

- (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)".