

West Virginia Congressional Delegation

February 2006

“Federal Mine Safety and Health Act of 2006”

The landmark Federal Coal Mine Health and Safety Act of 1969, as amended by the Federal Mine Safety and Health Act of 1977, contains sufficient authority for the Secretary of Labor to update, and enhance, underground coal mine health and safety regulations. Instead, as the unfortunate incidents of last month at the Sago and Melville mines in West Virginia underscored, current Mine Safety and Health Administration regulations and policies are woefully inadequate on several fronts, such as their neglect of advances in technologies that could be deployed to increase the survival of coal miners involved in emergency situations. The “Federal Mine Safety and Health Act of 2006” mandates action to end the status quo. The legislation would –

Sense of Congress

The legislation provides that the Mine Health and Safety Administration should strictly enforce health and safety standards as required under the Federal Mine Safety and Health Act of 1977.

Enhanced Rescue Requirements

Require the Secretary of Labor, within 90 days of enactment, to implement the following:

(1) Better notification – Require underground coal mine operators to expeditiously provide notification of any accident where rescue work is necessary, and require that the Mine Health and Safety Administration implement a system to immediately receive these notifications.

(2) Rapid emergency response - Each operator would be required to maintain mine rescue teams whose members are employed by the operator and who are familiar with the workings of the coal mine to ensure “an immediate and rapid response to an emergency.” This requirement would be in addition to existing practice, in which rescue teams from other mining operations are also used to respond to a given emergency. Operators would also be required to have a coordination and communications plan between mine rescue teams and local emergency response personnel, who, under the legislation, would be eligible to receive appropriate training to be familiar with mine rescue work. In addition, the Secretary is directed to issue regulations to address the adequacy of rescue team training and member qualifications, the type of equipment used by the teams, the

structure of teams including the number of each team's members and the use of contractor teams, as well as liability and insurance issues.

(3) Emergency air and communications - Each operator would be required to maintain emergency supplies of air and self-contained breathing equipment at strategic locations within the mine for persons awaiting rescue. These devices would be in addition to the rescuers worn by miners and would provide air to maintain life for a "sustained" period of time. Operators would also be required to maintain, at these locations, independent communications systems to the surface for persons awaiting rescue, including, secondary two-way telephone or equivalent communication devices to the surface.

(4) Emergency tracking - Each operator would be required to implement an electronic tracking device for rescue and recovery, and each person in an underground coal mine would be provided with a portable device calibrated to communicate with the surface and with mine rescue teams.

Penalties

Within 90 days of enactment, the legislation requires the Labor Secretary to prescribe minimum civil penalty of up to \$10,000 for a violation of the health and safety standards in instances where an operator displays "negligence or reckless disregard" of the standards. This penalty would be assessed in addition to the Act's existing penalty for failure to correct a violation. The Secretary is also directed to provide for a penalty of up to \$100,000 in instances where an operator fails to expeditiously provide notification of any accident where rescue work is necessary.

Prohibited Practices

The bill reaffirms the existing statute's prohibition on using entries which contain conveyor belts to ventilate work areas in underground coal mines. When mines are arranged this way, and a fire breaks out on a belt, the belt tunnel can carry flames and deadly gases directly to the miners' work area, or to vital evacuation routes. This long-standing prohibition was skirted by an April 2004 Mine Safety and Health Administration rulemaking.

Technological Advances

Under the bill, an Office of Science and Technology Transfer would be established within the Mine Health and Safety Administration to conduct research and development to advance new technologies for underground coal miner health and safety. A periodic review of existing health and safety standards would be required to enable more modern technologies to be incorporated as they become available.

Miner Ombudsman

Proposed to be established within the Labor Department's Office of Inspector General, the legislation would create the position of Miner Ombudsman to ensure that coal miners may confidentially report mine safety and health violations. The ombudsman would also be charged with the collection of safety information, providing information on violations to the Mine Safety and Health Administration for investigation and the overall improvement of coal miner safety.