

U.S. Congressman
Nick Rahall
WORKING FOR WEST VIRGINIANS

FOR IMMEDIATE RELEASE
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CONTACT: JIM ZOIA
(202) 226-7761

**RAHALL SAYS COAL DUST SAMPLING FRAUD DEPICTS NEED
TO BUILD A BETTER 'MOUSE-TRAP'**

Findings Also Illustrate Need For Black Lung Benefits Reform

BLUEFIELD, WV -- The Chairman of the House Subcommittee on Mining and Natural Resources, U.S. Rep. Nick J. Rahall (D-WV), today called upon the federal Bureau of Mines to develop a tamper-proof coal mine dust sampling device in light of the Labor Department's finding of massive fraud in the current program.

"Yesterday's announcement by Secretary of Labor Lynn Martin of massive fraud in the coal mine dust sampling program is not only shocking, but illustrates the pressing need to develop a tamper-proof dust sampling device," Rahall wrote to Bureau of Mines' Director TS Ary today.

Rahall reminded Ary that one of the primary missions of the Bureau of Mines is to develop technology to improve the health and safety of our Nation's miners. "Today I am calling upon you to initiate an expedited research effort aimed at devising an alternative to the current filter cassette dust sampling technique that has now been proven to be so easily manipulated," he wrote.

According to Rahall: "The goal of this effort should be to either produce a tamper-proof filter cassette, or an entirely new dust sampling methodology. In other words, we need to build a better mouse-trap."

The Subcommittee on Mining and Natural Resources has legislative and oversight jurisdiction over the Bureau of Mines. Rahall said that while the Bureau has been focusing on methods to reduce the generation of dust in the mines, the commercial application of any new techniques that may be devised may be too distant in the future to protect existing miners from black lung disease. A tamper-proof dust sampling device, Rahall said, is today's underground coal miner's last line of defense.

Rahall, who has been promoting legislation to reform the federal Black Lung Program, also said today that the wide-spread tampering with dust sampling devices identified by the U.S. Department of Labor gives further credence to his efforts to reform the federal black lung benefits program.

"There are those who have pointed to the low approval rate for black lung claims as evidence that dust levels in the Nation's mines have improved, that today's miners are no longer contracting black lung disease. Obviously, the Labor Department's investigations now prove that the degree of compliance with the respirable dust regulations does not comport with what has been officially reported, and in fact, that miners are being exposed to illegally high levels of dust on a daily basis," Rahall said. "Perhaps this will convince the Administration and others to join my efforts to make the black lung program more responsive to those it was created to serve."

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alienated the City Council to the extent that it may immediately rescind the commission's action. Police Commission President Daniel P. Garcia, a long-time ally and appointee of Bradley, said the commission put Gates on paid leave, expected to last 60 days, to provide for "calm, reflective action" while it investigates "allegations of mismanagement and/or neglect of duty" by Gates in connection with the March 3 beating of black motorist Rodney G. King by white police officers. Gates immediately denounced the decision as "illegal."

See BEATING, A8, Col. 1

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night, he said. Responding to the fight, a swarm of police converged on the Calvin home on West 24th Street not far from downtown. Instead of trying to help him, Calvin said, the officers ordered him to lie on the ground. Calvin refused, and police grabbed him, he said. "They shot me three times with the ray gun, right here, in front of the house," Calvin said last week, recalling last year's incident. "Yeah, I'm scared of them. They ain't no good. They're over here in the ghetto and they treat a person like a

U.S. to Fine Coal Mines \$5 Million

Owners Accused Of Safety Violations

By Frank Swoboda
and Kathleen Day
Washington Post Staff Writers

Labor Secretary Lynn Martin yesterday announced \$5 million in proposed fines against the nation's major coal companies and an ongoing criminal investigation of the industry after the government discovered that dust samples sent to federal safety inspectors had been doctored in nearly half the nation's underground mines.

Deploring the violations at coal mines across the country from Maryland to Montana, Martin said there appeared to be "an addiction to cheat" among the mine owners.

Investigators from the Labor Department's Mine Safety and Health Administration (MSHA) accused 500 companies—including such corporate giants as Du Pont Co., USX Corp., Bethlehem Steel Corp. and General Dynamics Corp.—of tampering with dust samples at 847 of the nation's 2,000 underground coal mines. In many cases, officials said, dust was vacuumed or blown out of sampling devices before they were sent to federal inspectors.

The coal industry immediately rejected the charges, contending that they were little more than a headline-grabbing effort by the government. "We frankly can't believe that this is tampering. There has to be some other kind of reason involved," said Richard L. Lawson, president of the National Coal Association.

Government officials contend the incentive to cheat comes from the fact that MSHA, unlike other government safety agencies that can't shut facilities for violations, has the power to close a mine if it finds too much dust in the air, an action that could cost hundreds of thousands of dollars in lost production.

Martin said two criminal investigations of dust-sample tampering are being conducted by the U.S. attorneys in Charleston, W. Va., and Pittsburgh. She noted that the tampering was first noticed about 20 months ago and continued until word

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Government Plans to Fine Coal Companies \$5 Million

MINES, From A1

of the government's investigation began to spread.

"It's amazing how the incidents [of tampering] dropped once word of the investigation got out," Martin told a news conference.

Martin said the department had yet to learn of any evidence of a conspiracy from the U.S. attorneys investigating the case, but said she was at a loss to explain how the practice seemed to suddenly start at various mines at about the same time. She remarked that owners in the coal industry "talk to each other a lot."

Martin, just six weeks into her job as labor secretary after 10 years as a congresswoman, was blunt in condemning the industry.

"I am appalled at the flagrant disregard for the law designed to protect coal miners against disabling lung disease. This disregard for workers' health protection is not what American industry is supposed to be about," she said. "You just want to shake someone and ask, 'Why, why did you do it?'"

The coal industry quickly went on the counterattack. Consolidation Coal Co., for example, a Du Pont subsidiary and one of the companies with the most citations for tampering, vowed to fight the charges.

"We reject the allegation by the government that Consol tampered with respirable dust samples and we intend to challenge the citations," the company said in a prepared statement. It suggested the charges were little more than an attempt by federal officials to make headlines.

Any thought that the industry might have entered into a conspiracy

with other coal companies, Consolidation said, "lacks the credibility that common sense would demand."

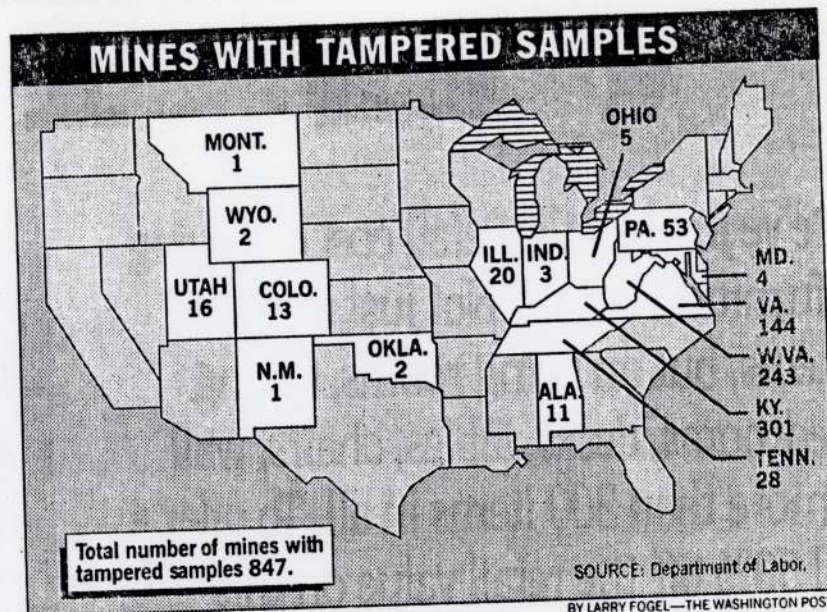
Lawson, in a rare news conference, suggested the tampering might have been done by the miners themselves, particularly in union mines. As for what incentive miners would have to falsify the results of tests designed to protect them, Lawson said miners are required to wear the seven-pound monitoring equipment during an entire shift and if the samples show too much dust they have to wear it longer.

Richard Trumka, president of the United Mine Workers of America, said he expects criminal charges to result from the investigations, but he argued that the violations disclosed yesterday were proof that the dust-sampling program should be taken out of the hands of the mine owners.

"This is a program that is so structurally flawed no amount of enforcement can correct it," Trumka said. "If a coal operator is falsifying dust samples sent to MSHA for analysis, it follows that that coal operator knows or strongly suspects its dust control program does not comply with the standards necessary to prevent coal miners from contracting the deadly black lung disease."

Shortly after her announcement, Martin began calling the chief executive officers of a number of the coal companies cited for tampering. One of those called was Du Pont Chairman Edgar S. Woolard Jr. Thomas Hoffman, vice president of public relations for Consolidation Coal, declined to describe their conversation.

"We've done our own investigation and we feel the government's



allegations are unfounded," Hoffman said. He said the company began its investigation last year when the government began examining reports of tampering at Peabody Coal Co.

Peabody pleaded guilty to three criminal counts of tampering with dust samples from its mines and was fined \$500,000 by a U.S. District Court in West Virginia.

Consolidation and Peabody are the nation's two largest coal companies.

Hoffman said Du Pont believes the government has blown the problem out of proportion and hasn't tried to cooperate with the industry to remedy any violations.

"They haven't made an attempt to put this in perspective," he said. "By doing it with a press conference and a big list makes it sound like nine out of 10 dust samples have been tampered with." He said Du Pont believes that the alleged tamperings amount to less than 3 percent of the yearly samples taken by the industry.

Michael E. Odon, president of Pittston Co., issued a statement saying, "We believe everything possible

has been done to comply with the law and that there has been no misconduct by our company."

Pittston, like a number of other companies contacted yesterday, said it could not respond to particulars until the Labor Department presents formal allegations to the company.

At her news conference, Martin demonstrated how a dust sample could be doctored. The sample is taken in a small, numbered and pre-weighed cassette, which is hooked into a small machine that is attached to the belt of a miner working in an area to be tested. The cassette is normally sent to federal mine safety offices, where it is weighed to determine the amount of dust at the work site.

But Martin showed how the pump that pushes air through the filter can be reversed to push dust from the filter. And if that fails, she showed that someone can simply blow through the holes in the cassette to eject dust. No matter how it's done, however, the action leaves a white spot in the center of the filter showing that the sample has been altered.

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U.S. HOUSE OF REPRESENTATIVES
WASHINGTON, DC 20515

April 5, 1991

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TS Ary, Director
Bureau of Mines
U.S. Department of the Interior
Washington, D.C.

Dear Director Ary:

Yesterday's announcement by Secretary of Labor Lynn Martin of massive fraud in the coal mine dust sampling program is not only shocking, but illustrates the pressing need to develop a tamper-proof dust sampling device.

As you are well aware, one of the primary missions of the Bureau of Mines is to develop technology to improve the health and safety of our Nation's miners. With this in mind, today I am calling upon you to initiate an expedited research effort aimed at devising an alternative to the current filter cassette dust sampling technique that has now been proven to be so easily manipulated. The goal of this effort should be to either produce a tamper-proof filter cassette, or an entirely new dust sampling methodology. In other words, we need to build a better mouse-trap.

The health of the Nation's underground coal mining workforce is at stake. Please give this request your most serious consideration and I look forward to discussing this matter with you further.

With warm regards, I am

Sincerely,



NICK J. RAHALL, II
Chairman, Subcommittee on Mining
and Natural Resources