

Public Law 89-576

AN ACT

September 14, 1966
[H. R. 13284]

To redefine eligibility for membership in AMVETS (American Veterans of World War II).

AMVETS.
Membership
eligibility.
69 Stat. 375.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 6 of the Act approved July 23, 1947, Public Law 216, Eightieth Congress (61 Stat. 407; 36 U.S.C. 67e), is amended to read as follows:

"Sec. 6. Any person who served in the Armed Forces of the United States of America or any American citizen who served in the armed forces of an allied nation of the United States on or after September 16, 1940, and on or before the date of cessation of hostilities as determined by the Government of the United States, is eligible for regular membership in AMVETS, provided such service when terminated by discharge or release from active duty be by honorable discharge or separation. No person who is a member of, or who advocates the principles of, any organization believing in, or working for, the overthrow of the United States Government by force, and no person who refuses to uphold and defend the Constitution of the United States, shall be privileged to become, or continue to be, a member of this organization."

Approved September 14, 1966.

Public Law 89-577

AN ACT

September 16, 1966
[H. R. 8989]

To promote health and safety in metal and nonmetallic mineral industries, and for other purposes.

Federal Metal
and Nonmetallic
Mine Safety Act.

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 Metal and Nonmetallic Mine Safety Act".

DEFINITIONS AND EXEMPTIONS

SEC. 2. For the purposes of this Act.

(a) The term "commerce" means trade, traffic, commerce, transportation, or communication between any State, the Commonwealth of Puerto Rico, the District of Columbia, or any territory or possession of the United States, and any other place outside the respective boundaries thereof, or wholly within the District of Columbia, or any territory or possession of the United States, or between points in the same State, if passing through any point outside the boundaries thereof.

(b) The term "mine" means (1) an area of land from which minerals other than coal or lignite are extracted in nonliquid form or, if in liquid

form, are extracted with workers underground, (2) private ways and roads appurtenant to such area, and (3) land, excavations, underground passageways, and workings, structures, facilities, equipment, machines, tools, or other property, on the surface or underground, used in the work of extracting such minerals other than coal or lignite from their natural deposits in nonliquid form, or if in liquid form, with workers underground, or used in the milling of such minerals, except that with respect to protection against radiation hazards such term shall not include property used in the milling of source material as defined in the Atomic Energy Act of 1954, as amended.

68 Stat. 919.
42 USC 2011
note.

(c) The term "operator" means the person, partnership, association, or corporation, or subsidiary of a corporation operating a mine, and owning the right to do so, and includes any agent thereof charged with responsibility for the operation of such mine.

(d) The term "Secretary" means the Secretary of the Interior or his duly authorized representative.

(e) The term "Board" means the Federal Metal and Nonmetallic Mine Safety Board of Review created by section 10.

SEC. 3. (a) Each mine the products of which regularly enter commerce, or the operations of which affect commerce, shall be subject to this Act.

Applicability.

(b) The Secretary may, by published rules adopted pursuant to the Administrative Procedure Act, decline to assert jurisdiction under this Act over any class or category of mines where, in the opinion of the Secretary, the effect of the operations of such mines on commerce is not sufficiently substantial to warrant the exercise of jurisdiction under this Act, and the record of injuries and accidents in such class or category of mines warrants such a declination of jurisdiction.

60 Stat. 237.
5 USC 1001
note.

INSPECTIONS

SEC. 4. The Secretary of the Interior is authorized at any time to cause to be made such inspections and investigations as he shall deem necessary in mines which are subject to this Act (1) for the purpose of obtaining, utilizing, and disseminating information relating to health and safety conditions in such mines, the causes of accidents involving bodily injury or loss of life, or the causes of occupational diseases originating therein, (2) for the purpose of determining whether or not there is compliance with a health and safety standard or order issued under this Act, or (3) for the purpose of evaluating the manner in which a State plan approved under section 16 is being carried out. At least once each calendar year the Secretary shall inspect each underground mine which is subject to this Act.

SEC. 5. For the purpose of making any inspection or investigation authorized by this Act, authorized representatives of the Secretary shall be entitled to admission to, and shall have the right of entry to, upon, or through, any mine which is subject to this Act.

HEALTH AND SAFETY STANDARDS

SEC. 6. (a) The Secretary shall develop, and from time to time revise, after consultation with advisory committees appointed pursuant to section 7 of this Act, and promulgate health and safety standards for the purpose of the protection of life, the promotion of health and safety, and the prevention of accidents in mines which are subject to this Act.

Publication in
Federal Register.

(b) After consultation with an appropriate advisory committee established pursuant to section 7 of this Act, the Secretary, by a notice published in the Federal Register, shall designate as mandatory standards those standards promulgated pursuant to subsection (a) of this section which deal with conditions or practices of a kind which could reasonably be expected to cause death or serious physical harm, and the operators of mines to which such standards are applicable shall comply with such mandatory standards pursuant to the provisions of section 8 and section 9 of this Act.

(c) The Secretary shall publish in the Federal Register, health and safety standards which he proposes to promulgate, and he shall specifically identify those standards which he proposes to designate as mandatory standards, and he shall also specifically designate those mandatory standards which have been recommended by an Advisory Committee appointed pursuant to section 7 of this Act. Interested persons shall be afforded a period of not less than 30 days after the publication of the proposed standards in which to submit written data, views, or arguments. Except as provided in subsection (d) of this section, the Secretary may, upon the expiration of such period and after consideration of all relevant matter presented, promulgate such standards.

Requests for
public hearing.

60 Stat. 237.
5 USC 1001
note.

Publication in
Federal Register.

(d) (1) On or before the last day of a period fixed for the submission of written data, views, or arguments, any person who may be adversely affected by a health and safety standard which the Secretary proposes to promulgate and to designate as a mandatory standard may file with the Secretary written objections thereto stating the grounds therefor, and requesting a public hearing (subject to the provisions of the Administrative Procedure Act) on such objections. The Secretary shall not promulgate any proposed mandatory standard respecting which such objections have been filed, until he has taken final action upon them as provided in paragraph (2) of this subsection. As soon as practicable after the period for filing such objections has expired, the Secretary shall publish in the Federal Register a notice specifying the proposed mandatory standards to which such objections have been filed.

(2) If such objections requesting a public hearing are filed, as soon after the expiration of the period for filing such objections as is practical, the Secretary, after due notice, shall hold a public hearing for the purpose of receiving evidence relevant and material to the issues raised by such objections. At the hearing, any interested person may

be heard. As soon as practicable after completion of the hearing, the Secretary shall act upon such objections and make his decision public. Such decision shall be based only on substantial evidence of record at such hearing and shall set forth detailed findings of fact on which the decision is based.

(3) Any person aggrieved by a decision of the Secretary under paragraph (2) of this subsection may obtain a review of such order by the United States Court of Appeals for the District of Columbia by filing in such court within 20 days following the issuance of such decision a petition praying that the decision of the Secretary be modified or set aside in whole or in part. A copy of such petition shall forthwith be served upon the Secretary, and thereupon the Secretary shall certify and file in the court the record upon which the decision complained of was issued. The findings of fact by the Secretary, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Secretary to take further evidence, and the Secretary may thereupon make new or modified findings of fact and may modify his previous action and shall certify to the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence. The court shall have jurisdiction to affirm the action of the Secretary or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code. The commencement of a proceeding under this paragraph (3) shall not, unless specifically ordered by the court, operate as a stay of the Secretary's decision.

Review of order.

62 Stat. 928.

(e) The provisions of subsection (d) of this section shall not be applicable to any proposed mandatory standard which has been recommended by an Advisory Committee appointed pursuant to section 7 of this Act.

ADVISORY COMMITTEES

SEC. 7. (a) The Secretary is authorized to establish advisory committees to assist him in the development of health and safety standards for mines which are subject to this Act, and to advise him on other matters relating to health and safety in such mines. Each such advisory committee shall include among its members an equal number of persons qualified by experience and affiliation to present the viewpoint of operators of such mines, and of persons similarly qualified to present the viewpoint of workers in such mines, as well as one or more representatives of mine inspection or safety agencies of the States.

(b) Members appointed to such a committee from private life shall, while serving on business of the committee, be entitled to receive compensation at rates fixed by the Secretary, but not exceeding \$100 per day, including travel time; and while so serving away from their homes or regular places of business, they may be paid travel expenses and per diem in lieu of subsistence at the rates authorized by section 5 of the Administrative Expenses Act of 1946 (5 U.S.C., sec. 73b-2).

Compensation of members.

60 Stat. 808;
75 Stat. 339, 340.

FINDINGS AND ORDERS

SEC. 8. (a) If, upon any inspection or investigation of a mine which is subject to this Act, an authorized representative of the Secretary finds that conditions or practices in such mine are such that a danger exists which could reasonably be expected to cause death or serious physical harm immediately or before the imminence of such danger can be eliminated, such representative shall determine the extent of the area of such mine throughout which the danger exists, and there-

upon issue an order requiring the operator of such mine to cause all persons, except the following persons whose presence in such area is necessary to eliminate the danger described in such order, to be withdrawn from, and to be debarred from, entering such area:

(1) Any person whose presence in such area is necessary, in the judgment of the operator of the mine, to eliminate the danger described in the order; (2) any public official whose official duties require him to enter such area; or (3) 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.

(b) If, upon any such inspection or investigation, an authorized representative finds that there has been a failure to comply with a mandatory standard which is applicable to such mine, but that such failure to comply has not created a danger that could reasonably be expected to cause death or serious physical harm in such mine immediately or before the imminence of such danger can be eliminated, he shall find what would be a reasonable period of time within which such violation should be totally abated and thereupon issue a notice fixing a reasonable time for the abatement of the violation. If, upon the expiration of such period of time as originally fixed or extended, the authorized representative finds that such violation has not been totally abated, and if he also finds that such period of time should not be further extended, he shall also find the extent of the area which is affected by such violation. Thereupon, he shall promptly make an order requiring the operator of such mine to cause all persons in such area, excepting the following persons whose presence in such area is necessary to abate the violation described in the order, to be withdrawn from, and to be debarred from, entering such area:

(1) 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; (2) any public official whose official duties require him to enter such area; or (3) 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.

(c) Findings and orders issued pursuant to this section shall contain a detailed description of the conditions or practices which cause and constitute a situation of imminent danger or a violation of a mandatory standard, and a description of the area of the mine throughout which persons must be withdrawn and debarred.

(d) Each finding made and notice or order issued under this section shall be given promptly to the operator of the mine to which it pertains by the person making such finding or order, and all such findings, orders, and notices shall be in writing, and shall be signed by the person making them. A notice or order issued pursuant to this section may be annulled, canceled, or revised by an authorized representative of the Secretary.

(e) 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 Secretary 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 Secretary and the State agency. The order of the duly authorized representative of the Secretary shall remain in effect, but shall immediately be subject to review as provided in this Act.

REVIEW BY SECRETARY

SEC. 9. (a) An operator notified of an order made pursuant to section 8(a) may apply to the Secretary for annulment or revision of such order. Upon receipt of such application the Secretary shall make a special inspection of the mine affected by such order, or cause three duly authorized representatives of the Secretary of the Interior, other than the representative who made such order, to make such inspection of such mine and to report thereon to him. Upon making such special inspection himself, or upon receiving the report of such inspection made by such representatives, the Secretary shall find whether or not danger throughout the area of such mine as set out in such order existed at the time of making such special inspection. If he finds that such danger did not then exist throughout such area of such mine, he shall make an order, consistent with his findings, revising or annulling the order under review. If he finds that such danger did then exist throughout such area of such mine, he shall make an order denying such application.

(b) An operator notified of an order made pursuant to section 8(b) may apply to the Secretary for annulment or revision of such order. Upon receipt of such application the Secretary shall make a special inspection of the mine affected by such order, or cause three duly authorized representatives of the Secretary of the Interior, 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 Secretary shall find whether or not there was a violation of a mandatory safety standard 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 whether or not the period of time within which such violation should be totally abated, fixed under section 8(b), should be extended. If he finds that such period of time should be extended, he shall find what a reasonable extension of such period of time would be. Thereupon 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 then he shall make an order, consistent with his findings, revising the order under review. If he finds that such violation was not totally abated at the time of such special inspection, and that such period of time should not be extended, 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.

(c) In view of the urgent need for prompt decision of matters submitted to the Secretary under this section, all actions which the Secre-

tary 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.

CREATION OF REVIEW BOARD

Federal Metal
and Nonmetallic
Mine Safety Board
of Review.

Membership,
duration.

Compensation.

63 Stat. 166.
5 USC 835 note.

Appointment of
personnel, etc.

Ante, p. 288.

SEC. 10. (a) An agency is hereby created to be known as the Federal Metal and Nonmetallic Mine Safety Board of Review, which shall be composed of five 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 the terms of office of the members first appointed shall commence on the effective date of this section and shall expire one at the end of one year, one at the end of two years, one at the end of three years, one at the end of four years and one at the end of five years, as designated by the President at the time of appointment. A member appointed to fill 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 two persons who by reason of previous training and experience may reasonably be said to represent the viewpoint of metal and nonmetallic mine operators, two persons who by reason of previous training and experience may reasonably be said to represent the viewpoint of metal and nonmetallic mine workers, and one person, who shall be Chairman of the Board, who shall be a graduate engineer with experience in the metal and nonmetallic mining industry or shall have had at least five years' experience as a practical mining engineer in the metal and nonmetallic 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 metal or nonmetallic mining industry, or have regularly represented either metal or nonmetallic mine operators or workers, or have been an officer or employee of the Department of the Interior assigned to duty in the Bureau of Mines.

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

(e) The Board shall, without regard to the civil service laws, appoint and prescribe the duties of a secretary of the Board and such legal counsel as it deems necessary. Subject to the civil service laws, the Board shall appoint such other employees as it deems necessary in exercising its powers and duties. The compensation of all employees appointed by the Board shall be fixed in accordance with the Classification Act of 1949, as amended.

(f) Three members of the Board shall constitute a quorum, and official actions of the Board shall be taken only on the affirmative vote of at least three members; but a special panel composed of one or more members, upon order of the Board, shall conduct any hearing provided for in section 11 and submit the transcript of such hearing

to the entire Board for its action thereon. Every official act of the Board shall be entered of record, and its hearings and records thereof shall be open to the public.

(g) The Board shall hear and determine applications filed pursuant to section 11 for annulment or revision of orders made pursuant to section 8 or section 9. The Board shall not make or cause to be made any inspection of a mine for the purpose of determining any pending application.

Review of application.

(h) The Board is authorized to make such rules as are necessary for the orderly transaction of its proceedings, which shall include requirement for adequate notice of hearings to all parties.

Rules of proceedings.

(i) Any member of the Board may sign and issue subpoenas for the attendance and testimony of witnesses and the production of relevant papers, books, and documents, and administer oaths. Witnesses summoned before the Board shall be paid the same fees and mileage that are paid witnesses in the courts of the United States.

Subpena powers.

(j) The Board may order testimony to be taken by deposition in any proceeding pending before it, at any stage of such proceeding. Reasonable notice must first be given in writing by the party or his attorney proposing to take such deposition to the opposite party or his attorney of record, which notice shall state the name of the witness and the time and place of the taking of his deposition. Any person may be compelled to appear and depose, and to produce books, papers, or documents, in the same manner as witnesses may be compelled to appear and testify and produce like documentary evidence before the Board, as provided in subsection (i). Witnesses whose depositions are taken under this subsection, and the persons taking such depositions, shall be entitled to the same fees as are paid for like services in the courts of the United States.

Testimony by deposition.

(k) In the case of contumacy by, or refusal to obey a subpoena served upon, any person under this section, the Federal district court for any district in which such person is found or resides or transacts business, upon application by the United States, and after notice to such person and hearing, shall have jurisdiction to issue an order requiring such person to appear and give testimony before the Board or to appear and produce documents before the Board, or both; and any failure to obey such order of the court may be punished by such court as a contempt thereof.

(l) The Board shall submit annually to the Congress as soon as practicable after the beginning of each regular session, a full report of its activities during the preceding calendar year. Such report shall include, either in summary or detailed form, information regarding the cases heard by it and the disposition of each.

Report to Congress.

REVIEW BY BOARD

SEC. 11. (a) An operator notified of an order made pursuant to section 8 may apply to the Federal Metal and Nonmetallic Mine Safety Board of Review for annulment or revision of such order without seeking its annulment or revision under section 9. An operator notified of an order made pursuant to section 9 may apply to the Board for annulment or revision of such order.

(b) The operator shall be designated as the applicant in such proceeding, and the application filed by him shall recite the order complained of and other facts sufficient to advise the Board of the nature of the proceeding. He may allege in such application: that danger as set out in such order does not exist at the time of the filing of such application; that violation of a mandatory safety standard, as set out in such order, has not occurred; that such violation has been totally

or partially abated; that the period of time within which such violation should be be totally abated, as fixed in the findings upon which such order was based, was not reasonable; or that the area of the mine described in such order as the area affected by the violation referred to in such order is not so affected at the time of the filing of such application. The Secretary shall be the respondent in such proceeding, and the applicant shall send a copy of such application by registered mail or by certified mail to the Secretary at Washington, District of Columbia.

(c) Immediately upon the filing of such an application the Board shall fix the time for a prompt hearing thereof.

Temporary relief pending hearing.

(d) Pending such hearing the applicant may file with the Board a written request that the Board grant such temporary relief from such order as the Board may deem just and proper. Such temporary relief may be granted by the Board only after a hearing by the Board at which both the applicant and the respondent were afforded an opportunity to be heard, and only if respondent was given ample notice of the filing of applicant's request and of the time and place of the hearing thereon as fixed by the Board.

(e) The Board shall not be bound by any previous findings of fact by the respondent. Evidence relating to the making of the order complained of and relating to the questions raised by the allegations of the pleadings or other questions pertinent in the proceeding may be offered by both parties to the proceeding. If the respondent claims that imminent danger or violation of a mandatory safety standard, as set out in such order, existed at the time of the filing of the application, the burden of proving the then existence of such danger or violation shall be upon the respondent, and the respondent shall present his evidence first to prove the then existence of such danger or violation. Following presentation of respondent's evidence the applicant may present his evidence, and thereupon the respondent may present evidence to rebut the applicant's evidence.

(f) If the proceeding is one in which an operator seeks annulment or revision of an order made pursuant to section 8(a) the Board, upon conclusion of the hearing, shall find whether or not danger throughout the area of such mine as set out in such order existed at the time of the filing of the operator's application. If the Board finds that such danger did not then exist throughout such area of such mine, the Board shall make an order, consistent with its findings, revising or annulling the order under review. If the Board finds that such danger did then exist throughout such area of such mine, the Board shall make an order denying such application.

(g) If the proceeding is one in which an operator seeks annulment or revision of an order made pursuant to section 8(b), the Board upon conclusion of the hearing shall find whether or not there was a violation of a mandatory safety standard 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 whether or not the period of time within which such violation should be totally abated fixed under section 8(b) or section 9(b) should be extended. If the Board finds that such period of time should

be extended, the Board shall also find what a reasonable extension of time should be, and shall immediately also find the extent of the area of such mine which was affected by such violation at the time of the filing of such application and the Board shall then make an order consistent with its findings, revising the order under review. If the Board finds that such violation was not totally abated at the time of the filing of the operator's application and that such period of time should not be extended, 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.

(h) 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.

(i) In view of the urgent need for prompt decision of matters submitted to the Board under this section, all action 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.

JUDICIAL REVIEW

SEC. 12. (a) Any final order issued by the Board under section 11 shall be subject to judicial review by the United States court of appeals for the circuit in which the mine affected is located, upon the filing in such court of a notice of appeal by the Secretary or the operator aggrieved by such final order within thirty days from the date of the making of such final order.

(b) The party making such appeal shall forthwith send a copy of such notice of appeal, by registered mail or by certified mail, to the other party and to the Board. Upon receipt of such copy of a notice of appeal the Board shall promptly certify and file in such court a complete transcript of the record upon which the order complained of was made. The costs of such transcript shall be paid by the party making the appeal.

(c) The court shall hear such appeal on the record made before the Board, and shall permit argument, oral or written or both, by both parties. The court shall permit such pleadings, in additions to the pleadings before the Board, as it deems to be required or as provided for in the Rules of Civil Procedure governing appeals in such court.

(d) Upon such conditions as may be required and to the extent necessary to prevent irreparable injury, the United States court of appeals may, after due notice to and hearing of the parties to the appeal, issue all necessary and appropriate process to postpone the effective date of the final order of the Board or to grant such other relief as may be appropriate pending final determination of the appeal.

(e) The United States court of appeals may affirm, annul, or revise the final order of the Board, or it may remand the proceeding to the Board for such further action as it directs. The findings of the Board as to facts, if supported by substantial evidence on the record considered as a whole, shall be conclusive.

(f) The decision of a United States court of appeals on an appeal from the Board shall be final, subject only to review by the Supreme Court as provided in section 1254 of title 28 of the United States Code,

28 USC app.

Final order effective date;
postponement.

62 Stat. 928.

MANDATORY REPORTING

SEC. 13. The Secretary shall require operators of mines which are subject to this Act to submit, at least annually and at such other times as he deems necessary, and in such form as he may prescribe, reports of accidents, injuries, and occupational diseases, and related data, and the Secretary shall compile, analyze, and publish, either in summary or detailed form, the information obtained; and all information, reports, orders, or findings, obtained or issued under this Act may be published and released to any interested person, and shall be made available for public inspection.

PENALTIES

SEC. 14. (a) Whenever an operator (1) violates or fails or refuses to comply with any order of withdrawal and debarment issued under section 8 or section 9 of this Act, or (2) interferes with, hinders, or delays the Secretary, or his duly authorized representative, in carrying out his duties under this Act, or (3) refuses to admit an authorized representative of the Secretary to any mine which is subject to this Act, or (4) refuses to permit the inspection or investigation of any mine which is subject to this Act, or of an accident, injury, or occupational disease occurring in or connected with such a mine or (5) being subject to the provisions of section 13 of this Act, refuses to furnish any information or report requested by the Secretary, a civil action for preventive relief, including an application for a permanent or temporary injunction, restraining order, or other order, may be instituted by the Secretary in the district court of the United States for the district in which the mine in question is located or in which the mine operator has its principal office.

(b) Whoever violates or fails or refuses to comply with an order of withdrawal and debarment issued (1) under subsection (a) of section 8 or (2) under subsection (b) of section 8 if the failure to comply with an order of abatement has created a danger that could cause death or serious physical harm in such mine immediately or before the imminence of such danger can be eliminated, shall upon conviction thereof be punished for each such offense by a fine of not less than \$100, or more than \$3,000, or by imprisonment not to exceed sixty days, or both. In any instance in which such offense is committed by a corporation, the officer or authorized representative of such corporation who knowingly permits such offense to be committed shall, upon conviction, be subject to the same fine or imprisonment, or both.

EDUCATION AND TRAINING

SEC. 15. The Secretary shall develop expanded programs for the education and training of employers and employees in the recognition, avoidance, and prevention of accidents or unsafe or unhealthful working conditions in mines which are subject to this Act.

STATE PLANS

SEC. 16. (a) In order to promote sound and effective coordination in Federal and State activities within the field covered by this Act, the Secretary shall cooperate with the official mine inspection or safety agencies of the several States.

(b) Any State which, at any time, desires to develop and enforce health and safety standards in mines located in the State which are subject to this Act shall submit, through a State mine inspection or

safety agency, a State plan for the development of such standards and their enforcement.

(c) The Secretary shall approve the plan submitted by a State under subsection (b), or any modification thereof, whenever the State gives evidence satisfactory to the Secretary that under such plan—

(1) the State agency submitting such plan is the sole agency responsible for administering the plan throughout the State and contains satisfactory evidence that such agency will have the authority to carry out the plan: *Provided*, That the Secretary may, upon request of the Governor or other appropriate executive or legislative authority of the State responsible for determining or revising the organizational structure of State government, waive the single State agency provision hereof and approve another State administrative structure or arrangement if the Secretary determines that the objectives of this Act will not be endangered by the use of such other State structure or arrangement,

(2) such agency has adequate legal authority to enforce existing health and safety standards for the purpose of the protection of life, the promotion of health and safety, and the prevention of accidents in mines in the State that are subject to this Act, which are, in his judgment, substantially as effective for such purposes as the mandatory standards designated under section 6(b) and which provide for inspection at least annually of all such mines, other than quarries and sand and gravel pits,

(3) the agency has adequate qualified personnel necessary for the enforcement of the plan,

(4) the State will devote adequate funds to the administration and enforcement of such standards,

(5) reasonable safeguards exist against loss of life or property arising from mines which are closed or abandoned after the effective date of this Act, and

(6) the agency shall make such reports to the Secretary, in such form and containing such information, as the Secretary shall from time to time require.

State agency
reports to In-
terior Secretary.

(d) The Secretary shall, on the basis of reports submitted by the State agency and his own inspection of mines, make a continuing evaluation of the manner in which each State having a plan approved under this section is carrying out such plan. Whenever the Secretary finds, after affording due notice and opportunity for a hearing, that in the administration of the State plan there is a failure to comply substantially with any provision of the State plan (or any assurance contained therein), he shall notify the State agency of his withdrawal of approval of such plan and upon receipt of such notice such plan shall cease to be in effect.

(e) The provisions of section 8(b) and 9(b) of this Act shall not be applicable in any State in which there is in effect a State plan approved under subsection (c).

ADMINISTRATIVE PROVISIONS

SEC. 17. The Secretary shall provide that the major responsibility for administering the provisions of this Act shall be vested in the Bureau of Mines of the Department of the Interior which has the major responsibility for carrying out the Federal Coal Mine Safety Act. The Secretary acting through the Bureau, shall have authority to appoint, subject to the civil service laws, such officers and employees as he may deem requisite for the administration of this Act; and to prescribe powers, duties, and responsibilities of all officers and employees engaged in the administration of this Act: *Provided, however*,

55 Stat. 177.
30 USC 451
note.

Mine inspectors, qualifications.

That, to the maximum extent feasible, in the selection of persons for appointment as mine inspectors, no person shall be so selected unless he has the basic qualification of at least five years practical mining experience and in assigning mine inspectors to the inspection and investigation of individual mines, due consideration shall be given to their previous practical experience in the State, district, or region, and in the particular type of mining operation where such inspections are to be made.

EXCLUSION FROM ADMINISTRATIVE PROCEDURE ACT

60 Stat. 237.
5 USC 1001
note.

SEC. 18. The Administrative Procedure Act shall not apply to the making of any finding, order, or notice pursuant to this Act, or to any proceeding for the annulment or revision of any such finding, order, or notice.

EFFECT ON STATE LAWS

SEC. 19. (a) No State or territorial law in effect upon the effective date of this Act or which may become effective thereafter, shall be superseded by any provision of this Act, except insofar as such State or territorial law is in conflict with this Act, or with orders issued pursuant to this Act.

(b) Provisions in any State or territorial law in effect upon the effective date of this Act, or which may become effective thereafter, which provide for greater safety of persons in a mine as defined in this Act, than do provisions of this Act, which relate to the same phase of such operations, shall not be construed or held to be in conflict with this Act. Provisions in any State or territorial law in effect upon the effective date of this Act, or which may become effective thereafter, which provide for the safety of persons in a mine as defined in this Act concerning which no provision is contained in this Act, shall not be construed or held to be superseded by this Act.

(c) Nothing in this Act shall be construed or held to supersede or in any manner affect the workmen's compensation laws of any State or territory, or to enlarge or diminish or affect in any other manner the common law or statutory rights, duties, or liabilities of employers and employees under State or territorial laws in respect of injuries, occupational or other diseases, or death of employees arising out of, or in the course of, employment.

REPORT OF SECRETARY

SEC. 20. The Secretary shall submit annually to the Congress, as soon as practicable after the beginning of each regular session, a full report of the administration of his functions under this Act during the preceding calendar year. Such report shall include, either in summary or detailed form, the information obtained by him under this Act, together with such findings and comments thereon and such recommendations for legislative action as he may deem proper.

AUTHORIZATION OF APPROPRIATIONS

SEC. 21. There are authorized to be appropriated, out of any moneys in the Treasury not otherwise appropriated, such sums as may be necessary to carry out the provisions of this Act.

EFFECTIVE DATE OF ACT

SEC. 22. This Act shall become effective on the date of its enactment, except that sections 8 and 9, and subsection (b) and paragraph (1) of subsection (a) of section 14 shall become effective one year after the date of publication of notice in the Federal Register of the designation of mandatory standards as provided for in section 6(b) of this Act.

Approved September 16, 1966, 12:20 p.m.

Public Law 89-578

AN ACT

September 16, 1966
[H. R. 13558]

To provide for regulation of the professional practice of certified public accountants in the District of Columbia, including the examination, licensure, registration of certified public accountants, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act shall be known and may be cited as the "District of Columbia Certified Public Accountancy Act of 1966".

District of
Columbia Certi-
fied Public Ac-
countancy Act of
1966.

DEFINITIONS

SEC. 2. As used in this Act—

(a) The term "certified public accountant" means a person who is the holder in good standing of a certificate of certified public accountant issued under the laws of any State or Territory of the United States authorizing him to practice as a certified public accountant in such State or territory. A "certified public accountant of the District of Columbia" is a person who is the holder in good standing of a certificate of certified public accountant issued under the Act of Congress approved February 17, 1923, as amended (42 Stat. 1261, ch. 94), or who is the holder in good standing of a certificate of certified public accountant or of an endorsement of certificate of certified public accountant issued pursuant to section 6 or 8, respectively, of this Act authorizing him to practice as a certified public accountant in the District of Columbia.

D. C. Code
2-901 to 2-909.

(b) The term "Commissioners" means the Commissioners of the District of Columbia sitting as a board or their authorized agent or agents.

(c) The term "Board" means the Board of Accountancy.

(d) The term "person" includes partnerships, corporations and associations as well as natural persons.