

Attachment A; A1; & A1.a - Authorizing Legislation

A. Federal Mine Safety & Health Act of 1977

A1. Subpart Autopsies 42 CFR, Part 37

A1.a Public Health Service – National Coal Worker’s Autopsy Survey

**Federal Mine Safety & Health Act of 1977,
Public Law 91-173,
as amended by Public Law 95-164***

An Act

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled. That this Act may be cited as the "Federal Mine Safety and Health Act of 1977".

FINDINGS AND PURPOSE

SEC. 2. Congress declares that—

(a) the first priority and concern of all in the coal or other mining industry must be the health and safety of its most precious resource—the miner;

(b) deaths and serious injuries from unsafe and unhealthful conditions and practices in the coal or other mines cause grief and suffering to the miners and to their families;

(c) there is an urgent need to provide more effective means and measures for improving the working conditions and practices in the Nation's coal or other mines in order to prevent death and serious physical harm, and in order to prevent occupational diseases originating in such mines;

(d) the existence of unsafe and unhealthful conditions and practices in the Nation's coal or other mines is a serious impediment to the future growth of the coal or other mining industry and cannot be tolerated;

(e) the operators of such mines with the assistance of the miners have the primary responsibility to prevent the existence of such conditions and practices in such mines;

(f) the disruption of production and the loss of income to operators and miners as a result of coal or other mine accidents or occupationally caused diseases unduly impedes and burdens commerce; and

(g) it is the purpose of this Act (1) to establish interim mandatory health and safety standards and to direct the Secretary of Health, Education, and Welfare and the Secretary of Labor to develop and promulgate improved mandatory health or safety standards to protect the health and safety of the Nation's coal or other miners; (2) to require that each operator of a coal or other mine and every miner in such mine comply with such standards; (3) to cooperate with, and provide assistance to, the States in the development and enforcement of effective State coal

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completed miner identification document, shall be submitted together for each miner to ALOSH within 14 calendar days after the roentgenographic examination is given and become the property of ALOSH.

(b) If ALOSH deems any part submitted under paragraph (a) of this section inadequate, it will notify the operator of the deficiency. The operator shall promptly make appropriate arrangements for the necessary reexamination.

(c) Failure to comply with paragraph (a) or (b) of this section shall be cause to revoke approval of a plan or any other approval as may be appropriate. An approval which has been revoked may be reinstated at the discretion of ALOSH after it receives satisfactory assurances and evidence that all deficiencies have been corrected and that effective controls have been instituted to prevent a recurrence.

(d) Chest roentgenograms and other required documents shall be submitted only for miners. Results of preemployment physical examinations of persons who are not hired shall not be submitted.

(e) If a miner refuses to participate in all phases of the examination prescribed in this subpart, no report need be made. If a miner refuses to participate in any phase of the examination prescribed in this subpart, all the forms shall be submitted with his or her name and social security account number on each. If any of the forms cannot be completed because of the miner's refusal, it shall be marked "Miner Refuses," and shall be submitted. No submission shall be made, however, without a completed miner identification document containing the miner's name, address, social security number and place of employment.

REVIEW AND AVAILABILITY OF RECORDS

§ 37.70 Review of interpretations.

(a) Any miner who believes the interpretation for pneumoconiosis reported to him or her by MSHA is in error may file a written request with ALOSH that his or her roentgenogram be reevaluated. If the interpretation was based on agreement between an "A" reader and a "B" reader, ALOSH

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will obtain one or more additional interpretations by "B" readers as necessary to obtain agreement in accord with § 37.52(b), and MSHA shall report the results to the miner together with any rights which may accrue to the miner in accordance with § 37.7. If the reported interpretation was based on agreement between two (or more) "B" readers, the reading will be accepted as conclusive and the miner shall be so informed by MSHA.

(b) Any operator who is directed by MSHA to transfer a miner to a less dusty atmosphere based on the most recent examination made subsequent to August 1, 1978, may file a written request with ALOSH to review its findings. The standards set forth in paragraph (a) of this section apply and the operator and miner will be notified by MSHA whether the miner is entitled to the option to transfer.

§ 37.80 Availability of records.

(a) Medical information and roentgenograms on miners will be released by ALOSH only with the written consent from the miner, or if the miner is deceased, written consent from the miner's widow, next of kin, or legal representative.

(b) To the extent authorized, roentgenograms will be made available for examination only at ALOSH.

Subpart—Autopsies

AUTHORITY: Sec. 508, 83 Stat. 803; 30 U.S.C. 957.

SOURCE: 36 FR 8870, May 14, 1971, unless otherwise noted.

§ 37.200 Scope.

The provisions of this subpart set forth the conditions under which the Secretary will pay pathologists to obtain results of autopsies performed by them on miners.

§ 37.201 Definitions.

As used in this subpart:

- (a) "Secretary" means the Secretary of Health and Human Services.
- (b) "Miner" means any individual who during his life was employed in any underground coal mine.
- (c) "Pathologist" means

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(1) A physician certified in anatomic pathology or pathology by the American Board of Pathology or the American Osteopathic Board of Pathology,

(2) A physician who possesses qualifications which are considered "Board of eligible" by the American Board of Pathology or American Osteopathic Board of Pathology, or

(3) An intern, resident, or other physician in a training program in pathology who performs the autopsy under the supervision of a pathologist as defined in paragraph (c) (1) or (2) of this section.

(d) "ALOSH" means the Appalachian Laboratory for Occupational Safety and Health, Public Health Service, Department of Health and Human Services, Post Office Box 4258, Morgantown, WV 26504.

§ 37.202 Payment for autopsy.

(a) The Secretary will pay up to \$200 to any pathologist who, after the effective date of the regulations in this part and with legal consent,

(1) Performs an autopsy on a miner in accordance with this subpart; and

(2) Submits the findings and other materials to ALOSH in accordance with this subpart within 180 calendar days after having performed the autopsy; and

(3) Receives no other specific payment, fee, or reimbursement in connection with the autopsy from the miner's widow, his family, his estate, or any other Federal agency.

(b) The Secretary will pay to any pathologist entitled to payment under paragraph (a) of this section and additional \$10 if the pathologist can obtain and submit a good quality copy or original of a chest roentgenogram (posteroanterior view) made of the subject of the autopsy within 5 years prior to his death together with a copy of any interpretation made.

(35 FR 13206, Aug. 19, 1970, as amended at 38 FR 16353, June 22, 1973)

§ 37.203 Autopsy specifications.

(a) Every autopsy for which a claim for payment is submitted pursuant to this part:

(1) Shall be performed consistent with standard autopsy procedures such as those, for example, set forth

in the "Autopsy Manual" prepared by the Armed Forces Institute of Pathology, July 1, 1960. (Technical Manual No. 8-300. NAVMED P-5065, Air Force Manual No. 160-19.) Copies of this document may be borrowed from ALOSH.

(2) Shall include:

(i) Gross and microscopic examination of the lungs, pulmonary pleura, and tracheobronchial lymph nodes;

(ii) Weights of the heart and each lung (these and all other measurements required under this subparagraph shall be in the metric system);

(iii) Circumference of each cardiac valve when opened;

(iv) Thickness of right and left ventricles; these measurements shall be made perpendicular to the ventricular surface and shall not include trabeculations or pericardial fat. The right ventricle shall be measured at a point midway between the tricuspid valve and the apex, and the left ventricle shall be measured directly above the insertion of the anterior papillary muscle;

(v) Size, number, consistency, location, description and other relevant details of all lesions of the lungs;

(vi) Level of the diaphragm;

(vii) From each type of suspected pneumoconiotic lesion, representative microscopic slides stained with hematoxylin eosin or other appropriate stain, and one formalin fixed, paraffin-impregnated block of tissue; a minimum of three stained slides and three blocks of tissue shall be submitted. When no such lesion is recognized, similar material shall be submitted from three separate areas of the lungs selected at random; a minimum of three stained slides and three formalin fixed, paraffin-impregnated blocks of tissue shall be submitted.

(b) Needle biopsy techniques shall not be used.

§ 37.204 Procedure for obtaining payment.

Every claim for payment under this subpart shall be submitted to ALOSH and shall include:

(a) An invoice (in duplicate) on the pathologist's letterhead or billhead indicating the date of autopsy, the amount of the claim and a signed

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statement that the pathologist is not receiving any other specific compensation for the autopsy from the miner’s widow, his surviving next-of-kin, the estate of the miner, or any other source.

(b) Completed PHS Consent, Release and History Form (See Fig. 1). This form may be completed with the assistance of the pathologist, attending physician, family physician, or any other responsible person who can provide reliable information.

(c) Report of autopsy:

(1) The information, slides, and blocks of tissue required by this subpart.

(2) Clinical abstract of terminal illness and other data that the pathologist determines is relevant.

(3) Final summary, including final anatomical diagnoses, indicating presence or absence of simple and complicated pneumoconiosis, and correlation with clinical history if indicated.

FIGURE 1

U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES

PUBLIC HEALTH SERVICE—NATIONAL COAL WORKERS’ AUTOPSY STUDY

Consent, Release, and History Form Federal Coal Mine Health and Safety Act of 1969

I, _____, (Name) _____ (Relationship) of _____, (Name of deceased miner) do hereby authorize the performance of an autopsy (_____) (Limitation, if any, on autopsy) on said deceased. I understand that the report and certain tissues as necessary will be released to the United States Public Health Service and to _____ (Name of Physician securing autopsy)

I understand that any claims in regard to the deceased for which I may sign a general release of medical information will result in the release of the information from the Public Health Service. I further understand that I shall not make any payment for the autopsy.

Occupational and Medical History

1. Date of Birth of Deceased _____, (Month, Day, Year)
2. Social Security Number of Deceased _____
3. Date and Place of Death _____, (Month, Day, Year) _____ (City, County, State).
4. Place of Last Mining Employment:

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Name of Mine _____
 Name of Mining Company _____
 Mine Address _____

5. Last Job Title at Mine of Last Employment _____
 (e.g., Continuous Miner Operator, motorman, foreman, etc.)

6. Job Title of Principal Mining Occupation (that job to which miner devoted the most number of years) _____
 (e.g., Same as above)

7. Smoking History of Miner:
 (a) Did he ever smoke cigarettes? Yes _____
 No _____

(b) If yes, for how many years? _____
 Years.

(c) If yes, how many cigarettes per day did he smoke on the average? _____
 (Number of)

Cigarettes per day.
 (d) Did he smoke cigarettes up until the time of his death? Yes _____ No _____

(e) If no to (d), for how long before he died had he not been smoking cigarettes?

8. Total Years in Surface and Underground Employment in Coal Mining, by State (If known) _____, (Years) _____ (State).

9. Total Years in Underground Coal Mining Employment, by State (If known) _____, (Years) _____ (State).

 (Signature)

 (Address)

 (Date)

Interviewer: _____

PART 38—DISASTER ASSISTANCE FOR CRISIS COUNSELING AND TRAINING

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AUTHORITY: Sec. 413, Pub. L. 93-288. The Disaster Relief Act of 1974, 88 Stat. 157, 42 U.S.C. 5183, EO 11795, 39 FR 25939, as amended by EO 11910, 41 FR 15681.

Source: 41 FR 52052, Nov. 26, 1976, unless otherwise noted.