

Section 106. Board of Coal Mine Safety.

(a) Establishment.--The Board of Coal Mine Safety is established and shall develop all of the following:

(1) Proposed amendments to the interim mandatory safety standards.

(2) Additional regulations with respect to mine safety if the board determines that existing federal and state regulations do not adequately address a specific hazard.

(3) Other regulations as specifically authorized under this act.

(b) Composition.--The board shall consist of the secretary, who shall be the chairperson, and the following members appointed by the Governor:

(1) Three members who represent the viewpoint of the coal mine operators in this Commonwealth.

(2) Three members who represent the viewpoint of the working miners in this Commonwealth.

(c) Terms.--All appointments shall be subject to the following:

(1) The initial appointments after the effective date of this section shall have staggered terms so that, for each group of appointments under subsection (b), one member shall serve a term of one year, one member shall serve a term of two years and one member shall serve a term of three years. All subsequent appointments shall be for terms of three years.

(2) Members shall be eligible for reappointment.

(d) Representation.--For the initial appointments after the effective date of this section, the following shall apply:

(1) The members appointed under subsection (b)(1) shall be selected from a list containing six nominees submitted by the major trade association representing coal mine operators in this Commonwealth.

(2) The members appointed under subsection (b)(2) shall be selected from a list containing six nominees submitted by the highest-ranking official within the major labor organization representing coal miners in this Commonwealth.

(e) Vacancies.--The following shall apply to vacancies on the board:

(1) The members appointed under subsection (b)(1) shall be selected from a list containing three nominees submitted by the major trade association representing coal mine operators in this Commonwealth.

(2) The members appointed under subsection (b)(2) shall be selected from a list containing three nominees submitted by the highest-ranking official within the major labor organization representing coal miners in this Commonwealth.

(f) Employment.--Members of the board may continue in employment in the coal industry while serving on the board.

(g) Service.--Members shall serve at the pleasure of the Governor.

(h) Compensation.--Members of the board shall be compensated at the appropriate per diem rate based on the prevailing formula administered by the Commonwealth, but not less than \$150 per day, plus reasonable expenses incurred while performing their official duties. The compensation shall be adjusted annually by the department to account for inflation based on the Consumer Price Index published by the United States Department of Labor. An individual board member may waive his or her right to all or part of the compensation.

(i) Meetings.--The board shall meet within 180 days of the effective date of this section for, at a minimum, organizational purposes. Members of the board shall meet at least twice during each calendar year or more often as may be necessary.

(j) Access.--In performing its functions, the board shall have access to the services of the department. The department shall make clerical support and assistance available to enable the board to carry out its duties.

(k) Funding.--Funding for the operation of the board and implementation of the provisions of this chapter shall be derived from the general government appropriation of the department.

(l) Nominations.--If a vacancy on the board occurs, nominations and appointments shall be made in the following manner:

(1) In the case of an appointment to fill a vacancy, a list of nominees under subsection (e) shall be requested by and submitted to the Governor within 30 days after the vacancy occurs by the major trade association or major labor organization which nominated the individual whose seat on the board is vacant.

(2) The vacancy shall be filled by the Governor within 30 days of the receipt of the list of nominees.

(m) Quorum.--A quorum of the board shall consist of five members. Actions of the board must be approved by an affirmative vote of at least five members.

Section 106.1. Rulemaking.

(a) Authority.--The board shall have the authority to promulgate regulations that are necessary or appropriate to implement the requirements of this act and to protect the health, safety and welfare of miners and other individuals in and about mines.

(b) Consideration.--The board shall consider promulgating as regulations any Federal mine safety standards that are either:

(1) Existing as of the effective date of this section and that are not included in interim mandatory safety standards.

(2) New standards, except for standards concerning diesel equipment, promulgated after the effective date of this section.

(c) Regulations.--Within 250 days of the effective date of this section, the board shall begin to consider the standards under subsection (b)(1) for promulgation as regulations. If final regulations are not promulgated by the board within three years of the effective date of this section, the department may promulgate final regulations consistent with Federal standards.

(d) New standards.--Within 70 days of the effective date of new mine safety standards under subsection (b)(2), the board shall begin to consider standards for promulgation as regulations. If the regulations are not promulgated as final by the board within three years of the effective date of the promulgation of the new standards, the department may promulgate final regulations consistent with Federal standards.

(e) Justification for regulations.--Regulations shall be based upon consideration of the latest scientific data in the field, the technical feasibility of standards, experience gained under this and other safety statutes, information submitted to the board in writing by any interested person or the recommendation of any member of the board, if the board determines that a regulation should be developed in order to serve the objectives of this act.

(f) Topic.--Without limiting the scope of the board's authority under this section, regulations may address any of the following:

(1) Revisions to an interim mandatory safety standard to address a new technology or method of mining.

(2) Hazards not addressed by existing safety standards.

(3) The identification of positions not listed under this act requiring a certificate of qualification.

(4) The establishment of fees for services in amounts sufficient to cover the department's costs of administering this act. The fees established by the board may be increased each year after

implementation by the percentage, if any, by which the Consumer Price Index for the most recent calendar year exceeds the Consumer Price Index for the calendar year 1989. For the purposes of this paragraph, the Consumer Price Index for any calendar year shall mean the average of the Consumer Price Index for All Urban Consumers, published by the United States Department of Labor, as of the close of the 12-month period ending on August 31 of each calendar year.

(g) Safety.--No regulation promulgated by the board shall reduce or compromise the level of safety or protection afforded mine workers under this act. The department may disapprove a final regulation approved by the board which the department determines would reduce or compromise the level of safety or protection afforded mine workers under this act if the department describes the basis for the disapproval.

(h) Miner Act.--With regard to the adoption of Federal standards established pursuant to the Mine Improvement and New Emergency Response Act of 2006 (Public Law 109-236, 120 Stat. 493), the following shall apply:

(1) The board is specifically authorized to promulgate regulations that the board deems appropriate, including accelerated compliance schedules and additional requirements.

(2) The board shall consider promulgating regulations regarding flammability standards for conveyor belts.

(3) If MSHA fails to promulgate regulations regarding emergency shelters and chambers, the board shall promulgate regulations.

(4) Regulations shall be no less stringent than the Federal mine safety standards

(i) Action.--The board shall take action on the tests and evaluations performed by the mining industry under section 334(b) and (c).

(j) Fees.--The department may set reasonable interim fees pending adoption of fee regulations under this section.

Section 106.2. Emergency shelters and chambers.

The board's emergency shelter or chamber regulations shall consider all of the following:

(1) Provide a minimum of 48 hours of life support, including air, water, emergency medical supplies and food, for the maximum number of miners reasonably expected to be on the working section.

(2) Be capable of surviving an initial event with a peak over pressure of 15 pounds per square inch for three seconds and a flash fire, as defined by National Fire Protection Association standard NFPA-2113, of 300 degrees Fahrenheit for three seconds.

(3) Be constructed in a manner that the emergency shelter or chamber will be protected under normal handling and pre-event mine conditions.

(4) Provide for rapidly establishing and maintaining an internal shelter atmosphere of oxygen above 19.5%, carbon dioxide below 0.5%.

(5) Provide for carbon monoxide below 50 parts per million and an apparent-temperature of 95 degrees Fahrenheit.

(6) Provide the ability to monitor carbon monoxide and oxygen inside and outside the shelter or chamber.

(7) Provide a means for entry and exit that maintains the integrity of the internal atmosphere.

(8) Provide a means for MSHA-certified intrinsically safe power if power is required.

(9) Provide a minimum of eight quarts of water per miner.

(10) Provide a minimum of 4,000 calories of food per miner.

(11) Provide a means for disposal of human waste to the outside of the shelter or chamber.

(12) Provide a first aid kit.

(13) Have provisions for inspection of the shelter or chamber and its contents.

(14) Contain manufacturer-recommended repair materials.

(15) Provide a battery-powered, occupant-activated strobe light, of a model approved by the board, that is visible from the outside indicating occupancy.

(16) Provide provisions for communication to the surface.

(17) Provide proof of current approval for all items and materials subject to approval.

Section 106.3. Notice to operators and miners.

The department shall send a copy in writing or electronically of every proposed regulation and final regulation, at the time of publication in the Pennsylvania Bulletin, to the operator of each mine and, where applicable, the representative of the miners at the mine, and the copy shall be immediately posted on the bulletin board of the mine by the operator or the operator's agent. Failure to receive the notice shall not invalidate the final regulation or relieve anyone of the obligation to comply with final regulation.

Section 106.4. Standards for surface facilities.

The department shall use the applicable standards contained in 30 CFR Part 77 (relating to mandatory safety standards, surface coal mines and surface work areas of underground coal mines) regarding the sinking of shafts and slopes and surface facilities that are part of mines, pending promulgation of regulations by the board regarding those activities and facilities.

Section 106.5. Track distance.

(a) Determination by board.--within 14 days of the initial meeting of the board, the board shall make a determination whether to promulgate regulations providing for exceptions to section 258(a.2). If the board decides to promulgate regulations providing for any of the exceptions described in subsection (b), Any exceptions as approved by the board for proposed rulemaking shall become and remain in effect until the completion of the rulemaking process. Any exceptions approved by the board shall require the operator to make readily available a self-propelled transport vehicle with rubber tires in the working section for transportation of sick or injured miners.

(b) Exceptions.--the following exceptions to section 258(a.2) shall be considered by the board pursuant to subsection (a):

- (1) Bleeder entry development.
- (2) Development of longwall setup entries.
- (3) Development of longwall recovery entries.
- (4) Startup of a working section off mains or submains entries.