
EDUCATION & LABOR COMMITTEE

Congressman George Miller, Chairman

Tuesday, February 23, 2010
Press Office, 202-226-0853

Chairman Miller Statement at Committee Hearing On “Reducing the Growing Backlog of Contested Mine Safety Cases”

WASHINGTON, D.C. – *Below are the prepared remarks of U.S. Rep. George Miller (D-CA), chairman of the House Education and Labor Committee, for a committee hearing on “Reducing the Growing Backlog of Contested Mine Safety Cases”.*

The Education and Labor Committee meets this morning to examine how a growing backlog of contested mine safety cases at a small federal agency is putting our nation’s miners at risk.

For years, this committee has worked to protect our miners while on the job.

We have met many family members who have suffered the tragic loss of a loved one. On behalf of the committee, I promised that we would do everything we can to keep miners safe.

I intend to keep this promise.

Since tragedies like Sago, Darby and Crandall Canyon, both Congress and the Mine Safety and Health Administration have worked to prevent similar disasters, in part by increasing enforcement.

Inspections are up, as are citations and fines.

This stronger emphasis on safety is saving lives and reducing injuries.

In 2006, 76 miners died on the job.

In 2009 that figure was reduced to 35 fatalities – still 35 deaths too many, but a record low.

Despite the progress, some of the largest mining operations have responded by challenging these tougher sanctions at a staggering rate.

When MSHA cites a mine operator for a safety violation, the owners can appeal the violation to the Federal Mine Safety and Health Review Commission.

But, with increased penalties for unsafe conditions, there are significant incentives for mine operators to abuse this appeals process.

The mining industry trots out a litany of excuses on why their members are contesting nearly every health and safety violation.

One excuse is that MSHA ended an informal practice that allowed mines to chip away at their sanctions behind closed doors.

But, as the industry's own testimony shows, the dramatic rise in mine operators' appeals began a year before MSHA changed this policy.

So, the dramatic rise in appeals seems to be the result of something else.

What we do know is that delays from growing appeals are undermining MSHA's ability to impose tougher penalties on repeat violators.

Adjudication of appeals must be fair and timely.

If cases are stuck for months or years at the Review Commission, MSHA cannot impose stronger penalties for the worst mine operators.

As a result, miners' lives are in the crosshairs.

MSHA tells us that 48 mines with more than 6,000 miners would likely face tougher sanctions if not for the holdup at the Review Commission.

Mine operators can be subject to progressively steeper fines or even shut down if cited multiple serious health and safety violations.

And that's the way it should be.

Mine operators who callously put their workers in harm's way must be held accountable.

Mines that have faced these steeper penalties in the past have responded by cleaning up their act.

Future serious violations were cut by 72 percent when MSHA notified mines that they faced potential closures for additional violations.

However, blanket and indiscriminate appeals to the Review Commission allow irresponsible mine operators to avoid these stiffer penalties.

This may boost the owner's bottom line, but delays put the lives of miners at risk.

The facts indicate that certain mine operators are abusing their right to challenge a violation.

In 2005, before increased penalties took effect, mine operators appealed one in three fines.

Today, mine operators contest two-thirds of all fines. And some of the largest mine owners are challenging nearly every citation.

These appeals are clogging the system.

In 2006, the Review Commission had a backlog of 2,100 cases. Today, the backlog has skyrocketed to 16,000 cases.

[PICK UP STACK OF CASES]

The index of the 16,000 backlogged cases is 616 pages long and contains at least \$195 million in contested fines.

And it is only growing.

Based on estimates provided by Review Commission, if current trends and funding for the agency remain the same, the backlog would spiral out of control to 47,000 cases by 2020 as this chart shows.

This staggering caseload will render federal efforts to hold bad mine operators accountable meaningless.

The Obama administration and Congress have already increased funding for the Review Commission to hire four new administrative law judges, in addition to the ten already seated.

And in this year's budget request, the administration asked for four more.

This is a good start. However, more will have to be done to reduce the backlog of cases.

Today, we will hear from the mining industry, the chair of the Review Commission, MSHA and United Mine Workers about the causes and consequences of the growing number of appeals, and possible solutions.

It is unacceptable to let a backlog of mine safety cases threaten the real progress being made to protect the lives of those who go to work in our nation's mines.

###