursuant to an authorization under State law before the date 30 days after the enactment of this Act. Nothing in this Act [amending this section and section 1232 of this title] shall preclude reclamation activities pursuant to State law or regulations at the site of any surface coal mine which was exempt from the Surface Mining Control and Reclamation Act of 1977 [30 U.S.C. 1201 et seq.] under section 528(2) of that Act [30 U.S.C. 1278(2)], as in effect before the enactment of this Act.

“(d) EFFECT ON STATE LAW.—To the extent that any provision of a State law, or of a State regulation, adopted pursuant to the exception under section 528(2) of the Surface Mining Control and Reclamation Act of 1977 as in effect before the enactment of this Act, is inconsistent with the amendments made by this section, such provision shall be of no further force and effect after the effective date of such amendments.

“(e) DEFINITION.—For purposes of this section, the term ‘surface coal mining operations’ has the meaning provided by section 701(28) of the Surface Mining Control and Reclamation Act of 1977 [30 U.S.C. 1291(28)].”

**§ 1279. Anthracite coal mines**

(a) The Secretary is authorized to and shall issue separate regulations according to time schedules established in this chapter for anthracite coal surface mines, if such mines are regulated by environmental protection standards of the State in which they are located. Such alternative regulations shall adopt, in each instance, the environmental protection provisions of the State regulatory program in existence on August 3, 1977, in lieu of sections 1265 and 1266 of this title. Provisions of sections 1259 and 1269 of

this title are applicable except for specified bond limits and period of revegetation responsibility. All other provisions of this chapter apply and the regulation issued by the Secretary of Interior for each State anthracite regulatory program shall so reflect: *Provided, however*, That upon amendment of a State’s regulatory program for anthracite mining or regulations thereunder in force in lieu of the above-cited sections of this chapter, the Secretary shall issue such additional regulations as necessary to meet the purposes of this chapter.

(b) Omitted.

(Pub. L. 95–87, title V, § 529, Aug. 3, 1977, 91 Stat. 514.)

CODIFICATION

Subsec. (b) of this section, which required the Secretary of the Interior to report to Congress biennially on the effectiveness of State anthracite regulatory programs operating in conjunction with this chapter with respect to protecting the environment, terminated, effective May 15, 2000, pursuant to section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance. See, also, page 109 of House Document No. 103–7.

SUBCHAPTER VI—DESIGNATION OF LANDS UNSUITABLE FOR NONCOAL MINING

**§ 1281. Designation procedures**

**(a) Review of Federal land areas for unsuitability for noncoal mining**

With respect to Federal lands within any State, the Secretary of Interior may, and if so requested by the Governor of such State shall, review any area within such lands to assess whether it may be unsuitable for mining operations for minerals or materials other than coal, pursuant to the criteria and procedures of this section.

**(b) Criteria considered in determining designations**

An area of Federal land may be designated under this section as unsuitable for mining operations if (1) such area consists of Federal land of a predominantly urban or suburban character, used primarily for residential or related purposes, the mineral estate of which remains in the public domain, or (2) such area consists of Federal land where mining operations would have an adverse impact on lands used primarily for residential or related purposes.

**(c) Petition for exclusion; contents; hearing; temporary land withdrawal**

Any person having an interest which is or may be adversely affected shall have the right to petition the Secretary to seek exclusion of an area from mining operations pursuant to this section or the redesignation of an area or part thereof as suitable for such operations. Such petition shall contain allegations of fact with supporting evidence which would tend to substantiate the allegations. The petitioner shall be granted a hearing within a reasonable time and finding with reasons therefor upon the matter of their petition. In any instance where a Governor requests the Secretary to review an area, or where the Secretary finds the national interest so requires, the Secretary may temporarily withdraw