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Chairman, House Education and Labor Committee
Opening Statement at Committee Markup of H.R. 2768, the
Supplementary Mine Improvement and New Emergency Response
Act (S-MINER Act)
October 31, 2007

Despite significant progress over the last several decades, mining remains one of the most dangerous jobs in America.

Mining fatalities occur at a rate more than seven times the average for all private industries, exceeding other dangerous occupations such as construction and trucking.

We are reminded of how dangerous mining can be by tragedies like the one at the Crandall Canyon Mine in August, where six miners and three rescuers died in what appears to have been a preventable disaster.

It is not just disasters like these that pose risks to miners. Accidents every year also claim the lives of one or two miners at a time. So far this year, according to the Mine Safety and Health Administration, 25 coal miners and 28 metal and nonmetal miners have died on the job.

Miners also face serious health risks, including a resurgence of black lung disease.

The legislation we are considering today, the S-MINER Act, builds on the work that Congress started last year when it passed the MINER Act of 2006.

The S-MINER Act represents a comprehensive approach to minimize the health and safety risks facing miners.

Our aim is a simple one: We want to do everything we can to ensure that miners are able to return home safely at the end of their shifts.

The provisions of the S-MINER Act address three broad issues: disaster prevention; improved emergency response; and long-term health risks.

To prevent disasters, the legislation includes the following provisions:

First, it adds new safeguards for retreat mining. Retreat mining is a dangerous practice that involves removing the coal pillars originally left in place to hold up the roof of the mine.

The disaster at Crandall Canyon demonstrated the risky nature of retreat mining and the poor oversight of retreat mining plans by MSHA.

Second, the S-MINER Act enshrines in the law critical standards for explosion-proof seals. Seals are the walls that block off an abandoned area of a mine, where methane can build to dangerous levels, from the active area of a mine.

The National Institute of Occupational Safety and Health has concluded that these seals must be able to withstand pressure of 240 pounds per square inch. Yet current law only requires that they withstand pressure of 20 psi. The bill would adopt NIOSH's proposal.

Third, the legislation requires mines to begin using new, fire-resistant conveyor belts to carry materials out of the mines. The friction of the belts can create sparks; as a result, the belts themselves can catch on fire. The existing rules on flame resistance are about 50 years old.

The legislation would also place tough restrictions on "belt air" – the use of belts to carry air into the mines.

A fire on a belt can carry toxic fumes right toward the place miners are working. Under the S-MINER Act, mines would only be able to use belt air if they receive approval from MSHA and only if it is necessary to meet other safety needs.

Fourth, the legislation strengthens MSHA's enforcement hand. New rules won't make any difference if MSHA lacks the authority to enforce them.

Indeed, some mine operators refuse to pay penalties that are overdue because MSHA lacks effective tools to collect them. Many mine operators just treat penalties as a cost of doing business, because the penalties for common violations are not substantial or immediate enough to compel compliance.

The S-MINER Act provides MSHA with subpoena authority. It makes it easier for MSHA to collect penalties; increases certain penalties; and allows MSHA to shut down mines that do not promptly abate violations.

Fifth, and finally, the legislation strengthens miners' rights by establishing a new Miner Ombudsman.

This committee has heard testimony from miners and their families about fear of retaliation if they speak up about safety hazards in the mines. An ombudsman would provide miners with an expert, independent, confidential outlet for reporting safety concerns.

All of the steps I have just outlined are intended to prevent a disaster. But in the event that a disaster does occur, MSHA must do a better job of responding. To improve emergency response, the S-MINER Act takes the following steps:

First, it clarifies MSHA's authority at the scene of a disaster. Under the bill, when the Labor Secretary directs a rescue, the mine operator must cooperate and comply with MSHA's requests for resources.

Second, the bill more clearly defines MSHA's role as the primary communicator with families and the public at the scene of a disaster.

The MINER Act required MSHA to be in charge of communicating with families and the press during a rescue in order to prevent the dissemination of incorrect and misleading information.

The first test of this new authority was at Crandall Canyon and it failed miserably.

Third, the legislation requires MSHA to develop its own emergency response plan within six months. The MINER Act required mine operators to develop such plans, but did not require the same of MSHA.

Fourth, the legislation establishes rules for *independent* investigations into disasters that result in multiple fatalities. As we have heard repeatedly from witnesses before this committee, it simply defies common sense that MSHA should be expected to investigate itself.

And fifth, the legislation improves life-saving technology in the mines.

It requires mines to immediately begin installing the best-available technology for tracking and communicating with workers underground.

If better technology had been employed at Sago, Darby, or Crandall, then perhaps those tragic outcomes could have been altered.

The S-MINER Act requires mines to begin using underground refuge chambers by June 2008.

Such chambers provide a place where trapped miners can go to await rescue, and they are stocked with food, water, and breathable air. These chambers are commercially available; in May, I toured one now in use in mines in West Virginia.

And the bill requires NIOSH and MSHA to conduct random inspections of miners' personal air packs, known as self-contained self-rescuers. SCSRs provide an hour's worth of breathable air in the event of a disaster. At Sago, their reliability was called into question.

The S-MINER Act recognizes that, in addition to the risk of a catastrophic event, miners also face long-term health risks every day. These health risks claim the lives of countless numbers of miners each year.

The legislation updates black lung standards that are nearly four decades old and clearly inadequate. Generations of coal miners have suffered and died from black lung, formally known as pneumoconiosis, a severe disease triggered by exposure to coal dust.

In the last few months, NIOSH has confirmed that a new generation of miners is coming down with the disease. The S-MINER Act would cut in half the levels of coal dust that miners could be legally exposed to. It would require the use of tamper-proof technology to measure exposure levels.

The legislation addresses other health risks, such as miners' exposure to asbestos. Unfortunately, the Bush administration has for years delayed rules intended to protect workers from asbestos, and has weakened rules intended to ensure miners are aware of health risks they face.

The S-MINER Act would restore and strengthen these rules. It would also establish a new set of procedures to help MSHA update exposure limits for hundreds of health hazards faced by miners, some of them decades out of date.

We owe it to the loved ones of miners who died on the job to pass these protections today. I strongly support this legislation and urge my colleagues to do the same.

Thank you.