Lessons From the Big Branch Tragedy

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It is still not known what set off the West Virginia mine explosion that killed 29 workers — the nation’s worst mining disaster in four decades. What is clear is that federal oversight of the industry must be greatly strengthened.

The first task is to reform the Mine Safety and Health Administration. Its powers are limited. It has been remarkably forgiving of bad actors. And even when it uncovers serious, repeated violations, its cumbersome, industry-friendly appeals process makes shutting down a mine virtually impossible.

The Upper Big Branch mine, where the explosion occurred, is a case in point. According to a 2007 agency letter to the Massey Energy Company, the mine’s owner, Upper Big Branch had incurred 204 safety violations just in the previous two years. Disturbingly, the agency soon pronounced itself satisfied that Massey had addressed the problems. But in the past two years, the mine has been cited repeatedly for safety violations, many of them serious, and some involving improper ventilation.

These alarming numbers should have given the agency sufficient ammunition to prove a “pattern” of violations, a necessary precondition for shutting the operation. But the agency’s procedures prevent it from taking decisive action until the appeals process runs its course, and industry has become remarkably adept at prolonging legal challenges for months or years.

Federal officials say the backlog has been holding up strong enforcement action — including shutdowns — against 48 mines, one of which is the Massey mine.

Strengthening the agency means strengthening the Mine Safety and Health Act of 1977. Regulators lack subpoena power, a basic investigatory tool. Violations of safety standards that lead to deaths are mere misdemeanors. The agency also needs more inspectors and administrative judges to deal with the appeals backlog.

Representative George Miller, the California Democrat who leads the House Education and Labor Committee, is eager to begin addressing these deficiencies, as is his Senate counterpart, Tom Harkin, an Iowa Democrat. Both are scheduled to hold hearings.

After the Sago mine disaster in 2006, Washington increased inspections but did not fundamentally reform the system. This time the chances look better. Joseph Main, the boss of the Mine Safety and Health Administration, is a former union official and a far cry from the industry enablers who dominated the place under the Bush administration. He and his superior, Labor Secretary Hilda Solis, are planning to meet with President Obama on Thursday to discuss ways to guard against similar disasters.
Meantime, public anger is at a high pitch, even among West Virginians who rely heavily on coal mining for their livelihoods. West Virginia’s governor, Joe Manchin III, has now appointed his own investigative panel.

No one should underestimate industry’s capacity to resist. The time to fight this battle is now, before the tragedy at Upper Big Branch, like so many other mining disasters, recedes from the public consciousness.