shall continue in effect until the completion or final termination of all proceedings for review of such order under this subchapter, unless, prior thereto, the district court granting such relief sets it aside or modifies it.

(d) Sanctions; effect on additional enforcement rights under State law

As a condition of approval of any State program submitted pursuant to section 1253 of this title, the enforcement provisions thereof shall, at a minimum, incorporate sanctions no less stringent than those set forth in this section, and shall contain the same or similar procedural requirements relating thereto. Nothing herein shall be construed so as to eliminate any additional enforcement rights or procedures which are available under State law to a State regulatory authority but which are not specifically enumerated herein.

(Pub. L. 95–87, title V, § 521, Aug. 3, 1977, 91 Stat. 504.)

REFERENCES IN TEXT

Rule 65 of the Federal Rules of Civil Procedure, referred to in subsec. (c), is set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

§ 1272. Designating areas unsuitable for surface coal mining

(a) Establishment of State planning process; standards; State process requirements; integration with present and future land use planning and regulation processes; savings provisions

(1) To be eligible to assume primary regulatory authority pursuant to section 1253 of this title, each State shall establish a planning process enabling objective decisions based upon competent and scientifically sound data and information as to which, if any, land areas of a State are unsuitable for all or certain types of surface coal mining operations pursuant to the standards set forth in paragraphs (2) and (3) of this subsection but such designation shall not prevent the mineral exploration pursuant to the chapter of any area so designated.

(2) Upon petition pursuant to subsection (c) of this section, the State regulatory authority shall designate an area as unsuitable for all or certain types of surface coal mining operations if the State regulatory authority determines that reclamation pursuant to the requirements of this chapter is not technologically and economically feasible.

(3) Upon petition pursuant to subsection (c) of this section, a surface area may be designated unsuitable for certain types of surface coal mining operations if such operations will—

(A) be incompatible with existing State or local land use plans or programs; or

(B) affect fragile or historic lands in which such operations could result in significant damage to important historic, cultural, scientific, and esthetic values and natural systems; or

(C) affect renewable resource lands in which such operations could result in a substantial loss or reduction of long-range productivity of water supply or of food or fiber products, and such lands to include aquifers and aquifer recharge areas; or

(D) affect natural hazard lands in which such operations could substantially endanger life and property, such lands to include areas subject to frequent flooding and areas of unstable geology.

(4) To comply with this section, a State must demonstrate it has developed or is developing a process which includes—

(A) a State agency responsible for surface coal mining lands review;

(B) a data base and an inventory system which will permit proper evaluation of the capacity of different land areas of the State to support and permit reclamation of surface coal mining operations;

(C) a method or methods for implementing land use planning decisions concerning surface coal mining operations; and

(D) proper notice, opportunities for public participation, including a public hearing prior to making any designation or redesignation, pursuant to this section.

(5) Determinations of the unsuitability of land for surface coal mining, as provided for in this section, shall be integrated as closely as possible with present and future land use planning and regulation processes at the Federal, State, and local levels.

(6) The requirements of this section shall not apply to lands on which surface coal mining operations are being conducted on August 3, 1977, or under a permit issued pursuant to this chapter, or where substantial legal and financial commitments in such operation were in existence prior to January 4, 1977.

(b) Review of Federal lands

The Secretary shall conduct a review of the Federal lands to determine, pursuant to the standards set forth in paragraphs (2) and (3) of subsection (a) of this section, whether there are areas on Federal lands which are unsuitable for all or certain types of surface coal mining operations: *Provided, however*, That the Secretary may permit surface coal mining on Federal lands prior to the completion of this review. When the Secretary determines an area on Federal lands to be unsuitable for all or certain types of surface coal mining operations, he shall withdraw such area or condition any mineral leasing or mineral entries in a manner so as to limit surface coal mining operations on such area. Where a Federal program has been implemented in a State pursuant to section 1254 of this title, the Secretary shall implement a process for designation of areas unsuitable for surface coal mining for non-Federal lands within such State and such process shall incorporate the standards and procedures of this section. Prior to designating Federal lands unsuitable for such mining, the Secretary shall consult with the appropriate State and local agencies.

(c) Petition; intervention; decision

Any person having an interest which is or may be adversely affected shall have the right to petition the regulatory authority to have an area designated as unsuitable for surface coal mining operations, or to have such a designation terminated. Such a petition shall contain allegations of facts with supporting evidence which would

tend to establish the allegations. Within ten months after receipt of the petition the regulatory authority shall hold a public hearing in the locality of the affected area, after appropriate notice and publication of the date, time, and location of such hearing. After a person having an interest which is or may be adversely affected has filed a petition and before the hearing, as required by this subsection, any person may intervene by filing allegations of facts with supporting evidence which would tend to establish the allegations. Within sixty days after such hearing, the regulatory authority shall issue and furnish to the petitioner and any other party to the hearing, a written decision regarding the petition, and the reasons therefore.[1] In the event that all the petitioners stipulate agreement prior to the requested hearing, and withdraw their request, such hearing need not be held.

(d) Statement

Prior to designating any land areas as unsuitable for surface coal mining operations, the regulatory authority shall prepare a detailed statement on (i) the potential coal resources of the area, (ii) the demand for coal resources, and (iii) the impact of such designation on the environment, the economy, and the supply of coal.

(e) Prohibition on certain Federal public and private surface coal mining operations

After August 3, 1977, and subject to valid existing rights no surface coal mining operations except those which exist on August 3, 1977, shall be permitted—

(1) on any lands within the boundaries of units of the National Park System, the National Wildlife Refuge Systems, the National System of Trails, the National Wilderness Preservation System, the Wild and Scenic Rivers System, including study rivers designated under section 1276(a) of title 16 and National Recreation Areas designated by Act of Congress;

(2) on any Federal lands within the boundaries of any national forest: *Provided, however*, That surface coal mining operations may be permitted on such lands if the Secretary finds that there are no significant recreational, timber, economic, or other values which may be incompatible with such surface mining operations and—

(A) surface operations and impacts are incident to an underground coal mine; or

(B) where the Secretary of Agriculture determines, with respect to lands which do not have significant forest cover within those national forests west of the 100th meridian, that surface mining is in compliance with the Multiple-Use Sustained-Yield Act of 1960 [16 U.S.C. 528–531], the Federal Coal Leasing Amendments Act of 1975, the National Forest Management Act of 1976, and the provisions of this chapter: *And provided further*, That no surface coal mining operations may be permitted within the boundaries of the Custer National Forest;

(3) which will adversely affect any publicly owned park or places included in the National Register of Historic Sites unless approved jointly by the regulatory authority and the Federal, State, or local agency with jurisdiction over the park or the historic site;

(4) within one hundred feet of the outside right-of-way line of any public road, except where mine access roads or haulage roads join such right-of-way line and except that the regulatory authority may permit such roads to be relocated or the area affected to lie within one hundred feet of such road, if after public notice and opportunity for public hearing in the locality a written finding is made that the interests of the public and the landowners affected thereby will be protected; or

(5) within three hundred feet from any occupied dwelling, unless waived by the owner thereof, nor within three hundred feet of any public building, school, church, community, or institutional building, public park, or within one hundred feet of a cemetery.

(Pub. L. 95–87, title V, § 522, Aug. 3, 1977, 91 Stat. 507.)

REFERENCES IN TEXT

The Multiple-Use Sustained-Yield Act of 1960, referred to in subsec. (e)(2)(B), is Pub. L. 86–517, June 12, 1960, 74 Stat. 215, as amended, which is classified generally to sections 528 to 531 of Title 16, Conservation. For complete classification of this Act to the Code, see Short Title note set out under section 528 of Title 16 and Tables.

The Federal Coal Leasing Amendments Act of 1975, referred to in subsec. (e)(2)(B), is Pub. L. 94–377, Aug. 4, 1976, 90 Stat. 1083, which was redesignated the Federal Coal Leasing Amendments Act of 1976 by Pub. L. 95–554, § 8, Oct. 30, 1978, 92 Stat. 2075, and which enacted sections 202a, 208–1, and 208–2 of this title, amended sections 184, 191, 201, 203, 207, 209, and 352 of this title, repealed sections 201–1 and 204 of this title, and enacted provisions set out as notes under sections 181, 184, 201, 201–1, 203, and 204 of this title. For complete classification of this Act to the Code, see Short Title of 1976 Amendment note set out under section 181 of this title and Tables.

The National Forest Management Act of 1976, referred to in subsec. (e)(2)(B), is Pub. L. 94–588, Oct. 22, 1976, 90 Stat. 2949, as amended, which enacted sections 472a, 521b, 1600, and 1611 to 1614 of Title 16, Conservation, amended sections 500, 515, 516, 518, 576b, 581h, and 1601 to 1610 of Title 16, repealed sections 476, 513, and 514 of Title 16, enacted provisions set out as notes under sections 476, 513, 528, 594–2, and 1600 of Title 16. For complete classification of this Act to the Code, see Short Title of 1976 Amendment note set out under section 1600 of Title 16 and Tables.

§ 1273. Federal lands

(a) Promulgation and implementation of Federal lands program

No later than one year after August 3, 1977, the Secretary shall promulgate and implement a Federal lands program which shall be applicable to all surface coal mining and reclamation operations taking place pursuant to any Federal law on any Federal lands: *Provided*, That except as provided in section 1300 of this title the provisions of this chapter shall not be applicable to Indian lands. The Federal lands program shall, at a minimum, incorporate all of the requirements of this chapter and shall take into consideration the diverse physical, climatological, and other unique characteristics of the Federal

[1] So in original. Probably should be "therefor."