

307 of Pub. L. 95-164, set out as a note under section 801 of this title.

### § 820. Penalties

#### (a) Civil penalty for violation of mandatory health or safety standards

(1) The operator of a coal or other mine in which a violation occurs of a mandatory health or safety standard or who violates any other provision of this chapter, shall be assessed a civil penalty by the Secretary which penalty shall not be more than \$50,000 for each such violation. Each occurrence of a violation of a mandatory health or safety standard may constitute a separate offense.

(2) The operator of a coal or other mine who fails to provide timely notification to the Secretary as required under section 813(j) of this title (relating to the 15 minute requirement) shall be assessed a civil penalty by the Secretary of not less than \$5,000 and not more than \$60,000.

(3)(A) The minimum penalty for any citation or order issued under section 814(d)(1) of this title shall be \$2,000.

(B) The minimum penalty for any order issued under section 814(d)(2) of this title shall be \$4,000.

(4) Nothing in this subsection shall be construed to prevent an operator from obtaining a review, in accordance with section 816 of this title, of an order imposing a penalty described in this subsection. If a court, in making such review, sustains the order, the court shall apply at least the minimum penalties required under this subsection.

#### (b) Civil penalty for failure to correct violation for which citation has been issued

(1) Any operator who fails to correct a violation for which a citation has been issued under section 814(a) of this title within the period permitted for its correction may be assessed a civil penalty of not more than \$5,000<sup>1</sup> for each day during which such failure or violation continues.

(2) Violations under this section that are deemed to be flagrant may be assessed a civil penalty of not more than \$220,000. For purposes of the preceding sentence, the term "flagrant" with respect to a violation means a reckless or repeated failure to make reasonable efforts to eliminate a known violation of a mandatory health or safety standard that substantially and proximately caused, or reasonably could have been expected to cause, death or serious bodily injury.

#### (c) Liability of corporate directors, officers, and agents

Whenever a corporate operator violates a mandatory health or safety standard or knowingly violates or fails or refuses to comply with any order issued under this chapter or any order incorporated in a final decision issued under this chapter, except an order incorporated in a decision issued under subsection (a) of this section or section 815(c) of this title, any director, officer, or agent of such corporation who knowingly

authorized, ordered, or carried out such violation, failure, or refusal shall be subject to the same civil penalties, fines, and imprisonment that may be imposed upon a person under subsections (a) and (d) of this section.

#### (d) Criminal penalties

Any operator who willfully violates a mandatory health or safety standard, or knowingly violates or fails or refuses to comply with any order issued under section 814 of this title and section 817 of this title, or any order incorporated in a final decision issued under this subchapter, except an order incorporated in a decision under subsection (a)(1) or section 815(c) of this title, shall, upon conviction, be punished by a fine of not more than \$250,000, or by imprisonment for not more than one year, or by both, except that if the conviction is for a violation committed after the first conviction of such operator under this chapter, punishment shall be by a fine of not more than \$500,000, or by imprisonment for not more than five years, or both.

#### (e) Unauthorized advance notice of inspections

Unless otherwise authorized by this chapter, any person who gives advance notice of any inspection to be conducted under this chapter shall, upon conviction, be punished by a fine of not more than \$1,000 or by imprisonment for not more than six months, or both.

#### (f) False statements, representations, or certifications

Whoever knowingly makes any false statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained pursuant to this chapter shall, upon conviction, be punished by a fine of not more than \$10,000, or by imprisonment for not more than five years, or both.

#### (g) Violation by miners of safety standards relating to smoking

Any miner who willfully violates the mandatory safety standards relating to smoking or the carrying of smoking materials, matches, or lighters shall be subject to a civil penalty assessed by the Commission, which penalty shall not be more than \$250 for each occurrence of such violation.

#### (h) Equipment falsely represented as complying with statute, specification, or regulations

Whoever knowingly distributes, sells, offers for sale, introduces, or delivers in commerce any equipment for use in a coal or other mine, including, but not limited to, components and accessories of such equipment, which is represented as complying with the provisions of this chapter, or with any specification or regulation of the Secretary applicable to such equipment, and which does not so comply, shall, upon conviction, be subject to the same fine and imprisonment that may be imposed upon a person under subsection (f) of this section.

#### (i) Authority to assess civil penalties

The Commission shall have authority to assess all civil penalties provided in this chapter. In assessing civil monetary penalties, the Commission shall consider the operator's history of

<sup>1</sup> So in original.

previous violations, the appropriateness of such penalty to the size of the business of the operator charged, whether the operator was negligent, the effect on the operator's ability to continue in business, the gravity of the violation, and the demonstrated good faith of the person charged in attempting to achieve rapid compliance after notification of a violation. In proposing civil penalties under this chapter, the Secretary may rely upon a summary review of the information available to him and shall not be required to make findings of fact concerning the above factors.

**(j) Payment of penalties; interest**

Civil penalties owed under this chapter shall be paid to the Secretary for deposit into the Treasury of the United States and shall accrue to the United States and may be recovered in a civil action in the name of the United States brought in the United States district court for the district where the violation occurred or where the operator has its principal office. Interest at the rate of 8 percent per annum shall be charged against a person on any final order of the Commission, or the court. Interest shall begin to accrue 30 days after the issuance of such order.

**(k) Compromise, mitigation, and settlement of penalty**

No proposed penalty which has been contested before the Commission under section 815(a) of this title shall be compromised, mitigated, or settled except with the approval of the Commission. No penalty assessment which has become a final order of the Commission shall be compromised, mitigated, or settled except with the approval of the court.

**(l) Inapplicability to black lung benefit provisions**

The provisions of this section shall not be applicable with respect to subchapter IV of this chapter.

(Pub. L. 91-173, title I, § 110, Dec. 30, 1969, 83 Stat. 758; Pub. L. 95-164, title II, § 201, Nov. 9, 1977, 91 Stat. 1311; Pub. L. 101-508, title III, § 3102, Nov. 5, 1990, 104 Stat. 1388-29; Pub. L. 109-236, § 5(b), § 8(a), June 15, 2006, 120 Stat. 498, 500; Pub. L. 109-280, title XIII, § 1301, Aug. 17, 2006, 120 Stat. 1108.)

AMENDMENTS

2006—Subsec. (a). Pub. L. 109-280, § 1301(2), substituted “(1) The operator” for “(1)(1) The operator” in par. (1), substituted “subsection (a)(1)” for “paragraph (1)” in par. (2), relating to criminal penalties, and redesignated that par. as subsec. (d).

Pub. L. 109-236, § 8(a)(1), inserted “(1)” after subsec. heading, added par. (2), relating to criminal penalties, and added pars. (3) and (4).

Pub. L. 109-236, § 5(b), designated existing provisions as par. (1) and added par. (2), relating to civil penalties.

Subsec. (b). Pub. L. 109-280, § 1301(3), inserted par. (1) and (2) designations.

Pub. L. 109-236, § 8(a)(2), inserted at end “Violations under this section that are deemed to be flagrant may be assessed a civil penalty of not more than \$220,000. For purposes of the preceding sentence, the term ‘flagrant’ with respect to a violation means a reckless or repeated failure to make reasonable efforts to eliminate a known violation of a mandatory health or safety standard that substantially and proximately caused, or

reasonably could have been expected to cause, death or serious bodily injury.”

Subsec. (d). Pub. L. 109-280, § 1301(2)(B)(ii), redesignated subsec. (a)(2), relating to criminal penalties, as (d).

Pub. L. 109-280, § 1301(1), struck out subsec. (d) which read as follows: “Any operator who willfully violates a mandatory health or safety standard, or knowingly violates or fails or refuses to comply with any order issued under section 814 of this title and section 817 of this title, or any order incorporated in a final decision issued under this subchapter, except an order incorporated in a decision under subsection (a) of this section or section 815(c) of this title, shall, upon conviction, be punished by a fine of not more than \$25,000, or by imprisonment for not more than one year, or by both, except that if the conviction is for a violation committed after the first conviction of such operator under this chapter, punishment shall be by a fine of not more than \$50,000, or by imprisonment for not more than five years, or both.”

1990—Subsec. (a). Pub. L. 101-508, § 3102(1), substituted “\$50,000” for “\$10,000”.

Subsec. (b). Pub. L. 101-508, § 3102(2), substituted “\$5,000” for “1,000”.

1977—Pub. L. 95-164 substituted provisions setting the civil and criminal penalties with regard to violations of this chapter for provisions relating to claims of idled miners, which provisions, as revised, were transferred to section 821 of this title.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-164 effective 120 days after Nov. 9, 1977, except as otherwise provided, see section 307 of Pub. L. 95-164, set out as a note under section 801 of this title.

REGULATIONS

Pub. L. 109-236, § 8(b), June 15, 2006, 120 Stat. 501, provided that: “Not later than December 30, 2006, the Secretary of Labor shall promulgate final regulations with respect to penalties.”

**§ 821. Entitlement of miners to full compensation**

If a coal or other mine or area of such mine is closed by an order issued under section 813 of this title, section 814 of this title, or section 817 of this title, all miners working during the shift when such order was issued who are idled by such order shall be entitled, regardless of the result of any review of such order, to full compensation by the operator at their regular rates of pay for the period they are idled, but for not more than the balance of such shift. If such order is not terminated prior to the next working shift, all miners on that shift who are idled by such order shall be entitled to full compensation by the operator at their regular rates of pay for the period they are idled, but for not more than four hours of such shift. If a coal or other mine or area of such mine is closed by an order issued under section 814 of this title or section 817 of this title for a failure of the operator to comply with any mandatory health or safety standards, all miners who are idled due to such order shall be fully compensated after all interested parties are given an opportunity for a public hearing, which shall be expedited in such cases, and after such order is final, by the operator for lost time at their regular rates of pay for such time as the miners are idled by such closing, or for one week, whichever is the lesser. Whenever an operator violates or fails or refuses to comply with any order issued under section 813 of this title, section 814 of this title, or sec-