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July 15, 2010

Dear Representative:

On behalf of more than 150,000 Public Citizen members and supporters, I urge you to support H.R. 5663, the Mine Safety and Health Act of 2010. This critical legislation would empower the Mine Safety and Health Administration (MSHA) to protect miners, prosecute bad actors, and close dangerous mines. It also would provide much-needed reforms to the Occupational Safety and Health Administration (OSHA), strengthening protections for workers in all industries. Additional measures are needed as well, and they should be added to this bill.

Recent tragedies have focused national attention on workplace safety. In February, a natural gas plant explosion in Connecticut killed six workers; in April, a refinery explosion in Washington killed seven workers and an explosion at the Massey coal mine in West Virginia killed 29 miners. These tragedies made national news, but they are only a few of the 5,000 workplace fatalities that occur each year. These deaths are preventable and illustrate the dire need for the increased worker protections and stronger MSHA and OSHA that this legislation will provide.

MSHA Provisions

H.R. 5663 would address shortcomings in MSHA's enforcement authority and allow it to respond quickly to accidents, withdraw miners from unsafe mines, and prosecute and collect fines from operators of mines with bad safety records.

This legislation does not target mines that are complying with MSHA's safety standards; instead, it redoubles MSHA's ability to protect miners by enforcing the law against mine operators who endanger workers. A mine that has a record of safety violations will be placed in a pattern of violation status, subjecting it to increased inspections and safety benchmarks as it works with MSHA to remedy safety concerns. Mines in pattern status also will be subject to doubled fines and withdrawal of miners for safety violations. H.R. 5663 also increases the civil and criminal penalties for mine operators who knowingly endanger miners, have significant safety violations, or retaliate against miners who report unsafe conditions or refuse to work in unsafe conditions. A corporate officer who knowingly authorizes a mine operator to commit a violation will be subject to the same penalties as the operator. MSHA will gain authority to assess fees on violating mines to cover the costs of increased inspections and enforcement.

Additionally, this legislation will discourage mine operators from engaging in the delay tactic of contesting every citation while unsafe working conditions persist. Contested fines will accrue interest during appeal, and miners who are unable to enter a mine due to a withdrawal order will be entitled to full pay, encouraging operators to quickly resolve safety problems.

H.R. 5663 sets out new regulations and policies for hazardous working conditions peculiar to mines, including rock dust, respirable dust, atmospheric monitoring, and certification of training personnel. Mine operators also will be required to implement a communication program that allows miners to review mine conditions before each shift and to provide an additional hour of safety training for miners.

OSHA Provisions

This legislation also makes improvements to the Occupational Safety and Health Act, increasing protections for workers in all industries. Unlike most other federal agencies, OSHA's civil and criminal penalties do not automatically increase for inflation, and Congress has not updated them in two decades. Recognizing that OSHA regulations exist to prevent serious injury, illness, or even death, this legislation would increase the fines and imprisonment an employer faces for violating OSHA standards and provide for periodic increases to match inflation. Victims or representatives of victims of workplace injuries will have the opportunity to provide input on any investigation, citation, or settlement proceedings between OSHA and the employer. Employees also will have increased protections from retaliation for reporting unsafe conditions or refusing to work in unsafe conditions.

Additional Reforms Necessary

Although this bill incorporates a portion of the Protecting America's Workers Act (H.R. 2067), we urge you to include all of the bill, specifically the expansion of OSHA coverage to federal, state, and municipal employees; the provisions prohibiting employers from implementing policies that discourage employee reporting of an injury or illness and requiring employers to post information pertaining to employees' rights, report deaths and hospitalizations to OSHA, and pay employees for time spent aiding OSHA inspectors; and the provision requiring OSHA to inspect the site of any workplace death or serious incident. These provisions will ensure an informed and better protected workforce, as well as allow OSHA to function more effectively. We also urge you to increase OSHA's penalties beyond the inflation-adjusted totals that this bill mandates. To be effective, permissible penalties must be high enough to deter misconduct. Adjusting previous penalty limits for inflation assumes that those limits were sufficiently high; they were not.

I urge you to support H.R. 5663 and to support efforts to strengthen it. We look forward to working with you to protect America's workers from harm on the job.

Sincerely,



David Arkush
Director, Public Citizen's Congress Watch division