



U.S. Congressman
Nick Rahall
WORKING FOR WEST VIRGINIANS

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**RAHALL ATTACKS THREAT OF LOW-LEVEL RADIOACTIVE WASTE
BEING DUMPED IN WEST VIRGINIA**

WASHINGTON, D.C. -- A proposal that would allow certain types of low-level nuclear waste to be disposed with regular garbage is meeting intense opposition from U.S. Rep. Nick J. Rahall (D-WV).

Testifying before the Subcommittee on Energy and the Environment recently Rahall said that a Nuclear Regulatory Commission (NRC) proposal to exempt some low-level radioactive waste from regulation--waste that would be deemed "below-regulatory concern" (BRC)--has the potential of making West Virginia the Nation's low-level radioactive waste dump.

"It is incredible that we are even being put into a position of having to fight a proposal that would subject the citizens of West Virginia to the hazards of radioactive waste without them even being aware that these types of wastes are being dumped in our garbage fills," Rahall said. The types of wastes in question include items such as pieces of decommissioned nuclear facilities, irradiated medical supplies and contaminated protective worker clothing.

The purpose of the hearing was to review legislation that would revoke a July 3, 1990, policy which would allow the NRC to deregulate certain types of low-level radioactive waste that it considers no longer harmful enough to warrant regulation. Under deregulation, the wastes could be disposed of in ordinary landfills. As a result of widespread public concern, the NRC has placed a temporary moratorium on implementing the policy.

The bill would also prohibit the NRC from preempting states, like West Virginia, that have passed laws to protect their citizens against the danger of BRC waste. In light of the fact that 30% of the garbage disposed of in West Virginia landfills comes from out-of-state, Rahall fears that under the NRC policy other states would include low-level radioactive waste in garbage destined for the Mountain State.

Although the legislation under consideration would revoke the July 3, 1990, BRC policy there are no assurances that another BRC could resurface in the future. Rahall expressed his support for amending the legislation to outlaw any future BRC policy.

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**STATEMENT OF REPRESENTATIVE NICK J. RAHALL
SUBCOMMITTEE ON ENERGY AND THE ENVIRONMENT
SEPTEMBER 12, 1991
H.R. 645**

Mr. Chairman, I would like to commend you for holding this hearing on the BRC issue. I also would like to commend our colleague and the distinguished Chairman of the full committee, George Miller, for reintroducing BRC legislation in the 102nd Congress. I am an original cosponsor of this bill.

Today's hearing is necessary because it appears that, despite a groundswell of national public opposition, the NRC is still committed to some form of BRC policy. I am very concerned about such a prospect.

Chairman Miller's legislation, H.R. 645, would put an end to the most recent BRC initiative. In addition, it would prohibit the NRC from preempting states, like West Virginia, that have enacted BRC laws to protect their citizens from the disposal of BRC waste in local landfills. This bill is important to the State of West Virginia for a number of reasons.

First, this year, West Virginia became the sixth state to pass a law prohibiting the disposal of BRC waste in landfills. The West Virginia Legislature pursued this course of action even though NRC announced in February that it was initiating a consensus-building process to work toward resolution of the issues prompted by the July 3, 1990, BRC policy announcement. In other words, West Virginia is committed to killing the BRC policy.

Despite this consensus-building effort, however, the BRC policy, as originally conceived, would allow the NRC to preempt state BRC laws. As a result, the West Virginia BRC law could fall victim to this preemption. Chairman Miller's bill would protect West Virginia against this possibility.

Second, 30 percent of the waste in West Virginia's landfills originates from out-of-state. If this or any other BRC policy was implemented, West Virginia could become an importer of radioactive waste, without even knowing it.

Although the new West Virginia law prohibits the disposal of BRC waste in landfills, West Virginia officials would have no way of knowing whether or not radioactive waste was included in the imported garbage. I fear that the State of West Virginia would become the Nation's de facto radioactive waste dumping ground.

The Miller bill is a step in the right direction in protecting West Virginia from the threat of becoming a national radioactive waste dumping ground, but it needs improvement. As currently written, H.R. 645 would revoke the July 3, 1990, BRC policy only. It would not permanently remove the statutory authority of the NRC, found in the Atomic Energy Act and the Low-Level Radioactive Waste Policy Act, to establish BRC policies. In addition, it would not revoke an earlier BRC policy issued in 1986. As a result, BRC policies could resurface in the future. I am supportive of efforts to remove the NRC's ability to promote future BRC initiatives.

During the 101st Congress, I testified before this Subcommittee in opposition to the BRC policy when it was first announced. At the full committee level, I supported passage of the first Miller bill and offered an amendment that would require the NRC to issue regulations providing for timely advance notification to the Governor of any state prior to the transport into that state of any BRC waste from another state. This amendment was accepted, however, it was not incorporated in H.R. 645.

I believe this notification requirement is necessary should H.R. 645 not be amended to remove the NRC's authority to develop future BRC policies. Without notification, United States citizens will have no way of knowing what type of out-of-state radioactive waste is being buried in their local landfills. If necessary, I would like to work with you, Mr. Chairman, in devising an effective notification requirement so that states that import out-of-state garbage are better protected against the future threat of BRC radiation.

I will continue to follow this issue closely and speak up when I have the opportunity. I truly believe that the BRC proposal is an ill-conceived idea that would be harmful to the citizens and environment of West Virginia. I will continue to fight against its implementation.

Thank you for the opportunity to testify at this hearing.