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## **Families of dead miners feel let down by Washington**

**A year after 29 coal miners were killed in West Virginia, a safety bill has failed and a backlog of safety cases has grown.**

By Kim Geiger, Tom Hamburger and Doug Smith, Washington Bureau

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Reporting from Montcoal, W.Va.

As he delivered a eulogy last year for 29 men killed in the worst coal mine disaster in four decades, President Obama bowed his head and repeated a plea he had heard from mining families: "Don't let this happen again." Advertisement

Looking at the audience that filled the Beckley, W.Va., convention center hall, he asked: "How can we fail them?"

A year later, many family members say that Washington has failed them, and some of the president's closest congressional allies agree.

While there have been improvements, many of the glaring problems revealed by the explosion at the Upper Big Branch mine remain unaddressed.

### **[Database: Contributions and the vote in Congress](#)**

At the top of the list: a regulatory system that allowed mine operators cited for repeated safety violations to keep operating while they pursued appeals that can drag on for a year or more. At the time of the explosion in April 2010, the appeals system had a backlog of 16,000 cases. Today, the backlog has grown to more than 19,000 appeals.

"We've been messing around for a year," said Rep .George Miller (D-Martinez), who introduced a bill last summer that would have dealt with the backlog and other issues brought to light by the deadly explosion. "The sad thing is that nothing will happen until the next major disaster."

Miller's proposal included provisions that miners and their families had requested repeatedly:

protection for whistle-blowers and greater liability for corporate officers who knowingly put workers at risk.

But the bill was defeated in the House last year as an anti-government mood swept the country and an industry lobbying campaign targeted swing-district members. Campaign contributions from the industry spiked shortly after the explosion and rose steadily through the rest of the year.

At first, Miller thought a broad-scale approach would succeed. Public sympathy for miners was high after the explosion, and passions were inflamed by reports that the mine owner, Massey Energy Co., had one of the nation's worst records for safety violations — and a routine practice of contesting them.

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## Database



Who got mining industry money; how they voted

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Current law allows mines to delay elevated sanctions by appealing citations that could be used as a basis for shutting down mines.

Safety violations at the Upper Big Branch mine spiked in 2009. Federal regulators ordered miners out of portions of the mine for repeated serious violations at nearly 19 times the national rate.

"Why wasn't it made to shut down?" asked Gary Quarles, a miner who formerly worked in the Upper Big Branch mine and whose son Gary Wayne Quarles died in the accident.

Ten days after the explosion, Obama told federal officials that action was necessary to "tackle the backlog of cases" that allowed some companies "to evade their responsibilities" for safety by taking advantage of delays.

Officials of the Mine Safety and Health Administration said Upper Big Branch should have been flagged for shutdown well before the explosion. A preliminary report on the explosion suggests that a serious safety violation — failure to deal with combustible coal dust — may have contributed to the deadly blast.

Massey did not accept those findings. M. Shane Harvey, Massey's general counsel, said safety had been a company priority.

"We treat citations seriously and we are working diligently to constantly improve safety at our operations," Harvey said. "Massey has urged Congress to provide the resources to clean up the appeals backlog. The backlog does not benefit Massey or any other operator."

Nearly 300 citations issued at Upper Big Branch between January 2008 and the time of last year's explosion are still pending review by the appeals board.

GOP members of Congress argued that Miller's proposal was too sweeping, and premature. After all, they said, the official final report on the explosion had not yet been completed.

Industry lobbying against the bill was intense. The National Mining Assn. alone reported spending \$3.2 million on lobbying last year, a portion of it to oppose Miller's bill. That effort was joined by hundreds of other companies and trade associations including the U.S. Chamber of Commerce. Overall, the mining industry made \$6.4 million in political donations in the 2010 cycle, according to data provided by the nonpartisan Center for Responsive Politics, which developed a detailed history of mining industry lobbying and campaign expenditures in collaboration with The Los Angeles Times.

The industry coalition targeted vulnerable moderate Democrats in swing districts, warning them that the legislation could cost jobs.

Concerned about the fraying prospects, Miller removed sections of his bill governing construction workers and sand and gravel mines. But he insisted on including underground gold, copper and other hard-rock mineral mines after two workers died in an accident at a Nevada gold mine last August.

Nevada Democratic Reps. Shelly Berkley and Dina Titus were among those who had expressed support for Miller's effort — in part because it initially included provisions to protect construction workers — but ultimately voted against the amended bill.

Titus said in a recent interview that the legislation should have focused only on coal mining.

"If the bill was not as far-reaching, it would have had a better chance," she said.

Berkley did not respond to requests for comment.

Titus received \$21,000 in campaign contributions from mining interests during the 2010 cycle, and Berkeley received \$22,000.

Just before the House voted last December, the Chamber of Commerce designated the bill as a "key vote," a signal that it could be used to help determine which candidates to support or oppose in upcoming elections.

The bill failed to win the two-thirds majority necessary to pass in the House during the hectic lame-duck session.

The Obama administration's mine safety chief, Joseph Main, said that despite the legislative failure, his division launched its own surprise-inspection initiatives, issued unprecedented shutdown orders and obtained funds for increased personnel to help reduce the backlog at the

Federal Mine Safety and Health Review Commission, which considers appeals from his division.

The agency issued 20 withdrawal orders at another Massey mine last month after a surprise inspection revealed conditions that "place miners at serious risk to the threat of fire, explosion and black lung."

While Main said he believed mines were safer today than they were a year ago, he acknowledged that his effort had had only a limited effect. In part that's because of the backlog: Increased enforcement produced more citations, which produced more appeals, contributing to longer delays.

Among family members of the dead miners, the inaction in Washington has brought a mixture of disappointment and despondency.

Last year's 48 mining deaths represented the highest fatality rate in coal mining since 1992.

"How many lives is it going to take before Congress realizes that these miners need more protection than what they've got?" asked Clay Mullins, a miner whose brother died inside the Upper Big Branch mine.

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