

(i) “work of preparing the coal” means the breaking, crushing, sizing, cleaning, washing, drying, mixing, storing, and loading of bituminous coal, lignite, or anthracite, and such other work of preparing such coal as is usually done by the operator of the coal mine;

(j) “imminent danger” means the existence of any condition or practice in a coal or other mine which could reasonably be expected to cause death or serious physical harm before such condition or practice can be abated;

(k) “accident” includes a mine explosion, mine ignition, mine fire, or mine inundation, or injury to, or death of, any person;

(l) “mandatory health or safety standard” means the interim mandatory health or safety standards established by subchapters II and III of this chapter, and the standards promulgated pursuant to subchapter I of this chapter;

(m) “Panel” means the Interim Compliance Panel established by this chapter; and

(n) “Administration” means the Mine Safety and Health Administration in the Department of Labor.

(o) “Commission” means the Federal Mine Safety and Health Review Commission.

(Pub. L. 91-173, § 3, Dec. 30, 1969, 83 Stat. 743; Pub. L. 95-164, title I, § 102(b), Nov. 9, 1977, 91 Stat. 1290.)

#### REFERENCES IN TEXT

This chapter, referred to in text, was in the original “this Act”, meaning Pub. L. 91-173, Dec. 30, 1969, 83 Stat. 742, known as the Federal Mine Safety and Health Act of 1977, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 801 of this title and Tables.

#### AMENDMENTS

1977—Par. (a). Pub. L. 95-164, § 102(b)(1), substituted “Secretary of Labor” for “Secretary of the Interior”.

Par. (d). Pub. L. 95-164, § 102(b)(2), (4), substituted “supervises a coal or other mine or any independent contractor performing services or construction at such mine” for “supervises a coal mine”.

Pars. (e), (g). Pub. L. 95-164, § 102(b)(4), inserted “or other” after “coal” wherever appearing.

Par. (h). Pub. L. 95-164, § 102(b)(3), added subpar. (1), designated existing provisions as subpar. (2), and inserted “For purposes of subchapters II, III, and IV of this chapter,” after “(2)”.

Par. (j). Pub. L. 95-164, § 102(b)(4), inserted “or other” after “coal”.

Pars. (n), (o). Pub. L. 95-164, § 102(b)(5), added pars. (n) and (o).

#### EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-164 effective 120 days after Nov. 9, 1977, except as otherwise provided, see section 307 of Pub. L. 95-164, set out as a note under section 801 of this title.

#### TERMINATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

### § 803. Mines subject to coverage

Each coal or other mine, the products of which enter commerce, or the operations or products of which affect commerce, and each operator of such mine, and every miner in such mine shall be subject to the provisions of this chapter.

(Pub. L. 91-173, § 4, Dec. 30, 1969, 83 Stat. 744; Pub. L. 95-164, title I, § 102(c), Nov. 9, 1977, 91 Stat. 1291.)

#### REFERENCES IN TEXT

This chapter, referred to in text, was in the original “this Act”, meaning Pub. L. 91-173, Dec. 30, 1969, 83 Stat. 742, known as the Federal Mine Safety and Health Act of 1977, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 801 of this title and Tables.

#### AMENDMENTS

1977—Pub. L. 95-164 inserted “or other” after “coal”.

#### EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-164 effective 120 days after Nov. 9, 1977, except as otherwise provided, see section 307 of Pub. L. 95-164, set out as a note under section 801 of this title.

### § 804. Interim Compliance Panel

#### (a) Establishment; composition

There is hereby established the Interim Compliance Panel, which shall be composed of five members as follows:

(1) Assistant Secretary of Labor for Labor Standards, Department of Labor, or his delegate;

(2) Director of the National Institute of Standards and Technology, Department of Commerce, or his delegate;

(3) Administrator of Consumer Protection and Environmental Health Service, Department of Health and Human Services, or his delegate;

(4) Director of the United States Bureau of Mines, Department of the Interior, or his delegate; and

(5) Director of the National Science Foundation, or his delegate.

#### (b) Compensation; travel and subsistence expenses

Members of the Panel shall serve without compensation in addition to that received in their regular employment, but shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred by them in the performance of duties vested in the Panel.

#### (c) Cooperation of Federal agencies

Notwithstanding any other provision of law, the Secretary of Health and Human Services, the Secretary of Commerce, the Secretary of the Interior, and the Secretary shall, upon request of the Panel, provide the Panel such personnel and other assistance as the Panel determines necessary to enable it to carry out its functions under this chapter.

#### (d) Quorum; voting; selection of chairman

Three members of the Panel shall constitute a quorum for doing business. All decisions of the Panel shall be by majority vote. The chairman of the Panel shall be selected by the members from among the membership thereof.

#### (e) Appointment of administrative law judges; provisions applicable

The Panel is authorized to appoint as many administrative law judges as are necessary for

proceedings required to be conducted in accordance with the provisions of this chapter. The provisions applicable to administrative law judges appointed under section 3105 of title 5 shall be applicable to administrative law judges appointed pursuant to this subsection.

**(f) Functions; hearings; notice and review; termination; annual report**

(1) It shall be the function of the Panel to carry out the duties imposed on it pursuant to this chapter and to provide an opportunity for a public hearing, after notice, at the request of an operator of the affected coal mine or the representative of the miners of such mine. Any operator or representative of miners aggrieved by a final decision of the Panel may file a petition for review of such decision under section 816 of this title. The provisions of this section shall terminate upon completion of the Panel's functions as set forth under this chapter. Any hearing held pursuant to this subsection shall be of record and the Panel shall make findings of fact and shall issue a written decision incorporating its findings therein in accordance with section 554 of title 5.

(2) The Panel shall make an annual report, in writing, to the Secretary for transmittal by him to the Congress concerning the achievement of its purposes, and any other relevant information (including any recommendations) which it deems appropriate.

(Pub. L. 91-173, § 5, Dec. 30, 1969, 83 Stat. 744; Pub. L. 95-164, title I, § 102(d), Nov. 9, 1977, 91 Stat. 1291; Pub. L. 95-251, § 2(a)(9), Mar. 27, 1978, 92 Stat. 183; Pub. L. 96-88, title V, § 509(b), Oct. 17, 1979, 93 Stat. 695; Pub. L. 100-418, title V, § 5115(c), Aug. 23, 1988, 102 Stat. 1433; Pub. L. 102-285, § 10(b), May 18, 1992, 106 Stat. 172.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (c), (e), and (f)(1), was in the original "this Act", meaning Pub. L. 91-173, Dec. 30, 1969, 83 Stat. 742, known as the Federal Mine Safety and Health Act of 1977, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 801 of this title and Tables.

AMENDMENTS

1988—Subsec. (a)(2). Pub. L. 100-418 substituted "National Institute of Standards and Technology" for "Bureau of Standards".

1978—Subsec. (e). Pub. L. 95-251 substituted "administrative law judges" for "hearing examiners" wherever appearing.

1977—Subsec. (c). Pub. L. 95-164 substituted "Secretary of the Interior" for "Secretary of Labor".

CHANGE OF NAME

"United States Bureau of Mines" substituted for "Bureau of Mines" in subsec. (a)(4) pursuant to section 10(b) of Pub. L. 102-285, set out as a note under section 1 of this title. For provisions relating to closure and transfer of functions of the United States Bureau of Mines, see Transfer of Functions note set out under section 1 of this title.

"Department of Health and Human Services" substituted for "Department of Health, Education, and Welfare" in subsec. (a) and "Secretary of Health and Human Services" substituted for "Secretary of Health, Education, and Welfare" in subsec. (c) pursuant to section 509(b) of Pub. L. 96-88 which is classified to section 3508(b) of Title 20, Education.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-164 effective 120 days after Nov. 9, 1977, except as otherwise provided, see section 307 of Pub. L. 95-164, set out as a note under section 801 of this title.

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of provisions in subsec. (f)(2) of this section relating to transmitting annual report to Congress, 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 114 of House Document No. 103-7.

SUBCHAPTER I—GENERAL

**§ 811. Mandatory safety and health standards**

**(a) Development, promulgation, and revision**

The Secretary shall by rule in accordance with procedures set forth in this section and in accordance with section 553 of title 5 (without regard to any reference in such section to sections 556 and 557 of such title), develop, promulgate, and revise as may be appropriate, improved mandatory health or safety standards for the protection of life and prevention of injuries in coal or other mines.

(1) Whenever the Secretary, upon the basis of information submitted to him in writing by an interested person, a representative of any organization of employers or employees, a nationally recognized standards-producing organization, the Secretary of Health and Human Services, the National Institute for Occupational Safety and Health, or a State or political subdivision, or on the basis of information developed by the Secretary or otherwise available to him, determines that a rule should be promulgated in order to serve the objectives of this chapter, the Secretary may request the recommendation of an advisory committee appointed under section 812(c) of this title. The Secretary shall provide such an advisory committee with any proposals of his own or of the Secretary of Health and Human Services, together with all pertinent factual information developed by the Secretary or the Secretary of Health and Human Services, or otherwise available, including the results of research, demonstrations, and experiments. An advisory committee shall submit to the Secretary its recommendations regarding the rule to be promulgated within 60 days from the date of its appointment or within such longer or shorter period as may be prescribed by the Secretary, but in no event for a period which is longer than 180 days. When the Secretary receives a recommendation, accompanied by appropriate criteria, from the National Institute for Occupational Safety and Health that a rule be promulgated, modified, or revoked, the Secretary must, within 60 days after receipt thereof, refer such recommendation to an advisory committee pursuant to this paragraph, or publish such as a proposed rule pursuant to paragraph (2), or publish in the Federal Register his determination not to do so, and his reasons therefor. The Secretary shall be required to request the recommendations of an advisory committee appointed under section 812(c) of this title if the rule to be promulgated is, in the discretion of the Secretary which shall be final, new in effect or application and has significant economic impact.