

TITLE II -- OFFICE OF SURFACE MINING RECLAMATION AND ENFORCEMENT

CREATION OF THE OFFICE [30 U.S.C. 1211]

SEC. 201. (a) There is established in the Department of the Interior, the Office of Surface Mining Reclamation and Enforcement (hereinafter referred to as the "Office").

(b) The Office shall have a Director who shall be appointed by the President, by and with the advice and consent of the Senate, and shall be compensated at the rate provided for level V of the Executive Schedule under section 5316 of the United States Code, and such other employees as may be required. Pursuant to section 5108, title 5, and after consultation with the Secretary, the Director of the Office of Personnel Management shall determine the necessary number of positions in general schedule employees in grade 16, 17, and 18 to perform functions of this title and shall allocate such positions to the Secretary. The Director shall have the responsibilities provided under subsection (c) of this section and those duties and responsibilities relating to the functions of the Office which the Secretary may assign, consistent with this Act. Employees of the Office shall be recruited on the basis of their professional competence and capacity to administer the provisions of this Act. The Office may use, on a reimbursable basis when appropriate, employees of the Department and other Federal agencies to administer the provisions of this Act, providing that no legal authority, program, or function in any Federal agency which has as its purpose promoting the development or use of coal or other mineral resources or regulating the health and safety of miners under provisions of the Federal Coal Mine Health and Safety Act of 1969 (83 Stat. 742), shall be transferred to the Office.

Note: Subsection 201(b) amended March 7 and May 23, 1978.

(c) The Secretary, acting through the Office, shall --

(1) administer the programs for controlling surface coal mining operations which are required by this Act; review and approve or disapprove State programs for controlling surface coal mining operations and reclaiming abandoned mine lands; make those investigations and inspections necessary to insure compliance with this Act; conduct hearings, administer oaths, issue subpoenas, and compel the attendance of witnesses and production of written or printed material as provided for in this Act; issue cease-and-desist orders; review and vacate or modify or approve orders and decisions; and order the suspension, revocation, or withholding of any permit for failure to comply with any of the provisions of this Act or any rules and regulations adopted pursuant thereto;

(2) publish and promulgate such rules and regulations as may be necessary to carry out the purposes and provisions of this Act;

(3) administer the State grant-in-aid program for the development of State programs for surface and mining and reclamation operations provided for in Title V of this Act;

(4) administer the program for the purchase and reclamation of abandoned and unreclaimed mined areas pursuant to title IV of this Act;

(5) administer the surface mining and reclamation research and demonstration project authority provided for in this Act;

(6) consult with other agencies of the Federal Government having expertise in the control and reclamation of surface mining operations and assist States, local governments, and other eligible agencies in the coordination of such programs;

(7) maintain a continuing study of surface mining and reclamation operations in the United States;

(8) develop and maintain an Information and Data Center on Surface Coal Mining, Reclamation, and Surface Impacts of Underground Mining, which will make such data available to the public and the Federal, regional, State, and local agencies conducting or concerned with land use planning and agencies concerned with surface and underground mining and reclamation operations;

(9) assist the States in the development of State programs for surface coal mining and reclamation operations which meet the requirements of the Act, and at the same time, reflect local requirements and local environmental and agricultural conditions;

(10) assist the States in developing objective scientific criteria and appropriate procedures and institutions for determining those areas of a State to be designated unsuitable for all or certain types of surface coal mining pursuant to section 522;

(11) monitor all Federal and State research programs dealing with coal extraction and use and recommend to Congress the research and demonstration projects and necessary changes in public policy which are designated to (A) improve feasibility of underground coal mining, and (B) improve surface mining and reclamation techniques directed at eliminating adverse environmental and social impacts;

(12) cooperate with other Federal agencies and State regulatory authorities to minimize duplication of inspections, enforcement, and administration of this Act; and

(13) perform such other duties as may be provided by law and relate to the purposes of this Act.

(d) The Director shall not use either permanently or temporarily any person charged with responsibility of inspecting coal mines under the Federal Coal Mine Health and Safety Act of 1969, unless he finds and publishes such finding in the Federal Register, that such activities would not interfere with such inspections under the 1969 Act.

(e) [Repealed.]

Note: Subsection 201(e) amended December 11, 1980.

(f) No employee of the Office or any other Federal employee performing any function or duty under this Act shall have a direct or indirect financial interest in underground or surface coal mining operations. Whoever knowingly violates the provisions of the above sentence shall, upon conviction, be punished by a fine of not more than \$2,500, or by imprisonment for not more than one year, or both. The Director shall (1) within sixty days after enactment of this Act publish regulations, in accordance with section 553 of title 5, United States Code, to establish the methods by which the provisions of this subsection will be monitored and enforced, including appropriate provisions for the filing by such employees and the review of statements and supplements thereto concerning their financial interests which may be affected by this subsection, and (2) report to the Congress as part of the annual report (section 706) on the actions taken and not taken during the preceding calendar year under this subsection.

(g)(1) After the Secretary has adopted the regulations required by section 501 of this Act, any person may petition the Director to initiate a proceeding for the issuance, amendment, or repeal of a rule under this Act.

(2) Such petitions shall be filed in the principal office of the Director and shall set forth the facts which it is claimed established that it is necessary to issue, amend, or repeal a rule under this Act.

(3) The Director may hold a public hearing or may conduct such investigation or proceeding as the Director deems appropriate in order to determine whether or not such petition should be granted.

(4) Within ninety days after filing of a petition described in paragraph (1), the Director shall either grant or deny the petition. If the Director grants such petition, the Director shall promptly commence an appropriate proceeding in accordance with the provisions of this Act. If the Director denies such petition, the Director shall so notify the petitioner in writing setting forth the reasons for such denial.