

Post, p. 288.
5 USC 1071
note.
60 Stat. 810.

Gifts, etc.

Federal cooperation.

Appropriation.

Report to Congress.

States at a rate in excess of that received by persons under the Classification Act of 1949 for performing comparable duties;

(5) procure services as authorized by section 15 of the Administrative Expenses Act of 1946, as amended (5 U.S.C. 55a), but at rates for individuals not to exceed \$75 per diem when actually employed; and

(6) accept any gifts, donations, or devises, or loans other than of money, to be used in carrying out the purposes of this section.

(c) In determining the exhibits to be installed by the United States during the centennial celebration and in selecting the site or sites in the State of Alaska for such exhibits, the Secretary shall consult with the Alaska State Centennial Commission.

(d) The head of each department, agency, or instrumentality of the Federal Government is authorized—

(1) to cooperate with the Secretary with respect to United States participation in the ceremonial aspects of the centennial celebration; and

(2) to make available to the Secretary from time to time, such personnel as may be necessary to assist the Secretary in carrying out his functions under this section.

(e) There are hereby authorized to be appropriated for the purposes of this section not to exceed \$600,000.

SEC. 4. The Secretary shall report to the Congress within six months after the date of the official close of the centennial celebration concerning the activities of the Federal Government pursuant to this Act, including a detailed statement of expenditures. Upon transmission of such report to the Congress, all appointments made under this Act shall terminate.

Approved March 26, 1966.

Public Law 89-376

AN ACT

March 26, 1966
[H. R. 3584]

To amend the Federal Coal Mine Safety Act so as to provide further for the prevention of accidents in coal mines.

Federal Coal
Mine Safety Act
Amendments of
1965.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Federal Coal Mine Safety Act Amendments of 1965".

SEC. 2. (a) Subsection (b) of section 201 of the Federal Coal Mine Safety Act (66 Stat. 693; 30 U.S.C. 471(b)) is repealed.

(b) For a period of six months following the month during which this Act becomes effective, the amendments made by section 3 of this Act to the Federal Coal Mine Safety Act shall not apply to any mine in which on the effective date of this Act no more than fourteen individuals are regularly employed underground, except that the amendments made by subsections (c) and (d) of such section shall become effective on the date of enactment of this Act.

(c) For a period of six months following the month during which this Act becomes effective, paragraph (5) of subsection (h) of section 209 of the Federal Coal Mine Safety Act shall not apply to any mine in which on the effective date of this Act (1) no more than fourteen individuals are regularly employed underground and (2) the storage, handling, or use of black powder is expressly permitted by a statute of the State in which such mine is located.

55 Stat. 177.
30 USC 451
note.

66 Stat. 707.
30 USC 479.

SEC. 3. (a) Section 203 of the Federal Coal Mine Safety Act (66 Stat. 694; 30 U.S.C. 473) is amended by adding a new subsection (d) and a new subsection (e), reading as follows, and by redesignating present subsections (d), (e), and (f) as subsections (f), (g), and (h), respectively, and by amending those subsections to read as follows:

“(d) (1) If a duly authorized representative of the Bureau, upon making an inspection of a mine as authorized in section 202, finds that any provision of section 209 is being violated, and if he also finds that, while the conditions created by such violation do not cause danger that a mine explosion, mine fire, mine inundation, or man-trip or man-hoist accident will occur in such mine immediately or before the imminence of such danger can be eliminated, such violation is of such nature as could significantly and substantially contribute to the cause or effect of a mine explosion, mine fire, mine inundation, or man-trip or man-hoist accident, and if he finds such violation to be caused by an unwarrantable failure of such operator to comply with the provisions of section 209, he shall include such finding in the notice given to the operator under subsection (b) of this section. Within ninety days of the time such notice was given to such operator, the Bureau shall cause such mine to be reinspected to determine if any similar such violation exists in such mine. Such reinspection shall be in addition to any special inspection required under section 203 or section 206. If, during any special inspection relating to such violation or during such reinspection, a representative of the Bureau finds such similar violation does exist, and if he finds such violation to be caused by an unwarrantable failure of such operator to comply with the provisions of section 209, he shall forthwith issue an order requiring the operator to cause all persons in the area affected by such violation, except those persons referred to in paragraph (3) of this subsection, to be withdrawn from, and to be debarred from entering, such area. Such finding and order shall state the provision or provisions of section 209 which have been violated and shall contain a detailed description of the conditions which such representative finds cause and constitute such violation, and a description of the area from which persons must be withdrawn and debarred. The representative of the Bureau shall promptly thereafter advise the Director in writing of his findings and his action.

Inspection and
reinspection of
mines.
30 USC 472.

30 USC 476.

Finding and
order.

Withdrawal or-
ders.

“(2) If a withdrawal order with respect to any area in a mine has been issued pursuant to paragraph (1) of this subsection, thereafter a withdrawal order shall promptly be issued by a duly authorized representative of the Bureau who finds upon any following inspection the existence in such mine of violations similar to those that resulted in the issuance of the withdrawal order under paragraph (1) of this subsection until such time as an inspection of such mine discloses no similar violations. Following an inspection of such mine which discloses no similar violations, the provisions of paragraph (1) of this subsection shall again be applicable to that mine.

“(3) No order issued under paragraphs (1) or (2) of this subsection shall require any of the following persons to be withdrawn from, or to be debarred from entering, the area described in the order: (A) Any person whose presence in such area is necessary, in the judgment of the operator of the mine, to abate the violation described in the order; (B) any public official whose official duties require him to enter such area; or (C) any legal or technical consultant or any representative of the employees of the mine, who is a certified person qualified to

make mine examinations, or is accompanied by such a person, and whose presence in such area is necessary, in the judgment of the operator of the mine, for the proper investigation of the conditions described in the order.

“(e) Except as provided in subsection (g) of this section an order issued under subsection (c) or (d) of this section may be annulled, canceled, or revised by the duly authorized representative of the Bureau who issued such order or any other duly authorized representative of the Bureau.

Methane.
30 USC 472.

“(f) If a duly authorized representative of the Bureau, upon making an inspection of a mine, as authorized in section 202, finds that methane has been ignited in such mine or finds methane by use of a permissible flame safety lamp or by air analysis in an amount of 0.25 per centum or more in any open workings of such mine when tested at a point not less than twelve inches from the roof, face, or rib, he shall make an order requiring the operator of such mine to comply with the provisions of section 209 of this title which pertain to gassy mines, in the operation of such mine.

Notice to State
agency.

“(g) (1) If an order is made pursuant to subsection (a) of this section, and a State inspector did not participate in the inspection on which such order is based, the duly authorized representative of the Bureau who issued the order shall notify the State mine inspection or safety agency immediately, but not later than twenty-four hours after the issuance of such order, that such order has been issued. Following such order the operator of the mine may immediately request the State mine inspection or safety agency to assign a State inspector to inspect the mine. The State agency shall then promptly assign a State inspector to inspect the mine affected by such order and file an inspection report with the Bureau and the State agency. The order of the duly authorized representative of the Bureau shall remain in effect, but shall immediately be subject to review as provided in this title.

Inspection and
report.

Concurrence of
State inspector.

“(2) No order shall be made pursuant to subsection (c) or (d) of this section with respect to a mine in a State in which a State plan approved under section 202(b) is in effect unless a State inspector participated in the inspection on which such order is based and concurs in such order, or an independent inspector appointed under paragraph (3) of this subsection concurs in such order. If the State inspector does not concur in such order, the operator of the mine, the duly authorized representative of the Bureau who proposes to make such order, or the State inspector may apply, within twenty-four hours after the completion of the inspection involved, for the appointment of an independent inspector under paragraph (3). Within five days after the date of his appointment, the independent inspector shall inspect the mine. The representative of the Bureau and the State inspector shall be given the opportunity to accompany the independent inspector during such inspection. If, after such inspection is completed, either the independent inspector or the State inspector concurs in the order, it shall be issued.

Independent in-
spector, appoint-
ment.

“(3) Within five days after the date of receipt of an application under paragraph (2) of this subsection, the chief judge of the United States district court for the district in which the mine is involved is located (or in his absence, the clerk of such court) shall appoint a graduate engineer with experience in the coal-mining industry to serve

as an independent inspector under this subsection. Each independent inspector so appointed shall be compensated at the rate of \$50 for each day of actual service (including each day he is traveling on official business) and shall, notwithstanding the Travel Expense Act of 1949, be fully reimbursed for traveling, subsistence, and related expenses.

“(4) An order made pursuant to subsection (a) or (c) or (d) of this section with respect to a mine in a State in which a State plan approved under section 202(b) is in effect shall not be subject to review under section 206, but shall be subject to review under section 207.

“(h) Notice of each finding and order made under this section shall promptly be given to the operator of the mine to which it pertains, by the person making such finding or order.”

(b) Section 202 of the Federal Coal Mine Safety Act (66 Stat. 693; 30 U.S.C. 472) is amended as follows:

(1) Subsection (a) is amended by striking out the reference to “section 203(d)” and inserting in lieu thereof “section 203(f)”; and by striking out the reference to “section 203(c)” and inserting in lieu thereof “section 203(c) and (d)”.

(2) Subsection (b) (2) (C) is amended by striking out the reference to “section 203(e)(1)” and inserting in lieu thereof “section 203(g)(1)”.

(3) Subsection (c) is amended by striking out the reference to “section 203(e)(3)” and inserting in lieu thereof “section 203(g)(3)”.

(c) Subsections (a), (b), (c), and (d) of section 205 of the Federal Coal Mine Safety Act (66 Stat. 697; 30 U.S.C. 475) are amended to read as follows:

“(a) The Federal Coal Mine Safety Board of Review is hereby continued as an agency of the United States, except that the Board shall consist of five members, instead of three members, who shall be appointed by the President, by and with the advice and consent of the Senate.

“(b) The terms of office of members of the Board shall be five years, except that—

“(1) the terms of office of members in office on the date of enactment of the Federal Coal Mine Safety Act Amendments of 1965, shall expire on the date originally fixed for their expiration,

“(2) the term of office of one of the members appointed to fill a vacancy resulting from the enactment of the Federal Coal Mine Safety Act Amendments of 1965 shall expire July 15, 1969, and the term of office of the member appointed to fill the other vacancy resulting therefrom shall expire July 15, 1970, and

“(3) a vacancy caused by the death, resignation, or removal of a member prior to the expiration of the term for which he was appointed shall be appointed only for the remainder of such unexpired term.

The members of the Board may be removed by the President for inefficiency, neglect of duty, or malfeasance in office.

“(c) Each member of the Board shall be compensated at the rate of \$50 for each day of actual service (including each day he is traveling on official business) and shall, notwithstanding the Travel Expense Act of 1949, be fully reimbursed for traveling, subsistence, and other related expenses. The Board, at all times, shall consist of one person who by reason of previous training and experience may reasonably be said to represent the viewpoint of operators of coal mines employing fourteen or fewer employees underground (hereinafter referred to as ‘small mine operators representative’), one person who by reason of previous training and experience may reasonably be said to rep-

63 Stat. 166.
5 USC 835 note.

30 USC 472.

30 USC 476, 477.

Notice to mine
operator.

Board of Re-
view.
Appointment by
President.

63 Stat. 166.
5 USC 835 note.
Qualifications
of certain Board
members.

resent the viewpoint of operators of coal mines employing fifteen or more employees underground (hereinafter referred to as the 'large mine operators representative'), one person who by reason of previous training and experience may reasonably be said to represent the viewpoint of coal mine workers in mines employing fourteen or fewer employees underground (hereinafter referred to as the 'small mine workers representative'), one person who by reason of previous training and experience may reasonably be said to represent the viewpoint of coal mine workers in mines employing fifteen or more employees underground (hereinafter referred to as the 'large mine workers representative'), and one person who shall be chairman of the Board, who shall be a graduate engineer with experience in the coal mining industry or shall have had at least five years' experience as a practical mining engineer in the coal mining industry, and who shall not, within one year of his appointment as a member of the Board, have had a pecuniary interest in, or have been regularly employed or engaged in, the mining of coal, or have regularly represented either coal mine operators or coal mine workers, or have been an officer or employee of the Department of the Interior assigned to duty in the Bureau.

Principal office.

"(d) The principal office of the Board shall be in the District of Columbia. Whenever the convenience of the public or of the parties may be promoted, or delay or expense may be minimized, the Board may hold hearings or conduct other proceedings at any other place. At the request of an operator of a mine the Board shall hold hearings or conduct other proceedings at the county seat of the county in which the mine is located or at any place mutually agreed to by the chairman of the Board and the operator of the mine involved in the appeal or proceeding. The Board shall have an official seal which shall be judicially noticed and which shall be preserved in the custody of the secretary of the Board."

Seal.

30 USC 475.

(d) Subsection (f) of section 205 of such Act is amended to read as follows:

Quorum.

"(f) Three members of the Board shall constitute a quorum, and official action can be taken only on the affirmative vote of at least three members, except that in any official action involving mines in which no more than fourteen individuals are regularly employed underground the participation of the small mine operators' representative and small mine workers' representative shall be required, and in any official action involving mines in which more than fourteen individuals are regularly employed underground the participation of the large mine operators' representative and large mine workers' representative shall be required; but a special panel composed of one or more members, upon order of the Board, shall conduct any hearing provided for in section 207 of this title and submit the transcript of such hearing to the entire Board of its action thereon. Such transcript shall be made available to the parties prior to any final action of the Board. An opportunity to appear before the Board shall be afforded the parties prior to any final action and the Board may afford the parties an opportunity to submit additional evidence as may be required for a full and true disclosure of the facts. Every official act of the Board shall be entered of record, and its hearings and records thereof shall be open to the public."

30 USC 477.

Availability of information.

(e) Section 206 of the Federal Coal Mine Safety Act (66 Stat. 699; 30 U.S.C. 476) is amended as follows:

(1) Subsection (a) is amended by striking out the reference to "section 203(e) (4)" and inserting in lieu thereof "section 203(g) (4)".

(2) Subsection (b) is amended by striking out the reference to "section 203 (e) (4)" and inserting in lieu thereof "section 203 (g) (4)".

(3) A new subsection (c), reading as follows, is added and present subsections (c), (d), (e), and (f) are redesignated as subsections (d), (e), (f), and (g), respectively, and are amended to read as follows:

"(c) Except as provided in section 203 (g) (4), an operator notified of an order made pursuant to section 203 (d) may apply to the Director for annulment or revision of such order. Upon receipt of such application the Director shall make a special inspection of the mine affected by such order, or cause three duly authorized representatives of the Bureau, other than the representative who made such order, to make such inspection of such mine and report thereon to him. Upon making such special inspection himself, or upon receiving the report of such inspection made by such representatives, the Director shall find whether or not there was a violation of section 209 as described in such order, at the time of the making of such order. If he finds there was no such violation he shall make an order annulling the order under review. If he finds there was such a violation he shall also find whether or not such violation was totally abated at the time of the making of such special inspection. If he finds that such violation was totally abated at such time, he shall make an order annulling the order under review. If he finds that such violation was not totally abated at such time, he shall find the extent of the area of such mine which was affected by such violation at the time such special inspection was made, and he shall then make an order, consistent with his findings, affirming or revising the order under review.

"(d) An operator notified of an order made pursuant to section 203 (f) may apply, not later than twenty days after the receipt of notice of such order, to the Director for annulment of such order. Upon receipt of such application the Director shall make or cause to be made such investigation as he deems necessary. Upon concluding his investigation or upon receiving the report of such investigation made at his direction, the Director shall find whether or not methane has been ignited in such mine, or whether or not methane was found in such mine in an amount of 0.25 per centum or more in any open workings of such mine, when tested at a point not less than twelve inches from the roof, face, or rib, at the time of the making of such order. If he finds that methane has not been ignited in such mine and was not found in such mine as set out in such order, he shall make an order annulling the order under review. If he finds that methane has been ignited in such mine or was found in such mine as set out in the order under review, he shall make an order denying such application.

"(e) The Director shall cause notice of each finding and order made under this section to be given promptly to the operator of the mine to which it pertains.

"(f) Except as provided in section 203 (g) (4), at any time while an order made pursuant to section 203 or this section is in effect, or any time during the pendency of a proceeding under section 207 or section 208 seeking annulment or revision of such order, the operator of the mine affected by such order may apply to the Director for annulment or revision of such order. The Director shall thereupon proceed to act upon such application in the manner provided in subsections (a), (b), (c) or (d) of this section.

"(g) In view of the urgent need for prompt decision of matters submitted to the Director under this section, all actions which the

Application for
annulment or re-
vision of order.
Ante, p. 85.

30 USC 479.

Ante, p. 86.

Notice to mine
operator.

Director or his representatives are required to take under this section shall be taken as rapidly as practicable, consistent with adequate consideration of the issues involved."

(f) Section 207 of the Federal Coal Mine Safety Act (66 Stat. 700; as amended 74 Stat. 201; 30 U.S.C. 477) is amended as follows:

(1) Subsection (a) is amended by striking out the reference to "subsection (a), (c) or (d)" and inserting in lieu thereof "subsection (a), (c), (d) or (f)"; by striking out the reference to "subsection (d)" and inserting in lieu thereof "subsection (f)"; and by striking out the reference to "subsection (c)" and inserting in lieu thereof "subsection (d)".

(2) A new subsection (h), reading as follows, is inserted and present subsections (h), (i), and (j) are redesignated as subsections (i), (j), and (k), respectively, and are amended to read as follows:

Board findings.

30 USC 479.

"(h) If the proceeding is one in which an operator seeks annulment or revision of an order made pursuant to section 203(d), the Board, upon conclusion of the hearing, shall find whether or not there was a violation of section 209, as described in such order, at the time of the making of such order. If the Board finds there was no such violation, the Board shall make an order annulling the order under review. If the Board finds there was such a violation, the Board shall also find whether or not such violation was totally abated at the time of the filing of the operator's application. If the Board finds that such violation was totally abated at such time, the Board shall make an order annulling the order under review. If the Board finds that such violation was not totally abated at such time, the Board shall find the extent of the area of such mine which was affected by such violation at such time, and shall make an order, consistent with its findings, affirming or revising the order under review.

Ante, pp. 85, 89.

"(i) If the proceeding is one in which an operator seeks annulment of an order made pursuant to section 203(f) or 206(d), the Board, upon conclusion of the hearing, shall find whether or not methane has been ignited in such mine or was found in such mine in an amount of 0.25 per centum or more in any open workings of such mine when tested at a point not less than twelve inches from the roof, face, or rib, as set out in such order. If the Board finds that methane has not been ignited in such mine and was not found in such mine as set out in such order, the Board shall make an order annulling the order under review. If the Board finds that methane has been ignited in such mine or was found in such mine as set out in the order under review, the Board shall make an order denying such application.

"(j) Each finding and order made by the Board shall be in writing. It shall show the date on which it is made, and shall bear the signatures of the members of the Board who concur therein. Upon making a finding and order the Board shall cause a true copy thereof to be sent by registered mail or by certified mail to all parties or their attorneys of record. The Board shall cause each such finding and order to be entered on its official record, together with any written opinion prepared by any members in support of, or dissenting from, any such finding or order.

Need for prompt action.

"(k) In view of the urgent need for prompt decision of matters submitted to the Board under this section, all actions which the Board is required to take under this section shall be taken as rapidly as practicable, consistent with adequate consideration of the issues involved."

SEC. 4. Subsection (d) of section 210 of the Federal Coal Mine Safety Act (66 Stat. 708; 30 U.S.C. 480(d)) is amended by striking out the reference to "section 203(e)(3)" and inserting in lieu thereof "section 203(g)(3)".

SEC. 5. Section 212 of the Federal Coal Mine Safety Act (66 Stat. 709; 30 U.S.C. 482) is amended by adding at the end thereof the following new subsections:

"(d) For the promotion of sound and effective coordination of Federal and State activities within the field covered by this Act, to eliminate duplication of effort and expense, and to secure effective enforcement of the coal mine safety requirements established by this title, the director shall affirmatively and diligently seek to cooperate with the mine inspection or safety agencies of the several States, through formal agreement or otherwise, in the enforcement of the provisions of this title.

Federal and
State cooperation.

"(e)(1) The Secretary of the Interior shall enlarge and intensify the educational programs of the Bureau of Mines with respect to the advancement of health and safety in coal mines.

Educational pro-
grams.

"(2) The Secretary of the Interior may also make grants to States to assist them in planning and implementing programs for the advancement of health and safety in coal mines. The amount granted any State for a fiscal year under this paragraph may not exceed 50 per centum of the amount expended by such State in such year for carrying out such programs and no one State may be granted an amount in a fiscal year which exceeds 15 per centum of the aggregate amount granted all States for that year. There is hereby authorized to be appropriated for the fiscal year ending June 30, 1966, and each of the succeeding fiscal years for carrying out this paragraph, the sum of \$500,000."

Grants to
States.

Appropriation.

SEC. 6. The Secretary of the Interior shall conduct a special study to determine the sufficiency of the present safety requirements of the Federal Coal Mine Safety Act, with particular emphasis upon the requirements relative to roof support, ventilation, and electrical equipment. The Secretary of the Interior shall make a report to the Congress on the results of such study, together with his recommendations, within one year after the enactment of this Act.

Study.

30 USC 479.

Report to Con-
gress.

SEC. 7. (a) The Secretary of the Interior shall, as soon as feasible after the enactment of this Act, convene one or more conferences for the purpose of enabling those persons affected by this Act to become familiar with its provisions, particularly the enforcement provisions of section 209. The Secretary shall invite the participation in such conference or conferences of (1) mine safety experts of the Department of the Interior, (2) representatives of the appropriate State mine inspection or safety agencies, (3) representatives of owners and operators of all classes and categories of coal mines, (4) individuals or representatives of individuals employed in all classes and categories of coal mines, and (5) such other experts as he deems advisable.

Conferences.

(b) The Secretary of the Interior shall, upon the enactment of this Act, immediately provide the operator of each mine subject to inspection as authorized by section 202 with a copy of the form used in coal mine inspections by agents of the Bureau of Mines, clearly indicating the enforceable provisions of the Federal Coal Mine Safety Act. Such information should be in such form as would be readily comprehensible and shall include a complete description of the procedures available to an operator to seek the annulment or revision of an order of an agent of the Bureau of Mines. Nothing in this section shall be construed as authorizing the Secretary to modify the provisions of the Act.

Forms used in
inspections.