

Testimony of Rep. Shelley Moore Capito
House Education and Labor Committee
MSHA's Mine Safety and Health Program
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As Prepared for Delivery

Chairman Miller, Ranking Member McKeon, and Members of the Committee –

Thank you for the opportunity to testify at this hearing on the effectiveness of MSHA's mine safety and health programs. It has been 17 months since the devastating month of January 2006 that saw 16 miners die in West Virginia - including 12 at the Sago mine in my district.

During this time we have worked together - West Virginia's congressional delegation, this committee, and other members from both sides of the aisle to pass critical mine safety legislation and provide needed oversight to MSHA and NIOSH as they carry out their important responsibilities. It became clear immediately after Sago and Aracoma that many aspects of mine safety and emergency response were overlooked.

The MINER Act addressed the obvious shortcomings in our response to accidents. I am pleased that MSHA has implemented emergency oxygen requirements pursuant to the act that will ensure a 96 hour supply of emergency oxygen or its equivalent for all miners. Regulations for mine rescue teams should be completed this year. It is important that we monitor the work of MSHA, NIOSH and the required interagency working group on communications technology. Nearly a year has passed since the MINER Act's passage and we must continue making progress and ensure that the deadline for implementing two-way communication devices in mines is met.

I am very pleased that my state of West Virginia has been a national leader in terms of beginning the process of getting rescue shelters to miners. In March of this year, the state approved 5 types of shelters for use in the states underground mines and gave mine operators until April 15 to submit shelter plans to the Office of Miners' Health, Safety, and Training. One of these approved shelters, the inflatable LifeShelter was demonstrated outside prior to today's hearing.

Progress has been slower on the national level in terms of evaluating and approving these shelters. I understand the concerns of some regarding blast standards for a secondary explosion with respect to the refuge chambers. I also share MSHA's belief – expressed at hearings last year during consideration of the MINER Act that evacuation must be the first option for miners in an emergency situation.

Nonetheless, NIOSH and MSHA must speed up their process and ensure that miners across the country will have access to these life saving chambers as soon as possible. Again, it has been 17 months since Sago demonstrated the evacuation is not always possible. West Virginia has taken steps towards ensuring that our miners will have access to shelters, and the rest of the nation should too.

Many of us pledged as we worked to pass the MINER ACT that we would return to address further regulations or legislation necessary to prevent future accidents following the completion of reports from the Sago and Aracoma accidents. This hearing is a step towards fulfilling that commitment, and there is much we can learn from the accident reports.

Both MSHA and the West Virginia Office of Mine Safety and Training found that none of the safety violations at the Sago mine directly contributed to the explosion or its deadly result. However, clearly issues raised that MSHA and the mining community should learn from and act swiftly to address. First, the seals used in the Sago mine were not constructed properly. While the OMEGA block seals would not have withstood the force of the Sago explosion that MSHA estimates was greater than 93 psi, even if they were properly constructed, proper installation of seals could be the difference between life and death in a future accident. It is important that mine operators, contractors, and MSHA inspectors focus on the proper installation of seals.

The MINER Act requires MSHA to update its regulations on the sealing of abandoned areas by the end of this year. I am pleased that MSHA has acted to increase the 20 psi requirement for alternative seals, but I hope that the final Emergency Temporary Standard will go further in addressing some of the issues we discovered at Sago.

MSHA's Sago report found that energy from a lightning strike traveled along an ungrounded pump cable left in the sealed off area. Current regulations would not require that pump cable to be removed, and indeed it is commonplace for items to be left behind the seals when an area is abandoned to mining. Clearly this issue must be reevaluated by MSHA and if necessary, by this committee to ensure that items that could turn into conductors are not allowed to remain in sealed areas.

The explosive range for methane is between 5 and 15 percent of the air. In a sealed area methane will start below the explosive range, pass through the range, and eventually become too highly concentrated for an explosion due to a lack of oxygen.

This makes it crucial that companies and inspectors monitor methane levels in abandoned areas so that they know if the concentration is becoming inert or if the mixture is within a danger zone. Yet no regulation requires the monitoring of air in the sealed area. It is almost unbelievable that 1992 MSHA regulations required a sampling tube that would allow for the testing of the air in sealed off areas, but failed to actually require that testing be carried out.

We know today that MSHA's 1992 regulations on seals were wrong. This underscores the importance that MSHA get it right when it comes to the forthcoming regulation on seal strength and address the removal of items left in the abandoned areas.

The Aracoma tragedy points out the need for an increase in inspectors at MSHA - an increase we have already begun - in order to catch obvious violations. At Aracoma, critical stoppings between the No. 7 Belt Air course and the intake air course for the 2 Section that could have prevented smoke from entering the escapeway were not in place, the mine's approved ventilation plan was not followed, and tragically the valve that provided water to the mine's fire suppression system was closed.

I am anxiously awaiting the results of MSHA's internal review of its own actions in the lead up to these accidents, but in particular at Aracoma. MSHA inspectors had been in the mine just weeks before the accident and failed to note critical safety violations and see that they were corrected. We need to know why, and take the necessary steps – whether it is updated training for inspectors or another solution to ensure that all hazards, and particularly those with the potential to cause loss of life are identified.

The MINER Act was a positive start in getting serious about the safety of our nation's coal mines. As we said when it passed, however, it is not a stopping point. Congress must ensure that MSHA properly and expediently fulfills its obligations under the law and continues oversight to ensure that requirements are not diluted over time. It is important to note that most provisions of the MINER Act did not grant MSHA new authority - it instead required the agency to use its existing authority to address critical facets of mine rescue and response. We should stand ready to legislate again to address issues that could prevent accidents and lead to safer coal mines if the agency needs additional authority or fails to act with necessary regulations.

On behalf of the many miners in West Virginia whom I represent, I want to thank this committee for your dedication to ensuring safer mines and I look forward to working with you as we continue our efforts to protect miners. I look forward to answering your questions and joining you to ask questions of MSHA witnesses.