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# **ROCKEFELLER INTRODUCES NEW MINE SAFETY LEGISLATION TO ADDRESS FAILURES SPOTLIGHTED IN UBB REPORT**

## **Bill Updates Rockefeller's Previously Introduced Mine Safety Legislation, and Reinforces His Commitment to Miner Safety and Health**

WASHINGTON, D.C.—Senator Jay Rockefeller today announced that he is reintroducing his landmark mine safety legislation with new provisions aimed at fixing more of the glaring safety issues revealed in the wake of the Upper Big Branch mine disaster, which claimed the lives of 29 miners in Montcoal, West Virginia.

Rockefeller has made protecting coal miner health and safety one of his chief goals in public office, and this bill re-affirms his lifelong commitment.

Since the Upper Big Branch disaster, Congress has held nine hearings on mine safety, and five federal, state, and independent entities have conducted investigations into the cause of the tragedy and released recommendations to improve our mine safety laws and enforcement.

In the two years since the Upper Big Branch tragedy, both Congress and the Administration have enacted some targeted laws and regulations to improve the health and safety of coal miners. However, comprehensive legislation still is needed to achieve important safety improvements, including those specifically recommended by West Virginia miners' families and investigations into the Upper Big Branch disaster.

“The catastrophe at Upper Big Branch was a wakeup call that not enough was being done to protect our coal miners,” Rockefeller said. “In the two years since that terrible day we’ve made some progress, but major reforms are still desperately needed and continue to be stalled by opponents. Another 20 miners have been killed on the job so far just this year, and even one death is one too many. We cannot—and we dare not—forget our obligation to miners, their families and our West Virginia communities.”

### **Progress Made on Mine Safety Since 2010**

- **Holding Mining Companies Accountable for Their Safety Records.** The Wall Street Reform law included Senator Rockefeller’s language requiring publicly-traded mining

companies to disclose serious safety violations to shareholders, the public, and the Securities and Exchange Commission (SEC). Mining companies that fail to properly disclose this information will face SEC penalties.

- **Increased Enforcement Against Repeat Offenders.** Using Senator Rockefeller's legislation as a framework, MSHA has also revised the screening criteria for placing mines onto a "Pattern of Violations. In April 2011, for the first time in the history of the Mine Act, MSHA placed 2 mines onto a Pattern of Violations, and as of the end of 2011 had notified 94 mines that they faced a "potential Pattern of Violations," which is the regulatory precursor to being placed onto a Pattern of Violations.
- **Significant Reductions in Appeals Backlog.** At Senator Rockefeller's urging, Congress appropriated \$22 million through the Supplemental Appropriations Act for Fiscal Year 2010 to help reduce the backlog of appeals at the Federal Mine Safety and Health Review Commission. During the year that this funding was available, the Federal Mine Safety and Health Review Commission was able to hire 6 additional judges and support staff and, along with the Department of Labor, was able to dispose of 11,643 cases, including 6,924 cases that had been specifically targeted for backlog reduction.
- **New Federal Rock Dusting Standards.** In June 2011, the Mine Safety and Health Administration (MSHA) issued final regulations requiring mine operators to maintain incombustible content of combined dust of at least 80 percent in underground mines.
- **New Impact Inspections Targeting Unsafe Mines.** As of May 2012, MSHA has conducted 452 impact inspections resulting in 8,106 citations, 811 orders, and 32 safeguards.

Since the April 2010 disaster at Upper Big Branch mine, Senator Rockefeller has continued to push for major reforms to our nation's mine safety laws and will not give up until comprehensive mine safety laws are enacted. Today marks the third time Rockefeller has introduced the Robert C. Byrd Mine and Workplace Safety and Health Act, which was introduced in 2010 and again last year.

"My new bill includes important pieces from my previous mine safety legislation, which I've been fighting to pass in Congress. It also includes new provisions that specifically address problems that the investigations into the tragedy at Upper Big Branch brought to light. This bill, which would make sure that such glaring violations are never overlooked in the future, is critical to providing the maximum level of protection for our nation's miners and their families. Our miners deserve our full support, and it's outrageous that Congress has yet to pass such important reforms."

### New Provisions

- **Prohibits Mine Operators from Keeping Two Sets of Books.** This provision directly addresses the fact that Massey had two sets of books at Upper Big Branch and was not properly sharing information about the condition of the mine with MSHA. These are changes based on the recommendations of the UMWA in their report, and deals with issues that many of the reports highlighted.
- **Establishes Strict Penalties for Unsafe Ventilation Changes.** Investigations conducted by the Mine Safety and Health Administration, the United Mine Workers of America, and the Governor’s Independent Investigation Panel determined that Massey made multiple illegal ventilation changes at Upper Big Branch mine without any approval. Reduced ventilation can lessen clean air flow in the mines and increase the likelihood of explosions. The bill would severely penalize mine companies with up to \$220,000 in fines for such flagrant violations that could seriously harm miners just trying to do their jobs.
- **Limits Miners’ Exposure to Black Lung Disease.** This debilitating disease is on the rise among a new generation of coal miners. Specifically, the provision would require that MSHA issue a rule within six months – a rule that is long overdue – to lower exposure levels to respirable dust which would provide the maximum feasible protection that is achievable through environmental controls. It would also require that MSHA reexamine the incidence of black lung disease every five years and, unless there is a decline in black lung, update the regulations again. More than 70 percent of the victims tested at Upper Big Branch were determined to have signs of black lung disease.
- **Improves Federal and State Coordination to Combat Safety Violations.** The Governor’s Independent Investigation Panel recommended that federal and state agencies immediately work together to address safety problems at mines right after they are found out, and this provision would strongly encourage such actions.
- **Improves Mine Safety Technology and Enhances Safety Training.** Providing miners, operators, and regulators with the most up-to-date safety training and information about conditions inside mines is essential to preventing explosions and keeping miners safe. This legislation entitles miners to quarterly training on the use of emergency oxygen supplies under real-world operating conditions, and also requires the installation of “black box” technology on mining equipment to measure methane, oxygen, carbon monoxide, and coal dust levels.

### **Reintroduced Provisions**

The legislation also includes provisions from Rockefeller’s earlier mine safety bills, which families of victims have said they are looking for. These pieces would:

- **Give MSHA expanded authority to subpoena documents and testimony.** Currently, MSHA does not have the authority to subpoena documents or testimony from operators outside the context of a formal, public hearing. MSHA should have this authority in the context of investigations and inspections as well as public hearings.

- **Provide for an independent investigation of the most serious accidents.** The bill creates an independent panel, comprised of a team of independent experts, to investigate the actions of both the operator and MSHA for serious accidents, including any accident involving three or more deaths.
- **Strengthen whistleblower protections for miners who speak out about unsafe conditions.** This bill will require one hour annually of “miner’s rights training” to inform workers of the law’s protections, give miners an express right to refuse unsafe work, expand the time limit for filing a complaint about retaliation from 60 to 180 days, and authorize punitive damages and criminal penalties for retaliation against workers who raise safety concerns.
- **Increase maximum criminal penalties.** Currently, criminal violations of mine safety laws are a misdemeanor for a first offense. To provide a strong deterrent for such serious misconduct, the penalties for knowing violations of safety standards will be raised to the felony level, including providing felony penalties for miners, operators, and government officials who knowingly provide advance notice of inspections.
- **Reform and tighten standards for when federal regulators cite a “pattern of violations” in mines that have been targeted for repeat safety violations, and hold mine operators accountable for safety in their mines.** This provision would change MSHA’s “pattern of violations” process from a primarily punitive process to a rehabilitative process, so that mines with significantly degraded safety records are given remedial safety plans and must meet benchmarks demonstrating that they are making progress on safety issues. Before the Upper Big Branch tragedy, the mine had been cited by MSHA numerous times, but MSHA said that the mine did not show a “pattern of violation.”

“The wounds from this heart-breaking disaster are still very fresh, and will never fully heal,” Rockefeller said. “But we have a deep and continuing obligation to make sure that miners – and all workers – can go to work, do their jobs, and return home safely to their families at the end of the day. I stand with our miners and will reinforce my commitment to improve mine safety for future generations.”