

Senate Committee on Health, Education, Labor and Pensions

**Mine Improvement and New Emergency Response Act of 2006
(MINER Act)**

Section By Section Summary

Section 1 - Title - Mine Improvement and New Emergency Response Act of 2006

Section 2 - Mine-Specific Emergency Response Plans

This section contains the essence of the legislation's regulatory approach. The legislation requires each covered mine to develop, and to continuously update, a written emergency response plan that is adapted to the individual mine; and calls for the use of equipment and technology that is currently commercially available, and workable in the particular mine. As is the case under current law with respect to roof and ventilation plans, these emergency response plans must be continuously reviewed and updated and reviewed and re-certified by MSHA every six months. The plans must, at a minimum, provide for *a.) post-accident communication* such as secondary telephone lines or equivalent two-way communications; *b.) post-accident tracking* to locate underground personnel; *c) post-accident breathable air* in sufficient quantities to maintain miners underground for a sustained period of time; *d) post-accident lifelines* to enable evacuations; *e) training*; and *f) local coordination* with emergency response personnel to facilitate above ground activities in support of rescue efforts. In addition to these general requirements, this section directs the Secretary to require *wireless two-way communications* and an *electronic tracking system* permitting those on the surface to locate persons trapped underground within three years, or to set forth, within the plan, reasons such provisions cannot be adopted at that mine and alternative means of compliance. The intent of this section is for operators to use what works best in their particular mine, to provide a means for the plan to be continuously adapted to changes in the mine or in the commercial technical equipment market, and to avoid the ~~to~~ behave to the letter of the standard+syndrome that stifles innovation and delays the implementation of new methods or equipment.

Section 3 - Resolution/Limitation on Liability for Rescue Teams

This provision will protect rescue team members and the employer of rescue team members from tort lawsuits based on injuries, deaths or property damage related to the carrying out of mine rescue operations, with an exception for gross negligence, reckless conduct or illegal conduct.

Section 4 - Rescue Teams

This provision would require the Secretary of Labor to issue new regulations on mine rescue teams within 18 months. These will require that every mine make available two rescue teams which are well-trained, familiar with the operations of

the particular mine, and which are located at rescue stations within one hour of the mine. At the same time, the regulations will preserve systems that are currently working, such as consortium teams, %oo-op+ and leased teams and state teams.

Section 5 - Prompt Incident Notification

This provision would codify the recent MSHA emergency regulation which requires that operators make notification of all incidents/accidents which pose a reasonable risk of death within 15 minutes of when the operator realizes an accident has occurred. It would fix a minimum civil penalty of \$5,000, up to \$60,000 (which is the current maximum) for failure to do so.

Section 6 - Strengthening of Mine Research National Institute of Occupational Safety and Health

- **Permanent Office of Mine Safety and Health:** Establishes a permanent Office of Mine Safety and Health within NIOSH to enhance the development of new mine safety technology and expedite its commercial availability and implementation in mines.
- **Grants and Contracts for New Technology:** This provision would establish a competitive grant program to be administered by the re-constituted NIOSH. The grant program would provide capital and incentives to private companies in order to encourage the development and manufacture of mine safety equipment that might otherwise be economically unwarranted because of the limited potential market.
- **NIOSH-chaired interagency working group:** This provision would establish an interagency working group to provide a formal means of sharing non-classified technology that would have applicability to mine safety and accident/incident management. In addition to NIOSH, the group could include entities such as the National Aeronautics and Space Administration [%NASA+], the Department of Defense [%DOD+] and others as appropriate. The working group would be chaired by NIOSH mining personnel and would issue an annual report.
- **Expedite Approval of New Technology:** This provision would streamline the approval and certification process for new mine safety technology by providing NIOSH with funding to enter into review and testing contracts with third party laboratories.

Section 7 - Family Liaison Policy

This provision would require the Secretary to establish a policy of assigning an official to be liaison between MSHA and the families of victims of mine tragedies. It also would direct MSHA to be as responsive as possible to victimsqfamiliesq

requests for information relating to mine accidents and direct MSHA to be the primary communicator to operators, miners' families, the press and the public in mine accident cases.

Section 8 - Penalties

It would raise the maximum civil penalty for flagrant violations to the amount proposed by the Administration, \$220,000. The term flagrant violation is defined as a reckless or repeated failure to make reasonable efforts to eliminate a known violation of a standard that substantially and proximately caused, or reasonably could have been expected to cause, death or serious bodily injury. It would also impose a minimum fine of \$2,000 for violations of section 104(d)(1) and a minimum fine of \$4,000 for violations of section 104(d)(2). This section also would direct the Secretary to finalize the regulatory changes with regards to penalties currently underway by December 31, 2006. This provision would also codify in the Mine Safety and Health Act a tenfold increase in the criminal penalty cap to \$250,000 for first offenses and \$500,000 for second offenses, which is the applicable amount pursuant to the Omnibus Crime Control Act of 1984.

Section 9 - Fine Collections & Injunctions

This provision would give MSHA the power to request an injunction (shutting down a mine) in cases where the mine has refused to pay a final order MSHA penalty.

Section 10 - Sealing of Abandoned Areas

This provision would require the Secretary to issue final regulations strengthening the required standard for seals of abandoned areas within 18 months of the date of enactment or issuance of the MSHA report on Sago.

Section 11 - Technical Study Panel on Belt Air

This provision would establish a Technical Study Panel to provide independent scientific and engineering review and comment with respect to the utilization of belt air and the possible use and integration of fire retardant belt components in underground coal mining. The panel would be made up of six individuals, four of which must hold masters or doctoral-level mining-related degrees and who are not current employees of any coal or other mine, or of any labor organization, or of any state or Federal agency primarily devoted to regulating the mining industry. Two panelists would be selected by the Secretary of Labor (in consultation with MSHA), two by the Secretary of Health and Human Services (in consultation with NIOSH), and two by Congress (one by majority, one by minority). The panel will report back to the respective Secretaries and Congress within one year of enactment. Within 180 days of receipt of this report, the Secretary of Labor is required to inform the Senate HELP Committee and House Education and Workforce Committee of what, if any, actions she intends to take based upon the report, including proposing regulatory changes, and the reasons therefore.

Section 12 - Mine Safety Scholarships

This provision would address the anticipated shortage in trained and experienced miners and MSHA enforcement staff by creating a college, community college and graduate level scholarship program available to miners and those who wish to become miners and MSHA enforcement staff.

Section 13 – Refuge Chambers

This provision would require the National Institute of Occupational Safety and Health to conduct research, including field tests in their underground mine, on the use of refuge chambers in underground coal mines. Within 180 days of receipt of this report on this research, the Secretary of Labor is required to inform the Senate HELP Committee and House Education and Workforce Committee of what, if any, actions she intends to take based upon the report, including proposing regulatory changes, and the reasons therefore.

Section 14 – Sago Mine Safety Grants

Establishes a program to provide training grants to better identify, avoid and prevent unsafe working conditions in and around the mines. These grants will be made on an annual, competitive basis to provide education and training programs or to develop training materials for employers and miners about safety and health topics in the mines, as selected by MSHA, with a special emphasis on smaller mines, including training miners and employers about new MSHA standards, high risk activities or hazards identified by MSHA.

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