



U.S. Congressman  
**Nick Rahall**  
*WORKING FOR WEST VIRGINIANS*

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CONTACT: JIM ZOIA  
(202) 226-7761

**LABOR DEPT. CONTRIBUTED TO COAL DUST SCANDAL**  
**Rahall Says Agency Quashed Development**  
**of Tamper-Resistant Sampler 13 Years Ago**

**WASHINGTON, D.C.** -- The Department of Labor quashed the development of a tamper-resistant coal mine dust sampling cassette 13 years ago, an action that paved the way for the current tampering controversy, the chairman of the House Subcommittee on Mining and Natural Resources, U.S. Rep. Nick J. Rahall (D-WV), said today during a hearing on the matter.

"It seems to me that if this technology was allowed to proceed, we could have avoided jeopardizing the health of those coal miners who work in the mines where tampering occurred. In effect, if this technology had been put into place 13 years ago, we may have avoided a new generation of black lung victims," Rahall told William Tattersall, the Secretary of Labor for Mine Safety and Health, at the hearing.

"I must state that the government's lack of diligence in pursuing this technology back in 1978 borders on the criminal," Rahall continued. "It certainly was a great disservice to the Nation's underground coal miners."

At the hearing, Rahall produced documents showing that in 1978 the Bureau of Mines received the final results from two contracts it had made with Mine Safety Appliances Company of Pittsburgh and Bendix Environmental & Process Instruments Division of Baltimore. The Bendix cassette, according to the final report the company made to the Bureau of Mines, could not be backflushed and had a protective trap to prevent shaking dust from the filter. According to the company, the cassette "was basically tamper-proof, could not be opened and reassembled." According to the Mine Safety Appliances final report, its sealed cassette reduced the chances of sample loss due to reverse flushing, impact or cassette opening.

"At the time there was no indication of any extensive tampering with respirable dust cassettes. It was decided that requiring the tamper-resistant cassette could not be justified at the time," Tattersall, in a prepared statement, told the Subcommittee. During the hearing, he added that the costs of the device were also a factor.

"Since when is the federal government putting a price tag on the health and safety of this Nation's coal miners," Rahall shot back. "The fact of the matter is that there was tampering and that the federal government went through the trouble of contracting for a tamper-resistant cassette back in the late 1970s. Nothing further happened."

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Several incidents of tampering during the 1970s, as well as a U.S. General Accounting Office report, caused the Bureau of Mines to enter into the MSA and Bendix contracts in 1975, Rahall said.

"They just simply ignored it," testified Joe Main, the United Mine Workers of America's administrator for occupational health and safety about the government supported technology developed years ago.

Main added: "After a decade of research we are still years away from having a tamper-proof continuous monitoring device in the mines. This is perhaps the Bureau's most dismal failure."

According to National Coal Association President Richard Lawson, who also testified before the Rahall Subcommittee: "We understand that to remedy this situation the cassette manufacturer produced, and provided to the government, 1000 prototype improved cassettes for field testing. We are further advised that, to date, the manufacturer has yet to receive a report from the government on the results of the field testing."

Tattersall testified that the Mine Safety and Health Administration will be receiving a modified dust sampling cassette from the manufacturer in the near future, and that he intends to require industry to use by the first part of next year.

Rahall, however, noted that the so-called "new" cassette is in actuality the device originally designed, with minor modification, 13 years ago under the Bureau of Mines contract with Mine Safety Appliances Company.

According to Tattersall, the agency has a "task group" that is conducting a review of the respirable dust program, has asked the Bureau of Mines for its assistance and plans to form another "working group" composed of MSHA, Bureau of Mines and NIOSH personnel to pursue the development of acceptable monitoring technology.

"Apparently, however, this technology has already been chosen and it is the modified MSA cassette. Further, you already know when you will require industry to use it, that being the first part of 1992. It would seem that you have foreclosed the consideration of any other new technology for the near term," Rahall said to Tattersall.

UMWA's Main also contended that a major problem is with MSHA's lack of enforcement of dust standards, in addition to the Bureau of Mines' and MSHA's lack of emphasis in developing a comprehensive dust monitoring system. Main laid a great deal of the blame on MSHA's doorstep.

"We see the federal agency here today acting like it's all a surprise. It ain't no surprise," he said.

Both the Coal Association and the UMWA agreed that in order for a dust monitoring system to be effective, all parties must be participants. However, they said that the Labor Department has closed them out of any discussions on new monitoring technology.