

Opening Statement of the Honorable John Shimkus
Subcommittee on Environment and the Economy
Hearing on “Discussion Draft of H.R. ____, The Coal Ash Recycling and Oversight Act of
2013”
April 11, 2013

(As Prepared for Delivery)

In our first hearing this Congress we heard about the great work states are doing when it comes to environmental regulation and how well equipped and qualified they are to take on that mission. Today we will focus directly on coal ash and legislation designed to give states the framework to build off their successes in the past handling waste streams under the Resource Conservation Recovery Act (RCRA).

Most people think of federal law when it comes to environmental protection and we have passed many important environmental laws over the years. However, states also pass environmental laws. States have the same concerns about protecting the environment and contrary to some of the things you might hear today, states establish and carry out a standard of protection through their environmental permitting programs. For example, in my home state of Illinois, regulators are directed to establish programs to restore, protect and enhance the quality of the environment, and to assure that adverse effects upon the environment are fully considered and borne by those who cause them.

While it may not use the same words Congress has used to direct EPA, the effect is exactly the same. The legislation we consider today sets out a new approach. It does not follow the same path as we have traveled with the RCRA before which is for Congress to set a subjective standard that EPA must interpret and implement through regulations and enforcement.

Instead, we are setting the standard in statute and charging the states with implementation. Just because it's different does not mean ineffective or not protective of human health and the environment.

We heard the comments and concerns about the bill we passed in the last Congress and we worked both across the aisle and across the Capitol to develop the text of this discussion draft. The legislation makes several key improvements. In particular, it establishes additional requirements for surface impoundments that aren't meeting a groundwater protection standard and requires impoundments that can't meet the standards within a certain time period, to close.

The discussion draft requires groundwater monitoring for all disposal units that are receiving coal ash and tightens the dust requirements. The bill also improves on the dam stability standards by requiring an annual inspection of the design, construction, and maintenance of structures by an independent professional engineer.

The long and short of it is – Congress is perfectly capable of establishing a standard of protection for coal ash. The states are perfectly capable – and in the best position – to implement robust permit programs for coal ash.

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