

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

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

§ 825. Mandatory health and safety training**(a) Approved program; regulations**

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

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

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

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

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

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

(b) Training compensation

Any health and safety training provided under subsection (a) shall be provided during normal working hours. Miners shall be paid at their normal rate of compensation while they take such training, and new miners shall be paid at their starting wage rate when they take the new

miner training. If such training shall be given at a location other than the normal place of work, miners shall also be compensated for the additional costs they may incur in attending such training sessions.

(c) Certificate

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

(d) Standards

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

(e) Proposed regulations

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

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

(B) Such regulations shall provide for the following:

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

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

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

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

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

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

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

(CC) participate at least annually in mine rescue training at the underground

coal mine covered by the mine rescue team; and

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

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

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

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

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

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

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

(ccc) which is a State-sponsored mine rescue team comprised of at least two active employees from each of the covered mines.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Editorial Notes

REFERENCES IN TEXT

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

This chapter, referred to in subsec. (a)(1), (2), was in the original “this Act”, meaning Pub. L. 91-173, Dec. 30, 1969, 83 Stat. 742, known as the Federal Mine Safety and Health Act of 1977, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 801 of this title and Tables.

AMENDMENTS

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

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

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

§ 826. Limitation on certain liability for rescue operations

(a) In general

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

(b) Covered individual

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

(1) who is a member of a mine rescue team or who is otherwise a volunteer with respect to a mine accident; and

(2) who is carrying out activities relating to mine accident rescue or recovery operations.

(c) Regular employer

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

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