

§ 1233. Objectives of fund**(a) Priorities**

Expenditure of moneys from the fund on lands and water eligible pursuant to section 1234 of this title for the purposes of this subchapter, except as provided for under section 1240a of this title, shall reflect the following priorities in the order stated:

(1)(A) the protection;¹ of public health, safety, and property from extreme danger of adverse effects of coal mining practices;

(B) the restoration of land and water resources and the environment that—

(i) have been degraded by the adverse effects of coal mining practices; and

(ii) are adjacent to a site that has been or will be remediated under subparagraph (A);

(2)(A) the protection of public health and safety from adverse effects of coal mining practices;

(B) the restoration of land and water resources and the environment that—

(i) have been degraded by the adverse effects of coal mining practices; and

(ii) are adjacent to a site that has been or will be remediated under subparagraph (A); and

(3) the restoration of land and water resources and the environment previously degraded by adverse effects of coal mining practices including measures for the conservation and development of soil, water (excluding channelization), woodland, fish and wildlife, recreation resources, and agricultural productivity.

(b) Water supply restoration

(1) Any State or Indian tribe not certified under section 1240a(a) of this title may expend funds allocated to such State or Indian tribe in any year through the grants made available under paragraphs (1) and (5) of section 1232(g) of this title for the purpose of protecting, repairing, replacing, constructing, or enhancing facilities relating to water supply, including water distribution facilities and treatment plants, to replace water supplies adversely affected by coal mining practices.

(2) If the adverse effect on water supplies referred to in this subsection occurred both prior to and after August 3, 1977, or as the case may be, the dates (and under the criteria) set forth under section 1232(g)(4)(B) of this title, section 1234 of this title shall not be construed to prohibit a State or Indian tribe referred to in paragraph (1) from using funds referred to in such paragraph for the purposes of this subsection if the State or Indian tribe determines that such adverse effects occurred predominantly prior to August 3, 1977, or as the case may be, the dates (and under the criteria) set forth under section 1232(g)(4)(B) of this title.

(c) Inventory

For the purposes of assisting in the planning and evaluation of reclamation projects pursuant to section 1235 of this title, and assisting in making the certification referred to in section

1240a(a) of this title, the Secretary shall maintain an inventory of eligible lands and waters pursuant to section 1234 of this title which meet the priorities stated in paragraphs (1) and (2) of subsection (a). Under standardized procedures established by the Secretary, States and Indian tribes with approved abandoned mine reclamation programs pursuant to section 1235 of this title may offer amendments, subject to the approval of the Secretary, to update the inventory as it applies to eligible lands and waters under the jurisdiction of such States or tribes. The Secretary shall provide such States and tribes with the financial and technical assistance necessary for the purpose of making inventory amendments. The Secretary shall compile and maintain an inventory for States and Indian lands in the case when a State or Indian tribe does not have an approved abandoned mine reclamation program pursuant to section 1235 of this title. On a regular basis, but not less than annually, the projects completed under this subchapter shall be so noted on the inventory under standardized procedures established by the Secretary.

(Pub. L. 95–87, title IV, § 403, Aug. 3, 1977, 91 Stat. 458; Pub. L. 101–508, title VI, § 6005, Nov. 5, 1990, 104 Stat. 1388–294; Pub. L. 102–486, title XXV, § 2504(c)(2), (e), Oct. 24, 1992, 106 Stat. 3105, 3106; Pub. L. 109–432, div. C, title II, § 203, Dec. 20, 2006, 120 Stat. 3015.)

AMENDMENTS

2006—Subsec. (a)(1). Pub. L. 109–432, § 203(1)(A), designated existing provisions as subpar. (A), inserted semicolon after “protection”, struck out “general welfare,” after “safety.”, and added subpar. (B).

Subsec. (a)(2). Pub. L. 109–432, § 203(1)(B), designated existing provisions as subpar. (A), substituted “health and safety” for “health, safety, and general welfare”, and added subpar. (B).

Subsec. (a)(3). Pub. L. 109–432, § 203(1)(C), which directed that a period be substituted for the semicolon at end, could not be executed because a period already appeared at end.

Subsec. (a)(4), (5). Pub. L. 109–432, § 203(1)(D), struck out pars. (4) and (5) which read as follows:

“(4) the protection, repair, replacement, construction, or enhancement of public facilities such as utilities, roads, recreation, and conservation facilities adversely affected by coal mining practices;

“(5) the development of publicly owned land adversely affected by coal mining practices including land acquired as provided in this subchapter for recreation and historic purposes, conservation, and reclamation purposes and open space benefits.”

Subsec. (b). Pub. L. 109–432, § 203(2)(A), substituted “Water supply restoration” for “Utilities and other facilities” in heading.

Subsec. (b)(1). Pub. L. 109–432, § 203(2)(B), struck out “up to 30 percent of the” before “funds”.

Subsec. (c). Pub. L. 109–432, § 203(3), inserted “, subject to the approval of the Secretary,” after “amendments” in second sentence.

1992—Subsec. (a)(4) to (6). Pub. L. 102–486, § 2504(c)(2), redesignated pars. (5) and (6) as (4) and (5), respectively, and struck out former par. (4) which read as follows: “research and demonstration projects relating to the development of surface mining reclamation and water quality control program methods and techniques;”.

Subsec. (b)(2). Pub. L. 102–486, § 2504(e), inserted “, or as the case may be, the dates (and under the criteria) set forth under section 1232(g)(4)(B) of this title” after “1977” in two places.

1990—Pub. L. 101–508 designated existing provisions as subsec. (a), inserted heading and “, except as provided

¹ So in original.

for under section 1240a of this title,” after “subchapter”, and added subsecs. (b) and (c).

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-508 effective Oct. 1, 1991, see section 6014 of Pub. L. 101-508 set out as a note under section 1231 of this title.

§ 1234. Eligible lands and water

Lands and water eligible for reclamation or drainage abatement expenditures under this subchapter are those which were mined for coal or which were affected by such mining, waste-banks, coal processing, or other coal mining processes, except as provided for under section 1240a of this title, and abandoned or left in an inadequate reclamation status prior to August 3, 1977, and for which there is no continuing reclamation responsibility under State or other Federal laws. For other provisions relating to lands and waters eligible for such expenditures, see section 1232(g)(4) of this title, section 1233(b)(1) of this title, and section 1239 of this title. Surface coal mining operations on lands eligible for remining shall not affect the eligibility of such lands for reclamation and restoration under this subchapter after the release of the bond or deposit for any such operation as provided under section 1269 of this title. In the event the bond or deposit for a surface coal mining operation on lands eligible for remining is forfeited, funds available under this subchapter may be used if the amount of such bond or deposit is not sufficient to provide for adequate reclamation or abatement, except that if conditions warrant the Secretary shall immediately exercise his authority under section 1240 of this title.

(Pub. L. 95-87, title IV, § 404, Aug. 3, 1977, 91 Stat. 459; Pub. L. 101-508, title VI, § 6006, Nov. 5, 1990, 104 Stat. 1388-295; Pub. L. 102-486, title XXV, § 2503(d), Oct. 24, 1992, 106 Stat. 3103.)

AMENDMENTS

1992—Pub. L. 102-486 inserted at end “Surface coal mining operations on lands eligible for remining shall not affect the eligibility of such lands for reclamation and restoration under this subchapter after the release of the bond or deposit for any such operation as provided under section 1269 of this title. In the event the bond or deposit for a surface coal mining operation on lands eligible for remining is forfeited, funds available under this subchapter may be used if the amount of such bond or deposit is not sufficient to provide for adequate reclamation or abatement, except that if conditions warrant the Secretary shall immediately exercise his authority under section 1240 of this title.”

1990—Pub. L. 101-508 inserted “, except as provided for under section 1240a of this title” after “processes” and inserted at end “For other provisions relating to lands and waters eligible for such expenditures, see section 1232(g)(4) of this title, section 1233(b)(1) of this title, and section 1239 of this title.”

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-508 effective Oct. 1, 1991, see section 6014 of Pub. L. 101-508 set out as a note under section 1231 of this title.

§ 1235. State reclamation program

(a) Promulgation of regulations

Not later than the end of the one hundred and eighty-day period immediately following August

3, 1977, the Secretary shall promulgate and publish in the Federal Register regulations covering implementation of an abandoned mine reclamation program incorporating the provisions of this subchapter and establishing procedures and requirements for preparation, submission, and approval of State programs consisting of the plan and annual submissions of projects.

(b) Submission of State Reclamation Plan and annual projects

Each State having within its borders coal mined lands eligible for reclamation under this subchapter, may submit to the Secretary a State Reclamation Plan and annual projects to carry out the purposes of this subchapter.

(c) Restriction

The Secretary shall not approve, fund, or continue to fund a State abandoned mine reclamation program unless that State has an approved State regulatory program pursuant to section 1253 of this title.

(d) Approval of State program; withdrawal

If the Secretary determines that a State has developed and submitted a program for reclamation of abandoned mines and has the ability and necessary State legislation to implement the provisions of this subchapter, sections 1232 and 1240 of this title excepted, the Secretary shall approve such State program and shall grant to the State exclusive responsibility and authority to implement the provisions of the approved program: *Provided*, That the Secretary shall withdraw such approval and authorization if he determines upon the basis of information provided under this section that the State program is not in compliance with the procedures, guidelines, and requirements established under subsection (a).

(e) Contents of State Reclamation Plan

Each State Reclamation Plan shall generally identify the areas to be reclaimed, the purposes for which the reclamation is proposed, the relationship of the lands to be reclaimed and the proposed reclamation to surrounding areas, the specific criteria for ranking and identifying projects to be funded, and the legal authority and programmatic capability to perform such work in conformance with the provisions of this subchapter.

(f) Annual application for support; contents

On an annual basis, each State having an approved State Reclamation Plan may submit to the Secretary an application for the support of the State program and implementation of specific reclamation projects. Such annual requests shall include such information as may be requested by the Secretary including:

- (1) a general description of each proposed project;
- (2) a priority evaluation of each proposed project;
- (3) a statement of the estimated benefits in such terms as: number of acres restored, miles of stream improved, acres of surface lands protected from subsidence, population protected from subsidence, air pollution, hazards of mine and coal refuse disposal area fires;
- (4) an estimate of the cost for each proposed project;