

**February 15, 2013**  
**STATEMENT FOR THE RECORD**  
**HOUSE ENERGY AND COMMERCE COMMITTEE**  
**SUBCOMMITTEE ON ENVIRONMENT AND THE ECONOMY**

**“The Role of States in Protecting the Environment Under Current Law”**

Earthjustice, Clean Water Action, Sierra Club, Natural Resources Defense Council, Appalachian Voices, Environmental Integrity Project, and Citizens Coal Council appreciate the opportunity to submit this statement for the record. Together our organizations represent several million citizens in all 50 states. Our organizations work for strong health and environmental protections and have a long history of encouraging and assisting in the implementation of the Resource Conservation and Recovery Act (RCRA), Clean Water Act (CWA), Safe Drinking Water Act (SDWA), and the Clean Air Act (CAA), as well as other federal environmental statutes.

The U.S. Environmental Protection Agency (EPA) is the steward of national environmental protection. It is therefore essential that EPA establish minimum federal standards sufficient to ensure clean and healthy water and air under federal environmental statutes, maintain clear benchmarks for state performance, and implement effective enforcement to guarantee consistent nationwide compliance. The federal authority afforded EPA under the RCRA, CWA, CAA, and SDWA to ensure consistent and scientifically sound national regulations, as well as fair and effective enforcement of standards, is critical to the protection of all communities. While the States have an essential role in implementing delegated programs, EPA must serve as an effective backstop to ensure consistent enforcement and implementation under federal statutes.

Recent bills in the 112<sup>th</sup> Congress, including H.R. 2273 and H.R. 4043, attempted to constrain this essential function of the EPA. Among other constraints, these bills would reduce EPA’s authority to perform oversight of state programs, reduce EPA’s ability to ensure effective enforcement of environmental laws, and prevent EPA from setting national standards through rulemaking. For the following reasons, we urge this subcommittee to protect EPA’s rulemaking and oversight role to ensure consistent and protective programs that protect the health and environment of all Americans:

- **Pollution does not obey state borders:** Because environmental pollution often migrates across state lines, pollution in one state may cause damage in another. National consistency of state programs ensures that all Americans live in states that meet minimum environmental standards.
  
- **Prevention of unfair economic advantage:** Federal standards level the playing field among regulated entities, preventing a “race to the bottom” and ensuring that regulated facilities in one state do not have an unfair economic advantage over facilities in other states. In addition, through consistent enforcement nationwide, law-abiding facilities are not placed at an economic disadvantage to those facilities that choose not to comply with the law.

- **Effective national enforcement.** EPA's authority to enforce consistent, minimum safeguards in states where enforcement is absent or inadequate is a necessary failsafe protection established by Congress in the RCRA, CWA, CAA and SDWA. By authorizing states to enforce portions of these acts, EPA does not forfeit its authority to continue to conduct its own inspections and take action against polluters, particularly when violations are widespread or related to a national priority. EPA can engage in independent enforcement activities in states and also take action against polluters when it determines a state either did not act or did not take strong enough action. Ultimately EPA's authority to withdraw state programs when states fail to take appropriate enforcement action ensures consistent national protection.
- **Nationwide programs that meet federal requirements.** According to federal federal regulations, EPA must provide adequate oversight so that it can determine when states fail to meet their federally-mandated enforcement and implementation commitments. Without effective monitoring of state programs under clear statutory standards, EPA cannot ensure national consistency.
- **Assurance that rules reflect the best science.** EPA retains a vital role under role under federal environmental statutes to ensure that its rules reflect the best science and thus effectively protect human health and the environment. Without authority to revisit rules in the face of changing technologies and advancing science, there is no assurance that the American public will be protected from new threats to health and the environment in the most efficient and effective manner.

There can be no national consistency of protective standards without a strong and uncompromised EPA. Nor can American communities and industries be ensured of consistent and effective enforcement of such standards without a strong EPA backstop. In the absence of minimum federal standards, environmental disasters have been mounting at both coal ash and natural gas hydrofracking sites. We urge all members to consider the essential role of EPA before abridging its ability to perform the critical functions that protect the health and environment of all Americans.

We appreciate the opportunity to submit this statement.

Respectfully,

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