Opening Statement of the Honorable John Shimkus
Subcommittee on Environment and the Economy
Markup on the Coal Residuals Reuse and Management Act of 2013; the Reducing Excessive Deadlines Obligation Act of 2013; the Federal Facility Accountability Act of 2013; and the Federal and State Partnership for Environmental Protection Act of 2013

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(As Prepared for Delivery)

The committee will come to order. Today the subcommittee marks up four bills: H.R. 2218 the "Coal Residuals Reuse and Management Act of 2013"; the "Reducing Excessive Deadlines Obligation Act of 2013"; the "Federal Facility Accountability Act of 2013"; and the "Federal and State Partnership for Environmental Protection Act of 2013."

H.R. 2218, the McKinley coal ash bill, is now in its third generation. This bill creates a federal-state partnership that is different than environmental laws we have enacted in the past but it will be no less protective of human health and the environment. You will hear from the other side the bill does not contain a "safety standard" or a "standard of protection." However, the words "protect human health and the environment" are not magic words we sprinkle throughout environmental statutes to automatically make environmental programs protective. Rather, protecting human health and the environment is a task EPA and the states take on every day. Sometimes EPA is in the driver's seat – and more often than not it's the states – but make no mistake – both are up to the task of creating permit programs that protect human health and the environment.

The bill we will mark up contains the core of the House-passed bill from last Congress – minimum federal standards set in statute with direct state implementation.

Last year's Senate version added some important additional requirements – including groundwater monitoring for all active structures and requirements that leaking unlined impoundments meet a groundwater protection standard or close within a certain time period. And this year, we made some clarifications that make the bill easier to read and added some additional key provisions – several of which were at the suggestion of EPA and which we worked on directly with EPA.

Perhaps among the most important of these are the deadline for states to issue permits, criteria EPA can use to assess whether a state permit program is meeting the minimum requirements, and additional structural stability requirements.

Since EPA first proposed coal ash rules exactly 3 years ago, there has been a cloud of uncertainty hanging over states, the regulated community, coal ash recyclers, and even EPA. This bill would resolve the issues for everyone. The "Coal Residuals Reuse and Management Act" has been a bipartisan, bicameral and—now an inter-branch collaboration. At each step and with the input of many stakeholders, it has improved, and it is more ready than ever for enactment. Let's approve this bill so everyone can move forward knowing coal ash is being regulated in manner that protects human health and the environment.

CERCLA is also a federal-state partnership and the other three bills we will markup today are intended to ensure that partnership accomplishes the goal of getting hazardous waste sites cleaned up as quickly and efficiently as possible.

Mr. Gardner's "Reducing Excessive Deadlines Obligation Act" is a shorter, but positive step forward for reducing red tape and balancing the roles of the states and EPA. It does two things. First, it allows EPA to review and revise Solid Waste Disposal Act regulations as appropriate instead of every three years as current law requires. In written testimony last month, EPA told us that this legislation would relieve a significant resource burden given the complexity and volume of EPA's RCRA regulations – but the bill will

also lift a significant burden on states and regulated communities. One of our witnesses, a regulator for a town in New Jersey, told us that given a choice between redoing regulations every three years or spending the money and effort on clean-up, he'd choose clean-up. We quite agree.

The Gardner bill also removes a possible dilemma for folks who must meet financial responsibility requirements under CERCLA. The bill requires that EPA analyze and report back to us regarding what state and federal financial assurance requirements already exist and the bill clarifies if EPA puts out additional regulations, that the regulations already in place at the state and federal level will be preserved. This only makes sense.

Mr. Latta's "Federal Facility Accountability Act of 2013" also shows deference to State efforts to protect human health and the environment through their role in environmental cleanups. It requires federal facilities, including formerly owned federal facilities, to meet state standards. Mr. Latta's bill would put federal agencies on the same footing with respect to doing a CERCLA cleanup as any private party.

Finally, Mr. Johnson's "Federal and State Partnership for Environmental Protection Act" ensures that the states have a meaningful role in the CERCLA process; in particular when EPA places sites on the CERCLA National Priority List and when response decisions are made. This is fair because states under CERCLA are required to commit their own resources, so they should have more of a voice in the process.

This subcommittee is committed to modernizing environmental statutes such as RCRA and CERCLA by considering whether existing statutory deadlines are workable and acknowledging that in the years since these environmental statutes were enacted, states have come a long way in developing their own regulatory programs to protect human health and the environment. These four bills further that goal by creating a new model for environmental permit programs, removing outdated deadlines or deadlines that pose a significant regulatory burden and by making sure states have a meaningful role in cleanups.

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