chambers shall be properly equipped with first aid materials, an adequate supply of air and self-contained breathing equipment, an independent communication system to the surface, and proper accommodations for the persons while awaiting rescue, and such other equipment as the Secretary may require. A plan for the erection, maintenance, and revisions of such chambers and the training of the miners in their proper use shall be submitted by the operator to the Secretary for his approval.

(Pub. L. 91–173, title III, § 315, Dec. 30, 1969, 83 Stat. 787.)

REGULATIONS

Pub. L. 110–161, div. G, title I, § 112(b), Dec. 26, 2007, 121 Stat. 2168, provided that: ''Not later than June 15, 2008, the Secretary of Labor shall propose regulations pursuant to section 315 of the Federal Coal Mine Health and Safety Act of 1969 [30 U.S.C. 875], consistent with the recommendations of the National Institute for Occupational Safety and Health pursuant to section 13 of the MINER Act (Public Law 109–236) [120 Stat. 504], requiring rescue chambers, or facilities that afford at least the same measure of protection, in underground coal mines. The Secretary shall finalize the regulations not later than December 31, 2008.''

§ 876. Communication facilities; locations and emergency response plans

(a) In general

Telephone service or equivalent two-way communication facilities, approved by the Secretary or his authorized representative, shall be provided between the surface and each landing of main shafts and slopes and between the surface and each working section of any coal mine that is more than one hundred feet from a portal.

(b) Accident preparedness and response

(1) In general

Each underground coal mine operator shall carry out on a continuing basis a program to improve accident preparedness and response at each mine.

(2) Response and preparedness plan

(A) In general

Not later than 60 days after June 15, 2006, each underground coal mine operator shall develop and adopt a written accident response plan that complies with this subsection with respect to each mine of the operator, and periodically update such plans to reflect changes in operations in the mine, advances in technology, or other relevant considerations. Each such operator shall make the accident response plan available to the miners and the miners' representatives.

(B) Plan requirements

An accident response plan under subparagraph (A) shall—

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

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

(C) Plan approval

The accident response plan under subparagraph (A) shall be subject to review and approval by the Secretary. In determining whether to approve a particular plan the Secretary shall take into consideration all comments submitted by miners or their representatives. Approved plans shall—

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

(ii) reflect the most recent credible scientific research;

(iii) be technologically feasible, make use of current commercially available technology, and account for the specific physical characteristics of the mine; and

(iv) reflect the improvements in mine safety gained from experience under this chapter and other worker safety and health laws.

(D) Plan review

The accident response plan under subparagraph (A) shall be reviewed periodically, but at least every 6 months, by the Secretary. In such periodic reviews, the Secretary shall consider all comments submitted by miners or miners' representatives and intervening advancements in science and technology that could be implemented to enhance miners' ability to evacuate or otherwise survive in an emergency.

(E) Plan content-general requirements

To be approved under subparagraph (C), an accident response plan shall include the following:

(i) Post-accident communications

The plan shall provide for a redundant means of communication with the surface for persons underground, such as secondary telephone or equivalent two-way communication.

(ii) Post-accident tracking

Consistent with commercially available technology and with the physical constraints, if any, of the mine, the plan shall provide for above ground personnel to determine the current, or immediately pre-accident, location of all underground personnel. Any system so utilized shall be functional, reliable, and calculated to remain serviceable in a post-accident setting.

(iii) Post-accident breathable air

The plan shall provide for—

(I) emergency supplies of breathable air for individuals trapped underground sufficient to maintain such individuals for a sustained period of time;

(II) in addition to the 2 hours of breathable air per miner required by law under the emergency temporary standard as of the day before June 15, 2006, caches of self-rescuers providing in the aggregate not less than 2 hours per miner to be kept in escapeways from the deepest work area to the surface at a distance of no further than an average miner could walk in 30 minutes;

(III) a maintenance schedule for checking the reliability of self rescuers, retir-

ing older self-rescuers first, and introducing new self-rescuer technology, such as units with interchangeable air or oxygen cylinders not requiring doffing to replenish airflow and units with supplies of greater than 60 minutes, as they are approved by the Administration and become available on the market; and

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

(iv) Post-accident lifelines

The plan shall provide for the use of flame-resistant directional lifelines or equivalent systems in escapeways to enable evacuation. The flame-resistance requirement of this clause shall apply upon the replacement of existing lifelines, or, in the case of lifelines in working sections, upon the earlier of the replacement of such lifelines or 3 years after June 15, 2006.

(v) Training

The plan shall provide a training program for emergency procedures described in the plan which will not diminish the requirements for mandatory health and safety training currently required under section 825 of this title.

(vi) Local coordination

The plan shall set out procedures for coordination and communication between the operator, mine rescue teams, and local emergency response personnel and make provisions for familiarizing local rescue personnel with surface functions that may be required in the course of mine rescue work.

(F) Plan content-specific requirements

(i) In general

In addition to the content requirements contained in subparagraph (E), and subject to the considerations contained in subparagraph (C), the Secretary may make additional plan requirements with respect to any of the content matters.

(ii) Post accident communications

Not later than 3 years after June 15, 2006, a plan shall, to be approved, provide for post accident communication between underground and surface personnel via a wireless two-way medium, and provide for an electronic tracking system permitting surface personnel to determine the location of any persons trapped underground or set forth within the plan the reasons such provisions can not be adopted. Where such plan sets forth the reasons such provisions can not be adopted, the plan shall also set forth the operator's alternative means of compliance. Such alternative shall approximate, as closely as possible, the degree of functional utility and safety protection provided by the wireless two-way medium and tracking system referred to in this subpart.[1]

[1] So in original. Probably should be ''subparagraph''.

(G) Plan dispute resolution

(i) In general

Any dispute between the Secretary and an operator with respect to the content of the operator's plan or any refusal by the Secretary to approve such a plan shall be resolved on an expedited basis.

(ii) Disputes

In the event of a dispute or refusal described in clause (i), the Secretary shall issue a citation which shall be immediately referred to a Commission Administrative Law Judge. The Secretary and the operator shall submit all relevant material regarding the dispute to the Administrative Law Judge within 15 days of the date of the referral. The Administrative Law Judge shall render his or her decision with respect to the plan content dispute within 15 days of the receipt of the submission.

(iii) Further appeals

A party adversely affected by a decision under clause (ii) may pursue all further available appeal rights with respect to the citation involved, except that inclusion of the disputed provision in the plan will not be limited by such appeal unless such relief is requested by the operator and permitted by the Administrative Law Judge.

(H) Maintaining protections for miners

Notwithstanding any other provision of this chapter, nothing in this section, and no response and preparedness plan developed under this section, shall be approved if it reduces the protection afforded miners by an existing mandatory health or safety standard.

(Pub. L. 91–173, title III, § 316, Dec. 30, 1969, 83 Stat. 787; Pub. L. 109–236, § 2, June 15, 2006, 120 Stat. 493.)

AMENDMENTS

2006—Pub. L. 109–236 inserted ''and emergency response plans'' after ''locations'' in section catchline, designated existing provisions as subsec. (a) and inserted heading, and added subsec. (b).

§ 877. General safety provisions

(a) Location of oil and gas wells; establishment and maintenance of barriers; minimum requisites; exceptions

Each operator of a coal mine shall take reasonable measures to locate oil and gas wells penetrating coalbeds or any underground area of a coal mine. When located, such operator shall establish and maintain barriers around such oil and gas wells in accordance with State laws and regulations, except that such barriers shall not be less than three hundred feet in diameter, unless the Secretary or his authorized representative permits a lesser barrier consistent with the applicable State laws and regulations where such lesser barrier will be adequate to protect against hazards from such wells to the miners in such mine, or unless the Secretary or his authorized representative requires a greater barrier where the depth of the mine, other geologic conditions, or other factors warrant such a greater barrier.