

110TH CONGRESS
1ST SESSION

S. 1655

To establish improved mandatory standards to protect miners during emergencies, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JUNE 19, 2007

Mr. KENNEDY (for himself, Mrs. MURRAY, and Mr. BYRD) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

A BILL

To establish improved mandatory standards to protect miners during emergencies, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Miner Health and Safety Enhancement Act of 2007”.

6 (b) TABLE OF CONTENTS.—The table of contents for
7 this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Sense of congress.
- Sec. 3. Definitions; references.

TITLE I—ACTIONS TO FURTHER PROTECT UNDERGROUND
MINERS IN THE EVENT OF AN EMERGENCY

- Sec. 101. Enhanced standards to avoid accidents like those at the sago, arabama, and darby mines in 2006.
- Sec. 102. Inspections and inspectors.
- Sec. 103. Enhancing operator and owner incentives to avoid serious risks to miners.
- Sec. 104. Facilitating the prompt initiation of rescue and mine recovery efforts.
- Sec. 105. Accident and incident investigations.
- Sec. 106. Approval and research priorities.

TITLE II—ACTIONS REQUIRED TO FULFILL THE INTENT OF THE
FEDERAL MINE SAFETY AND HEALTH ACT OF 1977

- Sec. 201. Revising health standards set pursuant to the 1977 Act.
- Sec. 202. Regulatory priorities and process.
- Sec. 203. Clarifications of intent in the 1977 Act.
- Sec. 204. Federal licensing.

1 **SEC. 2. SENSE OF CONGRESS.**

2 It is the sense of Congress that—

3 (1) while the Mine Improvement and New
4 Emergency Response Act of 2006 (Public Law 109–
5 236) was an essential first step in addressing the
6 many health and safety hazards that miners still
7 face, supplemental action is necessary and feasible to
8 better protect miners in coal and other mines; and

9 (2) whereas the Secretary of Labor has failed
10 in recent years to adequately fulfill the Secretary’s
11 obligations under the Federal Mine Safety and
12 Health Act of 1977 (30 U.S.C. 801 et seq.), addi-
13 tional Congressional intervention is needed.

14 **SEC. 3. DEFINITIONS; REFERENCES.**

15 (a) DEFINITIONS.—As used in this Act—

16 (1) the term “Secretary” refers to the Sec-
17 retary of Labor; and

1 (2) any other term used in this Act that is de-
 2 fined in section 3 of the Federal Mine Safety and
 3 Health Act of 1977 (30 U.S.C. 802) shall have the
 4 meaning given the term in such section.

5 (b) REFERENCES.—Except as otherwise expressly
 6 provided, whenever in this Act an amendment or repeal
 7 is expressed in terms of an amendment to, or repeal of,
 8 a section or other provision, the reference shall be consid-
 9 ered to be made to a section or other provision of the Fed-
 10 eral Mine Safety and Health Act of 1977 (30 U.S.C. 801
 11 et seq.).

12 **TITLE I—ACTIONS TO FURTHER**
 13 **PROTECT UNDERGROUND**
 14 **MINERS IN THE EVENT OF AN**
 15 **EMERGENCY**

16 **SEC. 101. ENHANCED STANDARDS TO AVOID ACCIDENTS**
 17 **LIKE THOSE AT THE SAGO, ARACOMA ALMA,**
 18 **AND DARBY MINES IN 2006.**

19 (a) POST ACCIDENT COMMUNICATIONS.—Section
 20 316(b)(2)(F)(ii) (30 U.S.C. 876(b)(2)(F)(ii)) is amend-
 21 ed—

22 (1) by striking “Not later than” and inserting
 23 the following:

24 “(II) ADDITIONAL REQUIRE-
 25 MENTS.—Not later than”; and

1 (2) by inserting after the clause designation
2 and heading the following:

3 “(I) INITIAL REQUIREMENTS.—

4 Not later than 120 days after the en-
5 actment of the Miner Health and
6 Safety Enhancement Act of 2007, a
7 plan shall, to be in approved status,
8 provide for a post accident commu-
9 nication system between underground
10 and surface personnel, and for an
11 electronic tracking system permitting
12 surface personnel to determine the lo-
13 cation of any persons trapped under-
14 ground, that utilizes a system at least
15 as effective as a ‘leaky feeder’ type
16 communication and tracking system.
17 These systems shall be ‘hardened’ to
18 the extent possible to ensure, to the
19 greatest extent possible, their surviv-
20 ability in the event of a mine disaster.
21 In addition, to be in approved status,
22 an emergency response plan must be
23 revised promptly to incorporate new
24 technology that the National Institute
25 for Occupational Safety and Health

1 certifies can be added to the existing
2 system to improve its ability to facili-
3 tate post-accident communication with
4 or tracking of miners. No miner shall
5 be disciplined based solely on informa-
6 tion obtained from an electronic com-
7 munications and tracking system.”.

8 (b) UNDERGROUND REFUGES.—Section
9 316(b)(2)(E) (30 U.S.C. 876(b)(2)(E)) is amended by
10 adding at the end the following:

11 “(vi) FINAL REGULATIONS.—Not later
12 than June 15, 2008, the Secretary shall issue
13 final regulations, consistent with the design cri-
14 teria recommended by the National Institute for
15 Occupational Safety and Health under section
16 12 of the MINER Act, requiring the installa-
17 tion of rescue chambers in the working areas of
18 underground coal mines.”.

19 (c) IMPROVEMENTS TO SEALS, VENTILATION CON-
20 TROLS, AND ROCK DUSTING TO LIMIT THE DAMAGE
21 FROM EXPLOSIONS.—

22 (1) REPEAL.—The Mine Improvement and New
23 Emergency Response Act of 2006 (30 U.S.C. 801
24 note) is amended by striking section 10 and redesignig-

1 nating sections 11 through 14 as sections 10
2 through 13, respectively.

3 (2) SEALS.—Section 303(z) of the Mine Safety
4 and Health Act (30 U.S.C. 863(z)) is amended by
5 adding at the end the following:

6 “(4) Not later than December 15, 2007, the Sec-
7 retary shall issue final rules regarding approval, design,
8 construction, inspection, maintenance, and monitoring of
9 underground coal mine seals. The Secretary shall inspect
10 all seals under construction after that date, during at least
11 part of their construction, to ensure the mine operator is
12 complying with the approved seal plan, and shall develop
13 an inspection protocol for this purpose. Except as other-
14 wise provided by this paragraph, these regulations shall
15 implement the recommendations of the National Institute
16 for Occupational Safety and Health. The regulations shall
17 require that all areas of the mine sealed after June 15,
18 2007, shall be monitored. Monitoring of seals shall be done
19 both by—

20 “(A) sampling through at least 1 seal in each
21 bank of seals; and

22 “(B) sampling through a sufficient number of
23 boreholes from the surface to the sealed areas un-
24 derground to effectively determine the gas con-
25 centrations within the area.”.

1 (3) VENTILATION CONTROLS.—Section 303(c)
2 (30 U.S.C. 863(c)) is amended by inserting at the
3 end the following new paragraph:

4 “(4) Not later than 1 year after the date of enact-
5 ment of the Miner Health and Safety Enhancement Act
6 of 2007, the Secretary shall publish interim final regula-
7 tions to enhance the survivability of underground mine
8 ventilation controls. The Secretary shall require that
9 brattice walls, overcasts, undercasts, regulators, and all
10 other ventilation structures be constructed using solid con-
11 crete blocks laid wet and sealed with an appropriate bond-
12 ing agent on at least the side subjected to the velocity of
13 the intake air coursing through the entry.”.

14 (4) ROCK DUSTING.—Section 304(d) (30
15 U.S.C. 864) is amended by adding at the end the
16 following: “Not later than June 15, 2009, the Na-
17 tional Institute for Occupational Safety and Health
18 shall issue recommendations as to whether changes
19 to these requirements are necessary to ensure an
20 equivalent level of protection in light of any changes
21 to the size and composition of coal dust since these
22 requirements were established, and the Secretary of
23 Labor shall take appropriate action, including the
24 issuance of an emergency temporary standard if
25 warranted, to respond to these recommendations.”.

1 (d) LIMITING CONVEYOR BELT RISKS.—

2 (1) FLAME RESISTANT CONVEYOR BELTS.—

3 Section 311(h) is amended by adding at the end the
4 following: “Not later than December 31, 2007, the
5 Secretary shall publish interim final regulations to
6 ensure that all conveyor belts in use in underground
7 coal mines are replaced, as soon as practicable, with
8 belts that can meet the flame resistance require-
9 ments recommended by the National Institute for
10 Occupational Safety and Health. Any conveyor belt
11 installed in a coal mine after December 31, 2008,
12 shall meet the flame resistance requirements rec-
13 ommended by the National Institute for Occupa-
14 tional Safety and Health. Such action by the Sec-
15 retary shall not diminish in any way the obligation
16 of the Secretary to take appropriate additional ac-
17 tion under this Act following completion of the re-
18 ports by the Technical Study Panel, pursuant to sec-
19 tion 514.”.

20 (2) BELT AIR.—Section 303(y) (30 U.S.C.
21 863(y)) is amended by adding at the end the fol-
22 lowing:

23 “(3) Not later than June 20, 2008, the Secretary
24 shall revise the regulations prescribed pursuant to this sec-
25 tion to require, in any coal mine, regardless of the date

1 on which the coal mine was opened, that belt haulage en-
2 tries not be used to ventilate active working places.

3 “(4) No proposed plan, or proposed modification,
4 that utilizes belt haulage entries to ventilate active work-
5 ing places shall be approved after the date of enactment
6 of the Miner Health and Safety Enhancement Act of
7 2007. Plans that have been approved by the Secretary
8 prior to the date of enactment of the Miner Health and
9 Safety Enhancement Act of 2007 that permit the use of
10 belt-air to ventilate active working places in a mine are
11 permitted to remain in use to complete current mining up
12 until the date of issuance of the regulation required pursu-
13 ant to subsection (3).

14 “(5) Nothing in this subsection shall limit the obliga-
15 tion of the Secretary to take appropriate additional action
16 under this Act following completion of the reports by the
17 Technical Study Panel, pursuant to section 514.”.

18 (e) PRE-SHIFT REVIEW OF MINE CONDITIONS.—
19 Section 303(d) (30 U.S.C. 863(d)) is amended by adding
20 at the end the following new paragraph:

21 “(3) Not later than 90 days after the date of enact-
22 ment of the Miner Health and Safety Enhancement Act
23 of 2007, each mine operator shall be required to imple-
24 ment a communication program at each of the operator’s
25 facilities to insure management and miners entering the

1 operation at the start of their shift are aware of the cur-
2 rent conditions of the mine in general and their specific
3 workplace in particular. In an effort to facilitate these
4 communications, all agents of the operator who are re-
5 sponsible for ensuring the safe and healthful working con-
6 ditions at the mine, including mine foremen, assistant
7 mine foremen, and mine examiners, shall, upon exiting the
8 mine or workplace, meet with their counterparts on the
9 oncoming shift to verbally update their counterparts on
10 the conditions such agents observed during their shift, in-
11 cluding any conditions that are abnormal or hazardous.
12 Prior to entering the mine or other workplace, the oncom-
13 ing agent of the operator shall meet with all members of
14 the crew that the agent is responsible for and inform the
15 crew of the general conditions at the operation and in their
16 specific work area. This process shall be completed prior
17 to the start of each shift at the operation and recorded
18 in a book designated for that purpose and available for
19 inspection by all interested parties. In the event the oper-
20 ation is idle prior to the start of any shift, the agent of
21 the operator shall meet with the individual or individuals
22 who were responsible for examining the mine to obtain the
23 necessary information.”.

1 (f) ATMOSPHERIC MONITORING SYSTEMS.—Section
2 317 (30 U.S.C. 877) is amended by adding at the end
3 the following:

4 “(u) Not later than May 1, 2008, an operator of an
5 underground mine shall install atmospheric monitoring
6 systems in all underground areas where miners normally
7 work and travel that provide real-time information regard-
8 ing methane levels, carbon monoxide levels, oxygen levels,
9 air flow, smoke, and temperature, and that can, to the
10 maximum extent possible, withstand explosions and
11 fires.”.

12 (g) METHANE MONITORS.—Section 303(h) (30
13 U.S.C. 863(h)) is amended by redesignating paragraph
14 (2) as paragraph (3), and inserting after paragraph (1)
15 the following new paragraph:

16 “(2) Each miner who may be working alone for part
17 of a shift shall be equipped with a multi-gas detector that
18 measures current levels of methane, oxygen, and carbon
19 monoxide.”.

20 (h) LIGHTNING.—

21 (1) ADMINISTRATIVE ACTION.—Section 307 (30
22 U.S.C. 867) is amended by adding at the end the
23 following:

24 “(f) In the event lightning is present in or around
25 a mining operation, mine operators who cannot fully pro-

1 tect their miners from the effects of lightning through
2 grounding and other engineering controls shall use appro-
3 priate administrative controls to do so, including with-
4 drawal of miners from all underground areas of the mine.
5 Failure to take appropriate administration action shall be
6 treated as a significant and substantial violation of the
7 this Act. Miners withdrawn as a result of this action shall
8 suffer no loss in pay or other compensation.”.

9 (2) RECOMMENDATIONS.—Not later than 1
10 year after the date of enactment of this Act, the
11 Secretary shall contract with the National Academy
12 of Science to provide, to the Secretary and to Con-
13 gress, recommendations on—

14 (A) actions that need to be taken to
15 strengthen existing requirements in law or reg-
16 ulations to ensure that miners are protected, to
17 the fullest extent permitted, from potential
18 damage that could be generated because of
19 lightning strikes near a mine;

20 (B) recommendations for adopting any ex-
21 isting technology to the mining environment;
22 and

23 (C) research needed for improved tech-
24 nology.

1 (i) SCSR INSPECTION PROGRAM.—The Secretary
2 shall—

3 (1) establish a program to randomly remove
4 and have tested at least 5 percent of the field sam-
5 ples of each model of self-rescue device used in an
6 underground coal mine no less frequently than every
7 6 months, in order to ensure that the self-rescue de-
8 vices in coal mine inventories are working in accord-
9 ance with the approval criteria for such devices, and
10 mine operators shall be responsible for the costs to
11 replace required self-rescue devices taken from their
12 operation by the Secretary for random testing;

13 (2) require a manufacturer of a self-rescue de-
14 vice and the mine operator who owns a device to—

15 (A) contact the Secretary immediately
16 upon notification of any potential problem with
17 any such device; and

18 (B) provide a copy of such notice to the
19 representative of miners at the affected oper-
20 ation; and

21 (3) notify immediately all operators of under-
22 ground coal mines if the Secretary detects or is ad-
23 vised of any problems with the self-rescue devices.

24 (j) APPLICATION TO UNDERGROUND METAL AND
25 NONMETAL MINES.—The Secretary shall promptly estab-

1 lish an advisory committee to provide recommendations as
2 to the need to revise the regulations applicable to under-
3 ground metal and nonmetal mines to ensure that miners
4 in such mines are as protected in emergency situations
5 as will be underground coal miners following the full im-
6 plementation of the Mine Improvement and New Emer-
7 gency Response Act of 2006, the provisions of this Act,
8 and related actions by the Secretary. The advisory com-
9 mittee shall be established pursuant to the Federal Advi-
10 sory Committee Act, and shall provide recommendations
11 to the Secretary and to Congress not later than 21 months
12 after the date of enactment of this Act, including rec-
13 ommendations as to any action by Congress that could fa-
14 cilitate the goal of providing equivalent protections to min-
15 ers in underground metal and nonmetal mines.

16 **SEC. 102. INSPECTIONS AND INSPECTORS.**

17 (a) **AUTHORITY OF INSPECTORS.**—Section 103 (30
18 U.S.C. 813) is amended—

19 (1) in subsection (a), by adding at the end the
20 following: “No person shall limit or otherwise pre-
21 vent the Secretary from entry on a coal or other
22 mine, or interfere with the Secretary’s inspection ac-
23 tivities, investigative activities, or rescue or recovery
24 activities.”; and

25 (2) in subsection (k)—

1 (A) by striking “, when present,”; and

2 (B) by adding at the end the following: “In
3 the event of any accident occurring in a coal or
4 other mine, where rescue and recovery work is
5 necessary, the Secretary or an authorized rep-
6 resentative of the Secretary shall take whatever
7 action the Secretary determines appropriate to
8 protect the life of any person, and may super-
9 vise and direct the rescue and recovery activi-
10 ties in such mine.”.

11 (b) TRANSITION TO A NEW GENERATION OF INSPEC-
12 TORS.—Section 505 (30 U.S.C. 954) is amended—

13 (1) by striking “The Secretary” the first place
14 it appears and inserting “(a) The Secretary”; and

15 (2) by adding at the end the following:

16 “(b) Not later than 270 days after the date of enact-
17 ment of the Miner Health and Safety Enhancement Act
18 of 2007, the Secretary shall establish a Master Inspector
19 program to ensure that the most experienced and skilled
20 employees in the United States have the incentive, in
21 terms of responsibilities and pay, to serve as mine safety
22 and health inspectors in the mines of the United States.

23 “(c) In order to ensure that the Secretary has ade-
24 quate time to provide that a sufficient number of qualified
25 and properly trained inspectors of the Mine Safety and

1 Health Administration are in place before any inspectors
2 employed as of the date of enactment of the Miner Health
3 and Safety Enhancement Act of 2007 retire, any ceilings
4 on the number of personnel that may be employed by the
5 Administration with respect to mine inspectors are abol-
6 ished for the 5-year period beginning on the date of enact-
7 ment of such Act.

8 “(d) In the event that, notwithstanding the actions
9 taken by the Secretary to hire and train qualified inspec-
10 tors, the Secretary is temporarily unable, at any time dur-
11 ing the 5-year period beginning on the date of enactment
12 of the Miner Health and Safety Enhancement Act of
13 2007, to employ the number of inspectors required to staff
14 all district offices devoted to coal mines at the offices’
15 highest historical levels without transferring personnel
16 from supervisory or plan review activities or diminishing
17 current inspection resources devoted to other types of
18 mines, the Administration is authorized to hire retired in-
19 spectors on a contractual basis to conduct mine inspec-
20 tions, and the retirement benefits of such retired inspec-
21 tors shall not be reduced as a result of such temporary
22 contractual employment.

23 “(e) During the 5-year period beginning on the date
24 of enactment of the Miner Health and Safety Enhance-
25 ment Act of 2007, the Secretary shall issue a special re-

1 port to the appropriate committees of Congress each year,
 2 or at such more frequent intervals as the Secretary or any
 3 such committee may consider appropriate, providing infor-
 4 mation about the actions being taken under this section,
 5 the size and training of the inspector workforce at the Ad-
 6 ministration, the level of enforcement activities, and the
 7 number of requests by individual operators of mines for
 8 compliance assistance.”.

9 **SEC. 103. ENHANCING OPERATOR AND OWNER INCENTIVES**

10 **TO AVOID SERIOUS RISKS TO MINERS.**

11 (a) **PATTERN OF VIOLATIONS.—**

12 (1) **PROMPT IDENTIFICATION OF PATTERN.—**

13 Not later than 3 months after the date of enactment
 14 of this Act, the Secretary shall revise the regulations
 15 issued by the Secretary under section 104(e) of the
 16 Federal Mine Safety and Health Act of 1977 (30
 17 U.S.C. 814(e)) as in effect on the day before such
 18 date of enactment, so that the regulations provide
 19 that—

20 (A) when a potential pattern of violations
 21 is identified by any inspector or district man-
 22 ager of the Administration, the operator of the
 23 coal or other mine and the authorized rep-
 24 resentative of miners for the mine shall be noti-

1 fied by the inspector or district manager not
2 later than 10 days after such identification; and

3 (B) after receiving the notification de-
4 scribed in subparagraph (A), the appropriate
5 official of the Mine Safety and Health Adminis-
6 tration shall promptly review any such potential
7 pattern of violations and, not later than 45
8 days after receiving such notification, make a
9 final decision as to whether a citation for a vio-
10 lation of section 104(e) of such Act should be
11 issued in light of the gravity of the violations
12 and the operator's conduct in connection there-
13 with.

14 (2) IDENTIFICATION OF PATTERN.—Section
15 104(e)(1) (30 U.S.C. 814(e)(1)) is amended by in-
16 serting after the first sentence the following: “In de-
17 termining whether a pattern of violations exists, the
18 Secretary shall give due consideration to all relevant
19 information, such as the gravity of the violations,
20 operator negligence, history of violations, the num-
21 ber of inspection shifts the Secretary or the agents
22 of the Secretary have spent at the operation, and the
23 frequency of violations per number of inspection
24 days spent at the operation.”.

1 (3) TERMINATION OF PATTERN.—Section
2 104(e)(3) (30 U.S.C. 814(e)(3)) is amended by add-
3 ing at the end the following: “In addition, if an op-
4 erator subject to paragraphs (1) and (2) dem-
5 onstrates objective evidence that the operator is cor-
6 recting the problems that gave rise to the pattern of
7 violations, and the violation frequency rate for such
8 operator declines significantly for a period of 180
9 days, the withdrawal order provisions of paragraphs
10 (1) and (2) shall no longer apply.”.

11 (4) FINE FOR A PATTERN OF VIOLATIONS.—
12 Section 110 (30 U.S.C. 820) is amended—

13 (A) by redesignating subsections (i)
14 through (l) as subsections (j) through (m), re-
15 spectively; and

16 (B) by inserting after subsection (h) the
17 following:

18 “(i)(1) If the Secretary determines that a pattern of
19 violations under section 104(e) exists, the Secretary shall
20 assess a penalty, in addition to any other penalty author-
21 ized in this Act for a violation of such section, of not less
22 than \$50,000 nor more than \$250,000. All operators of
23 the mine, including any corporate owners, shall be jointly
24 and severally liable for such penalty. The amount of the
25 assessment under this paragraph shall be designed to en-

1 sure a change in the future conduct of the operators and
2 corporate owners of such mine with respect to mine safety
3 and health, given the overall resources of such operators.
4 Notwithstanding subsection (k) or section 113, a penalty
5 assessed by the Secretary under this paragraph may not
6 be reduced by the Commission.

7 “(2) In addition to the authority to withdraw miners
8 from an area of a coal or other mine pursuant to section
9 104(e), the Secretary shall withdraw all miners from the
10 entire mine when any pattern of violations has been deter-
11 mined to exist under such section, until such time as the
12 Secretary certifies that all identified violations have been
13 corrected and the operator has agreed to abide by a writ-
14 ten plan approved by the Administration to ensure that
15 such a pattern of conduct will not recur.”.

16 (b) NOTIFICATION OF ABATEMENT.—Section 104(b)
17 (30 U.S.C. 814(b)) is amended—

18 (1) by redesignating paragraphs (1) and (2) as
19 subparagraphs (A) and (B), respectively;

20 (2) by striking “If,” and inserting the following:

21 “(2) If,”;

22 (3) by inserting after the subsection designation
23 the following:

24 “(1) An operator issued a citation pursuant to sub-
25 section (a) shall notify the Secretary that the operator has

1 abated the violation involved. If such operator fails to pro-
2 vide such a notice to the Secretary within the abatement
3 time as provided for in the citation, the Secretary shall
4 issue an order that requires the operator (or the agent
5 of the operator) to immediately cause all persons, except
6 those persons referred to in subsection (c), to be with-
7 drawn from, and to be prohibited from entering, such area
8 as the Secretary determines until an authorized represent-
9 ative of the Secretary determines that such violation has
10 been abated.”.

11 (c) FAILURE TO TIMELY PAY PENALTY ASSESS-
12 MENTS.—Section 105(a) (30 U.S.C. 815(a)) is amended
13 by striking the third sentence and inserting the following:
14 “The operator shall, not later than 30 days from the re-
15 ceipt of the notification of a citation issued by the Sec-
16 retary, notify the Secretary that the operator intends to
17 contest the citation or proposed assessment of a penalty
18 and to place in escrow the amount of the proposed assess-
19 ment. If notification and proof of escrow is not provided
20 to the Secretary, the citation and the proposed assessment
21 of penalty shall be deemed a final order of the Commission
22 and not subject to review by any court or agency. In the
23 event that a mine operator refuses to comply with a final
24 order of the Commission to pay civil monetary penalties
25 and statutory interest, the Secretary shall have the au-

1 thority to issue an order requiring the mine operator to
2 cease production under such final orders of the Commis-
3 sion have been paid in full.”

4 (d) MAXIMUM AND MINIMUM PENALTIES.—Section
5 110(a)(1) (30 U.S.C. 820(a)(1)) is amended by striking
6 “more than \$50,000 for each such violation.” and insert-
7 ing “less than \$500 or more than \$100,000 for each such
8 violation, except that, in the case of a violation of a man-
9 datory health or safety standard that could significantly
10 and substantially contribute to the cause and effect of a
11 coal or other mine health or safety hazard, the penalty
12 shall not be less than \$1,000 or more than \$150,000, for
13 each such violation.”.

14 (e) FACTORS IN ASSESSING PENALTIES.—The Fed-
15 eral Mine Safety and Health Act of 1977 is amended—

16 (1) in section 105(b)(1)(B)—

17 (A) by striking “the size of the business of
18 the operator charged” and inserting “the com-
19 bined size of the business of the operator and
20 any controlling entity”;

21 (B) by striking “the effect on the opera-
22 tor’s ability to continue in business,”; and

23 (C) by adding at the end the following: “In
24 settling cases, the Secretary shall utilize the
25 same point system as that utilized to propose

1 penalties, so as to ensure consistency in oper-
2 ator penalty assessments.”; and

3 (2) in section 110(j) (as redesignated by sub-
4 section (a)(4)(A))—

5 (A) by striking “the size of the business of
6 the operator charged” and inserting “the com-
7 bined size of the business of the operator and
8 any controlling entity”;

9 (B) by striking “the effect on the opera-
10 tor’s ability to continue in business,”; and

11 (C) by adding at the end the following: “In
12 any review requested by a mine operator, or in
13 settling cases, the Commission shall utilize the
14 same point system as that developed by the
15 Secretary for proposed assessments so as to en-
16 sure consistency in operator penalty assess-
17 ments.”.

18 (f) CIVIL PENALTY FOR INTERFERENCE OR DIS-
19 CRIMINATION.—Section 110 (30 U.S.C. 820) is further
20 amended by adding at the end the following:

21 “(m) CIVIL PENALTY FOR INTERFERENCE OR DIS-
22 CRIMINATION.—Any operator who is found to be in viola-
23 tion of section 105(c), or in violation of section 103(a)
24 shall be subject to a civil penalty of not less than \$10,000

1 nor more than \$100,000 for each occurrence of such viola-
2 tion.”.

3 (g) IMMINENT DANGER.—Section 107(a) (30 U.S.C.
4 817(a)) is amended by inserting after the first sentence
5 the following: “For purposes of the preceding sentence,
6 any violation of section 315 or section 316, or regulations
7 issued pursuant to such sections, shall be considered an
8 imminent danger.”.

9 **SEC. 104. FACILITATING THE PROMPT INITIATION OF RES-**
10 **CUE AND MINE RECOVERY EFFORTS.**

11 (a) EMERGENCY CALL CENTER.—Not later than 30
12 days after the date of enactment of this Act, the Secretary
13 shall establish, within the Mine Safety and Health Admin-
14 istration, a central communications emergency call center
15 for all coal or other mine operations that shall be staffed
16 and operated 24 hours per day, 7 days per week, by 1
17 or more employees of the Mine Safety and Health Admin-
18 istration. All calls placed to the emergency call center shall
19 be answered by an individual with adequate experience
20 and training to handle emergency mine situations. A sin-
21 gle national phone number shall be provided for this pur-
22 pose and the Secretary shall ensure that all miners and
23 mine operators are issued laminated cards with emergency
24 call center information.

1 (b) CONTACT INFORMATION.—The Secretary shall
2 provide the emergency call center with a contact list, up-
3 dated not less often than quarterly, that contains—

4 (1) the contact phone numbers, including the
5 home phone numbers, for the members of each mine
6 rescue team responsible for each coal or other mine;

7 (2) the phone numbers for the local emergency
8 and rescue services unit that is located nearest to
9 each mine;

10 (3) the contact phone numbers, including the
11 home phone number, for the operator of each mine;

12 (4) the contact phone numbers, including the
13 home phone numbers, for the national and district
14 officials of the Mine Safety and Health Administra-
15 tion;

16 (5) the contact phone numbers, including the
17 home phone numbers, for the State officials in each
18 State who should be contacted in the event of a mine
19 emergency in such State; and

20 (6) the contact phone numbers, including the
21 home phone number, for the authorized representa-
22 tive of the miners at each mine.

23 Each mine operator shall ensure that the Secretary is pro-
24 vided with completely current information required to be

1 maintained by the Secretary pursuant to paragraphs (1),
2 (3), and (6).

3 (c) MINE LOCATION MAPS.—The Secretary shall es-
4 tablish, maintain, and keep current, on the Department
5 of Labor’s website, a detailed map or set of maps showing
6 the exact geographic location of each operating or aban-
7 doned mine in the United States. Such map or maps
8 shall—

9 (1) be presented, through links within the
10 website, in such a way as to make the location of a
11 mine instantly available to the emergency personnel
12 responding to the mine;

13 (2) be available to members of the public;

14 (3) allow a user to find the geographic location
15 of a particular mine, or the geographic locations of
16 all mines of a particular type in a county, congres-
17 sional district, State, or other commonly used geo-
18 graphic region; and

19 (4) provide the geographic location of any min-
20 ing waste impoundments, with links to associated
21 emergency contact information and available emer-
22 gency response plans.

23 (d) REQUIRED NOTIFICATION OF EMERGENCIES AND
24 SERIOUS INCIDENTS.—Section 103(j) (30 U.S.C. 813(j))
25 is amended to read as follows:

1 “(j) In the event of any accident occurring in any
2 coal or other mine, the operator shall notify the Secretary
3 and shall take appropriate measures to prevent the de-
4 struction of any evidence which would assist in inves-
5 tigating the cause or causes of the accident. For purposes
6 of the preceding sentence, the notification required shall
7 be provided by the operator within 15 minutes of the time
8 at which the operator realizes that the death of an indi-
9 vidual at the mine, or an injury or entrapment of an indi-
10 vidual at the mine which has a reasonable potential to
11 cause death, has occurred, or within 1 hour of the time
12 at which the operator realizes that any of the following
13 have occurred in the mine:

14 “(1) A fire.

15 “(2) A roof fall, unplanned inundation, collapse,
16 or unplanned explosion.

17 “(3) A sudden change in mine atmospheric con-
18 ditions in a sealed area.

19 “(4) A rib fall that impairs ventilation or im-
20 pedes escape.

21 “(5) A coal or rock outburst that causes the
22 withdrawal of miners.

23 “(6) The failure of an impoundment.

24 “(7) Damage to hoisting equipment in a shaft
25 or slope that endangers an individual.

1 “(8) Any incident that leads to the death, seri-
2 ous injury with a reasonable potential to cause
3 death, or entrapment, of a miner.

4 “(9) Any other emergency or incident, as deter-
5 mined in regulations promulgated by the Secretary,
6 that needs to be examined in order to determine if
7 the working conditions in the mine are safe.”.

8 (e) ENHANCING THE CAPABILITIES OF MINE RES-
9 CUE TEAMS.—Section 115(e)(2)(B) (30 U.S.C.
10 825(e)(2)(B)) is amended by adding at the end the fol-
11 lowing:

12 “(v) The provision of uniform credentials to
13 mine rescue team members, support personnel, or
14 vehicles for immediate access to any mine site.

15 “(vi) The plans required at each mine to ensure
16 coordination with local emergency response per-
17 sonnel and to ensure that such personnel receive
18 adequate training to offer necessary assistance to
19 mine rescue teams in the event such assistance is re-
20 quested. Such local emergency response personnel
21 shall not perform the duties of any mine rescue
22 team.

23 “(vii) Requirements to ensure that operators
24 are prepared to facilitate the work of mine rescue
25 teams during an emergency by—

1 “(I) storing necessary equipment in loca-
2 tions readily accessible to mine rescue teams;

3 “(II) providing mine rescue teams with a
4 parking and staging area adequate for their
5 needs;

6 “(III) identifying a space appropriate for
7 coordinating emergency communications with
8 the mine rescue team; and

9 “(IV) identifying and maintaining separate
10 spaces for family members, community mem-
11 bers, and press to assemble during an emer-
12 gency so as to facilitate communications with
13 these groups while ensuring the efforts of the
14 mine rescue teams are not hindered.”.

15 (f) EMERGENCY MEDICAL RESPONSE.—

16 (1) AMBULANCE.—Not later than 3 months
17 after the date of enactment of this Act, the Sec-
18 retary shall promulgate regulations to require mine
19 operators to have, within 20 minutes from the site
20 of every coal or other mine, an ambulance or other
21 means of providing emergency medical response in
22 the event of an accident.

23 (2) MEDICAL EMERGENCY TECHNICIAN TRAIN-
24 ING.—The Secretary shall review the training and
25 availability requirements for medical emergency

1 technicians in effect as of the date of enactment of
2 this Act and shall promptly revise such requirements
3 in any regulations necessary to improve such train-
4 ing and increase the availability of medical emer-
5 gency technicians.

6 (g) OFFICE OF MINER OMBUDSMAN.—Title V is
7 amended by adding at the end the following:

8 **“SEC. 516. OFFICE OF MINER OMBUDSMAN.**

9 “(a) ESTABLISHMENT OF MINER OMBUDSMAN.—
10 There shall be established, within the Office of the Inspec-
11 tor General of the Department of Labor, the position of
12 Miner Ombudsman. The President, by and with the advice
13 and consent of the Senate, shall appoint an individual with
14 expertise in mine safety and health to serve as the Miner
15 Ombudsman.

16 “(b) DUTIES.—The Ombudsman shall—

17 “(1) be primarily responsible for ensuring that
18 the rights of miners are upheld to the full extent in-
19 tended in this Act, and the regulations issued under
20 this Act;

21 “(2) be responsible for establishing practices to
22 ensure the confidentiality of the identity of miners,
23 and the families or personal representatives of the
24 miners, who contact mine operators, authorized rep-
25 resentatives of the miners, the Administration, the

1 Department of Labor, or others with information
2 about mining conditions that may threaten, or have
3 recently threatened, as of the time of the contact,
4 miner safety or health, while ensuring that the Ad-
5 ministration has the information needed to promptly
6 investigate such complaints;

7 “(3) establish a toll-free telephone number and
8 appropriate Internet website to permit individuals to
9 confidentially report possible mine mandatory health
10 or safety standard violations or concerns;

11 “(4) collect and forward information concerning
12 possible mandatory health or safety standard viola-
13 tions or concerns to the appropriate officials of the
14 Administration for investigation;

15 “(5) monitor the Secretary’s efforts to protect
16 miners who report that their rights under section
17 105(c) have been violated, and report to Congress
18 any recommendations that would enhance such
19 rights or protections; and

20 “(6) carry out public outreach and other activi-
21 ties to facilitate the transmission, to the Secretary,
22 of information that could help avoid mine accidents.

23 “(c) **AUTHORITY.**—The Ombudsman shall be for-
24 warded all complaints of operator violations of any section
25 of this Act or regulations prescribed under this Act that

1 are reported to the Secretary. This shall include com-
2 plaints submitted in writing, via the code-a-phone, or oral-
3 ly, along with all relevant information available regarding
4 the complainant. All such information shall be retained in
5 a confidential manner pursuant to the Privacy Act of
6 1974. The Ombudsman shall use such information to en-
7 sure that miners' complaints are addressed in a timely
8 manner and in compliance with the appropriate statutes
9 and regulations. The Ombudsman shall have authority to
10 ensure that all complaints were handled in such fashion,
11 and to determine what remedy, if any, was prescribed, and
12 all personnel of the Department shall cooperate with re-
13 quests by the Ombudsman for information in this regard.

14 “(d) AUTHORIZATION OF APPROPRIATIONS.—There
15 are hereby authorized to be appropriated to the Ombuds-
16 man such sums as may be required for the implementation
17 of the duties under this section, out of the sums otherwise
18 made available to the Administration for its activities. The
19 Ombudsman shall have the authority to hire personnel and
20 otherwise provide for the administration of the office of
21 the Miner Ombudsman, in accordance with applicable
22 law.”.

23 **SEC. 105. ACCIDENT AND INCIDENT INVESTIGATIONS.**

24 Section 103(b) (30 U.S.C. 813(b) is amended—

1 (1) by striking “For the purpose” and inserting
2 the following:

3 “(2) For the purpose;”;

4 (2) by inserting after the subsection designation
5 the following:

6 “(1) Not later than 30 days after the date of enact-
7 ment of the Miner Health and Safety Enhancement Act
8 of 2007, the Secretary shall initiate rulemaking activity
9 to establish rules on the procedures that will be used to
10 investigate mining accidents and incidents, and shall di-
11 rectly contact and solicit the participation of—

12 “(A) individuals identified by the Secretary as
13 family members of miners who perished in mining
14 accidents of any type during the preceding 10-year
15 period;

16 “(B) organizations representing miners;

17 “(C) mine rescue teams;

18 “(D) Federal, State, and local investigation and
19 prosecutorial authorities; and

20 “(E) others whom the Secretary determines
21 may have information relevant to this rulemaking.

22 Such rules shall be issued not later than October 1, 2008,
23 and shall include the investigation of any activities of Fed-
24 eral employees that may be relevant to such accidents or
25 incidents, and may establish alternative procedures for

1 such investigations depending upon such factors as the
2 Secretary determines are appropriate. Such rules shall in-
3 clude procedures to ensure that witnesses are not coerced,
4 to avoid conflicts of interest in witness representation, and
5 to ensure confidentiality if requested by any witness. Such
6 rules shall also require that upon completion of an acci-
7 dent or incident investigation, the Secretary shall issue
8 findings as to the actions or inactions which resulted in
9 the accident or incident, and shall make recommendations
10 as to policy, regulatory, enforcement or other changes, in-
11 cluding statutory changes, which in the judgment of the
12 Secretary's mine safety and health experts would best pre-
13 vent a recurrence of such actions or inactions at other
14 mines, and shall promptly make all such findings and rec-
15 ommendations public (except findings and recommenda-
16 tions that must be temporarily withheld in connection with
17 a criminal referral). Such rules shall further provide that
18 the Secretary shall hold appropriate public hearings at the
19 conclusion of the investigation of incidents to inform the
20 mining community of the findings and recommendations,
21 and shall also provide that the Secretary track the imple-
22 mentation of accident and incident investigation rec-
23 ommendations and provide such information annually to
24 the Congress.”; and

25 (3) by adding at the end the following:

1 “(3) After an accident or incident and upon the time-
2 ly request of the authorized representative of the miners
3 or the families at a mine, the Secretary shall contract with
4 the Chemical Safety and Hazard Investigation Board to
5 conduct an independent investigation of the accident or
6 incident and provide recommendations to the Secretary.
7 Such investigation shall be in addition to any investigation
8 conducted by the Secretary, and shall be conducted pursu-
9 ant to whatever procedures such authority determines are
10 appropriate for the investigation. The Secretary shall pro-
11 vide such authority with all information and expertise re-
12 quested, and shall pay for such authority to conduct the
13 authority’s investigation, including the costs of obtaining
14 the services of independent experts required for any such
15 investigation.”.

16 **SEC. 106. APPROVAL AND RESEARCH PRIORITIES.**

17 (a) APPROVAL CENTER PRIORITIES.—The Secretary
18 shall expedite the process for approving any—

19 (1) self-rescue device that permits the replen-
20 ishment of oxygen without requiring the device user
21 to remove the device; and

22 (2) underground communication device that
23 provides for communication between underground
24 and surface personnel via a wireless two-way me-
25 dium.

1 (b) TECHNOLOGY AND MINE EMERGENCY HEALTH
2 AND SAFETY RESEARCH PRIORITIES.—In implementing
3 its research activities in the 5-year period beginning on
4 the date of enactment of this Act, the National Institute
5 for Occupational Safety and Health shall give due consid-
6 eration to new technologies, and existing technologies that
7 could be adapted for use in underground coal or other
8 mines, that could facilitate the survival of miners in a min-
9 ing emergency. Such technologies include—

10 (1) self-contained self-rescue devices capable of
11 delivering enhanced performance;

12 (2) improved battery capacity and common con-
13 nection specifications to enable emergency commu-
14 nication devices for miners to be run from the same
15 portable power source as a headlamp, continuous
16 dust monitor, or other device carried by a miner;

17 (3) improved technology for assisting mine res-
18 cue teams, including devices to enhance vision dur-
19 ing rescue or recovery operations;

20 (4) improved technology, and improved proto-
21 cols for the use of existing technologies, to enable
22 conditions underground to be assessed promptly and
23 continuously in emergencies, so as to facilitate the
24 determination by appropriate officials of the instruc-
25 tions to provide both to miners trapped underground

1 and to mine rescue teams and others engaged in res-
2 cue efforts;

3 (5) improvements to underground mine ventila-
4 tion controls separating mine entries to be more re-
5 sistant to mine fires and explosions, particularly in
6 those entries used for miners escapeways;

7 (6) mine-wide monitoring systems and strate-
8 gies that can monitor mine gases, oxygen, air flows,
9 and air quantities at strategic locations throughout
10 the mine that would be functional during normal
11 mining operations and following mine fires, explo-
12 sions, and roof falls, including systems utilizing
13 monitoring sensors that transfer data to the mine
14 surface and the installation of tubing to draw mine
15 gas samples that are distributed throughout the
16 mine and can quickly deliver samples to the mine
17 surface; and

18 (7) protective strategies for the placement of
19 equipment, cables, and devices that are to be utilized
20 during mine emergencies, such as communication
21 systems, oxygen supplies, and mine atmosphere
22 monitoring systems, to protect them from mine fires,
23 roof falls, explosions, and other damage.

1 **TITLE II—ACTIONS REQUIRED**
2 **TO FULFILL THE INTENT OF**
3 **THE FEDERAL MINE SAFETY**
4 **AND HEALTH ACT OF 1977**

5 **SEC. 201. REVISING HEALTH STANDARDS SET PURSUANT**
6 **TO THE 1977 ACT.**

7 (a) RESPIRABLE DUST; RESPIRABLE SILICA
8 DUST.—Section 202 (30 U.S.C. 842) is amended to read
9 as follows:

10 “DUST STANDARD AND RESPIRATORY EQUIPMENT

11 “SEC. 202. (a)(1) Effective on the date of enactment
12 of the Miner Health and Safety Enhancement Act of
13 2007, each mine operator shall continuously maintain the
14 concentration of respirable dust in the mine atmosphere
15 during each shift to which each miner in the active work-
16 ings of such mine is exposed at or below a time-weighted
17 average of 1.00 milligrams of respirable dust per cubic
18 meter of air averaged over 10 hours or its dose-equivalent
19 for a shorter or longer period of time. For purposes of
20 this paragraph, a “dose-equivalent” means the amount of
21 dust that a miner would inhale during the miner’s work
22 shift as if the miner was working for ten hours, and the
23 term “shift” means portal-to-portal for coal miners and
24 ‘bank to bank’ for other miners.

1 “(2) At regular intervals to be prescribed by the Sec-
2 retary and the Secretary of Health and Human Services,
3 the Secretary will take accurate samples of the amount
4 of respirable dust in the mine atmosphere to which each
5 miner in the active workings of such mine is exposed in
6 order to determine compliance with the requirements of
7 paragraph (1). In addition, the Secretary shall cause to
8 be made such frequent spot inspections as the Secretary
9 determines appropriate of the active workings of coal
10 mines for the purpose of obtaining compliance with the
11 provisions of this title. All samples by the Secretary shall
12 be taken by a personal dust monitor that measures,
13 records, and displays the concentration of respirable dust
14 to which the miner wearing the device is exposed, and shall
15 include the sampling of areas, occupations, or persons.
16 For the purposes of determining compliance with the expo-
17 sure limit for respirable dust, only a single sample shall
18 be required to determine non-compliance, and there shall
19 be no adjustment for measurement error in the measured
20 level of respirable dust.

21 “(3) Each operator of a coal mine shall take accurate
22 samples of the amount of respirable dust in the mine at-
23 mosphere to which each miner in the active workings of
24 such mine is exposed to identify sources of exposure so
25 that the operator can take corrective action and assure

1 that the exposure of each mine is below the exposure limit.
2 Under the provisions of this Act, all such samples shall
3 be taken by a personal dust monitor that measures,
4 records, and displays the concentration of respirable dust
5 to which the miner wearing the device is exposed. The re-
6 sults of such sampling shall be transmitted to the Sec-
7 retary in a manner established by the Secretary, and re-
8 corded by the Secretary in a manner that will assure appli-
9 cation of the provisions of this section.

10 “(4) Each miner shall be equipped with a personal
11 dust monitor that measures, records, and displays the con-
12 centration of respirable dust to which the miner wearing
13 the device is exposed. Each miner shall be permitted to
14 adjust the miner’s work activities whenever necessary to
15 keep the miner’s exposure to respirable coal dust, as meas-
16 ured, recorded, and displayed by such device, at all times
17 at or below the permitted concentration.

18 “(b) Effective on the date of enactment of the Miner
19 Health and Safety Enhancement Act of 2007, each oper-
20 ator shall continuously maintain the concentration of res-
21 pirable silica dust in the mine atmosphere during each
22 shift to which each miner in the active workings of such
23 mine is exposed at or below a time-weighted average of
24 0.05 milligrams of respirable silica dust per cubic meter
25 of air averaged over ten hours or its dose-equivalent for

1 a shorter or longer period of time. For the purposes of
2 this subsection, compliance shall be determined by the
3 sampling of areas, occupations or persons, only a single
4 sample shall be required to determine non-compliance, and
5 there shall be no adjustment for measurement error in the
6 measured level of respirable silica dust. For the purposes
7 of this subsection, a ‘dose-equivalent’ means the amount
8 of dust that a miner would inhale during the miner’s work
9 shift as if the miner were working for ten hours, and the
10 term ‘shift’ means portal-to-portal and includes all the
11 time a miner is at work.

12 “(c) Respiratory equipment approved by the Sec-
13 retary and the Secretary of Health and Human Services
14 shall be made available to all persons whenever exposed
15 to concentrations of respirable dust or silica in excess of
16 the levels required to be maintained under this section.
17 Use of respirators shall not be substituted for environ-
18 mental control measures in the active workings. Each op-
19 erator shall maintain a supply of respiratory equipment
20 adequate to deal with occurrences of concentrations of res-
21 pirable dust and silica in the mine atmosphere in excess
22 of the levels required to be maintained under this section.

23 “(d) Each operator shall report and certify to the
24 Secretary at such intervals as the Secretary may require
25 as to the conditions in the active workings of the coal

1 mine, including, the average number of working hours
2 worked during each shift, the quantity and velocity of air
3 regularly reaching the working faces, the method of min-
4 ing, the amount and pressure of the water, if any, reach-
5 ing the working faces, and the number, location, and type
6 of sprays, if any, used.”.

7 (b) AIR CONTAMINANTS.—Section 101 (30 U.S.C.
8 811) is amended by adding at the end the following:

9 “(f) Notwithstanding the other requirements of this
10 section, not later than 30 days of the enactment of the
11 Miner Health and Safety Enhancement Act of 2007, the
12 National Institute for Occupational Safety and Health
13 shall forward to the Secretary its Recommended Exposure
14 Limits (RELs) for chemical and other hazards to miners,
15 along with the research data and other necessary informa-
16 tion. Not later than 30 days after the receipt of this infor-
17 mation, the Secretary shall require the Administration to
18 adopt such recommended exposure limits as the Permis-
19 sible Exposure Limits (PELs) for application in the min-
20 ing industry. The National Institute for Occupational
21 Safety and Health shall annually submit to the Secretary
22 any additional or revised recommended exposure limits for
23 all hazardous substances utilized in the mining industry,
24 and the Secretary shall be obligated to adopt such expo-
25 sure limits as PELs for application in the mining industry

1 not later than 30 days after receipt of such information.
2 Nothing in this subsection shall limit the ability of the
3 National Institute for Occupational Safety and Health to
4 make such recommendations more frequently than 1 time
5 per year, nor limit the Administration from establishing
6 requirements for chemical and other substances in the
7 mining industry that are more comprehensive and protec-
8 tive than those established pursuant to this subsection and
9 in accordance with the other requirements of this sec-
10 tion.”.

11 **SEC. 202. REGULATORY PRIORITIES AND PROCESS.**

12 (a) ASBESTOS.—Section 101 (30 U.S.C. 811) is fur-
13 ther amended by adding at the end the following:

14 “(g) The health standard for asbestos established by
15 the Occupational Safety and Health Administration that
16 is set forth in section 1910.1001 of title 29, Code of Fed-
17 eral Regulations, or any subsequent revision of that regu-
18 lation, shall be adopted by the Administration for applica-
19 tion in the mining industry not later than 30 days after
20 the date of enactment of the Miner Health and Safety En-
21 hancement Act of 2007.”.

22 (b) HAZARD COMMUNICATION.—Section 101 (30
23 U.S.C. 811) is further amended by adding at the end the
24 following:

1 “(h) Unless and until there is additional rulemaking
2 pursuant to the requirements of this section, the Secretary
3 is directed to apply the provisions of the interim final rule
4 of October 3, 2000, concerning hazard communication in
5 lieu of the final rule of June 21, 2002, concerning hazard
6 communication.”.

7 (c) ASSESSMENT ON PROGRAM OPERATIONS OF CU-
8 MULATIVE IMPACT OF EXTERNAL REQUIREMENTS ADDED
9 SINCE 1977.—The Secretary shall request the National
10 Academy of Sciences to conduct a study of the impact on
11 the mine safety and health responsibilities of the Depart-
12 ment of Labor of various statutes, executive orders, and
13 memoranda applicable to the issuance of rulemaking and
14 guidance and to enforcement. The study shall include an
15 assessment of the Equal Access to Justice Act, the Regu-
16 latory Flexibility Act, the Small Business Regulatory En-
17 forcement Fairness Act of 1996, the Data Quality Act,
18 the Paperwork Reduction Act of 1985, the Unfunded
19 Mandates Reform Act of 1995, the Federal Advisory Com-
20 mittee Act, the Congressional Review Act, Executive
21 Order 12866, Executive Order 13422, and memoranda
22 from the Office of Management and Budget on guidance,
23 risk assessment and cost analysis. The Secretary shall re-
24 quest that the National Academy of Sciences consult wide-
25 ly with experts in administrative law and other disciplines

1 knowledgeable about such requirements, and to quantify
2 to the extent possible the costs to miners of the aforemen-
3 tioned requirements. The Secretary shall further request
4 that recommendations be included in the report, and re-
5 quest that such report and recommendations be com-
6 pleted, and copies forwarded to the Congress, not later
7 than 21 months after the effective date of this Act.

8 **SEC. 203. CLARIFICATIONS OF INTENT IN THE 1977 ACT.**

9 The Federal Mine Safety and Health Act of 1977 is
10 amended—

11 (1) in section 3(d) (30 U.S.C. 802)—

12 (A) by inserting “mineral” before “owner”;

13 (B) by inserting “mineral” before “lessee”;

14 (C) by striking “or any independent” and
15 inserting “and any independent”; and

16 (D) by inserting before the semicolon the
17 following: “, and no operator may by contract
18 or other agreement limit any liability under this
19 Act through transfer of any responsibilities to
20 another person”;

21 (2) in section 103 (30 U.S.C. 813)—

22 (A) in subsection (b), as amended by sec-
23 tion 105 of this Act—

24 (i) by striking the first sentence of
25 paragraph (2) (as designated by section

1 105 of this Act) and inserting the fol-
2 lowing: “For the purpose of enabling the
3 Secretary to perform the functions under
4 this Act, the Secretary may—

5 “(A) after notice, hold public hearings; and

6 “(B) sign and issue subpoenas for the attendance and
7 testimony of witnesses and the production of relevant
8 data, papers, books, documents and items of physical evi-
9 dence, and administer oaths, whether or not in connection
10 with a public hearing.”; and

11 (ii) in the last sentence of paragraph
12 (2) (as designated by section 105 of this
13 Act), by striking “documents” and insert-
14 ing “data, papers, books, documents, and
15 items of physical evidence”; and

16 (B) in subsection (h), in the first sentence,
17 by striking “information” and inserting “data,
18 papers, books, documents, and items of physical
19 evidence”;

20 (3) in section 104 (30 U.S.C. 814)—

21 (A) in subsections (d)(1), (e)(1), (e)(2),
22 (e)(3), and (e)(4), as amended by this Act, by
23 inserting “or any provision of this Act” after
24 “standard” or “standards” each time either
25 such term appears; and

1 (B) in subsection (d)(1), as amended by
2 this Act, by striking “, while the conditions cre-
3 ated by such violation do not cause imminent
4 danger,”;

5 (4) in section 105 (30 U.S.C. 815)—

6 (A) in subsection (a), in the first sentence,
7 by striking “, within a reasonable time after the
8 termination of such inspection or investiga-
9 tion,”; and

10 (B) by adding at the end the following:

11 “(e) Attorneys representing the Secretary are author-
12 ized to contact any miner or non-managerial employee of
13 a mine operator for the purposes of carrying out the Sec-
14 retary’s functions under this Act and no attorney rep-
15 resenting the Secretary shall be disbarred or disciplined
16 by any State bar or State court for making such contacts.
17 No attorney representing a mine operator in a matter
18 under this Act may concurrently represent individual min-
19 ers in the same matter.”; and

20 (5) in section 110 (30 U.S.C. 820)—

21 (A) in subsection (b)(2), by striking
22 “under” and inserting “of subsections (a)
23 through (h) of”; and

24 (B) in subsection (c)—

- 1 (i) by striking “Whenever a corporate
2 operator” and inserting “Whenever a mine
3 operator”;
- 4 (ii) by striking “safety standard” and
5 inserting “safety standard or requirement
6 of this Act”;
- 7 (iii) by inserting “partner, owner,”
8 after “director,”; and
- 9 (iv) by striking “such corporation”
10 and inserting “such mine operator”.

11 **SEC. 204. FEDERAL LICENSING.**

12 The Secretary shall promptly establish an advisory
13 committee to provide recommendations as to whether the
14 Federal Mine Safety and Health Act of 1977 should pro-
15 vide for Federal licensing of mines, mine operators, mine
16 controllers, or various mine personnel in order to ensure
17 that those engaged in mining activities are not frequent
18 violators of safety and health requirements. The advisory
19 committee shall—

- 20 (1) be established pursuant to the Federal Ad-
21 visory Committee Act;
- 22 (2) conduct a review of existing State licensing
23 requirements and assess their effectiveness; and

1 (3) provide its recommendations to Congress
2 not later than 2 years after the date of enactment
3 of this Act.

○