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Mine agency's dual roles draw critics

By Alan Levin and Thomas Frank, USA TODAY

WASHINGTON — The agency investigating the West Virginia mine disaster that killed 12 people this week has been criticized for years for what critics call flawed and antiquated approaches to investigations.



Sheriff's Deputy John Hawkins places miner helmets on crosses for the four Sago miners from Barbour County, W. Va.

By Chris Dorst, The Charleston Gazette via AP

The Mine Safety and Health Administration (MSHA) has appointed an eight-person team to investigate the accident at the Sago Mine. The team members are from regions other than the one where the accident occurred to prevent conflicts of interests, says Bob Friend, acting deputy assistant secretary of Labor for MSHA.

The potential for such conflicts is at the root of criticism of the agency. MSHA not only investigates mine accidents but also inspects mines for safety problems. Having the dual roles of investigator and regulator is difficult, and questions about the effectiveness of the government's inspection practices will inevitably be raised, says Peter Goelz, former executive director of the National Transportation Safety Board.

"They really ought not to have the regulator conducting safety investigations," Goelz says. "It's bad policy. There's a natural hesitance on the part of the regulator to believe that its own regulations and its own oversight would be anything other than acceptable."

The NTSB's role as an investigator in airline and other transportation accidents is considered a model. The NTSB is independent from the federal agencies, such the Federal Aviation Administration, that regulate the airline industry.

Davitt McAteer, who oversaw MSHA during the Clinton administration, says he has long proposed creating an independent agency to oversee disasters in mines and other locations. McAteer says an ideal investigation needs to look carefully at "whether the agency's inspections were adequate to prevent this disaster."

The United Mine Workers of America, which has clashed repeatedly with mining regulators in the Bush administration, says the government frequently fails to unearth the broader problems that cause accidents and in recent years has conducted investigations in private.

"The government too narrowly focuses the investigation on the incident without looking at the big picture," says Joe Main, who retired last year as the union's administrator of health and safety.

MSHA's Friend takes issue with such criticism. "To us, it is an independent investigation," he says. MSHA inspectors had repeatedly cited the Sago Mine in recent years for serious safety violations related to poor ventilation, cave-ins and lack of necessary inspections.

Friend says no decision has been made about whether to hold public hearings, or to conduct interviews and technical reviews behind closed doors. The agency always releases its findings after an investigation.

Lines of inquiry

As they begin the task of determining what went wrong at the Sago Mine, forensic experts will rely on century-old work pioneered by the first coal mine accident investigators.

McAteer says the mining industry was the first to develop accident investigators in an era when mines dominated the industrial landscape.

The facts that have emerged so far suggest that investigators will focus on several areas:

- Rock walls and equipment will be examined closely to determine the location of the explosion that trapped the men.

Investigators will also look at equipment to determine whether an electrical short might have sparked an explosion. Bodies will be examined to see whether they carried any flammable objects. Equipment in mines is supposed to be designed to prevent sparks.

- Coal mine explosions are commonly caused by a buildup of methane gas. But investigators will also analyze coal dust on mine walls to determine whether the dust was present in potentially flammable levels. Investigators also will study autopsy reports to determine whether any gases were in the miners' blood.

- An explosion suggests that the mine's ventilation system did not adequately expel flammable gas, so the investigators will try to determine what went wrong. Vents are also supposed to continue functioning after moderate explosions so that miners can continue to have air to breath.

McAteer and others say the questions must go much further. They say the investigation must also examine whether rescue teams could have arrived fast enough to save the lives of the miners.

The investigation should also determine whether emergency breathing devices functioned adequately, they say. More broadly, investigators should also be prepared to propose regulations that could prevent accidents in the future, they say.

McAteer says it's important that such questions are answered because the once-pioneering mining industry has been passed by safety innovations in the aviation and nuclear industries. "We deal with health and safety in the mining industry in an extremely primitive way," he says. "When it comes to safety and health, we are in the dark ages."

In the agency's defense

MSHA was defended Thursday by Ellen Smith, managing editor of the newsletter *Mine Safety and Health News*. Smith says the agency avoids conflicts by assigning investigations to people from districts outside where a mine fatality occurred.

"The people who were inspecting the mine will not be the people conducting the investigation," Smith says.

MSHA's Sago Mine investigation is being led by Richard Gates, manager of the agency's district that oversees Alabama, Georgia, Florida and Mississippi. Gates will be helped by seven ventilation and electrical experts from Pennsylvania, Kentucky and Alabama.

Bruce Watzman, vice president for safety and health at National Mining Association, which represents mining companies, says MSHA investigations are "an effective process. There are no politics involved. It is driven by facts to come to conclusions that allow the industry to advance its safety and health activity."

Others complain about the process. Interviews are typically voluntary, and MSHA investigators allow witnesses to skip questions and end interviews at any time, says Tony Opegard, an MSHA senior adviser from 1998 to 2001.

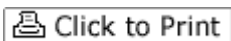
Opegard says interviews can be "intimidating" because mine company officials watch as MSHA investigators question miners. "The only point for a coal company to sit in on an accident investigation interview is to intimidate the witnesses," says Opegard, a former Kentucky state prosecutor on mine-safety cases.

Opegard says MSHA should conduct a "public inquiry" in which interviews are done publicly and the agency has subpoena power.

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