

109TH CONGRESS
2^D SESSION

H. R. 5481

To amend the Federal Mine Safety and Health Act of 1977 to improve
the safety of mines and mining.

IN THE HOUSE OF REPRESENTATIVES

MAY 25, 2006

Mr. NORWOOD introduced the following bill; which was referred to the
Committee on Education and the Workforce

A BILL

To amend the Federal Mine Safety and Health Act of 1977
to improve the safety of mines and mining.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Modernizing and Im-
5 proving the National Emergency Response System for
6 Mining Act” or the “MINERS for Mining Act”.

7 **SEC. 2. EMERGENCY RESPONSE.**

8 Section 316 of the Federal Mine Safety and Health
9 Act of 1977 (30 U.S.C. 876) is amended—

1 (1) in the section heading by adding at the end
2 the following: “AND EMERGENCY RESPONSE PLANS”;

3 (2) by striking “Telephone” and inserting “(a)
4 IN GENERAL.—Telephone”; and

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

6 “(b) ACCIDENT PREPAREDNESS AND RESPONSE.—

7 “(1) IN GENERAL.—Each underground coal
8 mine operator shall carry out on a continuing basis
9 a program to improve accident preparedness and re-
10 sponse at each mine.

11 “(2) RESPONSE AND PREPAREDNESS PLAN.—

12 “(A) IN GENERAL.—Not later than 60
13 days after the date of enactment of this Act,
14 each underground coal mine operator shall de-
15 velop and adopt a written accident response
16 plan that complies with this subsection with re-
17 spect to each mine of the operator, and periodi-
18 cally update such plans to reflect changes in op-
19 erations in the mine, advances in technology, or
20 other relevant considerations. Each such oper-
21 ator shall make the accident response plan
22 available to the miners and the miners’ rep-
23 resentatives.

24 “(B) PLAN REQUIREMENTS.—An accident
25 response plan under subparagraph (A) shall—

1 “(i) provide for the evacuation of all
2 individuals endangered by an emergency;
3 and

4 “(ii) provide for the maintenance of
5 individuals trapped underground in the
6 event that miners are not able to evacuate
7 the mine.

8 “(C) PLAN APPROVAL.—The accident re-
9 sponse plan under subparagraph (A) shall be
10 subject to review and approval by the Secretary.
11 Approved plans shall—

12 “(i) afford miners a level of safety
13 protection at least consistent with existing
14 standards, including standards mandated
15 by law and regulation;

16 “(ii) reflect the most recent credible
17 scientific research;

18 “(iii) be technologically feasible, make
19 use of current commercially available tech-
20 nology, and account for the specific phys-
21 ical characteristics of the mine; and

22 “(iv) reflect the improvements in mine
23 safety gained from experience under this
24 Act and other worker safety and health
25 laws.

1 “(D) PLAN REVIEW.—The accident re-
2 sponse plan under subparagraph (A) shall be
3 reviewed periodically, but at least every 6
4 months, by the Secretary. In such periodic re-
5 views, the Secretary shall consider intervening
6 advancements in science and technology that
7 could be implemented to enhance miners’ ability
8 to evacuate or otherwise survive in an emer-
9 gency.

10 “(E) PLAN CONTENT-GENERAL REQUIRE-
11 MENTS.—To be approved under subparagraph
12 (C), an accident response plan shall include the
13 following:

14 “(i) POST-ACCIDENT COMMUNICA-
15 TIONS.—The plan shall provide for a re-
16 dundant means of communication with the
17 surface for persons underground, such as
18 secondary telephone or equivalent two-way
19 communication.

20 “(ii) POST-ACCIDENT TRACKING.—
21 Consistent with commercially available
22 technology and with the physical con-
23 straints, if any, of the mine, the plan shall
24 provide for above ground personnel to de-
25 termine the current, or immediately pre-ac-

1 cident, location of all underground per-
2 sonnel. Any system so utilized shall be
3 functional, reliable, and calculated to re-
4 main serviceable in a post-accident setting.

5 “(iii) POST-ACCIDENT BREATHABLE
6 AIR.—The plan shall provide for—

7 “(I) emergency supplies of
8 breathable air for individuals trapped
9 underground sufficient to maintain
10 such individuals for a sustained period
11 of time;

12 “(II) in addition to the 2 hours
13 of breathable air per miner required
14 by law under the emergency tem-
15 porary standard as of the day before
16 the date of enactment of the Modern-
17 izing and Improving the National
18 Emergency Response System for Min-
19 ing Act, caches of self-rescuers pro-
20 viding in the aggregate not less than
21 2 hours per miner to be kept in
22 escapeways from the deepest work
23 area to the surface at a distance of no
24 further than an average miner could
25 walk in 30 minutes;

1 “(III) a maintenance schedule for
2 checking the reliability of self res-
3 cuers, retiring older self-rescuers first,
4 and introducing new self-rescuer tech-
5 nology, such as units with inter-
6 changeable air or oxygen cylinders not
7 requiring doffing to replenish airflow
8 and units with supplies of greater
9 than 60 minutes, as they are approved
10 by the Administration and become
11 available on the market; and

12 “(IV) training for each miner in
13 proper procedures for donning self-
14 rescuers, switching from one unit to
15 another, and ensuring a proper fit.

16 “(iv) POST-ACCIDENT LIFELINES.—
17 The plan shall provide for the use of
18 flame-resistant directional lifelines or
19 equivalent systems in escapeways to enable
20 evacuation. The flame-resistance require-
21 ment of this clause shall apply upon the re-
22 placement of existing lifelines, or, in the
23 case of lifelines in working sections, upon
24 the earlier of the replacement of such life-

1 lines or 3 years after the date of enact-
2 ment of this Act.

3 “(v) TRAINING.—The plan shall pro-
4 vide a training program for emergency pro-
5 cedures described in the plan which will
6 not diminish the requirements for manda-
7 tory health and safety training currently
8 required under section 115.

9 “(vi) LOCAL COORDINATION.—The
10 plan shall set out procedures for coordina-
11 tion and communication between the oper-
12 ator, mine rescue teams, and local emer-
13 gency response personnel and make provi-
14 sions for familiarizing local rescue per-
15 sonnel with surface functions that may be
16 required in the course of mine rescue work.

17 “(F) PLAN CONTENT-SPECIFIC REQUIRE-
18 MENTS.—

19 “(i) IN GENERAL.—In addition to the
20 content requirements contained in subpara-
21 graph (E), and subject to the consider-
22 ations contained in subparagraph (C), the
23 Secretary may make additional plan re-
24 quirements with respect to any of the con-
25 tent matters.

1 “(ii) POST ACCIDENT COMMUNICA-
2 TIONS.—Not later than 3 years after the
3 date of enactment of the Modernizing and
4 Improving the National Emergency Re-
5 sponse System for Mining Act, a plan
6 shall, to be approved, provide for post acci-
7 dent communication between underground
8 and surface personnel via a wireless two-
9 way medium, and provide for an electronic
10 tracking system permitting surface per-
11 sonnel to determine the location of any
12 persons trapped underground or set forth
13 within the plan the reasons such provisions
14 can not be adopted. Where such plan sets
15 forth the reasons such provisions can not
16 be adopted, the plan shall also set forth
17 the operator’s alternative means of compli-
18 ance. Such alternative shall approximate,
19 as closely as possible, the degree of func-
20 tional utility and safety protection provided
21 by the wireless two-way medium and track-
22 ing system referred to in this subpart.

23 “(G) PLAN DISPUTE RESOLUTION.—

24 “(i) IN GENERAL.—Any dispute be-
25 tween the Secretary and an operator with

1 respect to the content of the operator's
2 plan or any refusal by the Secretary to ap-
3 prove such a plan shall be resolved on an
4 expedited basis.

5 “(ii) DISPUTES.—In the event of a
6 dispute or refusal described in clause (i),
7 the Secretary shall issue a citation which
8 shall be immediately referred to a Commis-
9 sion Administrative Law Judge. The Sec-
10 retary and the operator shall submit all
11 relevant material regarding the dispute to
12 the Administrative Law Judge within 15
13 days of the date of the referral. The Ad-
14 ministrative Law Judge shall render his or
15 her decision with respect to the plan con-
16 tent dispute within 15 days of the receipt
17 of the submission.

18 “(iii) FURTHER APPEALS.—A party
19 adversely affected by a decision under
20 clause (ii) may pursue all further available
21 appeal rights with respect to the citation
22 involved, except that inclusion of the dis-
23 puted provision in the plan will not be lim-
24 ited by such appeal unless such relief is re-

1 requested by the operator and permitted by
2 the Administrative Law Judge.

3 “(H) MAINTAINING PROTECTIONS FOR
4 MINERS.—Notwithstanding any other provision
5 of this Act, nothing in this section, and no re-
6 sponse and preparedness plan developed under
7 this section, shall be approved if it reduces the
8 protection afforded miners by an existing man-
9 datory health or safety standard.”.

10 **SEC. 3. INCIDENT COMMAND AND CONTROL.**

11 Title I of the Federal Mine Safety and Health Act
12 of 1977 (30 U.S.C. 811 et seq.) is amended by adding
13 at the end the following:

14 **“SEC. 116. LIMITATION ON CERTAIN LIABILITY FOR RES-**
15 **CUE OPERATIONS.**

16 “(a) IN GENERAL.—No person shall bring an action
17 against any covered individual or his or her regular em-
18 ployer for property damage or an injury (or death) sus-
19 tained as a result of carrying out activities relating to
20 mine accident rescue or recovery operations. This sub-
21 section shall not apply where the action that is alleged to
22 result in the property damages or injury (or death) was
23 the result of gross negligence, reckless conduct, or a willful
24 violation of law or, where the regular employer (as such
25 term is used in this Act) is the operator of the mine at

1 which the rescue activity takes place. Nothing in this sec-
2 tion shall be construed to preempt State workers' com-
3 pensation laws.

4 “(b) COVERED INDIVIDUAL.—For purposes of sub-
5 section (a), the term ‘covered individual’ means an indi-
6 vidual—

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

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

12 “(c) REGULAR EMPLOYER.—For purposes of sub-
13 section (a), the term ‘regular employer’ means the entity
14 that is the covered employee’s legal or statutory employer
15 pursuant to applicable State law.”.

16 **SEC. 4. MINE RESCUE TEAMS.**

17 Section 115(e) of the Federal Mine Safety and
18 Health Act of 1977 (30 U.S.C. 825(e)) is amended—

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

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

22 “(2)(A) The Secretary shall issue regulations with re-
23 gard to mine rescue teams which shall be finalized and
24 in effect not later than 18 months after the date of enact-
25 ment of this Act.

1 “(B) Such regulations shall provide for the following:

2 “(i) That such regulations shall not be con-
3 strued to waive operator training requirements appli-
4 cable to existing mine rescue teams.

5 “(ii) That the Mine Safety and Health Admin-
6 istration shall establish, and update every 5 years
7 thereafter, criteria to certify the qualifications of
8 mine rescue teams.

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

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

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

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

19 “(BB) participate at least annually in
20 mine rescue training at the underground
21 coal mine covered by the mine rescue team;
22 and

23 “(CC) are available at the mine within
24 one hour ground travel time from the mine
25 rescue station.

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

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

9 “(AA) An individual mine-site mine rescue
10 team.

11 “(BB) A multi-employer composite team
12 that is made up of team members who are
13 knowledgeable about the operations and ventila-
14 tion of the covered mines and who train on a
15 semi-annual basis at the covered underground
16 coal mine—

17 “(aaa) which provides coverage for
18 multiple operators that have team mem-
19 bers which include at least two active em-
20 ployees from each of the covered mines;

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

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

5 “(CC) A commercial mine rescue team pro-
6 vided by contract through a third-party vendor
7 or mine rescue team provided by another coal
8 company, if such team—

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

11 “(bbb) is knowledgeable about the op-
12 erations and ventilation of the covered
13 mines; and

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

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

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

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

4 “(II) make available two certified mine res-
5 cue teams whose members—

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

8 “(bb) participate at least semi-annu-
9 ally in mine rescue training at the under-
10 ground coal mine covered by the mine res-
11 cue team;

12 “(cc) are available at the mine within
13 one hour ground travel time from the mine
14 rescue station;

15 “(dd) are knowledgeable about the op-
16 erations and ventilation of the covered
17 mines; and

18 “(ee) are comprised of individuals
19 with a minimum of 3 years underground
20 coal mine experience that shall have oc-
21 curred within the 10-year period preceding
22 their employment on the contract mine res-
23 cue team.”.

1 **SEC. 5. PROMPT INCIDENT NOTIFICATION.**

2 (a) IN GENERAL.—Section 103(j) of the Federal
3 Mine Safety and Health Act of 1977 (30 U.S.C. 813(j))
4 is amended by inserting after the first sentence the fol-
5 lowing: “For purposes of the preceding sentence, the noti-
6 fication required shall be provided by the operator within
7 15 minutes of the time at which the operator realizes that
8 the death of an individual at the mine, or an injury or
9 entrapment of an individual at the mine which has a rea-
10 sonable potential to cause death, has occurred.”.

11 (b) PENALTY.—Section 110(a) of the Federal Mine
12 Safety and Health Act of 1977 (30 U.S.C. 820(a)) is
13 amended—

14 (1) by striking “The operator” and inserting
15 “(1) The operator”; and

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

17 “(2) The operator of a coal or other mine who fails
18 to provide timely notification to the Secretary as required
19 under section 103(j) (relating to the 15 minute require-
20 ment) shall be assessed a civil penalty by the Secretary
21 of not less than \$5,000 and not more than \$60,000.”.

22 **SEC. 6. NATIONAL INSTITUTE FOR OCCUPATIONAL SAFETY**
23 **AND HEALTH.**

24 (a) RESEARCH AND DEVELOPMENT.—

25 (1) IN GENERAL.—For purposes of improving
26 the safety and health of miners, the National Insti-

1 tute for Occupational Safety and Health is author-
2 ized to conduct research in and development of tech-
3 nology relating to—

4 (A) the improvement of post-disaster mine
5 operations, including an analysis of and rec-
6 ommendations for future practices relating to
7 electrical devices and the hardening of mine
8 monitoring and communications systems;

9 (B) the improvement of mine rescue team
10 operations, including communications among
11 mine operators, miners, and mine rescue teams,
12 and the use of robotic technology;

13 (C) the development and installation of im-
14 proved emergency and routine miner tracking
15 systems, including recommended standards for
16 wireless communications in underground mines;

17 (D) the development and improvement of
18 self-contained self-rescuers, including docking
19 and hybrid capabilities;

20 (E) the development of performance stand-
21 ards, location strategies, and application guide-
22 lines for coal mine rescue chambers; and

23 (F) the development and demonstration of
24 a rapidly deployable seismic location system to
25 assist in the location of trapped miners, and an

1 analysis of alternative tracking and location
2 systems

3 (2) AUTHORIZATION OF APPROPRIATIONS.—

4 There are authorized to be appropriated
5 \$14,000,000 for the purpose of carrying out this
6 subsection.

7 (b) OFFICE OF MINE SAFETY AND HEALTH.—Sec-
8 tion 22 of the Occupational Safety and Health Act of 1970
9 (29 U.S.C. 671) is amended by adding at the end the fol-
10 lowing:

11 “(h) OFFICE OF MINE SAFETY AND HEALTH.—

12 “(1) IN GENERAL.—There shall be permanently
13 established within the Institute an Office of Mine
14 Safety and Health which shall be administered by an
15 Associate Director to be appointed by the Director.

16 “(2) PURPOSE.—The purpose of the Office is to
17 enhance the development of new mine safety tech-
18 nology and technological applications and to expedite
19 the commercial availability and implementation of
20 such technology in mining environments.

21 “(3) FUNCTIONS.—In addition to all purposes
22 and authorities provided for under this section, the
23 Office of Mine Safety and Health shall be respon-
24 sible for research, development, and testing of new
25 technologies and equipment designed to enhance

1 mine safety and health. To carry out such functions
2 the Director of the Institute, acting through the Of-
3 fice, shall have the authority to—

4 “(A) award competitive grants to institu-
5 tions and private entities to encourage the de-
6 velopment and manufacture of mine safety
7 equipment;

8 “(B) award contracts to educational insti-
9 tutions or private laboratories for the perform-
10 ance of product testing or related work with re-
11 spect to new mine technology and equipment;
12 and

13 “(C) establish an interagency working
14 group as provided for in paragraph (5).

15 “(4) GRANT AUTHORITY.—To be eligible to re-
16 ceive a grant under the authority provided for under
17 paragraph (3)(A), an entity or institution shall—

18 “(A) submit to the Director of the Insti-
19 tute an application at such time, in such man-
20 ner, and containing such information as the Di-
21 rector may require; and

22 “(B) include in the application under sub-
23 paragraph (A), a description of the mine safety
24 equipment to be developed and manufactured
25 under the grant and a description of the rea-

1 sons that such equipment would otherwise not
2 be developed or manufactured, including rea-
3 sons relating to the limited potential commer-
4 cial market for such equipment.

5 “(5) INTERAGENCY WORKING GROUP.—

6 “(A) ESTABLISHMENT.—The Director of
7 the Institute, in carrying out paragraph (3)(C)
8 shall establish an interagency working group to
9 share technology and technological research and
10 developments that could be utilized to enhance
11 mine safety and accident response.

12 “(B) MEMBERSHIP.—The working group
13 under subparagraph (A) shall be chaired by the
14 Associate Director of the Office who shall ap-
15 point the members of the working group, which
16 may include representatives of other Federal
17 agencies or departments as determined appro-
18 priate by the Associate Director.

19 “(C) DUTIES.—The working group under
20 subparagraph (A) shall conduct an evaluation
21 of research conducted by, and the technological
22 developments of, agencies and departments who
23 are represented on the working group that may
24 have applicability to mine safety and accident
25 response and make recommendations to the Di-

1 rector for the further development and eventual
2 implementation of such technology.

3 “(6) ANNUAL REPORT.—Not later than 1 year
4 after the establishment of the Office under this sub-
5 section, and annually thereafter, the Director of the
6 Institute shall submit to the Committee on Health,
7 Education, Labor, and Pensions of the Senate and
8 the Committee on Education and the Workforce of
9 the House of Representatives a report that, with re-
10 spect to the year involved, describes the new mine
11 safety technologies and equipment that have been
12 studied, tested, and certified for use, and with re-
13 spect to those instances of technologies and equip-
14 ment that have been considered but not yet certified
15 for use, the reasons therefore.

16 “(7) AUTHORIZATION OF APPROPRIATIONS.—
17 There is authorized to be appropriated, such sums
18 as may be necessary to enable the Institute and the
19 Office of Mine Safety and Health to carry out this
20 subsection.”.

21 **SEC. 7. REQUIREMENT CONCERNING FAMILY LIAISONS.**

22 The Secretary of Labor shall establish a policy that—

23 (1) requires the temporary assignment of an in-
24 dividual Department of Labor official to be a liaison

1 between the Department and the families of victims
2 of mine tragedies involving multiple deaths;

3 (2) requires the Mine Safety and Health Ad-
4 ministration to be as responsive as possible to re-
5 quests from the families of mine accident victims for
6 information relating to mine accidents; and

7 (3) requires that in such accidents, that the
8 Mine Safety and Health Administration shall serve
9 as the primary communicator with the operator,
10 miners' families, the press and the public.

11 **SEC. 8. PENALTIES.**

12 (a) IN GENERAL.—Section 110 of the Federal Mine
13 Safety and Health Act of 1977 (30 U.S.C. 820) is amend-
14 ed—

15 (1) in subsection (a)—

16 (A) by inserting “(1)” after the subsection
17 designation and at the end of the subsection:
18 “The Secretary may prescribe procedures for
19 the issuance of a notice in lieu of a citation
20 with respect to de minimis violations which have
21 no direct or immediate relationship to safety or
22 health.”; and

23 (B) by adding at the end the following:

24 “(2) Any operator who willfully violates a mandatory
25 health or safety standard, or knowingly violates or fails

1 or refuses to comply with any order issued under section
2 104 and section 107, or any order incorporated in a final
3 decision issued under this title, except an order incor-
4 porated in a decision under paragraph (1) or section
5 105(e), shall, upon conviction, be punished by a fine of
6 not more than \$250,000, or by imprisonment for not more
7 than one year, or by both, except that if the conviction
8 is for a violation committed after the first conviction of
9 such operator under this Act, punishment shall be by a
10 fine of not more than \$500,000, or by imprisonment for
11 not more than five years, or both.

12 “(3)(A) The minimum penalty for any citation or
13 order issued under section 104(d)(1) shall be \$2,000.

14 “(B) The minimum penalty for any order issued
15 under section 104(d)(2) shall be \$4,000.

16 “(4) Nothing in this subsection shall be construed to
17 prevent an operator from obtaining a review, in accord-
18 ance with section 106, of an order imposing a penalty de-
19 scribed in this subsection. If a court, in making such re-
20 view, sustains the order, the court shall apply at least the
21 minimum penalties required under this subsection.”; and

22 (2) by adding at the end of subsection (b) the
23 following: “Violations under this section that are
24 deemed to be flagrant may be assessed a civil pen-
25 alty of not more than \$220,000. For purposes of the

1 preceding sentence, the term ‘flagrant’ with respect
2 to a violation means a reckless or repeated failure to
3 make reasonable efforts to eliminate a known viola-
4 tion of a mandatory health or safety standard that
5 substantially and proximately caused, or reasonably
6 could have been expected to cause, death or serious
7 bodily injury.”.

8 (b) REGULATIONS.—Not later than December 30,
9 2006, the Secretary of Labor shall promulgate final regu-
10 lations with respect to penalties.

11 **SEC. 9. FINE COLLECTIONS.**

12 Section 108(a)(1)(A) of the Federal Mine Safety and
13 Health Act of 1977 (30 U.S.C. 818(a)(1)(A)) is amended
14 by inserting before the comma, the following: “, or fails
15 or refuses to comply with any order or decision, including
16 a civil penalty assessment order, that is issued under this
17 Act”.

18 **SEC. 10. ABANDONED MINE AREAS SEAL STUDY.**

19 (a) IN GENERAL.—The Secretary of Labor shall pro-
20 vide for the conduct of research, including field tests, con-
21 cerning the sealing of abandoned mine areas, including the
22 materials used in the construction of these seals, the prac-
23 ticality of inertization prior to sealing, and the use of pro-
24 fessional engineers in the design of the seals.

1 (b) REPORT.—Not later than 18 months after the
2 date of enactment of this Act, the Secretary shall prepare
3 and submit to the Committee on Education and the Work-
4 force of the House of Representatives, and the Committee
5 on Health, Education, Labor, and Pensions of the Senate
6 a report detailing the findings of the research under this
7 section. Such report shall include a description of the ac-
8 tions, if any, that the Secretary intends to take based upon
9 the report, including proposing regulatory changes, and
10 the reasons for such actions.

11 **SEC. 11. SUBSTANCE ABUSE TESTING.**

12 Title II of the Federal Mine Safety and Health Act
13 of 1977 is amended by adding at the end the following
14 new section:

15 **“SEC. 207. SUBSTANCE ABUSE TESTING.**

16 “(a) Within 180 days following the enactment of this
17 Act, the Secretary shall promulgate regulations pursuant
18 to section 101(a) to require the operator of each mine to
19 institute a program to conduct mandatory, random sub-
20 stance abuse testing of mine employees. Such regulations
21 shall be no less restrictive than regulations issued by other
22 Federal and States agencies which impose mandatory sub-
23 stance abuse testing and shall include provisions providing
24 for—

1 “(1) mandatory substance abuse testing proce-
2 dures;

3 “(2) a process for the random selection of those
4 employees to be tested;

5 “(3) the protection of individuals’ rights and
6 privacy;

7 “(4) the establishment of an Employee Assist-
8 ance Program; and

9 “(5) for purposes of subsection (b), a process
10 for mine operators to notify the Administration of
11 the names of individuals who test positive for sub-
12 stance abuse.

13 “(b) Within 180 days following the enactment of this
14 Act, the Secretary shall promulgate regulations creating
15 a registry of those found to have tested positive for sub-
16 stance abuse for the sole purpose of sharing, on a con-
17 fidential basis, with State authorities responsible for
18 issuance of licenses, certification, permits, or other docu-
19 ments required to seek employment in the mining indus-
20 try.”.

21 **SEC. 12. SUBPOENA AUTHORITY.**

22 Section 103(a) is amended—

23 (1) by adding “, ENFORCEMENT OF SUB-
24 POENA” to the subsection heading; and

1 (2) by inserting “(1)” at the beginning of the
2 subsection and inserting at the end:

3 “(2) In making inspections and investigations
4 under this chapter the Secretary may require the at-
5 tendance and testimony of witnesses and the produc-
6 tion of evidence under oath. Witnesses shall be paid
7 the same fees and mileage that are paid witnesses
8 in the courts of the United States. In case of a con-
9 tumacy, failure, or refusal of any person to obey
10 such an order, any district court of the United
11 States or the United States courts of any territory
12 or possession, within the jurisdiction of which such
13 person is found, or resides or transacts business,
14 upon the application by the Secretary, shall have ju-
15 risdiction to issue to such person an order requiring
16 such person to appear to produce evidence if, as, and
17 when so ordered, and to give testimony relating to
18 the matter under investigation or in question, and
19 any failure to obey such order of the court may be
20 punished by said court as a contempt thereof.”.

21 **SEC. 13. AUTHORIZATION OF BELT AIR COURSE VENTILA-**
22 **TION.**

23 Section 303(y) is amended by striking all and replac-
24 ing with the following: “A mine operator may use air from
25 a belt air course to ventilate a working section or an area

1 where mechanized mining equipment is being installed or
2 removed, provided that such use is in compliance with the
3 requirements of section 75.350 of title 30, Code of Federal
4 Regulations, as in effect on the date of enactment of this
5 Act.”.

6 **SEC. 14. SCHOLARSHIPS.**

7 Title V of the Federal Mine Safety and Health Act
8 of 1977 (30 U.S.C. 951 et seq.), as amended by section
9 11, is further amended by adding at the end the following:

10 **“SEC. 515. SCHOLARSHIPS.**

11 “(a) ESTABLISHMENT.—The Secretary of Education
12 (referred to in this section as the ‘Secretary’), in consulta-
13 tion with the Secretary of Labor and the Secretary of
14 Health and Human Services, shall establish a program to
15 provide scholarships to eligible individuals to increase the
16 skilled workforce for both private sector mine operators
17 and mine safety inspectors and other regulatory personnel
18 for the Mine Safety and Health Administration.

19 “(b) FUNDAMENTAL SKILLS SCHOLARSHIPS.—

20 “(1) IN GENERAL.—Under the program under
21 subsection (a), the Secretary may award scholarship
22 to fully or partially pay the tuition costs of eligible
23 individuals enrolled in 2-year associate’s degree pro-
24 grams at community colleges or other colleges and
25 universities that focus on providing the fundamental

1 skills and training that is of immediate use to a be-
2 ginning miner.

3 “(2) SKILLS.—The skills described in para-
4 graph (1) shall include basic math, basic health and
5 safety, business principles, management and super-
6 visory skills, skills related to electric circuitry, skills
7 related to heavy equipment operations, and skills re-
8 lated to communications.

9 “(3) ELIGIBILITY.—To be eligible to receive a
10 scholarship under this subsection an individual
11 shall—

12 “(A) have a high school diploma or a
13 GED;

14 “(B) have at least 2 years experience in
15 full-time employment in mining or mining-re-
16 lated activities;

17 “(C) submit to the Secretary an applica-
18 tion at such time, in such manner, and con-
19 taining such information; and

20 “(D) demonstrate an interest in working in
21 the field of mining and performing an intern-
22 ship with the Mine Safety and Health Adminis-
23 tration or the National Institute for Occupa-
24 tional Safety and Health Office of Mine Safety.

25 “(c) MINE SAFETY INSPECTOR SCHOLARSHIPS.—

1 “(1) IN GENERAL.—Under the program under
2 subsection (a), the Secretary may award scholarship
3 to fully or partially pay the tuition costs of eligible
4 individuals enrolled in undergraduate bachelor’s de-
5 gree programs at accredited colleges or universities
6 that provide the skills needed to become mine safety
7 inspectors.

8 “(2) SKILLS.—The skills described in para-
9 graph (1) include skills developed through programs
10 leading to a degree in mining engineering, civil engi-
11 neering, mechanical engineering, electrical engineer-
12 ing, industrial engineering, environmental engineer-
13 ing, industrial hygiene, occupational health and safe-
14 ty, geology, chemistry, or other fields of study re-
15 lated to mine safety and health work.

16 “(3) ELIGIBILITY.—To be eligible to receive a
17 scholarship under this subsection an individual
18 shall—

19 “(A) have a high school diploma or a
20 GED;

21 “(B) have at least 5 years experience in
22 full-time employment in mining or mining-re-
23 lated activities;

1 “(C) submit to the Secretary an applica-
2 tion at such time, in such manner, and con-
3 taining such information; and

4 “(D) agree to be employed for a period of
5 at least 5 years at the Mine Safety and Health
6 Administration or, to repay, on a pro-rated
7 basis, the funds received under this program,
8 plus interest, at a rate established by the Sec-
9 retary upon the issuance of the scholarship.

10 “(d) ADVANCED RESEARCH SCHOLARSHIPS.—

11 “(1) IN GENERAL.—Under the program under
12 subsection (a), the Secretary may award scholar-
13 ships to fully or partially pay the tuition costs of eli-
14 gible individuals enrolled in undergraduate bach-
15 elor’s degree, masters degree, and Ph.D. degree pro-
16 grams at accredited colleges or universities that pro-
17 vide the skills needed to augment and advance re-
18 search in mine safety and to broaden, improve, and
19 expand the universe of candidates for mine safety in-
20 spector and other regulatory positions in the Mine
21 Safety and Health Administration.

22 “(2) SKILLS.—The skills described in para-
23 graph (1) include skills developed through programs
24 leading to a degree in mining engineering, civil engi-
25 neering, mechanical engineering, electrical engineer-

1 ing, industrial engineering, environmental engineer-
2 ing, industrial hygiene, occupational health and safe-
3 ty, geology, chemistry, or other fields of study re-
4 lated to mine safety and health work.

5 “(3) ELIGIBILITY.—To be eligible to receive a
6 scholarship under this subsection an individual
7 shall—

8 “(A) have a bachelor’s degree or equivalent
9 from an accredited 4-year institution;

10 “(B) have at least 5 years experience in
11 full-time employment in underground mining or
12 mining-related activities; and

13 “(C) submit to the Secretary an applica-
14 tion at such time, in such manner, and con-
15 taining such information.

16 “(e) AUTHORIZATION OF APPROPRIATIONS.—There
17 are authorized to be appropriated such sums as may be
18 necessary to carry out this section.”.

19 **SEC. 15. RESEARCH CONCERNING REFUGE ALTERNATIVES.**

20 (a) IN GENERAL.—The National Institute of Occupa-
21 tional Safety and Health shall provide for the conduct of
22 research, including field tests, concerning the utility, prac-
23 ticality, survivability, and cost of various refuge alter-
24 natives in an underground coal mine environment, includ-
25 ing commercially-available portable refuge chambers.

1 (b) REPORT.—

2 (1) IN GENERAL.—Not later than 18 months
3 after the date of enactment of this Act, the National
4 Institute for Occupational Safety and Health shall
5 prepare and submit to the Secretary of Labor, the
6 Secretary of Health and Human Services, the Com-
7 mittee on Health, Education, Labor, and Pensions
8 of the Senate, and the Committee on Education and
9 the Workforce of the House of Representatives a re-
10 port concerning the results of the research con-
11 ducted under subsection (a), including any field
12 tests.

13 (2) RESPONSE BY SECRETARY.—Not later than
14 180 days after the receipt of the report under para-
15 graph (1), the Secretary of Labor shall provide a re-
16 sponse to the Committee on Health, Education,
17 Labor, and Pensions of the Senate and the Com-
18 mittee on Education and the Workforce of the
19 House of Representatives containing a description of
20 the actions, if any, that the Secretary intends to
21 take based upon the report, including proposing reg-
22 ulatory changes, and the reasons for such actions.

1 **SEC. 16. RISK ANALYSIS AND INCIDENT PLANNING PILOT**
2 **PROGRAM.**

3 No later than 18 months following the enactment of
4 this Act the National Institute of Occupational Safety and
5 Health (NIOSH) shall survey international mining prac-
6 tices with respect to incident planning generally, with a
7 particular focus on the risk assessment-based approach
8 undertaken in Australia, and shall compare the same with
9 current regulatory practices within the United States.
10 Upon completion of such study, NIOSH shall develop and
11 publish in the Federal Register protocols for incident plan-
12 ning. These protocols shall address, but not be limited to,
13 the elements that should be included in the incident plan,
14 approaches to redesigning mine practices to prevent an in-
15 cident, and methods for mine operators should design a
16 response to incidents, and shall be developed specifically
17 for both metal/nonmetal and underground coal operations.
18 Upon publication of these protocols NIOSH may encour-
19 age mine operators to undergo a risk assessment and re-
20 view using the outlined protocols through its ongoing part-
21 nerships.

22 **SEC. 17. BROOKWOOD-SAGO MINE SAFETY GRANTS.**

23 (a) IN GENERAL.—The Secretary of Labor shall es-
24 tablish a program to award competitive grants for edu-
25 cation and training, to be known as Brookwood-Sago Mine
26 Safety Grants, to carry out the purposes of this section.

1 (b) PURPOSES.—It is the purpose of this section, to
2 provide for the funding of education and training pro-
3 grams to better identify, avoid, and prevent unsafe work-
4 ing conditions in and around mines.

5 (c) ELIGIBILITY.—To be eligible to receive a grant
6 under this section, an entity shall—

7 (1) be a public or private nonprofit entity; and

8 (2) submit to the Secretary of Labor an appli-
9 cation at such time, in such manner, and containing
10 such information as the Secretary may require.

11 (d) USE OF FUNDS.—Amounts received under a
12 grant under this section shall be used to establish and im-
13 plement education and training programs, or to develop
14 training materials for employers and miners, concerning
15 safety and health topics in mines, as determined appro-
16 priate by the Mine Safety and Health Administration.

17 (e) AWARDING OF GRANTS.—

18 (1) ANNUAL BASIS.—Grants under this section
19 shall be awarded on an annual basis.

20 (2) SPECIAL EMPHASIS.—In awarding grants
21 under this section, the Secretary of Labor shall give
22 special emphasis to programs and materials that tar-
23 get workers in smaller mines, including training
24 miners and employers about new Mine Safety and

1 Health Administration standards, high risk activi-
2 ties, or hazards identified by such Administration.

3 (3) PRIORITY.—In awarding grants under this
4 section, the Secretary of Labor shall give priority to
5 the funding of pilot and demonstration projects that
6 the Secretary determines will provide opportunities
7 for broad applicability for mine safety.

8 (f) EVALUATION.—The Secretary of Labor shall use
9 not less than 1 percent of the funds made available to
10 carry out this section in a fiscal year to conduct evalua-
11 tions of the projects funded under grants under this sec-
12 tion.

13 (g) AUTHORIZATION OF APPROPRIATIONS.—There
14 are authorized to be appropriated for each fiscal year,
15 such sums as may be necessary to carry out this section.

16 **SEC. 18. SENSE OF CONGRESS REGARDING NIOSH OVER-**
17 **HEAD BUDGETING.**

18 It is the sense of Congress that none of the funds
19 authorized under this Act shall be used to fund overhead
20 costs of the National Institute for Occupational Safety and
21 Health, and that such overhead costs should not exceed
22 \$10,000,000 annually in any event.

○