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## Latest coal tragedy reveals lax safety enforcement

Seventy-eight men who went into the Farmington No. 9 mine in West Virginia on the midnight shift in November 1968 never walked out. They were trapped by an explosion, then cut off from rescue by more blasts, noxious fumes and flames. The disaster led to a new mine safety law that shifted the emphasis from operator cooperation to stiff government enforcement.

In 1977, the law was strengthened again — but not until 26 miners and rescuers died in twin blasts at the Scotia mine in Kentucky. The cause? Multiple failures to comply with safety regulations.

On Sunday, as miners were being laid to rest after an explosion last week that killed 12 at West Virginia's Sago Mine, investigators were seeking the cause of yet another tragedy. But one culprit is clear: complacency. As mining fatalities have dropped in the past decade, federal regulators and judges have failed to use the tools they have to rein in those who don't comply with the law and force needed change:

- In the past year, government records show, the Sago Mine was cited repeatedly for failing to enforce basic safety precautions — having an adequate ventilation plan, which is key to preventing explosions, and conducting safety inspections before each eight-hour shift. The federal Mine Safety and Health Administration (MSHA) upped inspections and closed parts of the mine 18 times for serious violations. Despite the chronic failures, it assessed fines — ranging from \$60 to \$440 — more appropriate for traffic offenses than for life-threatening safety violations.

For most of the period, the mine was owned by Anker Coal. Last November, it was sold to International Coal Group. A fine of \$440 represents about one one-thousandth of 1% of ICG's profits for the first three quarters of last year.

- The number of what the MSHA calls "high-dollar fines" (\$10,000 or more) has dropped since the Bush administration took office in 2001. The agency issued 12% fewer of these fines from January 2001 through last October than it did during the last five years of the Clinton administration. Even when it did assess heavy fines, violators often got them cut in court. Last year, an administrative law judge slashed the fine against the operator of an Alabama mine, where 13 miners were killed in a 2001 explosion, from \$435,000 to \$3,000. The message? Even a deadly accident will cost an operator almost nothing.

- Watchdogs muffed other opportunities to ensure safety. In 2003, the Government Accountability Office found that over the past decade, inspectors had often failed to ensure that violations were corrected by deadlines. Meanwhile, the MSHA's dual role as safety inspector and accident investigator is fraught with potential conflicts. The MSHA must, in effect, investigate itself — a process that makes it hard to assess whether inspection practices or lack of enforcement contributed to an accident.

Miners say the history of mining safety is written in blood. Coal mining is a dangerous business. It's also a big business: The fuel creates more than 50% of the nation's electricity. Miners deserve the safety level that only strict regulation and tough enforcement can provide. It shouldn't take another Farmington, Scotia or Sago for Washington to make that happen.

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## We're on miners' side

By David G. Dye

We deeply grieve the deaths of the 12 miners at the Sago Mine in West Virginia and offer our heartfelt sympathy to their families.

This tragic accident follows years in which coal mine fatalities have dropped to their lowest levels in history. The Mine Safety and Health Administration (MSHA) is staffed by dedicated professionals, many of whom come from mining families and have a passion for protecting miners. Over the past several years, we have expanded enforcement, safety training and partnerships with labor unions and operators to push toward our goal of getting every miner home safely after every shift. This goal is shared by relevant state agencies and inspection professionals, who are also responsible for mine safety enforcement and investigation.

In our efforts to enhance mine safety, the MSHA has increased the number of inspectors since 2001. The Bush administration has proposed increased funding for the MSHA, from \$242 million in 2001 to more than \$280 million this year. For the past several years, the administration's budget has proposed raising penalties for egregious violations from \$60,000 to \$220,000.

Although the primary responsibility for ensuring mine safety rests with the operator who runs the mine on a daily basis, the MSHA aggressively used its statutory powers to identify and fix safety problems at the Sago Mine, and shut down portions of the mine that were deemed hazardous.

In close coordination with West Virginia, the MSHA's comprehensive investigation will determine what caused the Sago Mine explosion. If any health and safety standards were violated, we would take enforcement action. As always, we will make the full investigative report available to the families and the public. We will take every step — including looking at our own performance — to make sure this tragedy never happens again.

*David G. Dye is acting assistant secretary of Labor for Mine Safety and Health.*

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