section (e) of this section, that the benefits resulting from such designation would be greater than the benefits to the regional or national economy which could result from mineral development of such area.

(g) Right to appeal

Any party with a valid legal interest who has appeared in the proceedings in connection with the Secretary's determination pursuant to this section and who is aggrieved by the Secretary's decision (or by his failure to act within a reasonable time) shall have the right of appeal for review by the United States district court for the district in which the pertinent area is located.

(Pub. L. 95–87, title VI, § 601, Aug. 3, 1977, 91 Stat. 515.)

SUBCHAPTER VII—ADMINISTRATIVE AND MISCELLANEOUS PROVISIONS

§ 1291. Definitions

For the purposes of this chapter—

(1) ''alluvial valley floors'' means the unconsolidated stream laid deposits holding streams where water availability is sufficient for subirrigation or flood irrigation agricultural activities but does not include upland areas which are generally overlain by a thin veneer of colluvial deposits composed chiefly of debris from sheet erosion, deposits by unconcentrated runoff or slope wash, together with talus, other mass movement accumulation and windblown deposits;

(2) ''approximate original contour'' means that surface configuration achieved by backfilling and grading of the mined area so that the reclaimed area, including any terracing or access roads, closely resembles the general surface configuration of the land prior to mining and blends into and complements the drainage pattern of the surrounding terrain, with all highwalls and spoil piles eliminated; water impoundments may be permitted where the regulatory authority determines that they are in compliance with section 1265(b)(8) of this title;

(3) ''commerce'' means trade, traffic, commerce, transportation, transmission, or communication among the several States, or between a State and any other place outside thereof, or between points in the same State which directly or indirectly affect interstate commerce;

(4) ''Federal lands'' means any land, including mineral interests, owned by the United States without regard to how the United States acquired ownership of the land and without regard to the agency having responsibility for management thereof, except Indian lands: *Provided*, That for the purposes of this chapter lands or mineral interests east of the one hundredth meridian west longitude owned by the United States and entrusted to or managed by the Tennessee Valley Authority shall not be subject to sections 1304 (Surface Owner Protection) and 1305 (Federal Lessee Protection) of this title.[1]

(5) ''Federal lands program'' means a program established by the Secretary pursuant to section 1273 of this title to regulate surface coal mining and reclamation operations on Federal lands;

(6) ''Federal program'' means a program established by the Secretary pursuant to section 1254 of this title to regulate surface coal mining and reclamation operations on lands within a State in accordance with the requirements of this chapter;

(7) ''fund'' means the Abandoned Mine Reclamation Fund established pursuant to section 1231 of this title;

(8) ''imminent danger to the health and safety of the public'' means the existence of any condition or practice, or any violation of a permit or other requirement of this chapter in a surface coal mining and reclamation operation, which condition, practice, or violation could reasonably be expected to cause substantial physical harm to persons outside the permit area before such condition, practice, or violation can be abated. A reasonable expectation of death or serious injury before abatement exists if a rational person, subjected to the same conditions or practices giving rise to the peril, would not expose himself or herself to the danger during the time necessary for abatement;

(9) ''Indian lands'' means all lands, including mineral interests, within the exterior boundaries of any Federal Indian reservation, notwithstanding the issuance of any patent, and including rights-of-way, and all lands including mineral interests held in trust for or supervised by an Indian tribe;

(10) ''Indian tribe'' means any Indian tribe, band, group, or community having a governing body recognized by the Secretary;

(11) ''lands within any State'' or ''lands within such State'' means all lands within a State other than Federal lands and Indian lands;

(12) ''Office'' means the Office of Surface Mining Reclamation and Enforcement established pursuant to subchapter II;

(13) ''operator'' means any person, partnership, or corporation engaged in coal mining who removes or intends to remove more than two hundred and fifty tons of coal from the earth by coal mining within twelve consecutive calendar months in any one location;

(14) ''other minerals'' means clay, stone, sand, gravel, metalliferous and nonmetalliferous ores, and any other solid material or substances of commercial value excavated in solid form from natural deposits on or in the earth, exclusive of coal and those minerals which occur naturally in liquid or gaseous form;

(15) ''permit'' means a permit to conduct surface coal mining and reclamation operations issued by the State regulatory authority pursuant to a State program or by the Secretary pursuant to a Federal program;

(16) ''permit applicant'' or ''applicant'' means a person applying for a permit;

(17) ''permit area'' means the area of land indicated on the approved map submitted by the operator with his application, which area of land shall be covered by the operator's bond as

[1] So in original. The period probably should be a semicolon.

required by section 1259 of this title and shall be readily identifiable by appropriate markers on the site;

(18) ''permittee'' means a person holding a permit;

(19) ''person'' means an individual, partnership, association, society, joint stock company, firm, company, corporation, or other business organization;

(20) the term ''prime farmland'' shall have the same meaning as that previously prescribed by the Secretary of Agriculture on the basis of such factors as moisture availability, temperature regime, chemical balance, permeability, surface layer composition, susceptibility to flooding, and erosion characteristics, and which historically have been used for intensive agricultural purposes, and as published in the Federal Register.[2]

(21) ''reclamation plan'' means a plan submitted by an applicant for a permit under a State program or Federal program which sets forth a plan for reclamation of the proposed surface coal mining operations pursuant to section 1258 of this title;

(22) ''regulatory authority'' means the State regulatory authority where the State is administering this chapter under an approved State program or the Secretary where the Secretary is administering this chapter under a Federal program;

(23) ''Secretary'' means the Secretary of the Interior, except where otherwise described;

(24) ''State'' means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, and Guam;

(25) ''State program'' means a program established by a State pursuant to section 1253 of this title to regulate surface coal mining and reclamation operations, on lands within such State in accord with the requirements of this chapter and regulations issued by the Secretary pursuant to this chapter;

(26) ''State regulatory authority'' means the department or agency in each State which has primary responsibility at the State level for administering this chapter;

(27) ''surface coal mining and reclamation operations'' means surface mining operations and all activities necessary and incident to the reclamation of such operations after August 3, 1977;

(28) ''surface coal mining operations'' means—

(A) activities conducted on the surface of lands in connection with a surface coal mine or subject to the requirements of section 1266 of this title surface operations and surface impacts incident to an underground coal mine, the products of which enter commerce or the operations of which directly or indirectly affect interstate commerce. Such activities include excavation for the purpose of obtaining coal including such common methods as contour, strip, auger, mountaintop removal, box cut, open pit, and area mining, the uses of explosives and blasting, and in situ distillation or retorting, leaching or other chemical or physical processing, and the cleaning, concentrating, or other processing or preparation, loading of coal for interstate commerce at or near the mine site: *Provided, however*, That such activities do not include the extraction of coal incidental to the extraction of other minerals where coal does not exceed 16⅔ per centum of the tonnage of minerals removed for purposes of commercial use or sale or coal explorations subject to section 1262 of this title; and

(B) the areas upon which such activities occur or where such activities disturb the natural land surface. Such areas shall also include any adjacent land the use of which is incidental to any such activities, all lands affected by the construction of new roads or the improvement or use of existing roads to gain access to the site of such activities and for haulage, and excavations, workings, impoundments, dams, ventilation shafts, entryways, refuse banks, dumps, stockpiles, overburden piles, spoil banks, culm banks, tailings, holes or depressions, repair areas, storage areas, processing areas, shipping areas and other areas upon which are sited structures, facilities, or other property or materials on the surface, resulting from or incident to such activities; and[3]

(29) ''unwarranted failure to comply'' means the failure of a permittee to prevent the occurrence of any violation of his permit or any requirement of this chapter due to indifference, lack of diligence, or lack of reasonable care, or the failure to abate any violation of such permit or the chapter due to indifference, lack of diligence, or lack of reasonable care;

(30) ''lignite coal'' means consolidated lignitic coal having less than 8,300 British thermal units per pound, moist and mineral matter free;

(31) the term ''coal laboratory'', as used in subchapter VIII, means a university coal research laboratory established and operated pursuant to a designation made under section 1311 of this title;

(32) the term ''institution of higher education'' as used in subchapters VIII and IX, means any such institution as defined by section 1001 of title 20;

(33) the term ''unanticipated event or condition'' as used in section 1260(e) of this title means an event or condition encountered in a remining operation that was not contemplated by the applicable surface coal mining and reclamation permit; and

(34) the term ''lands eligible for remining'' means those lands that would otherwise be eligible for expenditures under section 1234 of this title or under section 1232(g)(4) of this title.

(Pub. L. 95–87, title VII, § 701, Aug. 5, 1977, 91 Stat. 516; Pub. L. 102–486, title XXV, § 2503(c), Oct. 24, 1992, 106 Stat. 3103; Pub. L. 105–244, title I, § 102(a)(10), Oct. 7, 1998, 112 Stat. 1620.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original ''this Act'', meaning Pub. L. 95–87, Aug. 3, 1977, 91 Stat.

[2] So in original. The period probably should be a semicolon.

[3] So in original. The word ''and'' probably should not appear.

445, which enacted this chapter and amended section 1114 of Title 18, Crimes and Criminal Procedure. For complete classification of this Act to the Code, see Short Title note set out under section 1201 of this title and Tables.

AMENDMENTS

1998—Par. (32). Pub. L. 105–244 substituted ''section 1001'' for ''section 1141(a)''.

1992—Pars. (33), (34). Pub. L. 102–486 added pars. (33) and (34).

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of Title 20, Education.

§ 1292. Other Federal laws

(a) Construction of chapter as superseding, amending, modifying, or repealing certain laws

Nothing in this chapter shall be construed as superseding, amending, modifying, or repealing the Mining and Minerals Policy Act of 1970 (30 U.S.C. 21a), the National Environmental Policy Act of 1969 (42 U.S.C. 4321–47), or any of the following Acts or with any rule or regulation promulgated thereunder, including, but not limited to—

(1) The Federal Metal and Nonmetallic Mine Safety Act (30 U.S.C. 721–740).

(2) The Federal Coal Mine Health and Safety Act of 1969 (83 Stat. 742) [30 U.S.C. 801 et seq.].

(3) The Federal Water Pollution Control Act (79 Stat. 903), as amended [33 U.S.C. 1251 et seq.], the State laws enacted pursuant thereto, or other Federal laws relating to preservation of water quality.

(4) The Clean Air Act, as amended [42 U.S.C. 7401 et seq.].

(5) The Solid Waste Disposal Act [42 U.S.C. 6901 et seq.].

(6) The Refuse Act of 1899 (33 U.S.C. 407).

(7) The Fish and Wildlife Coordination Act of 1934 (16 U.S.C. 661–666c).

(8) The Mineral Leasing Act of 1920, as amended (30 U.S.C. 181 et seq.).

(b) Effect on authority of Secretary or heads of other Federal agencies

Nothing in this chapter shall affect in any way the authority of the Secretary or the heads of other Federal agencies under other provisions of law to include in any lease, license, permit, contract, or other instrument such conditions as may be appropriate to regulate surface coal mining and reclamation operations on land under their jurisdiction.

(c) Cooperation

To the greatest extent practicable each Federal agency shall cooperate with the Secretary and the States in carrying out the provisions of this chapter.

(d) Major Federal action

Approval of the State programs, pursuant to section 1253(b) of this title, promulgation of Federal programs, pursuant to section 1254 of this title, and implementation of the Federal lands programs, pursuant to section 1273 of this title, shall not constitute a major action within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332). Adoption of regulations under section 1251(b) of this title shall constitute a major action within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332).

(Pub. L. 95–87, title VII, § 702, Aug. 3, 1977, 91 Stat. 519.)

REFERENCES IN TEXT

The Mining and Minerals Policy Act of 1970 (30 U.S.C. 21a), referred to in subsec. (a), is Pub. L. 91–631, Dec. 31, 1970, 84 Stat. 1876, which enacted section 21a of this title and provisions set out as a note under section 21a of this title. For complete classification of this Act to the Code, see Short Title note set out under section 21a of this title and Tables.

The National Environmental Policy Act of 1969 (42 U.S.C. 4321–47), referred to in subsec. (a), is Pub. L. 91–190, Jan. 1, 1970, 83 Stat. 852, as amended, which is classified generally to chapter 55 (§ 4321 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 4321 of Title 42 and Tables.

The Federal Metal and Nonmetallic Mine Safety Act (30 U.S.C. 721–740), referred to in subsec. (a)(1), is Pub. L. 89–577, Sept. 16, 1966, 80 Stat. 772, which was classified generally to chapter 21 (§ 721 et seq.) of this title and was repealed by Pub. L. 95–164, title III, § 306(a), Nov. 9, 1977, 91 Stat. 1322.

The Federal Coal Mine Health and Safety Act of 1969 (83 Stat. 742), referred to in subsec. (a)(2), is Pub. L. 91–173, Dec. 30, 1969, 83 Stat. 742, as amended, which was redesignated the Federal Mine Safety and Health Act of 1977 by Pub. L. 95–164, title I, § 101, Nov. 9, 1977, 91 Stat. 1290, and is classified principally to chapter 22 (§ 801 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 801 of this title and Tables.

The Federal Water Pollution Control Act (79 Stat. 903), referred to in subsec. (a)(3), 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)(4), 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.

The Solid Waste Disposal Act (42 U.S.C. 3251–3259), referred to in subsec. (a)(5), is title II of Pub. L. 89–272, Oct. 20, 1965, 79 Stat. 997, as amended generally by Pub. L. 94–580, § 2, Oct. 21, 1976, 90 Stat. 2795, which is classified generally to chapter 82 (§ 6901 et seq.) of Title 42. For complete classification of this Act to the Code, see Short Title note set out under section 6901 of Title 42 and Tables.

The Refuse Act of 1899 (33 U.S.C. 407), referred to in subsec. (a)(6), probably means act Mar. 3, 1899, ch. 425, § 13, 30 Stat. 1152, which enacted section 407 of Title 33, Navigation and Navigable Waters.

The Fish and Wildlife Coordination Act of 1934 (16 U.S.C. 661–666c), referred to in subsec. (a)(7), is act Mar. 10, 1934, ch. 55, 48 Stat. 401, as amended, known as the Fish and Wildlife Coordination Act, which is classified generally to sections 661 to 666c of Title 16, Conservation. For complete classification of this Act to the Code, see Short Title note set out under section 661 of Title 16 and Tables.

The Mineral Leasing Act of 1920, as amended (30 U.S.C. 181 et seq.), referred to in subsec. (a)(8), is act Feb. 25, 1920, ch. 85, 41 Stat. 437, as amended, known as the Mineral Leasing Act, which is classified generally