9701, 9702, 9704 to 9707, 9711, 9712, and 9721 of Title 26, Internal Revenue Code, and enacting provisions set out as notes under section 1232 of this title and sections 9701, 9704, and 9712 of Title 26] may be cited as the 'Surface Mining Control and Reclamation Act Amendments of 2006'.''

SHORT TITLE OF 1990 AMENDMENTS

Pub. L. 101–508, title VI, § 6001, Nov. 5, 1990, 104 Stat. 1388–289, provided that: ''This subtitle [subtitle A (§§ 6001–6014) of title VI of Pub. L. 101–508, enacting section 1240a of this title, amending sections 1231 to 1237, 1239, 1257, and 1302 of this title, and enacting provisions set out as notes under section 1231 of this title] may be cited as the 'Abandoned Mine Reclamation Act of 1990'.''

Pub. L. 101–498, § 1, Nov. 2, 1990, 104 Stat. 1207, provided that: ''This Act [enacting section 1230a of this title] may be cited as the 'Strategic and Critical Minerals Act of 1990'.''

SHORT TITLE OF 1988 AMENDMENT

Pub. L. 100–483, § 13, Oct. 12, 1988, 102 Stat. 2341, provided that: ''This Act [amending sections 1221, 1222, 1224, 1226, 1229, and 1230 of this title and enacting provisions set out as notes under this section and section 1229 of this title] may be cited as the Mining and Mineral Resources Research Institute Amendments of 1988.''

SHORT TITLE

Section 1 of Pub. L. 95–87 provided: ''That this Act [enacting this chapter and amending section 1114 of Title 18, Crimes and Criminal Procedure] may be cited as the 'Surface Mining Control and Reclamation Act of 1977'.''

Pub. L. 98–409, § 11, as added by Pub. L. 100–483, § 12, Oct. 12, 1988, 102 Stat. 2341; amended by Pub. L. 104–312, § 1(b), Oct. 19, 1996, 110 Stat. 3819, provided that: ''This Act [enacting subchapter III of this chapter] may be cited as the 'Mining and Mineral Resources Institutes Act'.''

§ 1202. Statement of purpose

It is the purpose of this chapter to—

(a) establish a nationwide program to protect society and the environment from the adverse effects of surface coal mining operations;

(b) assure that the rights of surface landowners and other persons with a legal interest in the land or appurtenances thereto are fully protected from such operations;

(c) assure that surface mining operations are not conducted where reclamation as required by this chapter is not feasible;

(d) assure that surface coal mining operations are so conducted as to protect the environment;

(e) assure that adequate procedures are undertaken to reclaim surface areas as contemporaneously as possible with the surface coal mining operations;

(f) assure that the coal supply essential to the Nation's energy requirements, and to its economic and social well-being is provided and strike a balance between protection of the environment and agricultural productivity and the Nation's need for coal as an essential source of energy;

(g) assist the States in developing and implementing a program to achieve the purposes of this chapter;

(h) promote the reclamation of mined areas left without adequate reclamation prior to August 3, 1977, and which continue, in their unreclaimed condition, to substantially degrade the quality of the environment, prevent or damage the beneficial use of land or water resources, or endanger the health or safety of the public;

(i) assure that appropriate procedures are provided for the public participation in the development, revision, and enforcement of regulations, standards, reclamation plans, or programs established by the Secretary or any State under this chapter;

(j) provide a means for development of the data and analyses necessary to establish effective and reasonable regulation of surface mining operations for other minerals;

(k) encourage the full utilization of coal resources through the development and application of underground extraction technologies;

(*l*) stimulate, sponsor, provide for and/or supplement present programs for the conduct of research investigations, experiments, and demonstrations, in the exploration, extraction, processing, development, and production of minerals and the training of mineral engineers and scientists in the field of mining, minerals resources, and technology, and the establishment of an appropriate research and training center in various States; and

(m) wherever necessary, exercise the full reach of Federal constitutional powers to insure the protection of the public interest through effective control of surface coal mining operations.

(Pub. L. 95–87, title I, § 102, Aug. 3, 1977, 91 Stat. 448.)

SUBCHAPTER II—OFFICE OF SURFACE MINING RECLAMATION AND ENFORCEMENT

§ 1211. Office of Surface Mining Reclamation and Enforcement

(a) Establishment

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

(b) Appointment, compensation, duties, etc., of Director; employees

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 5315[1] of title 5, and such other employees as may be required. Pursuant to section 5108 of 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 subchapter 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 chapter. Employees of the Office shall be re-

[1] So in original. Probably should be section ''5316''.

cruited on the basis of their professional competence and capacity to administer the provisions of this chapter. The Office may use, on a reimbursable basis when appropriate, employees of the Department and other Federal agencies to administer the provisions of this chapter, 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) [30 U.S.C. 801 et seq.], shall be transferred to the Office.

(c) Duties of Secretary

The Secretary, acting through the Office, shall—

(1) administer the programs for controlling surface coal mining operations which are required by this chapter; review and approve or disapprove State programs for controlling surface coal mining operations and reclaiming abandoned mined lands; make those investigations and inspections necessary to insure compliance with this chapter; conduct hearings, administer oaths, issue subpenas, and compel the attendance of witnesses and production of written or printed material as provided for in this chapter; 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 chapter 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 chapter;

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

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

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

(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 this chapter, 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 1272 of this title;

(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 chapter; and

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

(d) Restriction on use of Federal coal mine health and safety inspectors

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 [30 U.S.C. 801 et seq.], 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. Pub. L. 96–511, § 4(b), Dec. 11, 1980, 94 Stat. 2826

(f) Conflict of interest; penalties; rules and regulations; report to Congress

No employee of the Office or any other Federal employee performing any function or duty under this chapter 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 August 3, 1977, publish regulations, in accordance with section 553 of title 5, 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 1296 of this title) on the actions taken and not taken during the preceding calendar year under this subsection.

(g) Petition for issuance, amendment, or repeal of rule; filing; hearing or investigation; notice of denial

(1) After the Secretary has adopted the regulations required by section 1251 of this title, any person may petition the Director to initiate a

proceeding for the issuance, amendment, or repeal of a rule under this chapter.

(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 chapter.

(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 chapter. If the Director denies such petition, the Director shall so notify the petitioner in writing setting forth the reasons for such denial.

(Pub. L. 95–87, title II, § 201, Aug. 3, 1977, 91 Stat. 449; Pub. L. 95–240, title I, § 100, Mar. 7, 1978, 92 Stat. 109; 1978 Reorg. Plan No. 2, § 102, eff. Jan. 1, 1979, 43 F.R. 36037, 92 Stat. 3783; Pub. L. 96–511, § 4(b), Dec. 11, 1980, 94 Stat. 2826.)

REFERENCES IN TEXT

The Federal Coal Mine Health and Safety Act of 1969, referred to in subsecs. (b) and (d), 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.

AMENDMENTS

1980—Subsec. (e). Pub. L. 96–511 struck subsec. (e) which provided for consideration of Office of Surface Mining Reclamation and Enforcement as an independent Federal regulatory agency. See section 3502(10) of Title 44, Public Printing and Documents.

1978—Subsec. (b). Pub. L. 95–240 substituted ''V'' for ''IV''.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–511 effective Apr. 1, 1981, see section 5 of Pub. L. 96–511, set out as a note under section 2904 of Title 44, Public Printing and Documents.

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of provisions in subsec. (f) of this section relating to requirement to report to Congress on actions taken and not taken under subsec. (f), see section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance, and page 109 of House Document No. 103–7.

TRANSFER OF FUNCTIONS

''The Director of the Office of Personnel Management'' substituted for ''a majority of members of the Civil Service Commission'' in subsec. (b) pursuant to Reorg. Plan No. 2 of 1978, § 102, 43 F.R. 36037, 92 Stat. 3783, set out under section 1101 of Title 5, Government Organization and Employees, which transferred all functions vested by statute in the United States Civil Service Commission to the Director of the Office of Personnel Management (except as otherwise specified), effective Jan. 1, 1979, as provided by section 1–102 of Ex. Ord. No. 12107, Dec. 28, 1978, 44 F.R. 1055, set out under section 1101 of Title 5.

REFERENCES IN OTHER LAWS TO GS–16, 17, OR 18 PAY RATES

References in laws to the rates of pay for GS–16, 17, or 18, or to maximum rates of pay under the General Schedule, to be considered references to rates payable under specified sections of Title 5, Government Organization and Employees, see section 529 [title I, § 101(c)(1)] of Pub. L. 101–509, set out in a note under section 5376 of Title 5.

TRAVEL AND PER DIEM EXPENSES

Pub. L. 100–446, title I, Sept. 27, 1988, 102 Stat. 1793, provided: ''That notwithstanding any other provisions of law, appropriations for the Office of Surface Mining Reclamation and Enforcement may, hereafter, provide for the travel and per diem expenses of State and tribal personnel attending OSMRE sponsored training''.

Similar provisions were contained in the following appropriations acts:

Pub. L. 110–161, div. F, title I, Dec. 26, 2007, 121 Stat. 2109.

Pub. L. 109–54, title I, Aug. 2, 2005, 119 Stat. 512.

Pub. L. 108–447, div. E, title I, Dec. 8, 2004, 118 Stat. 3054.

Pub. L. 108–108, title I, Nov. 10, 2003, 117 Stat. 1256.

Pub. L. 108–7, div. F, title I, Feb. 20, 2003, 117 Stat. 230.

Pub. L. 107–63, title I, Nov. 5, 2001, 115 Stat. 429.

Pub. L. 106–291, title I, Oct. 11, 2000, 114 Stat. 933.

Pub. L. 106–113, div. B, § 1000(a)(3) [title I], Nov. 29, 1999, 113 Stat. 1535, 1501A–147.

Pub. L. 105–277, div. A, § 101(e) [title I], Oct. 21, 1998, 112 Stat. 2681–231, 2681–244.

Pub. L. 105–83, title I, Nov. 14, 1997, 111 Stat. 1553.

Pub. L. 104–208, div. A, title I, § 101(d) [title I], Sept. 30, 1996, 110 Stat. 3009–181, 3009–191.

Pub. L. 104–134, title I, § 101(c) [title I], Apr. 26, 1996, 110 Stat. 1321–156, 1321–168; renumbered title I, Pub. L. 104–140, § 1(a), May 2, 1996, 110 Stat. 1327.

Pub. L. 103–332, title I, Sept. 30, 1994, 108 Stat. 2510.

Pub. L. 103–138, title I, Nov. 11, 1993, 107 Stat. 1389.

Pub. L. 102–381, title I, Oct. 5, 1992, 106 Stat. 1387.

Pub. L. 102–154, title I, Nov. 13, 1991, 105 Stat. 1002.

Pub. L. 101–512, title I, Nov. 5, 1990, 104 Stat. 1927.

Pub. L. 101–121, title I, Oct. 23, 1989, 103 Stat. 712.

SUBCHAPTER III—STATE MINING AND MINERAL RESOURCES RESEARCH INSTITUTES

CODIFICATION

Subchapter was not enacted as part of the Surface Mining Control and Reclamation Act of 1977 which comprises this chapter.

§ 1221. Authorization of State allotments to institutes

(a)(1) There are authorized to be appropriated to the Secretary of the Interior (hereafter in this subchapter referred to as the ''Secretary'') funds adequate to provide for each participating State $400,000 for each of the fiscal years ending September 30, 1990, through September 30, 1994, to assist the States in carrying on the work of a competent and qualified mining and mineral resources research institute or center (hereafter in this subchapter referred to as the ''institute'') at one public college or university in the State which meets the eligibility criteria established in section 1230 of this title.

(2)(A) Funds appropriated under this section shall be made available for grants to be matched on a basis of no less than 2 non-Federal dollars for each Federal dollar.

(B) If there is more than one such eligible college or university in a State, funds appropriated