

**§ 1241. Omitted**

## CODIFICATION

Section, Pub. L. 95-87, title IV, § 412, formerly § 411, Aug. 3, 1977, 91 Stat. 466, renumbered § 412, Pub. L. 101-508, title VI, § 6010(1), Nov. 5, 1990, 104 Stat. 1388-296, which required the Secretary of the Interior or the State pursuant to an approved State program to report to Congress annually on operations under the fund together with recommendations for future use of the fund, 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.

**§ 1242. Powers of Secretary or State****(a) Engage in work, promulgate rules and regulations, etc., to implement and administer this subchapter**

The Secretary or the State pursuant to an approved State program, shall have the power and authority, if not granted it otherwise, to engage in any work and to do all things necessary or expedient, including promulgation of rules and regulations, to implement and administer the provisions of this subchapter.

**(b) Engage in cooperative projects**

The Secretary or the State pursuant to an approved State program, shall have the power and authority to engage in cooperative projects under this subchapter with any other agency of the United States of America, any State and their governmental agencies.

**(c) Request for action to restrain interference with regard to this subchapter**

The Secretary or the State pursuant to an approved State program, may request the Attorney General, who is hereby authorized to initiate, in addition to any other remedies provided for in this subchapter, in any court of competent jurisdiction, an action in equity for an injunction to restrain any interference with the exercise of the right to enter or to conduct any work provided in this subchapter.

**(d) Construct and operate plants for control and treatment of water pollution resulting from mine drainage**

The Secretary or the State pursuant to an approved State program, shall have the power and authority to construct and operate a plant or plants for the control and treatment of water pollution resulting from mine drainage. The extent of this control and treatment may be dependent upon the ultimate use of the water: *Provided*, That the above provisions of this paragraph shall not be deemed in any way to repeal or supersede any portion of the Federal Water Pollution Control Act (33 U.S.C.A. 1151, et seq. as amended) [33 U.S.C. 1251 et seq.] and no control or treatment under this subsection shall in any way be less than that required under the Federal Water Pollution Control Act. The construction of a plant or plants may include major interceptors and other facilities appurtenant to the plant.

**(e) Transfer funds**

The Secretary may transfer funds to other appropriate Federal agencies, in order to carry out the reclamation activities authorized by this subchapter.

(Pub. L. 95-87, title IV, § 413, formerly § 412, Aug. 3, 1977, 91 Stat. 466, renumbered § 413, Pub. L. 101-508, title VI, § 6010(1), Nov. 5, 1990, 104 Stat. 1388-296.)

## REFERENCES IN TEXT

The Federal Water Pollution Control Act (33 U.S.C.A. 1151, et seq. as amended), referred to in subsec. (d), is act June 30, 1948, ch. 758, 62 Stat. 1155, formerly classified to chapter 23 (§ 1151 et seq.) of Title 33, Navigation and Navigable Waters, which was completely revised by Pub. L. 92-500, § 2, Oct. 18, 1972, 86 Stat. 816, and is classified generally to chapter 26 (§ 1251 et seq.) of Title 33. For complete classification of this Act to the Code, see Short Title note set out under section 1251 of Title 33 and Tables.

## PRIOR PROVISIONS

A prior section 413 of Pub. L. 95-87 was renumbered section 414 and is classified to section 1243 of this title.

**§ 1243. Interagency cooperation**

All departments, boards, commissioners, and agencies of the United States of America shall cooperate with the Secretary by providing technical expertise, personnel, equipment, materials, and supplies to implement and administer the provisions of this subchapter.

(Pub. L. 95-87, title IV, § 414, formerly § 413, Aug. 3, 1977, 91 Stat. 467, renumbered § 414, Pub. L. 101-508, title VI, § 6010(1), Nov. 5, 1990, 104 Stat. 1388-296.)

**§ 1244. Remining incentives****(a) In general**

Notwithstanding any other provision of this chapter, the Secretary may, after opportunity for public comment, promulgate regulations that describe conditions under which amounts in the fund may be used to provide incentives to promote remining of eligible land under section 1234 of this title in a manner that leverages the use of amounts from the fund to achieve more reclamation with respect to the eligible land than would be achieved without the incentives.

**(b) Requirements**

Any regulations promulgated under subsection (a) shall specify that the incentives shall apply only if the Secretary determines, with the concurrence of the State regulatory authority referred to in subchapter V, that, without the incentives, the eligible land would not be likely to be remined and reclaimed.

**(c) Incentives****(1) In general**

Incentives that may be considered for inclusion in the regulations promulgated under subsection (a) include, but are not limited to—

(A) a rebate or waiver of the reclamation fees required under section 1232(a) of this title; and

(B) the use of amounts in the fund to provide financial assurance for remining operations in lieu of all or a portion of the performance bonds required under section 1259 of this title.

**(2) Limitations****(A) Use**

A rebate or waiver under paragraph (1)(A) shall be used only for operations that—

- (i) remove or reprocess abandoned coal mine waste; or
- (ii) conduct reining activities that meet the priorities specified in paragraph (1) or (2) of section 1233(a) of this title.

**(B) Amount**

The amount of a rebate or waiver provided as an incentive under paragraph (1)(A) to remine or reclaim eligible land shall not exceed the estimated cost of reclaiming the eligible land under this section.

(Pub. L. 95-87, title IV, §415, as added Pub. L. 109-432, div. C, title II, §207, Dec. 20, 2006, 120 Stat. 3018.)

**SUBCHAPTER V—CONTROL OF THE ENVIRONMENTAL IMPACTS OF SURFACE COAL MINING**

**§ 1251. Environmental protection standards**

(a) Not later than the end of the ninety-day period immediately following August 3, 1977, the Secretary shall promulgate and publish in the Federal Register regulations covering an interim regulatory procedure for surface coal mining and reclamation operations setting mining and reclamation performance standards based on and incorporating the provisions set out in section 1252(c) of this title. The issuance of the interim regulations shall be deemed not to be a major Federal action within the meaning of section 4332(2)(c)<sup>1</sup> of title 42. Such regulations, which shall be concise and written in plain, understandable language shall not be promulgated and published by the Secretary until he has—

(A) published proposed regulations in the Federal Register and afforded interested persons and State and local governments a period of not less than thirty days after such publication to submit written comments thereon;

(B) obtained the written concurrence of the Administrator of the Environmental Protection Agency with respect to those regulations promulgated under this section which relate to air or water quality standards promulgated under the authority of the Federal Water Pollution Control Act, as amended [33 U.S.C. 1251 et seq.]; and the Clean Air Act, as amended [42 U.S.C. 7401 et seq.]; and

(C) held at least one public hearing on the proposed regulations.

The date, time, and place of any hearing held on the proposed regulations shall be set out in the publication of the proposed regulations. The Secretary shall consider all comments and relevant data presented at such hearing before final promulgation and publication of the regulations.

(b) Not later than one year after August 3, 1977, the Secretary shall promulgate and publish in the Federal Register regulations covering a permanent regulatory procedure for surface coal mining and reclamation operations performance standards based on and conforming to the provisions of this subchapter and establishing procedures and requirements for preparation, submission, and approval of State programs; and devel-

opment and implementation of Federal programs under the subchapter. The Secretary shall promulgate these regulations, which shall be concise and written in plain, understandable language in accordance with the procedures in subsection (a).

(Pub. L. 95-87, title V, §501, Aug. 3, 1977, 91 Stat. 467.)

**REFERENCES IN TEXT**

The Federal Water Pollution Control Act, referred to in subsec. (a)(B), is act June 30, 1948, ch. 758, 62 Stat. 1155, as amended generally by Pub. L. 92-500, §2, 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 Clean Air Act, referred to in subsec. (a)(B), is act July 14, 1955, ch. 360, 69 Stat. 322, as amended, which is classified generally to chapter 85 (§7401 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 7401 of Title 42 and Tables.

**§ 1251a. Abandoned coal refuse sites**

(1) Notwithstanding any other provision of the Surface Mining Control and Reclamation Act of 1977 [30 U.S.C. 1201 et seq.] to the contrary, the Secretary of the Interior shall, within one year after October 24, 1992, publish proposed regulations in the Federal Register, and after opportunity for public comment publish final regulations, establishing environmental protection performance and reclamation standards, and separate permit systems applicable to operations for the on-site reprocessing of abandoned coal refuse and operations for the removal of abandoned coal refuse on lands that would otherwise be eligible for expenditure under section 404 and section 402(g)(4) of the Surface Mining Control and Reclamation Act of 1977 [30 U.S.C. 1234, 1232(g)(4)].

(2) The standards and permit systems referred to in paragraph (1) shall distinguish between those operations which reprocess abandoned coal refuse on-site, and those operations which completely remove abandoned coal refuse from a site for the direct use of such coal refuse, or for the reprocessing of such coal refuse, at another location. Such standards and permit systems shall be premised on the distinct differences between operations for the on-site reprocessing, and operations for the removal, of abandoned coal refuse and other types of surface coal mining operations.

(3) The Secretary of the Interior may devise a different standard than any of those set forth in section 515 and section 516 of the Surface Mining Control and Reclamation Act of 1977 [30 U.S.C. 1265, 1266], and devise a separate permit system, if he determines, on a standard-by-standard basis, that a different standard may facilitate the on-site reprocessing, or the removal, of abandoned coal refuse in a manner that would provide the same level of environmental protection as under section 515 and section 516.

(4) Not later than 30 days prior to the publication of the proposed regulations referred to in this section, the Secretary shall submit a report to the Committee on Interior and Insular Affairs of the United States House of Representatives,

<sup>1</sup> So in original. Probably should be "4332(2)(C)".