

110<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 2768

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IN THE SENATE OF THE UNITED STATES

JANUARY 22 (legislative day, JANUARY 3), 2008

Received; read twice and referred to the Committee on Health, Education,  
Labor, and Pensions

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## AN ACT

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,*

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

2 (a) **SHORT TITLE.**—This Act may be cited as the  
3 “Supplemental Mine Improvement and New Emergency  
4 Response Act of 2007” or the “S–MINER Act”.

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

- Sec. 1. Short title; table of contents.
- Sec. 2. Findings.
- Sec. 3. Definitions; references.
- Sec. 4. Supplementing emergency response plans.
- Sec. 5. Supplementing enforcement authority.
- Sec. 6. Supplementing rescue, recovery, and incident investigation authority.
- Sec. 7. Respirable Dust Standards.
- Sec. 8. Other health requirements.
- Sec. 9. Mine safety program fund.

7 **SEC. 2. FINDINGS.**

8 Congress finds that—

9 (1) while the MINER Act of 2006 (Public Law  
10 109–236) was an essential first step in addressing  
11 the many health and safety hazards that miners still  
12 face, supplemental action is necessary and feasible to  
13 better protect miners in coal and other mines;

14 (2) essential standards to protect miner health  
15 established by the Federal Mine Safety and Health  
16 Act of 1977 are out of date after 40 years, posing  
17 a significant threat to miner health; and

18 (3) the Secretary of Labor has failed in recent  
19 years to adequately fulfill the Secretary’s obligations  
20 under the Federal Mine Safety and Health Act of



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

3                           “(I) Not later than 120 days  
4 after the enactment of the S-MINER  
5 Act, a plan shall, to be in approved  
6 status, provide for a post accident  
7 communication system between under-  
8 ground and surface personnel, and for  
9 an electronic tracking system permit-  
10 ting surface personnel to determine  
11 the location of any persons trapped  
12 underground, that utilizes a system at  
13 least as effective as a ‘leaky feeder’ or  
14 wireless mesh type communication  
15 and tracking system currently in use  
16 in the industry. These systems shall  
17 be enhanced physically, electronically,  
18 or redundantly, to improve their sur-  
19 vivability in the event of a mine dis-  
20 aster. In addition, to be in approved  
21 status, an emergency response plan  
22 must be revised promptly to incor-  
23 porate new technology which the Na-  
24 tional Institute for Occupational Safe-  
25 ty and Health certifies can be added

1 to the existing system to improve its  
2 ability to facilitate post-accident com-  
3 munication with or tracking of min-  
4 ers. No miner shall be disciplined  
5 based on information obtained from  
6 an electronic communications and  
7 tracking system.”.

8 (b) UNDERGROUND REFUGES.—Section  
9 316(b)(2)(E) (30 U.S.C. 876(b)(2)(E)) is amended—

10 (1) in clause (iii)(I), by inserting before the  
11 semicolon the following: “and such requirement may  
12 not be satisfied by placement of an order with any  
13 company for future delivery of a portable refuge  
14 chamber or other means of providing such emer-  
15 gency supplies of breathable air”; and

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

17 “(vii) Not later than June 15, 2008,  
18 the Secretary shall issue interim final reg-  
19 ulations, consistent with the design criteria  
20 recommended by National Institute for Oc-  
21 cupational Safety and Health in its report  
22 pursuant to section 13(b)(1) of the  
23 MINER Act, and subject to the require-  
24 ments of the next sentence, requiring each  
25 emergency response plan to provide for the

1 installation of portable rescue chambers  
2 meeting National Institute for Occupa-  
3 tional Safety and Health design criteria;  
4 refuge shelters carved out of the mine  
5 workings and sealed with bulkheads meet-  
6 ing National Institute for Occupational  
7 Safety and Health design criteria; or other  
8 refuge designs recommended by National  
9 Institute for Occupational Safety and  
10 Health that provide miners with equivalent  
11 or better protection, in the working areas  
12 of underground coal mines within 60 days  
13 following plan approval. The regulations  
14 shall further provide that in all cases a  
15 portable refuge chamber shall be installed  
16 and maintained within 500 feet of the  
17 nearest working face in each working sec-  
18 tion of an underground coal mine.”.

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

22 (1) REPEAL.—The MINER Act (30 U.S.C. 801  
23 note) is amended by striking section 10 (concerning  
24 sealing of abandoned areas).

1           (2) SEALS.—Section 303(z) (30 U.S.C. 863(z))

2           is amended by adding at the end the following:

3           “(4)(A) The Secretary shall inspect all seals under  
4 construction after the date of enactment of the S–MINER  
5 Act, during at least part of their construction, to ensure  
6 the mine operator is complying with the approved seal  
7 plan, and shall develop an inspection protocol for this pur-  
8 pose.

9           “(B) Not later than 3 months of the date of enact-  
10 ment of the S–MINER Act, the Secretary shall issue final  
11 rules regarding approval, design, construction, inspection,  
12 maintenance and monitoring of underground coal mine  
13 seals which shall meet the requirements of this paragraph.  
14 Except as otherwise provided by this paragraph, these reg-  
15 ulations shall implement the most recent recommendations  
16 of the National Institute of Occupational Safety and  
17 Health concerning seal design, construction, inspection,  
18 maintenance and monitoring. The regulations shall also  
19 provide that all seals in a mine shall be monitored if they  
20 are not designed or installed to withstand a constant total  
21 pressure of 240 pounds per square inch, using a static  
22 structural analysis. Monitoring of seals shall be done by  
23 continuous monitoring devices within one year of the date  
24 of enactment of this Act, and prior thereto by qualified  
25 personnel at such intervals as the Secretary determines

1 are adequate to ensure safety. The Secretary shall require  
2 mine operators to utilize a tamper-resistant method to re-  
3 tain records of all such monitoring and ensure they are  
4 available for examination and verification by the agency.  
5 Monitoring of seals shall be done both by—

6           “(i) sampling through at least 1 seal in each  
7 bank of seals; and

8           “(ii) for new seals, unless infeasible due to  
9 property rights, sampling through a sufficient num-  
10 ber of boreholes from the surface to the sealed areas  
11 underground to effectively determine the gas con-  
12 centrations within the area.

13           “(C) In addition, the regulations shall provide that—

14           “(i) seal sampling pipes shall be composed of  
15 materials that minimize the risk of transmitting any  
16 electrical charge, and no conductive materials may  
17 be used to line boreholes within three feet of the sur-  
18 face;

19           “(ii) an action plan for sealing and repair be es-  
20 tablished that will, among any other requirements,  
21 include specific actions the mine operator will take  
22 to protect miners during the critical time period im-  
23 mediately after sealing or repair takes place, and  
24 which shall be reviewed by personnel from the Mine

1 Safety and Health Administration who have the re-  
2 quired expertise prior to approval; and

3 “(iii) methane pressures behind any seal re-  
4 quired to be monitored shall be maintained in such  
5 a manner as ensure that normal pressure variations  
6 that can be reasonably anticipated in the area of the  
7 seal do not bring the methane-air mixture into an  
8 appropriate safety range surrounding the known ex-  
9 plusive range of such mixtures.”.

10 (3) VENTILATION CONTROLS.—Section 303(c)  
11 (30 U.S.C. 863) is amended by inserting at the end  
12 the following new paragraph:

13 “(4) Not later than 1 year after the date of enact-  
14 ment of the S-MINER Act, the Secretary shall publish  
15 interim final regulations to enhance the survivability of  
16 underground mine ventilation controls. The Secretary  
17 shall require that stoppings be constructed using solid con-  
18 crete blocks laid wet and sealed with an appropriate bond-  
19 ing agent on at least the side subjected to the velocity of  
20 the intake air coursing through the entry, except that in  
21 the case of stoppings constructed during barrier reduction  
22 and pillar removal operations, such stoppings may be con-  
23 structed using hollow block and an appropriate bonding  
24 agent.”.

1           (4) ROCK DUSTING.—Section 304(d) (30  
2 U.S.C. 864) is amended by adding at the end the  
3 following: “Not later than June 15, 2009, the Na-  
4 tional Institute for Occupational Safety and Health  
5 shall issue recommendations as to whether changes  
6 to these requirements are necessary to ensure an  
7 equivalent level of protection in light of any changes  
8 to the size and composition of coal dust since these  
9 requirements were established, and the Secretary of  
10 Labor shall take appropriate action, including the  
11 issuance of an emergency temporary standard if  
12 warranted, to respond to these recommendations.”.

13 (d) LIMITING CONVEYOR BELT RISKS.—

14           (1) FLAME RESISTANT CONVEYOR BELTS.—  
15 Section 311(h) is amended by adding at the end the  
16 following: “Not later than 90 days after the date of  
17 enactment of the S-MINER Act, the Secretary shall  
18 publish interim final rules to revise the requirements  
19 for flame resistant conveyor belts to ensure that they  
20 meet the most recent recommendations from the Na-  
21 tional Institute for Occupational Safety and Health,  
22 and to ensure such belts are designed to limit smoke  
23 and toxic emissions. A conveyor belt need not meet  
24 the requirements of the preceding sentence if—

1           “(A) it was ordered, in a mine’s inventory,  
2           or installed prior to the date of enactment of  
3           the S–MINER Act, or it was ordered after the  
4           date of enactment of the S–MINER Act and  
5           the Secretary certifies that the mine operator  
6           was unable to obtain a belt meeting the require-  
7           ments of the preceding sentence; or

8           “(B) in the case of any such belt that has  
9           been in use for more than 5 years in any capac-  
10          ity in any mine, such belt has received an an-  
11          nual inspection by a certified professional to en-  
12          sure that the belt is free from visible defects  
13          that could cause failure or possible ignition.”.

14          (2) BELT AIR.—Section 303(y) (30 U.S.C. 863)  
15          is amended by adding at the end the following:

16          “(3) Not later than June 20, 2008, the Secretary  
17          shall revise the regulations prescribed pursuant to this sec-  
18          tion to require, in any coal mine, regardless of the date  
19          on which it was opened, that belt haulage entries not be  
20          used to ventilate active working places. The Secretary may  
21          agree to a modification of this requirement, pursuant to  
22          the procedures of section 101(c), if and only if—

23                 “(A) the mine operator establishes to the satis-  
24                 faction of the Secretary that significant safety con-  
25                 straints require such usage; and

1           “(B) the mine operator agrees to comply with  
2           criteria established by the Secretary which shall, at  
3           a minimum, include the conditions recommended by  
4           the Technical Study Panel established under section  
5           514.

6           “(4) Plans that have been approved by the Secretary  
7           prior to the date of enactment of the S-MINER Act that  
8           permit the use of belt-air to ventilate active working places  
9           in a mine are permitted to remain in use to complete cur-  
10          rent mining up until the date of issuance of the regulation  
11          required pursuant to paragraph (3).”.

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

15          “(3) Not later than 90 days after the date of enact-  
16          ment of the S-MINER Act, all mine operators shall be  
17          required to implement a communication program at each  
18          of such operators’ facilities to ensure that each person en-  
19          tering the operation is made aware at the start of that  
20          person’s shift of the current conditions of the mine in gen-  
21          eral and of that person’s specific worksite in particular.  
22          In an effort to facilitate these communications, all agents  
23          of the operator who are responsible for ensuring the safe  
24          and healthful working conditions at the mine, including  
25          mine foremen, assistant mine foremen, and mine exam-

1 iners, shall, upon exiting the mine or workplace, commu-  
2 nicate with those replacing them on duty to verbally up-  
3 date them on the conditions they observed during their  
4 shift, including any conditions that are abnormal or haz-  
5 ardous. Prior to entering the mine or other workplace the  
6 on-coming agent of the operator shall meet with all mem-  
7 bers of the crew they are responsible for and inform them  
8 of the general conditions at the operation and in their spe-  
9 cific work area. This process shall be completed prior to  
10 the start of each shift at the operation and recorded in  
11 a book designated for that purpose and available for in-  
12 spection by all interested parties. In the event the oper-  
13 ation is idle prior to the start of any shift the agent of  
14 the operator shall meet with the individual or individuals  
15 who were responsible for examining the mine to obtain the  
16 necessary information.”.

17 (f) ATMOSPHERIC MONITORING SYSTEMS.—Section  
18 317 (30 U.S.C. 877) is amended by adding at the end  
19 the following:

20 “(u) Not later than May 1, 2008, an operator of an  
21 underground mine shall install atmospheric monitoring  
22 systems in all underground areas where miners normally  
23 work and travel that provide real-time information regard-  
24 ing carbon monoxide levels, and that can, to the maximum  
25 extent possible, withstand explosions and fires.”.

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

5 “(2) Each miner who is working alone for part of  
6 a shift shall be equipped with a multi-gas detector that  
7 measures current levels of methane, oxygen, and carbon  
8 monoxide.”.

9 (h) LIGHTNING STUDY BY NATIONAL ACADEMY OF  
10 SCIENCES.—Not later than 1 year after the date of enact-  
11 ment of this Act, the National Academy of Sciences shall  
12 submit to the Secretary and to Congress recommendations  
13 on—

14 (1) actions that need to be taken to strengthen  
15 existing requirements in law or regulations to ensure  
16 that miners are protected, to the fullest extent per-  
17 mitted, from the risks of lightning strikes near a  
18 mine;

19 (2) recommendations for adopting any existing  
20 technology to the mining environment to minimize  
21 any such risks; and

22 (3) research needed for improved technology.

23 (i) ROOF AND RIB SUPPORT, BARRIER REDUCTION  
24 AND PILLAR EXTRACTION, SPECIAL ATTENTION TO DEEP  
25 MINING.—

1           (1) AMENDMENTS TO EXISTING LAW.—Section  
2       302 is amended—

3           (A) by amending the section heading to  
4       read “ROOF AND RIB SUPPORT, BARRIER RE-  
5       DUCTION AND PILLAR EXTRACTION, SPECIAL  
6       ATTENTION TO DEEP MINING”;

7           (B) in subsection (a), by inserting after  
8       the second sentence the following: “The Sec-  
9       retary shall by regulation ensure the appro-  
10      priate use of roof screen in belt entries,  
11      travelroads, and designated intake and return  
12      escapeways in accordance with the requirements  
13      of subsection (g).”; and

14          (C) by inserting at the end the following:  
15      “(g) Where screening is required, at least forty per-  
16      cent of the width of the exposed roof shall be screened.  
17      Screening to meet the requirements of this section must  
18      have a load bearing capacity at least equivalent to a load  
19      of 2.5 tones between bolts on a 4 foot pattern.

20      “(h)(1) An operator shall be required to have a cur-  
21      rent and approved barrier reduction or pillar extraction  
22      plan, or both, before performing such activities. The Sec-  
23      retary shall only approve a barrier reduction or pillar ex-  
24      traction plan if it provides adequate protection and mini-  
25      mizes the risks for miners engaged in the activity, reflect-

1 ing appropriate engineering analysis, computer simula-  
2 tions, and consultations with technical experts in the agen-  
3 cy, in the National Institute for Occupational Safety and  
4 Health, and in the Bureau of Land Management for any  
5 mines leasing Federal coal resources, and only if the plan  
6 complies with any specific requirements that may be  
7 adopted by the Secretary for barrier reduction or pillar  
8 extraction activities including requirements related to the  
9 depth of the mine, geology of the mine, mine height and  
10 methods, and emergency response capabilities.

11 “(2) A copy of a proposed barrier reduction or pillar  
12 extraction plan, or both, shall be provided to the author-  
13 ized representative of miners at least 10 days prior to sub-  
14 mission to the Secretary for approval. The authorized rep-  
15 resentative of miners may provide comments to the Sec-  
16 retary who shall respond thereto.

17 “(3) The Secretary shall establish a special internal  
18 review process for operator plans to protect miners from  
19 the risks addressed by this section when working at depths  
20 of more than 1500 feet and in other mines with a history  
21 of mountain bumps.

22 “(i) Not later than 1 week before the commencement  
23 of any barrier reduction or pillar extraction operations, the  
24 mine operator shall notify the appropriate representative  
25 of the Secretary of his intention to begin or resume barrier

1 reduction or pillar extraction. The Secretary shall docu-  
2 ment such notification in writing, and shall, before barrier  
3 reduction or pillar extraction operations begin, take action  
4 to ensure that every person who will be participating in  
5 such operations is trained in the operator's barrier reduc-  
6 tion and/or and pillar extraction plan. The Secretary shall  
7 observe the barrier reduction or pillar extraction oper-  
8 ations for a sufficient period of time to ensure that the  
9 mine operator is fully complying with the barrier reduction  
10 or pillar extraction plan. The Secretary may preclude the  
11 commencement of such operations or halt such operations  
12 at any time the safety of miners comes into question.”.

13           (2) STUDY.—Not later than 1 year after the  
14 date of enactment of this Act, the National Academy  
15 of Sciences shall, in consultation with the National  
16 Institute for Occupational Safety and Health, sub-  
17 mit to the Secretary and to Congress recommenda-  
18 tions for—

19           (A) actions that need to be taken to  
20 strengthen existing requirements in law or reg-  
21 ulations to ensure that miners are protected, to  
22 the fullest extent permitted, from ground con-  
23 trol hazards, including the special hazards asso-  
24 ciated with barrier reduction and pillar extrac-  
25 tion;

1           (B) adopting any existing technology to the  
2 mining environment to improve miner protec-  
3 tions during barrier reduction and pillar extrac-  
4 tion, and on research needed for improved tech-  
5 nology to improve miner protections during  
6 such operations;

7           (C) adopting any existing technology to the  
8 mining environment to improve miner protec-  
9 tions during mining at depths below 1000 feet,  
10 and on research needed for improved technology  
11 to improve miner protections during such oper-  
12 ations; and

13           (D) adopting any existing technology to  
14 the mining environment to improve miner pro-  
15 tections during secondary mining of coal re-  
16 sources, and on research needed for improved  
17 technology to improve miner protections during  
18 such operations.

19       (j) SCSR INSPECTION PROGRAM.—

20           (1) IN GENERAL.—The Secretary shall—

21           (A) establish a program to randomly re-  
22 move and have tested by the National Institute  
23 for Occupational Safety and Health field sam-  
24 ples of each model of self-rescue device used in  
25 an underground coal mine in order to ensure

1           that the self-rescue devices in coal mine inven-  
2           tories are working in accordance with the ap-  
3           proval criteria for such devices;

4                   (B) require a manufacturer of a self-rescue  
5           device and the mine operator who owns a device  
6           to contact the Secretary immediately upon noti-  
7           fication of any potential problem with any such  
8           device, and provide a copy of such notice to the  
9           representative of miners at the affected oper-  
10          ation; and

11                   (C) notify immediately all operators of un-  
12          derground coal mines if the Secretary detects or  
13          is advised of any problems with the self-rescue  
14          devices.

15           (2) DETERMINATION.—For the purposes of  
16          paragraph (1)(A), the National Institute for Occupa-  
17          tional Safety and Health shall determine the number  
18          of field samples of each device to be removed for  
19          testing, and the mines from which the samples are  
20          to be drawn to ensure a random sample is obtained,  
21          and shall provide mine operators with self-rescue de-  
22          vices to replace any removed for random testing.  
23          Should this testing reveal a potential problem with  
24          a device that requires additional testing, the Sec-  
25          retary shall remove such additional samples from

1 such mines as may be requested by the National In-  
2 stitute for Occupational Safety and Health, and it  
3 shall be the obligation of mine operators to provide  
4 self-rescue devices to promptly replace any removed  
5 as a result of such additional testing.

6 (k) APPLICATION TO UNDERGROUND METAL AND  
7 NONMETAL MINES.—Title II is amended by adding at the  
8 end the following new section:

9 **“SEC. 207. APPLICATION TO UNDERGROUND METAL AND**  
10 **NONMETAL MINES.**

11 “(a) CONVEYOR BELTS.—The requirements of sec-  
12 tion 311(h) concerning conveyor belts in underground coal  
13 mines, including the exceptions and limitations in connec-  
14 tion therewith, shall also apply to conveyor belts in under-  
15 ground metal and nonmetal mines.

16 “(b) SEALS.—The regulations to be issued pursuant  
17 to section 303(z)(2) concerning the approval, design, con-  
18 struction, inspection, maintenance and monitoring of un-  
19 derground coal mine seals shall make the same rules appli-  
20 cable to seals in underground metal and nonmetal mines  
21 which have been classified by the Secretary as a category  
22 I, III, or V mine pursuant to section 57.22003 of title  
23 30, Code of Federal Regulations, because they naturally  
24 emit defined quantities of methane.

1       “(c) ADVISORY COMMITTEE.—Promptly after the  
2 date of enactment of the S–MINER Act The Secretary  
3 shall establish an advisory committee to provide rec-  
4 ommendations as to the need to revise the regulations ap-  
5 plicable to underground metal and nonmetal mines to en-  
6 sure that miners in such mines are as protected in emer-  
7 gency situations as will be underground coal miners fol-  
8 lowing the full implementation of the MINER Act, the  
9 provisions of the S–MINER Act, and related actions by  
10 the Secretary. The advisory committee shall be established  
11 pursuant to the Advisory Committee Act, and shall pro-  
12 vide recommendations to the Secretary and to Congress  
13 not later than 21 months after the date of enactment of  
14 this Act, including recommendations as to any action by  
15 Congress that could facilitate the goal of providing equiva-  
16 lent protections to miners in underground metal and  
17 nonmetal mines.”.

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

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

23               (2) underground communication device that  
24 provides for communication between underground

1 and surface personnel via a wireless two-way me-  
2 dium.

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

12 (1) self-contained self-rescue devices capable of  
13 delivering enhanced performance;

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

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

22 (4) improved technology, and improved proto-  
23 cols for the use of existing technologies, to enable  
24 conditions underground to be assessed promptly and  
25 continuously in emergencies, so as to facilitate the

1 determination by appropriate officials of the instruc-  
2 tions to provide both to miners trapped underground  
3 and to mine rescue teams and others engaged in res-  
4 cue efforts;

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

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

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

1 **SEC. 5. SUPPLEMENTING ENFORCEMENT AUTHORITY.**

2 (a) AUTHORITY OF INSPECTORS.—Section 103(a)  
3 (30 U.S.C. 813(a)) is amended by adding at the end the  
4 following: “No person shall limit or otherwise prevent the  
5 Secretary from entry on a coal or other mine, or interfere  
6 with the Secretary’s inspection activities, investigative ac-  
7 tivities, or rescue or recovery activities.”.

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

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

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

13 “(b) Within 270 days of the enactment of the S-  
14 MINER Act, the Secretary shall establish a Master In-  
15 spector program to ensure that the most experienced and  
16 skilled employees in the Nation have the incentive, in  
17 terms of responsibilities and pay, to serve as mine safety  
18 and health inspectors in this Nation’s mines.

19 “(c) In order to ensure that the Secretary has ade-  
20 quate time to provide that a sufficient number of qualified  
21 and properly trained inspectors of the Mine Safety and  
22 Health Administration are in place before any inspectors  
23 employed as of the date of enactment of the S-MINER  
24 Act retire, any ceilings on the number of personnel that  
25 may be employed by the Administration with respect to

1 mine inspectors are abolished for the 5-year period begin-  
2 ning on the date of enactment of such Act.

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

17       “(e) During the 5-year period beginning on the date  
18 of enactment of the S-MINER Act, the Secretary shall  
19 issue a special report to the appropriate committees of  
20 Congress each year, or at such more frequent intervals  
21 as the Secretary or any such committee may consider ap-  
22 propriate, providing information about the actions being  
23 taken under this section, the size and training of the in-  
24 spector workforce at the Mine Safety and Health Adminis-  
25 tration, the level of enforcement activities, and the number

1 of requests by individual operators of mines for compliance  
2 assistance.”.

3 (c) OFFICE OF MINER OMBUDSMAN.—Title V is  
4 amended by adding at the end the following:

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

6 “(a) ESTABLISHMENT OF MINER OMBUDSMAN.—  
7 There shall be established, within the Office of the Inspec-  
8 tor General of the Department of Labor, the position of  
9 Miner Ombudsman. The President, by and with the advice  
10 and consent of the Senate, shall appoint an individual with  
11 expertise in mine safety and health to serve as the Miner  
12 Ombudsman. The Ombudsman shall have authority to  
13 hire such personnel as are required to administer his du-  
14 ties in accordance with applicable law, provided they meet  
15 any general requirements for employment within the Of-  
16 fice of the Inspector General.

17 “(b) DUTIES.—The Miner Ombudsman shall—

18 “(1) recommend to the Secretary appropriate  
19 practices to ensure the confidentiality of the identity  
20 of miners, and the families or personal representa-  
21 tives of the miners, who contact mine operators, au-  
22 thorized representatives of the miners, the Mine  
23 Safety and Health Administration, the Department  
24 of Labor, or others with information about mine ac-  
25 cidents, incidents, injuries, illnesses, possible viola-

1 tions of mandatory health or safety standard viola-  
2 tions or plans or other mine safety and health con-  
3 cerns;

4 “(2) establish a toll-free telephone number and  
5 appropriate Internet website to permit individuals to  
6 confidentially report mine accidents, incidents, inju-  
7 ries, illnesses, possible violations of mandatory  
8 health or safety standard violations or plans or other  
9 mine safety and health concerns, and provide plastic  
10 wallet cards, refrigerator magnets, or similar devices  
11 to all mine operators, which mine operators shall  
12 distribute to all current and new miners, with con-  
13 tact information for such confidential reports, and  
14 also provide supplies of these devices to miner com-  
15 munities;

16 “(3) collect and forward information concerning  
17 accidents, incidents, injuries, illnesses, possible viola-  
18 tions of mandatory health or safety standard viola-  
19 tions or plans or other mine safety and health con-  
20 cerns to the appropriate officials of the Mine Safety  
21 and Health Administration for investigation, or to  
22 appropriate officials within the Office of Inspector  
23 General for investigation or audit, or both, while es-  
24 tablishing practices to protect the confidentiality of

1 the identify of those who provide such information to  
2 the Ombudsman; and

3 “(4) monitor the Secretary of Labor’s efforts to  
4 promptly act upon complaints filed by miners under  
5 section 105(c) of the Act or pursuant to other pro-  
6 grams administered by the Department to protect  
7 whistleblowers, and report to Congress any rec-  
8 ommendations that would enhance such rights or  
9 protections.

10 “(c) AUTHORITY.—All complaints of operator viola-  
11 tions of any section of this Act or regulations prescribed  
12 under this Act that are reported to the Secretary shall  
13 be forwarded to the Ombudsman for logging and appro-  
14 priate action, except that this requirement shall be imple-  
15 mented in such a way as to avoid interference in any way  
16 with the ability of the Assistant Secretary for Mine Safety  
17 and Health to take prompt actions that may be required  
18 in such situations. This shall include complaints submitted  
19 in writing, via any phone system, or orally, along with all  
20 relevant information available regarding the complainant.  
21 All such information shall be retained in a confidential  
22 manner pursuant to the Privacy Act of 1974. The Om-  
23 budsman shall use such information to monitor the actions  
24 taken to ensure that miners’ complaints are addressed in  
25 a timely manner and in compliance with the appropriate

1 statutes and regulations. The Ombudsman shall refer to  
2 appropriate personnel within the Office of the Inspector  
3 General for further review any case which he determines  
4 was not handled in such fashion.

5 “(d) AUTHORIZATION OF APPROPRIATIONS.—There  
6 are hereby authorized to be appropriated to the Ombuds-  
7 man such sums as may be required for the implementation  
8 of his duties out of the sums otherwise made available to  
9 the Mine Safety and Health Administration for its activi-  
10 ties.”.

11 (d) 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 Mine Safety and Health Adminis-  
23 tration, the operator of the coal or other mine  
24 and the authorized representative of miners for  
25 the mine shall be notified by the inspector or

1 district manager not later than 10 days after  
2 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 sserting 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 her agents  
22 have spent at the operation, and the frequency of  
23 violations per number of inspection days spent at the  
24 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 they are correcting  
6           the problems that gave rise to the pattern of viola-  
7           tions, and the violation frequency rate for such oper-  
8           ator declines significantly for a period of 180 days,  
9           the withdrawal order provisions of paragraphs (1)  
10          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 until such time as the Secretary certifies  
12 that all identified violations have been corrected and the  
13 operator has agreed to abide by a written plan approved  
14 by the Mine Safety and Health Administration to ensure  
15 that such a pattern of conduct will not recur.”.

16 (e) 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:

21 “(2) If,”; and

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. Notwithstanding any operator notice, no vio-  
11 lation shall be determined to be abated until an authorized  
12 representative of the Secretary visits the site and deter-  
13 mines such violation has been fully abated.”.

14 (f) FAILURE TO TIMELY PAY PENALTY ASSESS-  
15 MENTS.—Section 105(a) (30 U.S.C. 815(a)) is amend-  
16 ed—

17 (1) by inserting “(1)” after the subsection des-  
18 ignation; and

19 (2) by inserting at the end the following:

20 “(2)(A) The Secretary shall maintain a list of delin-  
21 quent operators who fail to timely pay final assessments.  
22 Any operator placed on that list for the first time shall  
23 be subject to the requirements of this paragraph only until  
24 such time as the Secretary determines that the operator  
25 is no longer in arrears. Any operator placed on that list

1 for a subsequent time shall remain on the list until such  
2 time as the Secretary determines the operator is com-  
3 mitted to timely payment of final assessments. Any oper-  
4 ator who believes he or she has been placed or retained  
5 on the list in error may file with the Commission a request  
6 for consideration of decision.

7       “(B) An operator on the list maintained pursuant to  
8 paragraph (A) shall, not later than 30 days from the re-  
9 ceipt of the notification of a citation issued by the Sec-  
10 retary, notify the Secretary that the operator intends to  
11 contest the citation or proposed assessment of a penalty,  
12 and the operator shall place in escrow with the Secretary  
13 the amount of the proposed assessment. The Secretary  
14 shall place any escrow submitted by a mine operator for  
15 this purpose into an interest bearing account and shall re-  
16 lease the funds to the operator, including interest accrued,  
17 upon the payment of any final assessment determination.  
18 If notification and proof of escrow is not provided to the  
19 Secretary, the citation and the proposed assessment of  
20 penalty shall be deemed a final order of the Commission  
21 and not subject to review by any court or agency.

22       “(C) In the event that a mine operator refuses to  
23 comply with a final order of the Commission to pay civil  
24 monetary penalties and statutory interest, the Secretary  
25 shall have the authority to issue an order requiring the

1 mine operator to cease production under such final orders  
2 of the Commission have been paid in full.”.

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

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

15 (1) in section 105(b)(1)(B)—

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

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

22 (C) by adding at the end the following: “In  
23 settling cases, the Secretary shall utilize the  
24 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))—

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 (i) 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 “(n) 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 (as amended by this Act) shall be subject to a civil penalty

1 of not less than \$10,000 nor more than \$100,000 for each  
2 occurrence of such violation.”.

3 (j) WITHDRAWAL ORDER.—Section 107(a) (30  
4 U.S.C. 817(a)) is amended by inserting after the first sen-  
5 tence the following: “In addition, in the event of any viola-  
6 tion of section 315 or section 316, or regulations issued  
7 pursuant to such sections, such representative shall deter-  
8 mine the extent of the area of such mine throughout which  
9 the danger exists and issue an order requiring the oper-  
10 ator of such mine to cause all persons, except those re-  
11 ferred to in section 104(c), to be withdrawn from, and to  
12 be prohibited from entering, such area until an authorized  
13 representative of the Secretary determines that the viola-  
14 tions have been abated.”.

15 (k) CLARIFICATIONS OF INTENT IN THE 1977 ACT.—  
16 The Federal Mine Safety and Health Act of 1977 is  
17 amended—

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

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

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

21 (C) by striking “or any independent” and  
22 inserting “and any independent”; and

23 (D) by inserting before the semicolon the  
24 following: “, and no operator may, by contract  
25 or other agreement, limit any liability under

1 this Act through transfer of any responsibilities  
2 to another person”;

3 (2) in section 103 (30 U.S.C. 813)—

4 (A) in subsection (b)—

5 (i) by striking the first sentence and  
6 inserting the following: “For the purpose  
7 of enabling the Secretary to perform the  
8 functions under this Act, the Secretary  
9 may, after notice, hold public hearings and  
10 sign and issue subpoenas for the attend-  
11 ance and testimony of witnesses and the  
12 production of information, including but  
13 not limited to relevant data, papers, books,  
14 documents and items of physical evidence,  
15 and administer oaths, whether or not in  
16 connection with a public hearing.”; and

17 (ii) in the last sentence by striking  
18 “documents” and inserting “information,  
19 including data, papers, books, documents,  
20 and items of physical evidence”; and

21 (B) in subsection (h), in the first sentence,  
22 by striking “information” and inserting “data,  
23 papers, books, documents, and items of physical  
24 evidence”;

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

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

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

10 (4) in section 105 (30 U.S.C. 815)—

11 (A) in subsection (a), in the first sentence,  
12 by striking “, within a reasonable time after the  
13 termination of such inspection or investiga-  
14 tion,”;

15 (B) in subsection (c)—

16 (i) in paragraph (1)—

17 (I) by inserting “or an injury or  
18 illness in a coal or other mine or that  
19 may be associated with mine employ-  
20 ment,” after “of an alleged danger or  
21 safety or health violation in a coal or  
22 other mine,”; and

23 (II) by inserting at the end the  
24 following: “No miner shall be required  
25 to work under conditions he has rea-

1           sonable grounds to believe to be ab-  
2           normally and immediately dangerous  
3           to himself beyond the normal hazards  
4           inherent in the operation which could  
5           reasonably be expected to cause death  
6           of serious physical harm before such  
7           condition or practice can be abated.”;  
8           and

9           (ii) in paragraph (2), by inserting  
10          after the fifth sentence the following: “No  
11          investigation or hearing authorized by this  
12          paragraph may be stayed to await resolu-  
13          tion of a related grievance proceeding”;  
14          and

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

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

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

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

4 (B) in subsection (c)—

5 (i) by striking “Whenever a corporate  
6 operator” and inserting “Whenever a mine  
7 operator”;

8 (ii) by striking “safety standard” and  
9 inserting “safety standard or requirement  
10 of this Act”;

11 (iii) by inserting “partner, owner,”  
12 after “director,”; and

13 (iv) by striking “such corporation”  
14 and inserting “such mine operator”.

15 (l) FEDERAL LICENSING.—The Secretary shall  
16 promptly establish an advisory committee to provide rec-  
17 ommendations as to whether the Federal Mine Safety and  
18 Health Act of 1977 should provide for Federal licensing  
19 of mines, mine operators, mine controllers, or various mine  
20 personnel in order to ensure that those engaged in mining  
21 activities are not frequent violators of safety and health  
22 requirements, and establish a national registry in connec-  
23 tion therewith. The advisory committee shall be estab-  
24 lished pursuant to the Advisory Committee Act, and shall  
25 conduct a review of existing State licensing requirements

1 and registries, assess their effectiveness, and shall provide  
2 its recommendations to Congress not later than 2 years  
3 after the date of enactment of this Act.

4 **SEC. 6. SUPPLEMENTING RESCUE, RECOVERY, AND INCI-**  
5 **DENT INVESTIGATION AUTHORITY.**

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

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

23 (1) the contact phone numbers, including the  
24 home phone numbers, for the members of each mine  
25 rescue team responsible for each coal or other mine;

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

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

6           (4) the contact phone numbers, including the  
7           home phone numbers, for the national and district  
8           officials of the Mine Safety and Health Administra-  
9           tion;

10          (5) the contact phone numbers, including the  
11          home phone numbers, for the State officials in each  
12          State who should be contacted in the event of a mine  
13          emergency in such State; and

14          (6) the contact phone numbers, including the  
15          home phone number, for the authorized representa-  
16          tive of the miners at each mine.

17 Each mine operator shall ensure that the Secretary is pro-  
18 vided with completely current information required to be  
19 maintained by the Secretary pursuant to paragraphs (1),  
20 (3), and (6). The Secretary shall give due consideration  
21 to the information collected by the joint government-indus-  
22 try Mine Emergency Operations database.

23          (c) MINE LOCATIONS; REPOSITORY OF MINING  
24 MAPS.—

1           (1) MINE LOCATIONS.—The Secretary shall es-  
2           tablish, maintain, and keep current, on the Depart-  
3           ment of Labor’s website, a detailed map or set of  
4           maps showing the exact geographic location of each  
5           operating or abandoned mine in the United States,  
6           as determined by a global positioning system. Such  
7           map or maps shall—

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

12                  (B) be available to members of the public;

13                  (C) allow a user to find the geographic lo-  
14                  cation of a particular mine, or the geographic  
15                  locations of all mines of a particular type in a  
16                  county, congressional district, State, or other  
17                  commonly used geographic region; and

18                  (D) provide the geographic location of any  
19                  mining waste impoundments with links to asso-  
20                  ciated emergency contact information and avail-  
21                  able emergency response plans.

22           (2) REPOSITORY OF MINING MAPS.—The Sec-  
23           retary shall establish a national repository for pre-  
24           serving a digital archive of mining maps to be acces-  
25           sible directly and without delay from the Depart-

1       ment’s web site. The mining maps shall include cop-  
2       ies of all historic maps that can be obtained, as well  
3       as copies of currently approved mining maps, which  
4       the Secretary shall arrange to copy and preserve in  
5       digital form. The Secretary may coordinate the oper-  
6       ation of such repository with the Secretary of the In-  
7       terior provided the other requirements of this para-  
8       graph are observed. In addition, the Secretary shall  
9       include in this repository copies of the most cur-  
10      rently available mine emergency response plan, roof  
11      plans, ventilation plans, and such other plans re-  
12      quired for any type of mine, following any required  
13      approval, so that they may be immediately accessed  
14      in an emergency, in a manner consistent with the re-  
15      quirements of section 312(b) of the Act.

16      (d) REQUIRED NOTIFICATION OF EMERGENCIES AND  
17      SERIOUS INCIDENTS.—Section 103(j) (30 U.S.C. 813(j))  
18      is amended—

19           (1) in the first sentence, by inserting “or re-  
20      portable event” after “accident”;

21           (2) in the second sentence—

22                   (A) by inserting “of accidents” after “the  
23      notification”; and

24                   (B) by inserting “, or in the case of a re-  
25      portable event that is not required to be re-

1           ported as an accident, within 1 hour of the time  
2           at which the operator realizes that the event  
3           has occurred” before the period; and

4           (3) by inserting at the end the following: “For  
5           the purposes of this subsection, a reportable event  
6           shall include—

7           “(1) a fire not required to be reported more  
8           promptly;

9           “(2) a sudden change in mine atmospheric con-  
10          ditions in a sealed area;

11          “(3) a coal or rock outburst that causes the  
12          withdrawal of miners; or

13          “(4) any other event, as determined in regula-  
14          tions promulgated by the Secretary, that needs to be  
15          reported within 1 hour in order for the Secretary to  
16          determine if the working conditions in the mine are  
17          safe.”.

18          (e) ENHANCING THE CAPABILITIES OF MINE RES-  
19          CUE TEAMS.—

20                 (1) AMENDMENT TO FMSHA.—Section  
21                 115(e)(2)(B) (30 U.S.C. 825(e)(2)(B)) is amended  
22                 by adding at the end the following:

23                 “(v) The provision of uniform credentials to mine res-  
24                 cue team members, support personnel, or vehicles for im-  
25                 mediate access to any mine site.

1       “(vi) The plans required at each mine to ensure co-  
2 ordination with local emergency response personnel and  
3 to ensure that such personnel receive adequate training  
4 to offer necessary assistance to mine rescue teams in the  
5 event such assistance is requested. Such local emergency  
6 response personnel shall not perform the duties of any  
7 mine rescue team.

8       “(vii) Requirements to ensure that operators are pre-  
9 pared to facilitate the work of mine rescue teams during  
10 an emergency by—

11           “(I) storing necessary equipment not brought  
12 on site by mine rescue teams in locations readily ac-  
13 cessible to mine rescue teams;

14           “(II) providing mine rescue teams with a park-  
15 ing and staging area adequate for their needs;

16           “(III) identifying a space appropriate for co-  
17 ordinating emergency communications with the mine  
18 rescue team; and

19           “(IV) identifying and maintaining separate  
20 spaces for family members, community members,  
21 and press to assemble during an emergency so as to  
22 facilitate communications with these groups while  
23 ensuring the efforts of the mine rescue teams are  
24 not hindered.”.

1           (2) RESEARCH.—Section 22(h)(5)(A) of the Oc-  
2           cupational Safety and Health Act of 1970 (29  
3           U.S.C. 671(h)(5)(A)) is amended by adding before  
4           the period at the end thereof: “including advanced  
5           drilling technologies, and any special technologies re-  
6           quired for safety or rescue in mining more than  
7           1,500 feet in depth”.

8           (f) Title I of the Act is amended by adding at the  
9           end thereof a new section:

10       **“SEC. 117. EMERGENCY PREPAREDNESS PLAN.**

11           “Not later than 6 months of the enactment of the  
12       S-MINER Act, the Secretary shall establish and dissemi-  
13       nate guidelines for rescue operations that will: (1) estab-  
14       lish clear lines of authority within the agency for such op-  
15       erations; (2) establish clear lines of demarcation so private  
16       sector and State responders can properly implement their  
17       responsibilities; (3) be appropriate for rescue in various  
18       types of conditions reasonably likely to be encountered in  
19       the United States, including such factors as the depth of  
20       the mining, ground stability, ground slope, remoteness  
21       from major roads, surface ownership and access problems,  
22       and the availability of necessary communications linkages.  
23       The Secretary shall consult with States, rescue teams and  
24       other responders in developing such guidelines, and shall  
25       update them from time to time based upon experience.”.

1 (g) AUTHORITY OF SECRETARY DURING RESCUE OP-  
2 ERATIONS.—Section 103 (30 U.S.C. 813) is further  
3 amended—

4 (1) in subsection (j), by adding at the end  
5 thereof:

6 “If the representative of the Secretary supervises and di-  
7 rects the rescue and recovery activities in such mine, the  
8 operator shall comply with the requests of the authorized  
9 representative of the Secretary to facilitate rescue and re-  
10 covery activities including the provision of all equipment,  
11 personnel, and other resources required to perform such  
12 activities in accordance with the schedule and require-  
13 ments established by the representative of the Secretary  
14 for this purpose, and failure of the operator to comply in  
15 this regard shall be considered an egregious violation of  
16 this Act.”; and

17 (2) in subsection (k), by striking “, when  
18 present,”.

19 (h) RESCUE COMMUNICATIONS.—

20 (1) REPEAL.—The MINER Act (30 U.S.C. 801  
21 note) is amended by striking section 7, redesignating  
22 sections 8 and 9 as sections 7 and 8, and sections  
23 11 through 14 as sections 9 through 12, respec-  
24 tively.

1           (2) AMENDMENT TO FMSHA.—Title I of the Act  
2           is further amended by adding at the end the fol-  
3           lowing:

4   **“SEC. 118. FAMILY LIAISONS REQUIREMENT.**

5           “The Secretary shall—

6           “(1) designate a full-time permanent employee  
7           of the Mine Safety and Health Administration to  
8           serve as a Family Liaison, who shall, at least in in-  
9           stances where multiple miners are trapped, severely  
10          injured or killed, act as the primary communication  
11          with the families of the miners concerning all as-  
12          pects of the rescue operations, including the location  
13          or condition of miners, and assist the families in get-  
14          ting answers to their questions, and otherwise serve  
15          as a liaison to the families, and provide for the tem-  
16          porary reassignment of other personnel who may be  
17          required to assist the Family Liaison in connection  
18          with a particular incident;

19          “(2) require the Mine Safety and Health Ad-  
20          ministration to be as responsive as possible to re-  
21          quests from the families of such miners for informa-  
22          tion relating to the mine accident, and waive any  
23          fees required for the production of documents pursu-  
24          ant to 5 U.S.C. 552(a)(3) in connection with a re-  
25          quest from a family member, or authorized rep-

1 representative of miners, for documents relating to a  
2 mine fatality, notwithstanding any conditions for fee  
3 waivers law that may otherwise be imposed by law;  
4 and

5 “(3) designate a highly qualified representative  
6 of the Secretary with experience in public commu-  
7 nications to be present at mine accident sites where  
8 rescues are in progress during the entire duration of  
9 such rescues, to serve as the primary communicator  
10 with the press and the public concerning all aspects  
11 of the rescue operations, including the location or  
12 condition of miners.”.

13 (3) CONFORMING AMENDMENTS.—The Act is  
14 amended—

15 (A) in section 103(f), by inserting before  
16 the period at the end of the first sentence the  
17 following: “, and to participate in any accident  
18 investigation pursuant to the requirements of  
19 this Act. Any family member of a miner  
20 trapped or otherwise unable to execute a des-  
21 ignation of a miner representative on his or her  
22 own behalf may do so on behalf of the miner for  
23 any and all purposes”; and

24 (B) in section 316(b)(2)(E)(vi) (as added  
25 by this Act), by adding at the end the following:

1           “The plan shall also set forth the operator’s  
2           plans for assisting the Secretary in the imple-  
3           mentation of section 118.”.

4           (i) RECOVERY.—Section 103 is amended by adding  
5           at the end thereof—

6           “(l) Rescue efforts for trapped miners shall not cease  
7           as long as there is any possibility that miners are alive,  
8           unless such efforts pose a serious danger to rescue or  
9           other workers, and the decision to cease a rescue shall be  
10          made by the Secretary’s representative. Thereafter, efforts  
11          to recover the remains of miners shall continue unless such  
12          efforts pose a serious danger to recovery workers, and the  
13          decision to cease such recovery efforts shall be made by  
14          the Secretary’s representative.”.

15          (j) ACCIDENT AND INCIDENT INVESTIGATIONS.—  
16          Section 103(b) (30 U.S.C. 813(b), as amended by section  
17          5(k)(2) of this Act, is further amended—

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

20                 “(3) For the purpose”;

21                 (2) by inserting after the subsection designation  
22                 the following:

23                 “(1) For all accident and incident investigations  
24                 under this Act, the Secretary shall determine why the acci-  
25                 dent or incident occurred; determine whether civil or

1 criminal requirements were violated and, if so, issue cita-  
2 tions and penalties, and make recommendations to avoid  
3 any recurrence. The Secretary shall also determine wheth-  
4 er the conduct or lack thereof by Agency personnel con-  
5 tributed to the accident or incident.

6 “(2)(A) For any accidents or incidents involving mul-  
7 tiple serious injuries or deaths, or multiple entrapments,  
8 there shall also be an independent investigation to con-  
9 sider why the accident or incident occurred, make rec-  
10 ommendations to avoid a recurrence, and determine  
11 whether the conduct or lack thereof by agency personnel  
12 contributed to the accident or incident.

13 “(B) Not later than 30 days after the date of enact-  
14 ment of the S-MINER Act, the Secretary shall initiate  
15 rulemaking activity to establish rules on the procedures  
16 that will be used to investigate accidents and incidents in-  
17 volving multiple serious injuries or deaths, or multiple en-  
18 trapments, and shall directly contact and solicit the par-  
19 ticipation of—

20 “(i) individuals identified by the Secretary as  
21 family members of miners who perished in mining  
22 accidents of any type during the preceding 10-year  
23 period;

24 “(ii) organizations representing miners;

25 “(iii) mine rescue teams;

1           “(iv) Federal, State, and local investigation and  
2           prosecutorial authorities; and

3           “(v) others whom the Secretary determines may  
4           have information relevant to this rulemaking.

5 Such rulemaking shall be completed by October 1, 2008.

6           “(C) The rules for the investigation of accidents or  
7 incidents involving multiple serious injuries or deaths, or  
8 multiple entrapments, shall provide for the appointment  
9 and operations of any such independent investigation team  
10 in accordance with the requirements of this paragraph. An  
11 independent investigation team shall be appointed by the  
12 Director of the National Institute for Occupational Safety  
13 and Health as soon as possible after a qualifying accident  
14 or incident. The members shall consist of—

15           “(i) a representative from the National Insti-  
16           tute for Occupational Safety and Health who shall  
17           serve as the Chairman;

18           “(ii) a representative of mine operators with fa-  
19           miliarity with the type of mining involved;

20           “(iii) a representative of mine workers with fa-  
21           miliarity with the type of mining involved, who shall  
22           be the workers’ certified bargaining representative at  
23           the mine or, if there is no certified representative at  
24           the mine, then a workers’ representative jointly se-  
25           lected by organized labor organizations:

1           “(iv) an academic with expertise in mining; and  
2           “(v) a representative of the State in which the  
3           accident or incident occurred to be selected by the  
4           Governor.

5           “(D) Such rules shall include procedures to ensure  
6           that the Secretary will be able to cooperate fully with the  
7           independent investigation team and will use the powers of  
8           the Secretary under this section to help obtain information  
9           and witnesses required by the independent investigation  
10          team, procedures to ensure witnesses are not coerced and  
11          to avoid conflicts of interest in witness representation, pro-  
12          cedures to ensure confidentiality if requested by any wit-  
13          ness, and procedures to enable the independent investiga-  
14          tion team to conduct such public hearings as it deems ap-  
15          propriate. Such rules shall also require that upon comple-  
16          tion of any accident or incident investigation of accidents  
17          or incidents involving multiple serious injuries or deaths,  
18          or multiple entrapments, the independent investigation  
19          team shall—

20                 “(i) issue findings as to the actions or inactions  
21                 which resulted in the accident or incident;

22                 “(ii) make recommendations as to policy, regu-  
23                 latory, enforcement or other changes, including stat-  
24                 utory changes, which in the judgment of the inde-  
25                 pendent investigation team would best prevent a re-

1 currence of such actions or inactions at other mines;  
2 and

3 “(iii) promptly make all such findings and rec-  
4 ommendations public (except findings and rec-  
5 ommendations that must be temporarily withheld in  
6 connection with a criminal referral), including appro-  
7 priate public hearings to inform the mining commu-  
8 nity of their respective findings and recommenda-  
9 tions.

10 “(E) As part of the Secretary’s annual report to Con-  
11 gress pursuant to section 511(a), the Secretary shall re-  
12 port on implementation of recommendations issued by any  
13 independent investigation teams in the preceding 5  
14 years.”; and

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

16 “(4) Nothing in this Act shall be construed to limit  
17 the authority of the Chemical Safety and Hazard Inves-  
18 tigation Board to conduct an independent investigation of  
19 the accident or incident or the events or factors resulting  
20 therein, nor with the authority of the Office of the Inspec-  
21 tor General to conduct an investigation of the conduct of  
22 DOL personnel in connection with an accident or incident  
23 or the events or factors resulting therein, and the Sec-  
24 retary shall cooperate in full with any such investigation.

1 Such investigation shall be in addition to any investigation  
2 authorized by section 103(b).”.

3 **SEC. 7. RESPIRABLE DUST STANDARDS.**

4 (a) RESPIRABLE DUST; RESPIRABLE SILICA  
5 DUST.—Section 202 (30 U.S.C. 842) is amended to read  
6 as follows:

7 **“SEC. 202. DUST STANDARD AND RESPIRATORY EQUIP-**  
8 **MENT.**

9 “(a)(1) Effective on the date of enactment of the S–  
10 MINER Act, each coal mine operator shall continuously  
11 maintain the concentration of respirable dust in the mine  
12 atmosphere during each shift to which each miner in the  
13 active workings of such mine is exposed at or below a time-  
14 weighted average of 1.00 milligrams of respirable dust per  
15 cubic meter of air averaged over 10 hours or its dose-  
16 equivalent for shorter or longer period of time. For pur-  
17 poses of this paragraph, ‘a dose-equivalent’ means the  
18 amount of dust that a miner would inhale during his work  
19 shift as if he were working for 10 hours, and the term  
20 ‘shift’ means portal-to-portal for underground coal mines  
21 and ‘bank to bank’ for other coal mines.

22 “(2) At regular intervals to be prescribed by the Sec-  
23 retary and the Secretary of Health and Human Services,  
24 the Secretary will take accurate samples of the amount  
25 of respirable dust in the coal mine atmosphere to which

1 each miner in the active workings of such mine is exposed  
2 in order to determine compliance with the requirements  
3 of paragraph (a)(1) of this section. In addition, the Sec-  
4 retary shall cause to be made such frequent spot inspec-  
5 tions as he deems appropriate of the active workings of  
6 coal mines for the purpose of obtaining compliance with  
7 the provisions of this title. All samples by the Secretary  
8 shall be taken by a personal dust monitor that measures,  
9 records and displays in real time the concentration of res-  
10 pirable dust to which the miner wearing the device is ex-  
11 posed, and shall include the sampling of areas, occupations  
12 or persons. There is authorized to be appropriated to the  
13 Secretary \$30,000,000 to purchase personal dust monitors  
14 for the purposes of the preceding sentence. For the pur-  
15 poses of determining compliance with the exposure limit  
16 for respirable dust, only a single sample shall be required  
17 to determine non-compliance, and there shall be no adjust-  
18 ment for measurement error in the measured level of res-  
19 pirable dust.

20 “(3) At intervals established by the Secretary, each  
21 operator of a coal mine shall take accurate samples of the  
22 amount of respirable dust in the mine atmosphere to  
23 which each miner in the active workings of such mine is  
24 exposed to identify sources of exposure so that the oper-  
25 ator can take corrective action and assure that the expo-

1 sure of each mine is below the exposure limit. Under the  
2 provisions of this Act, all such samples shall be taken by  
3 a personal dust monitor that measures, records and dis-  
4 plays the concentration of respirable dust to which the  
5 miner wearing the device is exposed, and may include sam-  
6 ples of less than a full shift. The results of such sampling  
7 shall be transmitted to the Secretary in a manner estab-  
8 lished by him, and recorded by him in a manner that will  
9 assure application of the provisions of this section of the  
10 Act.

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

19 “(b) Effective on the date of enactment of the S-  
20 MINER Act, each operator of a coal or other mine shall  
21 continuously maintain the concentration of respirable sili-  
22 ca dust in the mine atmosphere during each shift to which  
23 each miner in the active workings of such mine is exposed  
24 at or below a time-weighted average of 0.05 milligrams  
25 of respirable silica dust per cubic meter of air averaged

1 over ten hours or its dose-equivalent for shorter or longer  
2 period of time. For the purposes of this paragraph, com-  
3 pliance shall be determined by the sampling of areas, occu-  
4 pations or persons, only a single sample shall be required  
5 to determine non-compliance, and there shall be no adjust-  
6 ment for measurement error in the measured level of res-  
7 pirable silica dust. For the purposes of this paragraph,  
8 a ‘dose-equivalent’ means the amount of dust that a miner  
9 would inhale during his work shift as if he were working  
10 for 10 hours, and the term ‘shift’ means portal-to-portal  
11 for underground mines and ‘bank to bank’ for other  
12 mines.

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

24       “(d) Each operator shall report and certify to the  
25 Secretary at such intervals as the Secretary may require

1 as to the conditions in the active workings of a coal mine,  
2 including, the average number of working hours worked  
3 during each shift, the quantity and velocity of air regularly  
4 reaching the working faces, the method of mining, the  
5 amount and pressure of the water, if any, reaching the  
6 working faces, and the number, location, and type of  
7 sprays, if any, used.”.

8 (b) CONFORMING AMENDMENT.—Section 205 (30  
9 U.S.C. 845) is repealed.

10 (c) ASSESSMENT ON PROGRAM OPERATIONS OF CU-  
11 MULATIVE IMPACT OF EXTERNAL REQUIREMENTS ADDED  
12 SINCE 1977.—The Secretary shall request the National  
13 Academy of Sciences to conduct a study of the impact on  
14 the mine safety and health responsibilities of the Depart-  
15 ment of Labor of various statutes, executive orders, and  
16 memoranda applicable to the issuance of rulemaking and  
17 guidance and to enforcement. The study shall include an  
18 assessment of the Equal Access to Justice Act, the Regu-  
19 latory Flexibility Act, the Small Business Regulatory En-  
20 forcement Fairness Act, the Data Quality Act, the Paper-  
21 work Reduction Act, the Unfunded Mandates Reform Act,  
22 the Federal Advisory Committee Act, the Congressional  
23 Review Act, Executive Order 12866, Executive Order  
24 13422, and memoranda from the Office of Management  
25 and Budget on guidance, risk assessment and cost anal-

1 ysis. The Secretary shall request that the National Acad-  
2 emy of Sciences consult widely with experts in administra-  
3 tive law and other disciplines knowledgeable about such  
4 requirements, and to quantify to the extent possible the  
5 costs to miners of the aforementioned requirements. The  
6 Secretary shall further request that recommendations be  
7 included in the report, and that such report and rec-  
8 ommendations be completed, and forwarded to the Con-  
9 gress, no later than 21 months after the date of enactment  
10 of this Act.

11 **SEC. 8. OTHER HEALTH REQUIREMENTS.**

12 (a) AIR CONTAMINANTS.—Section 101 of (30 U.S.C.  
13 811) is amended by adding at the end the following:

14 “(f) Notwithstanding the other requirements of this  
15 section, not later than 30 days of the enactment of the  
16 S-MINER Act, the National Institute for Occupational  
17 Safety and Health shall forward to the Secretary its Rec-  
18 ommended Exposure Limits (RELs) for chemical and  
19 other hazards to which miners may be exposed, along with  
20 the research data and other necessary information. Within  
21 30 days of receipt of this information, the Secretary shall  
22 to adopt such recommended exposure limits as the Permis-  
23 sible Exposure Limits (PELs) for application in the min-  
24 ing industry. The National Institute of Occupational Safe-  
25 ty and Health shall annually submit to the Secretary any

1 additional or revised recommended exposure limits for all  
2 chemicals and other hazards to which miners may be ex-  
3 posed, and the Secretary shall be obligated to adopt such  
4 exposure limits as PELs for application in the mining in-  
5 dustry within 30 days of receipt of such information. Upon  
6 petition from miners or mine operators providing credible  
7 evidence that feasibility may be an issue for the industry  
8 as a whole, the Secretary may review the feasibility of any  
9 PEL established pursuant to this paragraph before plac-  
10 ing it into effect and, following public notice and comment,  
11 make necessary adjustments thereto, provided that the ad-  
12 justed standard is as protective as is feasible, and that  
13 the PEL shall go into effect as required by the other provi-  
14 sions of this paragraph if such action is not completed  
15 within one year. Moreover, upon petition from miners or  
16 mine operators providing credible evidence that a REL  
17 issued by the National Institute of Occupational Safety  
18 and Health lacks the specificity required to serve as a  
19 PEL pursuant to this Act, the Secretary may defer imple-  
20 mentation of the requirements of this paragraph and shall  
21 promptly request National Institute of Occupational Safe-  
22 ty and Health to recommend a sufficiently detailed REL,  
23 at which time the provisions of this paragraph shall be  
24 implemented. Nothing in this subsection shall limit the  
25 ability of the National Institute of Occupational Safety

1 and Health to make such recommendations more fre-  
2 quently than 1 time per year, nor limit the Secretary from  
3 establishing requirements for chemical and other sub-  
4 stances or health hazards in the mining industry that are  
5 more comprehensive and protective than those established  
6 pursuant to this subsection and in accordance with the  
7 other requirements of this section.”.

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

10 “(g) The health standard for asbestos established by  
11 the Occupational Safety and Health Administration that  
12 is set forth in section 1910.1001 of title 29, Code of Fed-  
13 eral Regulations, or any subsequent revision of that regu-  
14 lation, shall be adopted by the Secretary for application  
15 in the mining industry not later than 30 days of the enact-  
16 ment of the S-MINER Act. Nothing in this paragraph  
17 shall preclude the Secretary from adopting regulations to  
18 address asbestos hazards to miners not covered by the reg-  
19 ulations of the Occupational Safety and Health Adminis-  
20 tration.”.

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

24 “(h) Unless and until there is additional rulemaking  
25 pursuant to the requirements of this section, the Secretary

1 shall apply the provisions of the interim final rule of Octo-  
2 ber 3, 2000, concerning hazard communication, in lieu of  
3 the final rule of June 21, 2002, concerning hazard com-  
4 munication.”.

5 (d) STUDY ON MINER SUBSTANCE ABUSE ISSUES  
6 THAT POSE SAFETY RISKS.—

7 (1) STUDY.—The Secretary of Labor shall con-  
8 duct a study providing expert review and rec-  
9 ommendations of policies designed to deal with sub-  
10 stance abuse by miners, including the causes, na-  
11 ture, and extent of such abuse, its impact on mine  
12 safety and health, best practices for treatment, reha-  
13 bilitation, and substance abuse testing policies, and  
14 the adequacy of State laws and approaches. In con-  
15 ducting such study, the Secretary shall solicit the  
16 views of and consult with all interested parties, in-  
17 cluding miners, miners’ representatives, mine opera-  
18 tors, appropriate State agencies, and public health  
19 and substance abuse experts.

20 (2) REPORT.—Not later than 6 months after  
21 the date of enactment of this Act, the Secretary  
22 shall report the findings and recommendations of the  
23 study to the Committee on Education and Labor of  
24 the House of Representatives and the Committee on

1 Health, Education, Labor and Pensions of the Sen-  
2 ate.

3 (3) ADDITIONAL AUTHORITY.—If, as a result of  
4 the study, the Secretary determines it to be feasible  
5 and effective, the Secretary shall be authorized to  
6 establish a program, in consultation with the parties  
7 described in paragraph (1), within the Mine Safety  
8 and Health Administration to provide for substance  
9 abuse testing of miners as well as rehabilitation and  
10 treatment of miners suffering from substance abuse.

11 (e) GRANTS FOR REHABILITATION.—

12 (1) IN GENERAL.—The Secretary of Labor, in  
13 consultation with the Secretary of Health and  
14 Human Services, is authorized to award grants to  
15 appropriate entities and programs for the purpose of  
16 providing rehabilitation services to current and  
17 former miners suffering from mental health impair-  
18 ments, including drug addiction and substance abuse  
19 issues, which may have been caused or exacerbated  
20 by their work as miners. The Secretary shall ensure  
21 such funds are directed to those regions of the coun-  
22 try most in need of such assistance.

23 (2) AUTHORIZATION OF APPROPRIATIONS.—

24 There is authorized to be appropriated to the Sec-

1       retary of Labor \$10,000,000 to carry out the grant  
2       program authorized by this subsection.

3   **SEC. 9. MINE SAFETY PROGRAM FUND.**

4       Title I is further amended by adding at the end the  
5       following:

6   **“SEC. 117. MINE SAFETY PROGRAM FUND.**

7       “(a) ESTABLISHMENT.—There is established in the  
8       Treasury a separate account to be known as the ‘Mine  
9       Safety Program Fund’ (in this section referred to as the  
10      ‘Fund’).

11      “(b) TRANSFERS TO THE FUND.—There shall be de-  
12      posited in the Fund—

13              “(1) all penalties collected under section 110;  
14      and

15              “(2) any gifts, bequests, or donations to the  
16      Fund from private entities or individuals, which the  
17      Secretary of the Treasury is authorized to accept for  
18      deposit into the Fund, except that the Secretary is  
19      not authorized to accept any such gift, bequest, or  
20      donation that—

21                      “(A) attaches conditions inconsistent with  
22                      applicable laws or regulations; or

23                      “(B) is conditioned upon or would require  
24                      the expenditure of appropriated funds that are  
25                      not available to the Secretary of Labor.

1       “(c) EXPENDITURES.—Amounts in the Fund shall be  
2 available, as provided in appropriations Acts, only for in-  
3 spections and investigations conducted pursuant to section  
4 103.”.

Passed the House of Representatives January 16,  
2008.

Attest:

LORRAINE C. MILLER,

*Clerk.*