

The Washington Post

West Virginia mine has been cited for myriad safety violations

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Washington Post Staff Writer
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The West Virginia mine where at least 25 workers died Monday in an explosion was written up more than 50 times last month for safety violations. Twelve of the citations involved problems with ventilating the mine and preventing a buildup of deadly methane.

Federal regulators and members of Congress said they would examine the safety history of Massey Energy's Upper Big Branch coal mine south of Charleston, the site of the worst U.S. mining accident in a quarter-century. Meanwhile, rescue efforts were set to continue Wednesday to find four missing mineworkers.

West Virginia Gov. Joe Manchin III (D) said crews would drill thousand-foot boreholes to ventilate methane, the highly combustible gas that has built up in the mine since the explosion and forced rescue teams to suspend recovery operations. Manchin described the explosion as "horrific," and state and federal officials said it would be a "miracle" if anyone survived.

Massey Energy says on its Web site that the company's safety record has been better than the industry average for six

consecutive years, with its workers losing less time on the job through work-site accidents than its competitors. But in seven of the past eight years, Upper Big Branch miners lost more time on the job through work-site accidents than did other miners nationally, federal records show.

Three miners have died there since 1998, and the federal Mine Safety and Health Administration cited Upper Big Branch for 1,342 safety violations from 2005 through Monday, proposing \$1.89 million in fines, according to federal records.

That record "is a sign that they are not fixing their safety problems," said Celeste Monforton, a former senior official at the Mine Safety and Health Administration. It is not unusual for a mine to receive a substantial number of citations, she said,

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but the recent violations involving the mine's ventilation system "are a red flag. It's a signal that something is not right there, something is going wrong at that mine."

One former senior federal mine safety regulator said Tuesday that the MSHA should have closed down the mine after so many citations. "The regulators have failed to do their job," he said, speaking on the condition of anonymity to avoid complicating his consulting work.

Officials have the authority to shutter a mine under federal law if they find "a history of repeated and significant and substantial violations," but safety citations have rarely, if ever, led federal officials to order the closure of a mine.

One reason, those officials said Tuesday, is that companies can contest citations and fines proposed by the government, which delays their effect.

The company has contested nearly a third of the violations it has received since 2005, focusing on those carrying the costliest penalties. Its appeals have held up about \$1.3 million in proposed penalties for the violations, records show.

Sen. John D. Rockefeller IV (D-W.Va.) suggested that investigators look at how mining companies have drawn out the appeals process, noting that the process

could potentially delay closing unsafe mines for years.

"I'm not a lawyer, but I know how lawyers work, so they can stretch these things out," Rockefeller said.

Moreover, any administration is reluctant to close a business.


"How is the labor secretary going to be viewed, how is the president going to be viewed if he has his agencies out there closing businesses?" said Monforton, a research professor at George Washington University.

The 2006 MINER Act -- passed by Congress in the wake of an explosion that year at the Sago Mine in West Virginia that killed 12 workers -- bolstered the Mine Safety and Health Administration's inspection staff and increased penalties for safety violations.

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It has led to a higher number of citations and penalties -- and more challenges by companies, federal mine safety officials said. Safety violations do not go on a company's permanent safety record until a dispute is settled, officials said.

Mines must be inspected quarterly, and violations can range from serious failures to mundane problems such as dirty showers or not having soap available for miners to wash their hands, said Monforton, who helped investigate the Sago disaster. But Massey's violations included problems with ventilation, which Monforton said is essential for removing the methane and coal dust that build up during mining. "It's the main way we dilute those dust and gases so they don't explode," she said. "It's a critical piece of mine safety and how you prevent explosions."

Good ventilation was particularly important for the Upper Big Branch mine because it generated 2 million cubic feet of methane a day, higher than most mines, said the former regulator.

The disaster highlighted again the costs of coal use, which is also a major source of greenhouse gases that scientists say cause climate change. About half of U.S. electricity comes from coal-fired power plants. Richmond-based Massey is the nation's fourth-largest coal company and the largest in the central

Appalachian region. The company's stock plunged 11.4 percent Tuesday, erasing more than \$400 million of market value.

Massey and its outspoken chief executive, Don L. Blankenship, have long been lightning rods for criticism among environmentalists, labor leaders and lawmakers.

Blankenship has called congressional Democrats seeking climate-change legislation "greeniacs," and he has said, "I don't believe that climate change is real."

His opposition to organized mine labor -- the Upper Big Branch coal mine is non-unionized -- has also earned him the enmity of union leaders.

"This incident isn't just a matter of happenstance, but rather the inevitable result of a profit-driven system and reckless corporate conduct," Richard L.

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Trumka, president of the AFL-CIO and former head of the United Mine Workers of America, said Tuesday. "Many mining companies have given too little attention to safety over the years and too much to the bottom line." He pointed to Massey's safety violations and its failure to pay many of those fines while contesting them.

Massey has battled a number of lawsuits brought by workers injured or families of people who have died in its mines. In one of those cases, a memo was uncovered in which Blankenship urged mine managers to keep mine belts running. Subsequently a mine belt caught fire and two miners died of carbon monoxide inhalation.

Blankenship said in a radio interview Tuesday that accidents are "unfortunately an inevitable part of the mining process," but the former regulator said the 18 workplace fatalities among Massey miners since 2001 is high by industry standards.

The tone of federal enforcement, industry experts say, can be set by the president, who appoints the head of the MSHA. President George W. Bush chose David D. Lauriski, a former coal industry executive. President Obama chose Joseph A. Main, a former safety director for the United Mine Workers of America.

Former federal officials and others who

know mining said that Lauriski initially scaled back mine-safety regulation and that, under the Bush administration, 17 of 26 regulations proposed by the Clinton administration were dropped or withdrawn.

"Lax is not nearly a strong enough word to describe how mine safety was handled in the first part of the Bush administration," said Phil Smith, a spokesman for the United Mine Workers of America. "It became a lot less about enforcing rules and regulations and more of a touchy-feely thing: It's bad what you are doing, and you need to do better."

But Smith said enforcement stiffened during the Bush administration's final few years, especially after the Sago disaster.

Lauriski did not return calls seeking

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comment Tuesday.

"There will be a full, thorough investigation of the issues raised here," Main said. "It's going to involve a multitude of different investigative bodies."

Research director Lucy Shackelford contributed to this report.

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