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,
SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

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

(b) TABLE OF CONTENTS.—The table of contents for 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.

SEC. 2. FINDINGS.

Congress finds that—

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

(2) essential standards to protect miner health established by the Federal Mine Safety and Health Act of 1977 are out of date after 40 years, posing a significant threat to miner health; and

(3) the Secretary of Labor has failed in recent years to adequately fulfill the Secretary’s obligations under the Federal Mine Safety and Health Act of
1977 (30 U.S.C. 801 et seq.), additional Congressional intervention is needed.

SEC. 3. DEFINITIONS; REFERENCES.

(a) Definitions.—As used in this Act—

(1) the term “Secretary” refers to the Secretary of Labor; and

(2) any other term used in this Act that is defined in section 3 of the Federal Mine Safety and Health Act of 1977 (30 U.S.C. 802) shall have the meaning given the term in such section.

(b) References.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Federal Mine Safety and Health Act of 1977 (30 U.S.C. 801 et seq.).

SEC. 4. SUPPLEMENTING EMERGENCY RESPONSE PLANS.

(a) Post Accident Communications.—Section 316(b)(2)(F)(ii) (30 U.S.C. 876(b)(2)(F)(ii)) is amended—

(1) by striking “Not later than” and inserting the following:

“(II) Not later than”; and
(2) by inserting after the clause designation the following:

“(I) Not later than 120 days after the enactment of the S–MINER Act, a plan shall, to be in approved status, provide for a post accident communication system between underground and surface personnel, and for an electronic tracking system permitting surface personnel to determine the location of any persons trapped underground, that utilizes a system at least as effective as a ‘leaky feeder’ or wireless mesh type communication and tracking system currently in use in the industry. These systems shall be enhanced physically, electronically, or redundantly, to improve their survivability in the event of a mine disaster. In addition, to be in approved status, an emergency response plan must be revised promptly to incorporate new technology which the National Institute for Occupational Safety and Health certifies can be added
to the existing system to improve its ability to facilitate post-accident communication with or tracking of miners. No miner shall be disciplined based on information obtained from an electronic communications and tracking system.”.

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

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

(2) by adding at the end the following:

“(vii) Not later than June 15, 2008, the Secretary shall issue interim final regulations, consistent with the design criteria recommended by National Institute for Occupational Safety and Health in its report pursuant to section 13(b)(1) of the MINER Act, and subject to the requirements of the next sentence, requiring each emergency response plan to provide for the
installation of portable rescue chambers meeting National Institute for Occupational Safety and Health design criteria; refuge shelters carved out of the mine workings and sealed with bulkheads meeting National Institute for Occupational Safety and Health design criteria; or other refuge designs recommended by National Institute for Occupational Safety and Health that provide miners with equivalent or better protection, in the working areas of underground coal mines within 60 days following plan approval. The regulations shall further provide that in all cases a portable refuge chamber shall be installed and maintained within 500 feet of the nearest working face in each working section of an underground coal mine.”.

(c) Improvements to Seals, Ventilation Controls, and Rock Dusting to Limit the Damage from Explosions.—

(1) Repeal.—The MINER Act (30 U.S.C. 801 note) is amended by striking section 10 (concerning sealing of abandoned areas).
(2) SEALS.—Section 303(z) (30 U.S.C. 863(z)) is amended by adding at the end the following:

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

“(B) Not later than 3 months of the date of enactment of the S–MINER Act, the Secretary shall issue final rules regarding approval, design, construction, inspection, maintenance and monitoring of underground coal mine seals which shall meet the requirements of this paragraph. Except as otherwise provided by this paragraph, these regulations shall implement the most recent recommendations of the National Institute of Occupational Safety and Health concerning seal design, construction, inspection, maintenance and monitoring. The regulations shall also provide that all seals in a mine shall be monitored if they are not designed or installed to withstand a constant total pressure of 240 pounds per square inch, using a static structural analysis. Monitoring of seals shall be done by continuous monitoring devices within one year of the date of enactment of this Act, and prior thereto by qualified personnel at such intervals as the Secretary determines.
are adequate to ensure safety. The Secretary shall require
mine operators to utilize a tamper-resistant method to re-
tain records of all such monitoring and ensure they are
available for examination and verification by the agency.

Monitoring of seals shall be done both by—

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

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

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

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

“(ii) an action plan for sealing and repair be es-
established that will, among any other requirements,
include specific actions the mine operator will take
to protect miners during the critical time period im-
mediately after sealing or repair takes place, and
which shall be reviewed by personnel from the Mine
Safety and Health Administration who have the required expertise prior to approval; and

“(iii) methane pressures behind any seal required to be monitored shall be maintained in such a manner as ensure that normal pressure variations that can be reasonably anticipated in the area of the seal do not bring the methane-air mixture into an appropriate safety range surrounding the known explosive range of such mixtures.”.

(3) Ventilation Controls.—Section 303(c) (30 U.S.C. 863) is amended by inserting at the end the following new paragraph:

“(4) Not later than 1 year after the date of enactment of the S–MINER Act, the Secretary shall publish interim final regulations to enhance the survivability of underground mine ventilation controls. The Secretary shall require that stoppings be constructed using solid concrete blocks laid wet and sealed with an appropriate bonding agent on at least the side subjected to the velocity of the intake air coursing through the entry, except that in the case of stoppings constructed during barrier reduction and pillar removal operations, such stoppings may be constructed using hollow block and an appropriate bonding agent.”.
(4) Rock Dusting.—Section 304(d) (30 U.S.C. 864) is amended by adding at the end the following: “Not later than June 15, 2009, the National Institute for Occupational Safety and Health shall issue recommendations as to whether changes to these requirements are necessary to ensure an equivalent level of protection in light of any changes to the size and composition of coal dust since these requirements were established, and the Secretary of Labor shall take appropriate action, including the issuance of an emergency temporary standard if warranted, to respond to these recommendations.”.

(d) Limiting Conveyor Belt Risks.—

(1) Flame Resistant Conveyor Belts.—

Section 311(h) is amended by adding at the end the following: “Not later than 90 days after the date of enactment of the S-Miner Act, the Secretary shall publish interim final rules to revise the requirements for flame resistant conveyor belts to ensure that they meet the most recent recommendations from the National Institute for Occupational Safety and Health, and to ensure such belts are designed to limit smoke and toxic emissions. A conveyor belt need not meet the requirements of the preceding sentence if—
“(A) it was ordered, in a mine’s inventory, or installed prior to the date of enactment of the S–MINER Act, or it was ordered after the date of enactment of the S–MINER Act and the Secretary certifies that the mine operator was unable to obtain a belt meeting the requirements of the preceding sentence; or

“(B) in the case of any such belt that has been in use for more than 5 years in any capacity in any mine, such belt has received an annual inspection by a certified professional to ensure that the belt is free from visible defects that could cause failure or possible ignition.”.

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

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

“(A) the mine operator establishes to the satisfaction of the Secretary that significant safety constraints require such usage; and
“(B) the mine operator agrees to comply with criteria established by the Secretary which shall, at a minimum, include the conditions recommended by the Technical Study Panel established under section 514.

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

(e) Pre-Shift Review of Mine Conditions.—Section 303(d) (30 U.S.C. 863(d)) is amended by adding at the end the following new paragraph:

“(3) Not later than 90 days after the date of enactment of the S–MINER Act, all mine operators shall be required to implement a communication program at each of such operators’ facilities to ensure that each person entering the operation is made aware at the start of that person’s shift of the current conditions of the mine in general and of that person’s specific worksite in particular. In an effort to facilitate these communications, all agents of the operator who are responsible for ensuring the safe and healthful working conditions at the mine, including mine foremen, assistant mine foremen, and mine exam-
miners, shall, upon exiting the mine or workplace, communicate with those replacing them on duty to verbally update them on the conditions they observed during their shift, including any conditions that are abnormal or hazardous. Prior to entering the mine or other workplace the on-coming agent of the operator shall meet with all members of the crew they are responsible for and inform them of the general conditions at the operation and in their specific work area. This process shall be completed prior to the start of each shift at the operation and recorded in a book designated for that purpose and available for inspection by all interested parties. In the event the operation is idle prior to the start of any shift the agent of the operator shall meet with the individual or individuals who were responsible for examining the mine to obtain the necessary information.”.

(f) Atmospheric Monitoring Systems.—Section 317 (30 U.S.C. 877) is amended by adding at the end the following:

“(u) Not later than May 1, 2008, an operator of an underground mine shall install atmospheric monitoring systems in all underground areas where miners normally work and travel that provide real-time information regarding carbon monoxide levels, and that can, to the maximum extent possible, withstand explosions and fires.”.
(g) METHANE MONITORS.—Section 303(h) (30 U.S.C. 863(h)) is amended by redesignating paragraph (2) as paragraph (3), and inserting after paragraph (1) the following new paragraph:

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

(h) LIGHTNING STUDY BY NATIONAL ACADEMY OF SCIENCES.—Not later than 1 year after the date of enactment of this Act, the National Academy of Sciences shall submit to the Secretary and to Congress recommendations on—

(1) actions that need to be taken to strengthen existing requirements in law or regulations to ensure that miners are protected, to the fullest extent permitted, from the risks of lightning strikes near a mine;

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

(3) research needed for improved technology.

(i) ROOF AND RIB SUPPORT, BARRIER REDUCTION AND PILLAR EXTRACTION, SPECIAL ATTENTION TO DEEP MINING.—
Amendments to existing law.—Section 302 is amended—

(A) by amending the section heading to read “ROOF AND RIB SUPPORT, BARRIER REDUCTION AND PILLAR EXTRACTION, SPECIAL ATTENTION TO DEEP MINING’’;

(B) in subsection (a), by inserting after the second sentence the following: “The Secretary shall by regulation ensure the appropriate use of roof screen in belt entries, travelroads, and designated intake and return escapeways in accordance with the requirements of subsection (g).”;

(C) by inserting at the end the following:

“(g) Where screening is required, at least forty percent of the width of the exposed roof shall be screened. Screening to meet the requirements of this section must have a load bearing capacity at least equivalent to a load of 2.5 tones between bolts on a 4 foot pattern.

“(h)(1) An operator shall be required to have a current and approved barrier reduction or pillar extraction plan, or both, before performing such activities. The Secretary shall only approve a barrier reduction or pillar extraction plan if it provides adequate protection and minimizes the risks for miners engaged in the activity, reflect-
ing appropriate engineering analysis, computer simula-
tions, and consultations with technical experts in the agen-
cy, in the National Institute for Occupational Safety and
Health, and in the Bureau of Land Management for any
mines leasing Federal coal resources, and only if the plan
complies with any specific requirements that may be
adopted by the Secretary for barrier reduction or pillar
extraction activities including requirements related to the
depth of the mine, geology of the mine, mine height and
methods, and emergency response capabilities.

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

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

“(i) Not later than 1 week before the commencement
of any barrier reduction or pillar extraction operations, the
mine operator shall notify the appropriate representative
of the Secretary of his intention to begin or resume barrier
reduction or pillar extraction. The Secretary shall docu-
ment such notification in writing, and shall, before barrier
reduction or pillar extraction operations begin, take action
to ensure that every person who will be participating in
such operations is trained in the operator’s barrier reduc-
tion and/or and pillar extraction plan. The Secretary shall
observe the barrier reduction or pillar extraction oper-
ations for a sufficient period of time to ensure that the
mine operator is fully complying with the barrier reduction
or pillar extraction plan. The Secretary may preclude the
commencement of such operations or halt such operations
at any time the safety of miners comes into question.”.

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

(A) actions that need to be taken to
strengthen existing requirements in law or reg-
ulations to ensure that miners are protected, to
the fullest extent permitted, from ground con-
trol hazards, including the special hazards asso-
ciated with barrier reduction and pillar extrac-
tion;
(B) adopting any existing technology to the mining environment to improve miner protections during barrier reduction and pillar extraction, and on research needed for improved technology to improve miner protections during such operations;

(C) adopting any existing technology to the mining environment to improve miner protections during mining at depths below 1000 feet, and on research needed for improved technology to improve miner protections during such operations; and

(D) adopting any existing technology to the mining environment to improve miner protections during secondary mining of coal resources, and on research needed for improved technology to improve miner protections during such operations.

(j) SCSR INSPECTION PROGRAM.—

(1) IN GENERAL.—The Secretary shall—

(A) establish a program to randomly remove and have tested by the National Institute for Occupational Safety and Health field samples of each model of self-rescue device used in an underground coal mine in order to ensure
that the self-rescue devices in coal mine inven-
tories are working in accordance with the ap-
proval criteria for such devices;

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

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

(2) DETERMINATION.—For the purposes of
paragraph (1)(A), the National Institute for Occupa-
tional Safety and Health shall determine the number
of field samples of each device to be removed for
testing, and the mines from which the samples are
to be drawn to ensure a random sample is obtained,
and shall provide mine operators with self-rescue de-
vices to replace any removed for random testing.
Should this testing reveal a potential problem with
a device that requires additional testing, the Sec-
retary shall remove such additional samples from
such mines as may be requested by the National Institute for Occupational Safety and Health, and it shall be the obligation of mine operators to provide self-rescue devices to promptly replace any removed as a result of such additional testing.

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

“SEC. 207. APPLICATION TO UNDERGROUND METAL AND NONMETAL MINES.

“(a) CONVEYOR BELTS.—The requirements of section 311(h) concerning conveyor belts in underground coal mines, including the exceptions and limitations in connection therewith, shall also apply to conveyor belts in underground metal and nonmetal mines.

“(b) SEALS.—The regulations to be issued pursuant to section 303(z)(2) concerning the approval, design, construction, inspection, maintenance and monitoring of underground coal mine seals shall make the same rules applicable to seals in underground metal and nonmetal mines which have been classified by the Secretary as a category I, III, or V mine pursuant to section 57.22003 of title 30, Code of Federal Regulations, because they naturally emit defined quantities of methane.
“(c) ADVISORY COMMITTEE.—Promptly after the date of enactment of the S–MINER Act The Secretary shall establish an advisory committee to provide recommendations as to the need to revise the regulations applicable to underground metal and nonmetal mines to ensure that miners in such mines are as protected in emergency situations as will be underground coal miners following the full implementation of the MINER Act, the provisions of the S–MINER Act, and related actions by the Secretary. The advisory committee shall be established pursuant to the Advisory Committee Act, and shall provide recommendations to the Secretary and to Congress not later than 21 months after the date of enactment of this Act, including recommendations as to any action by Congress that could facilitate the goal of providing equivalent protections to miners in underground metal and nonmetal mines.”.

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

(1) self-rescue device that permits the replenishment of oxygen without requiring the device user to remove the device; and

(2) underground communication device that provides for communication between underground
and surface personnel via a wireless two-way me-

(d) TECHNOLOGY AND MINE EMERGENCY HEALTH

AND SAFETY RESEARCH PRIORITIES.—In implementing

its research activities in the 5-year period beginning on

the date of enactment of this Act, the National Institute

for Occupational Safety and Health shall give due consid-

eration to new technologies, and existing technologies that

could be adapted for use in underground coal or other

mines, that could facilitate the survival of miners in a min-

ing emergency. Such technologies include—

(1) self-contained self-rescue devices capable of

delivering enhanced performance;

(2) improved battery capacity and common con-

nection specifications to enable emergency commu-

nication devices for miners to be run from the same

portable power source as a headlamp, continuous
dust monitor, or other device carried by a miner;

(3) improved technology for assisting mine res-

cue teams, including devices to enhance vision dur-

ing rescue or recovery operations;

(4) improved technology, and improved proto-
cols for the use of existing technologies, to enable

conditions underground to be assessed promptly and

continuously in emergencies, so as to facilitate the
determination by appropriate officials of the instructions to provide both to miners trapped underground and to mine rescue teams and others engaged in rescue efforts;

(5) improvements to underground mine ventilation controls separating mine entries to be more resistant to mine fires and explosions, particularly in those entries used for miner escapeways;

(6) mine-wide monitoring systems and strategies that can monitor mine gases, oxygen, air flows, and air quantities at strategic locations throughout the mine that would be functional during normal mining operations and following mine fires, explosions, roof falls, and mine bursts, including systems utilizing monitoring sensors that transfer data to the mine surface and the installation of tubing to draw mine gas samples that are distributed throughout the mine and can quickly deliver samples to the mine surface; and

(7) protective strategies for the placement of equipment, cables, and devices that are to be utilized during mine emergencies such as communication systems, oxygen supplies, and mine atmosphere monitoring systems, to protect them from mine fires, roof falls, explosions, and other damage.
SEC. 5. SUPPLEMENTING ENFORCEMENT AUTHORITY.

(a) Authority of Inspectors.—Section 103(a) (30 U.S.C. 813(a)) is amended by adding at the end the following: “No person shall limit or otherwise prevent the Secretary from entry on a coal or other mine, or interfere with the Secretary’s inspection activities, investigative activities, or rescue or recovery activities.”.

(b) Transition to a New Generation of Inspectors.—Section 505 (30 U.S.C. 954) is amended—

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

(2) by adding at the end the following:

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

“(c) In order to ensure that the Secretary has adequate time to provide that a sufficient number of qualified and properly trained inspectors of the Mine Safety and Health Administration are in place before any inspectors employed as of the date of enactment of the S–MINER Act retire, any ceilings on the number of personnel that may be employed by the Administration with respect to
mine inspectors are abolished for the 5-year period begin-
ning on the date of enactment of such Act.

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

“(e) During the 5-year period beginning on the date
of enactment of the S–MINER Act, the Secretary shall
issue a special report to the appropriate committees of
Congress each year, or at such more frequent intervals
as the Secretary or any such committee may consider ap-
propriate, providing information about the actions being
taken under this section, the size and training of the in-
spector workforce at the Mine Safety and Health Adminis-
tration, the level of enforcement activities, and the number
of requests by individual operators of mines for compliance assistance.”.

(c) Office of Miner Ombudsman.—Title V is amended by adding at the end the following:

“SEC. 516. Office of Miner Ombudsman.

“(a) Establishment of Miner Ombudsman.—There shall be established, within the Office of the Inspector General of the Department of Labor, the position of Miner Ombudsman. The President, by and with the advice and consent of the Senate, shall appoint an individual with expertise in mine safety and health to serve as the Miner Ombudsman. The Ombudsman shall have authority to hire such personnel as are required to administer his duties in accordance with applicable law, provided they meet any general requirements for employment within the Office of the Inspector General.

“(b) Duties.—The Miner Ombudsman shall—

“(1) recommend to the Secretary appropriate practices to ensure the confidentiality of the identity of miners, and the families or personal representatives of the miners, who contact mine operators, authorized representatives of the miners, the Mine Safety and Health Administration, the Department of Labor, or others with information about mine accidents, incidents, injuries, illnesses, possible viola-
tions of mandatory health or safety standard viola-
tions or plans or other mine safety and health con-
cerns;

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

“(3) collect and forward information concerning
accidents, incidents, injuries, illnesses, possible viola-
tions of mandatory health or safety standard viola-
tions or plans or other mine safety and health con-
cerns to the appropriate officials of the Mine Safety
and Health Administration for investigation, or to
appropriate officials within the Office of Inspector
General for investigation or audit, or both, while es-
tablishing practices to protect the confidentiality of
the identify of those who provide such information to
the Ombudsman; and

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

“(c) AUTHORITY.—All complaints of operator viola-
tions of any section of this Act or regulations prescribed
under this Act that are reported to the Secretary shall
be forwarded to the Ombudsman for logging and appro-
priate action, except that this requirement shall be imple-
mented in such a way as to avoid interference in any way
with the ability of the Assistant Secretary for Mine Safety
and Health to take prompt actions that may be required
in such situations. This shall include complaints submitted
in writing, via any phone system, or orally, along with all
relevant information available regarding the complainant.
All such information shall be retained in a confidential
manner pursuant to the Privacy Act of 1974. The Om-
budsman shall use such information to monitor the actions
taken to ensure that miners’ complaints are addressed in
a timely manner and in compliance with the appropriate
statutes and regulations. The Ombudsman shall refer to
appropriate personnel within the Office of the Inspector
General for further review any case which he determines
was not handled in such fashion.

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

(d) PATTERN OF VIOLATIONS.—

(1) PROMPT IDENTIFICATION OF PATTERN.—
Not later than 3 months after the date of enactment
of this Act, the Secretary shall revise the regulations
issued by the Secretary under section 104(e) of the
Federal Mine Safety and Health Act of 1977 (30
U.S.C. 814(e)) as in effect on the day before such
date of enactment, so that the regulations provide
that—

(A) when a potential pattern of violations
is identified by any inspector or district man-
ger of the Mine Safety and Health Adminis-
tration, the operator of the coal or other mine
and the authorized representative of miners for
the mine shall be notified by the inspector or
district manager not later than 10 days after
such identification; and

(B) after receiving the notification de-
scribed in subparagraph (A), the appropriate
official of the Mine Safety and Health Adminis-
tration shall promptly review any such potential
pattern of violations and, not later than 45
days after receiving such notification, make a
final decision as to whether a citation for a vio-
lation of section 104(e) of such Act should be
issued in light of the gravity of the violations
and the operator’s conduct in connection there-
with.

(2) IDENTIFICATION OF PATTERN.—Section
104(e)(1) (30 U.S.C. 814(e)(1)) is amended by in-
serting after the first sentence the following: “In de-
termining whether a pattern of violations exists, the
Secretary shall give due consideration to all relevant
information, such as the gravity of the violations,
operator negligence, history of violations, the num-
ber of inspection shifts the Secretary or her agents
have spent at the operation, and the frequency of
violations per number of inspection days spent at the
operation.”.
(3) Termination of pattern.—Section 104(e)(3) (30 U.S.C. 814(e)(3)) is amended by adding at the end the following: “In addition, if an operator subject to paragraphs (1) and (2) demonstrates objective evidence that they are correcting the problems that gave rise to the pattern of violations, and the violation frequency rate for such operator declines significantly for a period of 180 days, the withdrawal order provisions of paragraphs (1) and (2) shall no longer apply.”.

(4) Fine for a pattern of violations.—Section 110 (30 U.S.C. 820) is amended—

(A) by redesignating subsections (i) through (l) as subsections (j) through (m), respectively; and

(B) by inserting after subsection (h) the following:

“(i)(1) If the Secretary determines that a pattern of violations under section 104(e) exists, the Secretary shall assess a penalty, in addition to any other penalty authorized in this Act for a violation of such section, of not less than $50,000 nor more than $250,000. All operators of the mine, including any corporate owners, shall be jointly and severally liable for such penalty. The amount of the assessment under this paragraph shall be designed to en-
sure a change in the future conduct of the operators and
corporate owners of such mine with respect to mine safety
and health, given the overall resources of such operators.
Notwithstanding subsection (k) or section 113, a penalty
assessed by the Secretary under this paragraph may not
be reduced by the Commission.

“(2) In addition to the authority to withdraw miners
from an area of a coal or other mine pursuant to section
104(e), the Secretary shall withdraw all miners from the
entire mine when any pattern of violations has been deter-
mined to exist until such time as the Secretary certifies
that all identified violations have been corrected and the
operator has agreed to abide by a written plan approved
by the Mine Safety and Health Administration to ensure
that such a pattern of conduct will not recur.”.

(e) Notification of Abatement.—Section 104(b)
(30 U.S.C. 814(b)) is amended—

(1) by redesignating paragraphs (1) and (2) as
subparagraphs (A) and (B), respectively;

(2) by striking “If,” and inserting:

“(2) If,”; and

(3) by inserting after the subsection designation
the following:

“(1) An operator issued a citation pursuant to sub-
section (a) shall notify the Secretary that the operator has
abated the violation involved. If such operator fails to pro-
vide such a notice to the Secretary within the abatement
time as provided for in the citation, the Secretary shall
issue an order that requires the operator (or the agent
of the operator) to immediately cause all persons, except
those persons referred to in subsection (c), to be with-
drawn from, and to be prohibited from entering, such area
as the Secretary determines until an authorized represent-
ative of the Secretary determines that such violation has
been abated. Notwithstanding any operator notice, no vio-
lation shall be determined to be abated until an authorized
representative of the Secretary visits the site and deter-
mines such violation has been fully abated.”.

(f) Failure to Timely Pay Penalty Assess-
ments.—Section 105(a) (30 U.S.C. 815(a)) is amend-
ed—

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

(2) by inserting at the end the following:

“(2)(A) The Secretary shall maintain a list of delin-
quent operators who fail to timely pay final assessments.
Any operator placed on that list for the first time shall
be subject to the requirements of this paragraph only until
such time as the Secretary determines that the operator
is no longer in arrears. Any operator placed on that list
for a subsequent time shall remain on the list until such
time as the Secretary determines the operator is com-
mited to timely payment of final assessments. Any oper-
ator who believes he or she has been placed or retained
on the list in error may file with the Commission a request
for consideration of decision.

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

“(C) In the event that a mine operator refuses to
comply with a final order of the Commission to pay civil
monetary penalties and statutory interest, the Secretary
shall have the authority to issue an order requiring the
mine operator to cease production under such final orders of the Commission have been paid in full.”.

(g) MAXIMUM AND MINIMUM PENALTIES.—Section 110(a)(1) (30 U.S.C. 820(a)(1)) is amended by striking “more than $50,000 for each such violation.” and inserting “less than $500 or more than $100,000 for each such violation, except that, in the case of a violation of a mandatory health or safety standard that could significantly and substantially contribute to the cause and effect of a coal or other mine health or safety hazard, the penalty shall not be less than $1,000 or more than $150,000, for each such violation.”.

(h) FACTORS IN ASSESSING PENALTIES.—The Federal Mine Safety and Health Act of 1977 is amended— (1) in section 105(b)(1)(B)—

(A) by striking: “the size of the business of the operator charged” and inserting “the combined size of the business of the operator and any controlling entity”;

(B) by striking “the effect on the operator’s ability to continue in business,”; and

(C) by adding at the end the following: “In settling cases, the Secretary shall utilize the same point system as that utilized to propose
penalties, so as to ensure consistency in operator penalty assessments.”; and

(2) in section 110(j) (as redesignated by subsection (a)(4))—

(A) by striking: “the size of the business of the operator charged” and inserting “the combined size of the business of the operator and any controlling entity”; 

(B) by striking “the effect on the operator’s ability to continue in business,”; and

(C) by adding at the end the following: “In any review requested by a mine operator, or in settling cases, the Commission shall utilize the same point system as that developed by the Secretary for proposed assessments so as to ensure consistency in operator penalty assessments.”.

(i) CIVIL PENALTY FOR INTERFERENCE OR DISCRIMINATION.—Section 110 (30 U.S.C. 820) is further amended by adding at the end the following:

“(n) CIVIL PENALTY FOR INTERFERENCE OR DISCRIMINATION.—Any operator who is found to be in violation of section 105(e), or in violation of section 103(a) (as amended by this Act) shall be subject to a civil penalty

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

(j) WithdRAwAl OrdEr.—Section 107(a) (30 U.S.C. 817(a)) is amended by inserting after the first sentence the following: “In addition, in the event of any violation of section 315 or section 316, or regulations issued pursuant to such sections, such representative shall determine the extent of the area of such mine throughout which the danger exists and issue an order requiring the operator of such mine to cause all persons, except those referred to in section 104(c), to be withdrawn from, and to be prohibited from entering, such area until an authorized representative of the Secretary determines that the violations have been abated.”.

(k) ClARIficAtionS Of InTenT In ThE 1977 AcT.—The Federal Mine Safety and Health Act of 1977 is amended—

(1) in section 3(d) (30 U.S.C. 802)—

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

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

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

(D) by inserting before the semicolon the following: “, and no operator may, by contract or other agreement, limit any liability under
this Act through transfer of any responsibilities to another person’’;

(2) in section 103 (30 U.S.C. 813)—

(A) in subsection (b)—

(i) by striking the first sentence and inserting the following: “For the purpose of enabling the Secretary to perform the functions under this Act, the Secretary may, after notice, hold public hearings and sign and issue subpoenas for the attendance and testimony of witnesses and the production of information, including but not limited to relevant data, papers, books, documents and items of physical evidence, and administer oaths, whether or not in connection with a public hearing.”; and

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

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

(3) in section 104 (30 U.S.C. 814)—
(A) in subsections (d)(1), (e)(1), (e)(2), (e)(3), and (e)(4), as amended by this Act, by inserting “or any provision of this Act” after “standard” or “standards” each place either such term appears; and

(B) in subsection (d)(1), as amended by this Act, by striking “while the conditions created by such violation do not cause imminent danger,”;

(4) in section 105 (30 U.S.C. 815)—

(A) in subsection (a), in the first sentence, by striking “, within a reasonable time after the termination of such inspection or investigation,”;

(B) in subsection (c)—

(i) in paragraph (1)—

(I) by inserting “or an injury or illness in a coal or other mine or that may be associated with mine employment,” after “of an alleged danger or safety or health violation in a coal or other mine,”; and

(II) by inserting at the end the following: “No miner shall be required to work under conditions he has rea-
reasonable grounds to believe to be abnormally and immediately dangerous to himself beyond the normal hazards inherent in the operation which could reasonably be expected to cause death of serious physical harm before such condition or practice can be abated.”; and

(ii) in paragraph (2), by inserting after the fifth sentence the following: “No investigation or hearing authorized by this paragraph may be stayed to await resolution of a related grievance proceeding”; and

(C) by adding at the end the following:

“(e) Attorneys representing the Secretary are authorized to contact any miner or non-managerial employee of a mine operator for the purposes of carrying out the Secretary’s functions under this Act and no attorney representing the Secretary shall be disbarred or disciplined by any State bar or State court for making such contacts. No attorney representing a mine operator in a matter under this Act may concurrently represent individual miners in the same matter.”; and

(5) in section 110 (30 U.S.C. 820)—
(A) in subsection (b)(2), by striking “under” and inserting “of subsections (a) through (h) of”; and

(B) in subsection (c)—

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

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

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

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

(l) Federal Licensing.—The Secretary shall promptly establish an advisory committee to provide recommendations as to whether the Federal Mine Safety and Health Act of 1977 should provide for Federal licensing of mines, mine operators, mine controllers, or various mine personnel in order to ensure that those engaged in mining activities are not frequent violators of safety and health requirements, and establish a national registry in connection therewith. The advisory committee shall be established pursuant to the Advisory Committee Act, and shall conduct a review of existing State licensing requirements
and registries, assess their effectiveness, and shall provide its recommendations to Congress not later than 2 years after the date of enactment of this Act.

SEC. 6. SUPPLEMENTING RESCUE, RECOVERY, AND INCIDENT INVESTIGATION AUTHORITY.

(a) Emergency Call Center.—Not later than 30 days after the date of enactment of this Act, the Secretary shall establish, within the Mine Safety and Health Administration, a central communications emergency call center for all coal or other mine operations that shall be staffed and operated 24 hours per day, 7 days per week, by 1 or more employees of the Mine Safety and Health Administration. All calls placed to the emergency call center shall be answered by an individual with adequate experience and training to handle emergency mine situations. A single national phone number shall be provided for this purpose and the Secretary shall ensure that all miners and mine operators are issued laminated cards with emergency call center information.

(b) Contact Information.—The Secretary shall provide the emergency call center with a contact list, updated not less often than quarterly, that contains—

(1) the contact phone numbers, including the home phone numbers, for the members of each mine rescue team responsible for each coal or other mine;
(2) the phone numbers for the local emergency and rescue services unit that is located nearest to each mine;

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

(4) the contact phone numbers, including the home phone numbers, for the national and district officials of the Mine Safety and Health Administration;

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

(6) the contact phone numbers, including the home phone number, for the authorized representative of the miners at each mine.

Each mine operator shall ensure that the Secretary is provided with completely current information required to be maintained by the Secretary pursuant to paragraphs (1), (3), and (6). The Secretary shall give due consideration to the information collected by the joint government-industry Mine Emergency Operations database.

(e) Mine Locations; Repository of Mining Maps.—
(1) MINE LOCATIONS.—The Secretary shall establish, maintain, and keep current, on the Department of Labor’s website, a detailed map or set of maps showing the exact geographic location of each operating or abandoned mine in the United States, as determined by a global positioning system. Such map or maps shall—

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

(B) be available to members of the public;

(C) allow a user to find the geographic location of a particular mine, or the geographic locations of all mines of a particular type in a county, congressional district, State, or other commonly used geographic region; and

(D) provide the geographic location of any mining waste impoundments with links to associated emergency contact information and available emergency response plans.

(2) REPOSITORY OF MINING MAPS.—The Secretary shall establish a national repository for preserving a digital archive of mining maps to be accessible directly and without delay from the Depart-
ment's web site. The mining maps shall include copies of all historic maps that can be obtained, as well as copies of currently approved mining maps, which the Secretary shall arrange to copy and preserve in digital form. The Secretary may coordinate the operation of such repository with the Secretary of the Interior provided the other requirements of this paragraph are observed. In addition, the Secretary shall include in this repository copies of the most currently available mine emergency response plan, roof plans, ventilation plans, and such other plans required for any type of mine, following any required approval, so that they may be immediately accessed in an emergency, in a manner consistent with the requirements of section 312(b) of the Act.

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

(1) in the first sentence, by inserting “or reportable event” after “accident”;

(2) in the second sentence—

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

(B) by inserting “, or in the case of a reportable event that is not required to be re-
ported as an accident, within 1 hour of the time
at which the operator realizes that the event
has occurred” before the period; and

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

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

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

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

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

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

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

“(v) The provision of uniform credentials to mine res-
cue team members, support personnel, or vehicles for im-
mediate access to any mine site.
“(vi) The plans required at each mine to ensure coordination with local emergency response personnel and to ensure that such personnel receive adequate training to offer necessary assistance to mine rescue teams in the event such assistance is requested. Such local emergency response personnel shall not perform the duties of any mine rescue team.

“(vii) Requirements to ensure that operators are prepared to facilitate the work of mine rescue teams during an emergency by—

“(I) storing necessary equipment not brought on site by mine rescue teams in locations readily accessible to mine rescue teams;

“(II) providing mine rescue teams with a parking and staging area adequate for their needs;

“(III) identifying a space appropriate for coordinating emergency communications with the mine rescue team; and

“(IV) identifying and maintaining separate spaces for family members, community members, and press to assemble during an emergency so as to facilitate communications with these groups while ensuring the efforts of the mine rescue teams are not hindered.”.
(2) RESEARCH.—Section 22(h)(5)(A) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 671(h)(5)(A)) is amended by adding before the period at the end thereof: “including advanced drilling technologies, and any special technologies required for safety or rescue in mining more than 1,500 feet in depth”.

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

“SEC. 117. EMERGENCY PREPAREDNESS PLAN.

“Not later than 6 months of the enactment of the S–MINER Act, the Secretary shall establish and disseminate guidelines for rescue operations that will: (1) establish clear lines of authority within the agency for such operations; (2) establish clear lines of demarcation so private sector and State responders can properly implement their responsibilities; (3) be appropriate for rescue in various types of conditions reasonably likely to be encountered in the United States, including such factors as the depth of the mining, ground stability, ground slope, remoteness from major roads, surface ownership and access problems, and the availability of necessary communications linkages. The Secretary shall consult with States, rescue teams and other responders in developing such guidelines, and shall update them from time to time based upon experience.”.
(g) Authority of Secretary During Rescue Operations.—Section 103 (30 U.S.C. 813) is further amended—

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

“If the representative of the Secretary supervises and directs the rescue and recovery activities in such mine, the operator shall comply with the requests of the authorized representative of the Secretary to facilitate rescue and recovery activities including the provision of all equipment, personnel, and other resources required to perform such activities in accordance with the schedule and requirements established by the representative of the Secretary for this purpose, and failure of the operator to comply in this regard shall be considered an egregious violation of this Act.”; and

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

(h) Rescue Communications.—

(1) Repeal.—The MINER Act (30 U.S.C. 801 note) is amended by striking section 7, redesignating sections 8 and 9 as sections 7 and 8, and sections 11 through 14 as sections 9 through 12, respectively.
(2) Amendment to FMSHA.—Title I of the Act is further amended by adding at the end the following:

“SEC. 118. FAMILY LIAISONS REQUIREMENT.

“The Secretary shall—

“(1) designate a full-time permanent employee of the Mine Safety and Health Administration to serve as a Family Liaison, who shall, at least in instances where multiple miners are trapped, severely injured or killed, act as the primary communication with the families of the miners concerning all aspects of the rescue operations, including the location or condition of miners, and assist the families in getting answers to their questions, and otherwise serve as a liaison to the families, and provide for the temporary reassignment of other personnel who may be required to assist the Family Liaison in connection with a particular incident;

“(2) require the Mine Safety and Health Administration to be as responsive as possible to requests from the families of such miners for information relating to the mine accident, and waive any fees required for the production of documents pursuant to 5 U.S.C. 552(a)(3) in connection with a request from a family member, or authorized rep-
resentative of miners, for documents relating to a mine fatality, notwithstanding any conditions for fee waivers law that may otherwise be imposed by law; and

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

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

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

(B) in section 316(b)(2)(E)(vi) (as added by this Act), by adding at the end the following:
“The plan shall also set forth the operator’s plans for assisting the Secretary in the implementation of section 118.”.

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

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

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

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

“(3) For the purpose”;

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

“(1) For all accident and incident investigations under this Act, the Secretary shall determine why the accident or incident occurred; determine whether civil or
criminal requirements were violated and, if so, issue citations and penalties, and make recommendations to avoid any recurrence. The Secretary shall also determine whether the conduct or lack thereof by Agency personnel contributed to the accident or incident.

“(2)(A) For any accidents or incidents involving multiple serious injuries or deaths, or multiple entrapments, there shall also be an independent investigation to consider why the accident or incident occurred, make recommendations to avoid a recurrence, and determine whether the conduct or lack thereof by agency personnel contributed to the accident or incident.

“(B) Not later than 30 days after the date of enactment of the S–MINER Act, the Secretary shall initiate rulemaking activity to establish rules on the procedures that will be used to investigate accidents and incidents involving multiple serious injuries or deaths, or multiple entrapments, and shall directly contact and solicit the participation of—

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

“(ii) organizations representing miners;

“(iii) mine rescue teams;
“(iv) Federal, State, and local investigation and
prosecutorial authorities; and
“(v) others whom the Secretary determines may
have information relevant to this rulemaking.

Such rulemaking shall be completed by October 1, 2008.
“(C) The rules for the investigation of accidents or
incidents involving multiple serious injuries or deaths, or
multiple entrapments, shall provide for the appointment
and operations of any such independent investigation team
in accordance with the requirements of this paragraph. An
independent investigation team shall be appointed by the
Director of the National Institute for Occupational Safety
and Health as soon as possible after a qualifying accident
or incident. The members shall consist of—
“(i) a representative from the National Insti-
tute for Occupational Safety and Health who shall
serve as the Chairman;
“(ii) a representative of mine operators with fa-
miliarity with the type of mining involved;
“(iii) a representative of mine workers with fa-
miliarity with the type of mining involved, who shall
be the workers’ certified bargaining representative at
the mine or, if there is no certified representative at
the mine, then a workers’ representative jointly se-
lected by organized labor organizations:
“(iv) an academic with expertise in mining; and

“(v) a representative of the State in which the accident or incident occurred to be selected by the Governor.

“(D) Such rules shall include procedures to ensure that the Secretary will be able to cooperate fully with the independent investigation team and will use the powers of the Secretary under this section to help obtain information and witnesses required by the independent investigation team, procedures to ensure witnesses are not coerced and to avoid conflicts of interest in witness representation, procedures to ensure confidentiality if requested by any witness, and procedures to enable the independent investigation team to conduct such public hearings as it deems appropriate. Such rules shall also require that upon completion of any accident or incident investigation of accidents or incidents involving multiple serious injuries or deaths, or multiple entrapments, the independent investigation team shall—

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

“(ii) make recommendations as to policy, regulatory, enforcement or other changes, including statutory changes, which in the judgment of the independent investigation team would best prevent a re-
currence of such actions or inactions at other mines;

and

“(iii) promptly make all such findings and recom-
mendations public (except findings and recom-
mendations that must be temporarily withheld in
connection with a criminal referral), including appro-
priate public hearings to inform the mining commu-
nity of their respective findings and recommenda-
tions.

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

(3) by adding at the end the following:

“(4) Nothing in this Act shall be construed to limit
the authority of the Chemical Safety and Hazard Inves-
tigation Board to conduct an independent investigation of
the accident or incident or the events or factors resulting
therein, nor with the authority of the Office of the Inspec-
tor General to conduct an investigation of the conduct of
DOL personnel in connection with an accident or incident
or the events or factors resulting therein, and the Sec-
retary shall cooperate in full with any such investigation.
Such investigation shall be in addition to any investigation authorized by section 103(b).”.

SEC. 7. RESPIRABLE DUST STANDARDS.

(a) Respirable Dust; Respirable Silica Dust.—Section 202 (30 U.S.C. 842) is amended to read as follows:

“SEC. 202. DUST STANDARD AND RESPIRATORY EQUIPMENT.

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

“(2) At regular intervals to be prescribed by the Secretary and the Secretary of Health and Human Services, the Secretary will take accurate samples of the amount of respirable dust in the coal mine atmosphere to which
each miner in the active workings of such mine is exposed
in order to determine compliance with the requirements
of paragraph (a)(1) of this section. In addition, the Sec-
retary shall cause to be made such frequent spot inspec-
tions as he deems appropriate of the active workings of
coal mines for the purpose of obtaining compliance with
the provisions of this title. All samples by the Secretary
shall be taken by a personal dust monitor that measures,
records and displays in real time the concentration of res-
pirable dust to which the miner wearing the device is ex-
posed, and shall include the sampling of areas, occupations
or persons. There is authorized to be appropriated to the
Secretary $30,000,000 to purchase personal dust monitors
for the purposes of the preceding sentence. For the pur-
poses of determining compliance with the exposure limit
for respirable dust, only a single sample shall be required
to determine non-compliance, and there shall be no adjust-
ment for measurement error in the measured level of res-
pirable dust.

“(3) At intervals established by the Secretary, each
operator of a coal mine shall take accurate samples of the
amount of respirable dust in the mine atmosphere to
which each miner in the active workings of such mine is
exposed to identify sources of exposure so that the oper-
ator can take corrective action and assure that the expo-
sure of each mine is below the exposure limit. Under the provisions of this Act, all such samples shall be taken by a personal dust monitor that measures, records and displays the concentration of respirable dust to which the miner wearing the device is exposed, and may include samples of less than a full shift. The results of such sampling shall be transmitted to the Secretary in a manner established by him, and recorded by him in a manner that will assure application of the provisions of this section of the Act.

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

“(b) Effective on the date of enactment of the S–MINER Act, each operator of a coal or other mine shall continuously maintain the concentration of respirable silica dust in the mine atmosphere during each shift to which each miner in the active workings of such mine is exposed at or below a time-weighted average of 0.05 milligrams of respirable silica dust per cubic meter of air averaged
over ten hours or its dose-equivalent for shorter or longer period of time. For the purposes of this paragraph, compliance shall be determined by the sampling of areas, occupations or persons, only a single sample shall be required to determine non-compliance, and there shall be no adjustment for measurement error in the measured level of respirable silica dust. For the purposes of this paragraph, a ‘dose-equivalent’ means the amount of dust that a miner would inhale during his work shift as if he were working for 10 hours, and the term ‘shift’ means portal-to-portal for underground mines and ‘bank to bank’ for other mines.

“(c) Respiratory equipment approved by the Secretary and the Secretary of Health and Human Services shall be made available to all persons whenever exposed to concentrations of respirable dust or silica in excess of the levels required to be maintained under this section. Use of respirators shall not be substituted for environmental control measures in the active workings. Each operator shall maintain a supply of respiratory equipment adequate to deal with occurrences of concentrations of respirable dust and silica in the mine atmosphere in excess of the levels required to be maintained under this section.

“(d) Each operator shall report and certify to the Secretary at such intervals as the Secretary may require
as to the conditions in the active workings of a coal mine, including, the average number of working hours worked during each shift, the quantity and velocity of air regularly reaching the working faces, the method of mining, the amount and pressure of the water, if any, reaching the working faces, and the number, location, and type of sprays, if any, used.”.

(b) **Conforming Amendment.**—Section 205 (30 U.S.C. 845) is repealed.

(c) **Assessment on Program Operations of Cumulative Impact of External Requirements Added Since 1977.**—The Secretary shall request the National Academy of Sciences to conduct a study of the impact on the mine safety and health responsibilities of the Department of Labor of various statutes, executive orders, and memoranda applicable to the issuance of rulemaking and guidance and to enforcement. The study shall include an assessment of the Equal Access to Justice Act, the Regulatory Flexibility Act, the Small Business Regulatory Enforcement Fairness Act, the Data Quality Act, the Paperwork Reduction Act, the Unfunded Mandates Reform Act, the Federal Advisory Committee Act, the Congressional Review Act, Executive Order 12866, Executive Order 13422, and memoranda from the Office of Management and Budget on guidance, risk assessment and cost anal-
ysis. The Secretary shall request that the National Academy of Sciences consult widely with experts in administrative law and other disciplines knowledgeable about such requirements, and to quantify to the extent possible the costs to miners of the aforementioned requirements. The Secretary shall further request that recommendations be included in the report, and that such report and recommendations be completed, and forwarded to the Congress, no later than 21 months after the date of enactment of this Act.

SEC. 8. OTHER HEALTH REQUIREMENTS.

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

“(f) Notwithstanding the other requirements of this section, not later than 30 days of the enactment of the S–MINER Act, the National Institute for Occupational Safety and Health shall forward to the Secretary its Recommended Exposure Limits (RELs) for chemical and other hazards to which miners may be exposed, along with the research data and other necessary information. Within 30 days of receipt of this information, the Secretary shall to adopt such recommended exposure limits as the Permissible Exposure Limits (PELs) for application in the mining industry. The National Institute of Occupational Safety and Health shall annually submit to the Secretary any
additional or revised recommended exposure limits for all chemicals and other hazards to which miners may be exposed, and the Secretary shall be obligated to adopt such exposure limits as PELs for application in the mining industry within 30 days of receipt of such information. Upon petition from miners or mine operators providing credible evidence that feasibility may be an issue for the industry as a whole, the Secretary may review the feasibility of any PEL established pursuant to this paragraph before placing it into effect and, following public notice and comment, make necessary adjustments thereto, provided that the adjusted standard is as protective as is feasible, and that the PEL shall go into effect as required by the other provisions of this paragraph if such action is not completed within one year. Moreover, upon petition from miners or mine operators providing credible evidence that a REL issued by the National Institute of Occupational Safety and Health lacks the specificity required to serve as a PEL pursuant to this Act, the Secretary may defer implementation of the requirements of this paragraph and shall promptly request National Institute of Occupational Safety and Health to recommend a sufficiently detailed REL, at which time the provisions of this paragraph shall be implemented. Nothing in this subsection shall limit the ability of the National Institute of Occupational Safety
and Health to make such recommendations more frequently than 1 time per year, nor limit the Secretary from establishing requirements for chemical and other substances or health hazards in the mining industry that are more comprehensive and protective than those established pursuant to this subsection and in accordance with the other requirements of this section.”.

(b) Asbestos.—Section 101 (30 U.S.C. 811) is further amended by adding at the end the following:

“(g) The health standard for asbestos established by the Occupational Safety and Health Administration that is set forth in section 1910.1001 of title 29, Code of Federal Regulations, or any subsequent revision of that regulation, shall be adopted by the Secretary for application in the mining industry not later than 30 days of the enactment of the S–MINER Act. Nothing in this paragraph shall preclude the Secretary from adopting regulations to address asbestos hazards to miners not covered by the regulations of the Occupational Safety and Health Administration.”.

(c) Hazard Communication.—Section 101 (30 U.S.C. 811) is further amended by adding at the end the following:

“(h) Unless and until there is additional rulemaking pursuant to the requirements of this section, the Secretary
shall apply the provisions of the interim final rule of October 3, 2000, concerning hazard communication, in lieu of the final rule of June 21, 2002, concerning hazard communication.”.

(d) **Study on Miner Substance Abuse Issues That Pose Safety Risks.—**

(1) **Study.**—The Secretary of Labor shall conduct a study providing expert review and recommendations of policies designed to deal with substance abuse by miners, including the causes, nature, and extent of such abuse, its impact on mine safety and health, best practices for treatment, rehabilitation, and substance abuse testing policies, and the adequacy of State laws and approaches. In conducting such study, the Secretary shall solicit the views of and consult with all interested parties, including miners, miners’ representatives, mine operators, appropriate State agencies, and public health and substance abuse experts.

(2) **Report.**—Not later than 6 months after the date of enactment of this Act, the Secretary shall report the findings and recommendations of the study to the Committee on Education and Labor of the House of Representatives and the Committee on
Health, Education, Labor and Pensions of the Senate.

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

(e) GRANTS FOR REHABILITATION.—

(1) IN GENERAL.—The Secretary of Labor, in consultation with the Secretary of Health and Human Services, is authorized to award grants to appropriate entities and programs for the purpose of providing rehabilitation services to current and former miners suffering from mental health impairments, including drug addiction and substance abuse issues, which may have been caused or exacerbated by their work as miners. The Secretary shall ensure such funds are directed to those regions of the country most in need of such assistance.

(2) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Sec-
Secretary of Labor $10,000,000 to carry out the grant
program authorized by this subsection.

SEC. 9. MINE SAFETY PROGRAM FUND.

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

“SEC. 117. MINE SAFETY PROGRAM FUND.

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

“(b) Transfers to the Fund.—There shall be de-
posited in the Fund—

“(1) all penalties collected under section 110;

and

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

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

“(B) is conditioned upon or would require
the expenditure of appropriated funds that are
not available to the Secretary of Labor.
“(c) EXPENDITURES.—Amounts in the Fund shall be available, as provided in appropriations Acts, only for inspections and investigations conducted pursuant to section 103.”.


Attest: LORRAINE C. MILLER,

Clerk.