

TRANSFER OF FUNCTIONS

“Director of the Office of Personnel Management” substituted for “Civil Service Commission” in subsec. (b)(2) 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 United States Civil Service Commission to Director of 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.

§ 823a. Principal office in District of Columbia; proceedings held elsewhere

The principal office of the Commission shall be in the District of Columbia. Whenever the Commission deems that convenience of the public or the parties may be promoted, or delay or expense may be minimized, it may hold hearings or conduct other proceedings at any other place.

(Pub. L. 95-164, title III, §302(d), Nov. 9, 1977, 91 Stat. 1320.)

CODIFICATION

Section was enacted as part of Pub. L. 95-164, known as the Federal Mine Safety and Health Amendments Act of 1977, and not as part of Pub. L. 91-173, Dec. 30, 1969, 83 Stat. 742, known as the Federal Mine Safety and Health Act of 1977 which comprises this chapter.

EFFECTIVE DATE

Section effective 120 days after Nov. 9, 1977, see section 307 of Pub. L. 95-164, set out as an Effective Date of 1977 Amendment note under section 801 of this title.

§ 824. Authorization of appropriations

There are authorized to be appropriated, out of any moneys in the Treasury not otherwise appropriated, such sums as may be necessary to carry out the provisions of this subchapter.

(Pub. L. 91-173, title I, §114, as added Pub. L. 95-164, title II, §201, Nov. 9, 1977, 91 Stat. 1315.)

EFFECTIVE DATE

Section effective 120 days after Nov. 9, 1977, see section 307 of Pub. L. 95-164, set out as an Effective Date of 1977 Amendment note under section 801 of this title.

§ 825. Mandatory health and safety training

(a) Approved program; regulations

Each operator of a coal or other mine shall have a health and safety training program which shall be approved by the Secretary. The Secretary shall promulgate regulations with respect to such health and safety training programs not more than 180 days after the effective date of the Federal Mine Safety and Health Amendments Act of 1977. Each training program approved by the Secretary shall provide as a minimum that—

(1) new miners having no underground mining experience shall receive no less than 40 hours of training if they are to work underground. Such training shall include instruction in the statutory rights of miners and their representatives under this chapter, use of the self-rescue device and use of respiratory devices, hazard recognition, escapeways, walk around training, emergency procedures, basic ventilation, basic roof control, electrical haz-

ards, first aid, and the health and safety aspects of the task to which he will be assigned;

(2) new miners having no surface mining experience shall receive no less than 24 hours of training if they are to work on the surface. Such training shall include instruction in the statutory rights of miners and their representatives under this chapter, use of the self-rescue device where appropriate and use of respiratory devices where appropriate, hazard recognition, emergency procedures, electrical hazards, first aid, walk around training and the health and safety aspects of the task to which he will be assigned;

(3) all miners shall receive no less than eight hours of refresher training no less frequently than once each 12 months, except that miners already employed on the effective date of the Federal Mine Safety and Health Amendments Act of 1977 shall receive this refresher training no more than 90 days after the date of approval of the training plan required by this section;

(4) any miner who is reassigned to a new task in which he has had no previous work experience shall receive training in accordance with a training plan approved by the Secretary under this subsection in the safety and health aspects specific to that task prior to performing that task;

(5) any training required by paragraphs (1), (2) or (4) shall include a period of training as closely related as is practicable to the work in which the miner is to be engaged.

(b) Training compensation

Any health and safety training provided under subsection (a) of this section shall be provided during normal working hours. Miners shall be paid at their normal rate of compensation while they take such training, and new miners shall be paid at their starting wage rate when they take the new miner training. If such training shall be given at a location other than the normal place of work, miners shall also be compensated for the additional costs they may incur in attending such training sessions.

(c) Certificate

Upon completion of each training program, each operator shall certify, on a form approved by the Secretary, that the miner has received the specified training in each subject area of the approved health and safety training plan. A certificate for each miner shall be maintained by the operator, and shall be available for inspection at the mine site, and a copy thereof shall be given to each miner at the completion of such training. When a miner leaves the operator's employ, he shall be entitled to a copy of his health and safety training certificates. False certification by an operator that training was given shall be punishable under section 820(a) and (f) of this title; and each health and safety training certificate shall indicate on its face, in bold letters, printed in a conspicuous manner the fact that such false certification is so punishable.

(d) Standards

The Secretary shall promulgate appropriate standards for safety and health training for coal or other mine construction workers.

(e) Proposed regulations

(1) Within 180 days after the effective date of the Federal Mine Safety and Health Amendments Act of 1977, the Secretary shall publish proposed regulations which shall provide that mine rescue teams shall be available for rescue and recovery work to each underground coal or other mine in the event of an emergency. The costs of making advance arrangements for such teams shall be borne by the operator of each such mine.

(2)(A) The Secretary shall issue regulations with regard to mine rescue teams which shall be finalized and in effect not later than 18 months after June 15, 2006.

(B) Such regulations shall provide for the following:

(i) That such regulations shall not be construed to waive operator training requirements applicable to existing mine rescue teams.

(ii) That the Mine Safety and Health Administration shall establish, and update every 5 years thereafter, criteria to certify the qualifications of mine rescue teams.

(iii)(I) That the operator of each underground coal mine with more than 36 employees—

(aa) have an employee knowledgeable in mine emergency response who is employed at the mine on each shift at each underground mine; and

(bb) make available two certified mine rescue teams whose members—

(AA) are familiar with the operations of such coal mine;

(BB) participate at least annually in two local mine rescue contests;

(CC) participate at least annually in mine rescue training at the underground coal mine covered by the mine rescue team; and

(DD) are available at the mine within one hour ground travel time from the mine rescue station.

(II)(aa) For the purpose of complying with subclause (I), an operator shall employ one team that is either an individual mine site mine rescue team or a composite team as provided for in item (bb)(BB).

(bb) The following options may be used by an operator to comply with the requirements of item (aa):

(AA) An individual mine-site mine rescue team.

(BB) A multi-employer composite team that is made up of team members who are knowledgeable about the operations and ventilation of the covered mines and who train on a semi-annual basis at the covered underground coal mine—

(aaa) which provides coverage for multiple operators that have team members which include at least two active employees from each of the covered mines;

(bbb) which provides coverage for multiple mines owned by the same operator which members include at least two active employees from each mine; or

(ccc) which is a State-sponsored mine rescue team comprised of at least two ac-

tive employees from each of the covered mines.

(CC) A commercial mine rescue team provided by contract through a third-party vendor or mine rescue team provided by another coal company, if such team—

(aaa) trains on a quarterly basis at covered underground coal mines;

(bbb) is knowledgeable about the operations and ventilation of the covered mines; and

(ccc) is comprised of individuals with a minimum of 3 years underground coal mine experience that shall have occurred within the 10-year period preceding their employment on the contract mine rescue team.

(DD) A State-sponsored team made up of State employees.

(iv) That the operator of each underground coal mine with 36 or less employees shall—

(I) have an employee on each shift who is knowledgeable in mine emergency responses; and

(II) make available two certified mine rescue teams whose members—

(aa) are familiar with the operations of such coal mine;

(bb) participate at least annually in two local mine rescue contests;

(cc) participate at least semi-annually in mine rescue training at the underground coal mine covered by the mine rescue team;

(dd) are available at the mine within one hour ground travel time from the mine rescue station;

(ee) are knowledgeable about the operations and ventilation of the covered mines; and

(ff) are comprised of individuals with a minimum of 3 years underground coal mine experience that shall have occurred within the 10-year period preceding their employment on the contract mine rescue team.

(Pub. L. 91-173, title I, §115, as added Pub. L. 95-164, title II, §201, Nov. 9, 1977, 91 Stat. 1315; amended Pub. L. 109-236, §4, June 15, 2006, 120 Stat. 497.)

REFERENCES IN TEXT

For the effective date of the Federal Mine Safety and Health Amendments Act of 1977, referred to in subsecs. (a) and (e)(1), see section 307 of Pub. L. 95-164, set out as an Effective Date of 1977 Amendment note under section 801 of this title.

This chapter, referred to in subsec. (a)(1), (2), 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

2006—Subsec. (e). Pub. L. 109-236 designated existing provisions as par. (1) and added par. (2).

EFFECTIVE DATE

Section effective 120 days after Nov. 9, 1977, see section 307 of Pub. L. 95-164, set out as an Effective Date of 1977 Amendment note under section 801 of this title.

§ 826. Limitation on certain liability for rescue operations

(a) In general

No person shall bring an action against any covered individual or his or her regular employer for property damage or an injury (or death) sustained as a result of carrying out activities relating to mine accident rescue or recovery operations. This subsection shall not apply where the action that is alleged to result in the property damages or injury (or death) was the result of gross negligence, reckless conduct, or illegal conduct or, where the regular employer (as such term is used in this chapter) is the operator of the mine at which the rescue activity takes place. Nothing in this section shall be construed to preempt State workers' compensation laws.

(b) Covered individual

For purposes of subsection (a), the term "covered individual" means an individual—

- (1) who is a member of a mine rescue team or who is otherwise a volunteer with respect to a mine accident; and
- (2) who is carrying out activities relating to mine accident rescue or recovery operations.

(c) Regular employer

For purposes of subsection (a), the term "regular employer" means the entity that is the covered employee's legal or statutory employer pursuant to applicable State law.

(Pub. L. 91-173, title I, §116, as added Pub. L. 109-236, §3, June 15, 2006, 120 Stat. 496.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (a), 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.

SUBCHAPTER II—INTERIM MANDATORY HEALTH STANDARDS

§ 841. Mandatory health standards for underground mines; enforcement; review; purpose

(a) The provisions of sections 842 through 846 of this title and the applicable provisions of section 878 of this title shall be interim mandatory health standards applicable to all underground coal mines until superseded in whole or in part by improved mandatory health standards promulgated by the Secretary under the provisions of section 811 of this title, and shall be enforced in the same manner and to the same extent as any mandatory health standard promulgated under the provisions of section 811 of this title. Any orders issued in the enforcement of the interim standards set forth in this subchapter shall be subject to review as provided in subchapter I of this chapter.

(b) Among other things, it is the purpose of this subchapter to provide, to the greatest extent possible, that the working conditions in each underground coal mine are sufficiently free of respirable dust concentrations in the mine atmosphere to permit each miner the opportunity

to work underground during the period of his entire adult working life without incurring any disability from pneumoconiosis or any other occupation-related disease during or at the end of such period.

(Pub. L. 91-173, title II, §201, Dec. 30, 1969, 83 Stat. 760.)

EFFECTIVE DATE

Subchapter operative six months after Dec. 30, 1969, except to the extent an earlier date is specifically provided for in Pub. L. 91-173, see section 509 of Pub. L. 91-173, set out as a note under section 801 of this title.

§ 842. Dust concentration and respiratory equipment

(a) Samples; procedures; transmittal; notice of excess concentration; periodic reports to Secretary; contents

Each operator of a coal mine shall take accurate samples of the amount of respirable dust in the mine atmosphere to which each miner in the active workings of such mine is exposed. Such samples shall be taken by any device approved by the Secretary and the Secretary of Health and Human Services and in accordance with such methods, at such locations, at such intervals, and in such manner as the Secretaries shall prescribe in the Federal Register within sixty days from December 30, 1969 and from time to time thereafter. Such samples shall be transmitted to the Secretary in a manner established by him, and analyzed and recorded by him in a manner that will assure application of the provisions of section 814(i) of this title when the applicable limit on the concentration of respirable dust required to be maintained under this section is exceeded. The results of such samples shall also be made available to the operator. Each operator shall report and certify to the Secretary at such intervals as the Secretary may require as to the conditions in the active workings of the coal mine, including, but not limited to, the average number of working hours worked during each shift, the quantity and velocity of air regularly reaching the working faces, the method of mining, the amount and pressure of the water, if any, reaching the working faces, and the number, location, and type of sprays, if any, used.

(b) Standards; noncompliance permit; renewal; procedures; limitations; extension period

Except as otherwise provided in this subsection—

(1) Effective on the operative date of this subchapter, each operator shall continuously maintain the average concentration of respirable dust in the mine atmosphere during each shift to which each miner in the active workings of such mine is exposed at or below 3.0 milligrams of respirable dust per cubic meter of air.

(2) Effective three years after December 30, 1969, each operator shall continuously maintain the average concentration of respirable dust in the mine atmosphere during each shift to which each miner in the active workings of such mine is exposed at or below 2.0 milligrams of respirable dust per cubic meter of air.