Legislative Summit
National Conference of State Legislatures (“NCSL”)
Session: States Dig for Ways to Make Mines Safer
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Presentation by
Ed Green
202-624-2922
egreen@crowell.com
Crowell & Moring LLP, Washington, DC
NCSL Mine Safety Draft

- Federal and State Mine Safety Relationships (lines 5-12)
- Federal Mine Safety Legislative Reforms (lines 14-23)
- Need for Additional Studies of Effectiveness of Mine Safety Law by GAO, MSHA, and NIOSH (lines 24-29).
Basis in Federal Mine Safety and Health Act of 1977, as amended ("Mine Act")

- Mine Act § 503 – Assistance to States (30 U.S.C. § 953)
- Mine Act §§ 318(a), 303(d), (e), and (f) – “certified persons” (30 U.S.C. §§ 878(a), 863(d), (e), and (f))
NCSL Mine Safety Draft – Federal and State Mine Safety Relationships

• Major Flaw in MSHA’s Notice of Proposed Rulemaking on Examinations of Work areas in Underground Coal Mines for Violations of Mandatory Health or Safety Standards; R1N-1219-AB75 (75 Fed. Reg. 81,165, Dec. 27, 2010)

• See Comments of Interstate Mining Compact Commission (“IMCC”), July 28, 2011 – Negative Impacts on State Certification Programs for Mine Foremen and Mine Examiners
NCSL Mine Safety Draft – Federal and State Mine Safety Relationships

• July 29, 2011 IMCC Comments
  ▪ State Certification Programs Would Have to be Revamped and Expanded
  ▪ Mine Examiners would become “Shadow Inspectors”
  ▪ Mine Examiners’ Concerns re Personal Liability
NCSL Mine Safety Draft – Federal and State Mine Safety Relationships

• Concerns re Mine Electricians in Kentucky and Illinois
  ▪ State Coal Mine Electrical Qualification Programs Must be Approved by MSHA
  ▪ Recent Informal MSHA Interpretations Much More Stringent
NCSL Mine Safety Draft – Federal Mine Safety Legislative Reforms

• Mining Industry Would Oppose Last Three Sentences on Lines 19-23 as follows:

“The federal government should strictly and swiftly enforce penalties on those companies with repeat infractions. These penalties should be assessed accordingly and paid upon the issuance of a citation in escrow and subject to a refund, if necessary. Additionally, there should be progressive sanction enhancements for each similar violation for which a mine is cited.”

NCSL Mine Safety Draft – Federal Mine Safety Legislative Reforms

• Specific Problems with Draft Language
  ▪ Sentence 1 – Meaning of “Repeat Infractions”
  ▪ Sentence 2 – Escrow Mechanism is Burdensome and Unfair
  ▪ Sentence 3 – Meaning of “Progressive Sanction Enhancements for Each Similar Violation for Which a Mine is Cited”
March 3, 2011 Statement of Joe Main, Assistant Secretary of Labor for Mine Safety and Health, Before House Education & the Workforce Subcommittee on Workforce Protections

- Pattern of Violations
- Injunctive Relief
- Criminal Penalties
- Whistleblower Protection
NCSL Mine Safety Draft – Need for Additional Studies of Effectiveness of Mine Safety Law by GAO, MSHA, and NIOSH

- Transparency
- Design
- Methodology
- Stakeholder Involvement