

**Statement of U.S. Rep. Nick J. Rahall, II
Before the Subcommittee on Workforce Protections
March 16, 2006**

Chairman Norwood and Ranking Member Owens, I would like to express my appreciation, as well as that of many who reside in the Nation's coalfields, for your holding this second hearing today on the issue of coal mine safety.

My purpose in appearing before you today is to extol the virtues of legislation the West Virginia Congressional Delegation introduced on February 1st and to ask that it be expeditiously considered by this subcommittee and the full committee.

This legislation, H.R. 4695, the "Federal Mine Safety and Health Act of 2006" reflects what I, and many others, view as a common-sense approach to dealing with the most immediate and pressing shortcomings of the current mine safety regulatory regime.

This bill is the opportunity for this Congress to demonstrate that the lessons learned from the tragedies earlier this year at the Sago, Melville and two other mining operations in West Virginia, and elsewhere for that matter, are not falling on deaf ears.

The simple fact of the matter is that 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.

In this regard, H.R. 4695 would provide a roadmap to MSHA on where, using existing statutory authorities, it could dramatically improve mine safety. This legislation does not amend the Federal Mine Safety and Health Act of 1977. I would like to emphasize that. Rather, it points to existing statutory authorities and prods MSHA into action.

Frankly, just about the entire bill could be implemented administratively if the agency simply had the will to do so. But that, unfortunately, is not the case. For instance, in the emergency rulemaking it recently announced, MSHA addresses several long-neglected safety issues, including the need for increased oxygen supplies in the mines.

However, I must point out that, even here, the proposed rule is deficient. It would require an additional one-hour's worth of oxygen for a total of a two-hour supply. By MSHA's own admission, at 76 of the Nation's underground coal mines, miners would need more than two hours of air to escape. So what does that rulemaking say to those coal miners?

By contrast, the West Virginia Delegation's legislation would require enough oxygen to maintain trapped coal miners for a sustained period of time. If, as a result of adequate study and input during the rulemaking process, sustainability is determined to be three hours, four hours, or whatever, that is what the standard would become. We do not leave the coal miners at those 76 mines I referenced stranded without an equal chance of survival.

Attached to my submitted testimony is an overview of H.R. 4695. You can read it at your leisure. At this point, I would like to conclude with an observation.

Since we introduced this legislation on February 1st, only one coal company has come to visit us to review the bill and raise some concerns. That is amazing to me. As a veteran of introducing legislation affecting the coal industry, past experience has been more like the Barbarians at the Gate. So this particular situation, I believe, stands as testimony to the fact that the bill is flexible in achieving its purpose.

At the same time, I have read of concerns being expressed by some that the types of technology we are seeking to have placed in underground coal mines either may not work in all cases, or are not immediately available.

For America, which has long led the world in promoting workplace health and safety, the recent mine tragedies have been something of a black eye. They have highlighted advances abroad and a lack of sufficient innovation here at home. With the know-how of this Nation, overcoming the technology hurdle is a small challenge, nudged along by regulation called for in this bill.

For instance, the legislation says that, within 90 days of enactment, the Secretary shall engage in a rulemaking to require the implementation of electronic tracking systems in underground coal mines. The legislation does not prescribe the particular technology that is to be used, nor, for that matter, does it prescribe exactly when electronic tracking must be in place at all U.S. underground coal mines. We leave that to the rulemaking. To the public comment. To the mine health and safety experts. If the record shows that technology is immediately available, all the better. If the record shows, however, that it may take several months for it to be available, then I expect that would be the time frame established by the regulation. But the bottom line under the legislation is that electronic tracking will ultimately be a requirement.

With that, thank you and I would be pleased to respond to any questions you may have.

**Overview of H.R. 4695
"Federal Mine Safety and Health Act of 2006"**

Enhanced Rescue Requirements

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

(2) Rapid emergency response - Require operators to maintain mine rescue teams whose members who are familiar with the workings of the coal mine as well as to have a coordination and communications plan between the teams and local emergency response personnel. 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 use of contractor teams, as well as liability and insurance issues.

(3) Emergency air and communications - Require operators to maintain emergency supplies of air and self-contained breathing equipment at strategic locations within the mine for persons awaiting rescue. Operators would also be required to maintain independent communications systems to the surface.

(4) Emergency tracking - Require operators 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 to communicate with the surface and mine rescue teams.

Penalties

Requires the Labor Secretary to prescribe a 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. The Secretary is also directed to establish 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.

Technological Advances

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.

Miner Ombudsman

The position of Miner Ombudsman would be established within the Labor Department's Office of Inspector General to ensure that coal miners may confidentially report mine safety and health violations.