

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section 814 of this title, or section 817 of this title, all miners employed at the affected mine who would have been withdrawn from, or prevented from entering, such mine or area thereof as a result of such order shall be entitled to full compensation by the operator at their regular rates of pay, in addition to pay received for work performed after such order was issued, for the period beginning when such order was issued and ending when such order is complied with, vacated, or terminated. The Commission shall have authority to order compensation due under this section upon the filing of a complaint by a miner or his representative and after opportunity for hearing subject to section 554 of title 5.

(Pub. L. 91-173, title I, § 111, Dec. 30, 1969, 83 Stat. 759; Pub. L. 95-164, title II, § 201, Nov. 9, 1977, 91 Stat. 1312.)

#### AMENDMENTS

1977—Pub. L. 95-164 substituted provisions relating to the entitlement of miners to their full compensation when they are idled as the result of the operation of this chapter for provisions relating to the maintenance of records, which provisions, as revised, were transferred to section 813 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.

### § 822. Representation of Secretary in civil litigation by Solicitor of Labor

Except as provided in section 518(a) of title 28, relating to litigation before the Supreme Court, the Solicitor of Labor may appear for and represent the Secretary in any civil litigation brought under this chapter but all such litigation shall be subject to the direction and control of the Attorney General.

(Pub. L. 91-173, title I, § 112, as added Pub. L. 95-164, title II, § 201, Nov. 9, 1977, 91 Stat. 1313.)

#### REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning Pub. L. 91-173, Dec. 30, 1969, 83

Stat. 742, known as the Federal Mine Safety and Health Act of 1977, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 801 of this title and Tables.

#### PRIOR PROVISIONS

Provisions similar to this section were contained in section 816(f) of this title prior to the amendment of this subchapter by Pub. L. 95-164.

#### EFFECTIVE DATE

Section effective 120 days after Nov. 9, 1977, see section 307 of Pub. L. 95-164, set out as an Effective Date of 1977 Amendment note under section 801 of this title.

### § 823. Federal Mine Safety and Health Review Commission

#### (a) Establishment; membership; chairman

The Federal Mine Safety and Health Review Commission is hereby established. The Commission shall consist of five members, appointed by the President by and with the advice and consent of the Senate, from among persons who by reason of training, education, or experience are qualified to carry out the functions of the Commission under this chapter. The President shall designate one of the members of the Commission to serve as Chairman.

#### (b) Terms; personnel; administrative law judges

(1) The terms of the members of the Commission shall be six years, except that—

(A) members of the Commission first taking office after November 9, 1977, shall serve, as designated by the President at the time of appointment, one for a term of two years, two for a term of four years and two for a term of six years; and

(B) a vacancy caused by the death, resignation, or removal of any member prior to the expiration of the term for which he was appointed shall be filled only for the remainder of such unexpired term.

Any member of the Commission may be removed by the President for inefficiency, neglect of duty, or malfeasance in office.

(2) The Chairman shall be responsible on behalf of the Commission for the administrative operations of the Commission. The Commission shall appoint such employees as it deems necessary to assist in the performance of the Commission's functions and to fix their compensation in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of title 5, relating to classification and general pay rates. Upon the effective date of the Federal Mine Safety and Health Amendments Act of 1977, the administrative law judges assigned to the Arlington, Virginia, facility of the Office of Hearings and Appeals, United States Department of the Interior, shall be automatically transferred in grade and position to the Federal Mine Safety and Health Review Commission. Notwithstanding the provisions of section 559 of title 5, the incumbent Chief Administrative Law Judge of the Office of Hearings and Appeals of the Department of the Interior assigned to the Arlington, Virginia facility shall have the option, on the effective date of the Federal Mine Safety and Health Amendments Act of 1977, of transferring