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DCMN HERZFELD

MARKUP OF

COAL RESIDUALS REUSE AND MANAGEMENT ACT OF 2013; REDUCING EXCESSIVE
DEADLINE OBLIGATIONS ACT OF 2013;

FEDERAL FACILITY ACCOUNTABILITY ACT OF 2013; AND

FEDERAL AND STATE PARTNERSHIP FOR ENVIRONMENTAL PROTECTION ACT OF 2013

WEDNESDAY, JUNE 5, 2013

House of Representatives,

Subcommittee on Environment and the Economy,

Committee on Energy and Commerce,

Washington, D.C.

The subcommittee met, pursuant to call, at 4 p.m., in Room 2123, Rayburn House Office Building, Hon. John Shimkus, [chairman of the subcommittee] presiding.

Present: Representatives Shimkus, Gingrey, Latta, McKinley, Johnson, Upton (ex officio), Tonko, Green, Dingell, Schakowsky, Waxman (ex officio).

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Staff Present: Nick Abraham, Legislative Clerk; Mike Bloomquist, General Counsel; Jerry Couri, Senior Environmental Policy Advisor; Brittany Havens, Legislative Clerk; Peter Kielty, Deputy General Counsel; David McCarthy, Chief Counsel, Environment/Economy; Andrew Powaleny, Deputy Press Secretary; Tina Richards, Counsel, Environment; Chris Sarley, Policy Coordinator, Environment & Economy; Jen Berenholz, Minority Chief Clerk; Jacqueline Cohen, Minority Senior Counsel; Elizabeth Letter, Minority Assistant Press Secretary; and Roger Sherman, Minority Chief Counsel.

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Mr. Shimkus. The subcommittee will come to order. Chair recognizes himself in an opening statement. The committee will come to order. I already said that.

Today the subcommittee marks up four bills: H.R. 2218, the Coal Residuals Reuse and Management Act of 2013; the Reducing Excessive Deadline Obligations 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 that 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 through the 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 that, it is the States. But make no mistake, both are up to the task for creating permit programs that protect human health and the environment.

The bill we will mark up contains the core of the House-passed bills from the last Congress. Minimum Federal standards set in statute would direct State implementation.

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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 the EPA, and which we worked on directly with the 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's 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 the EPA. This bill would resolve the issues for everyone.

The Coal Residuals Reuse and Management Act has been a bipartisan, bicameral, and now an interbranch collaboration. At each step, and with the input of many stakeholders, it has improved, and it is more ready than ever to be enacted.

Let's approve this bill so everyone can move forward knowing coal ash is being regulated in a manner that protects human health and the environment.

CERCLA is also a Federal-State partnership, and the other three

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bills we will mark up today are intended to ensure that the partnership accomplishes the goal of getting hazardous waste sites cleaned up as quickly and as efficiently as possible.

Mr. Gardner's Reducing Excessive Deadline Obligations Act is a shorter, but positive step forward in reducing red tape and balancing the roles of States and the EPA. It does two things. First, it allows EPA to review and revise Solid Waste Disposal Act regulations as appropriate instead of every 3 years as current law requires. In written testimony last month, EPA told us that this regulation would relieve a significant resource burden, given the complexity and volume of EPA's RCRA regulations, but the bill will lift a significant burden on States and regulated communities.

One of our witnesses, a regulator for a time in New Jersey, told us that given a choice between redoing regulations every 3 years or spending the money and effort on cleanup, he would choose cleanup. 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 and 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

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shows deference to State efforts to protect human health and the environment through their role in environmental cleanup. 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 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 the 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 post significant regulatory burden, and by making sure States have a meaningful role in their cleanup.

And with that, I yield back my time and now recognize ranking member of the subcommittee Mr. Tonko for 5 minutes.

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[The prepared statement of Mr. Shimkus follows:]

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Mr. Tonko. Thank you, Mr. Chair.

The four bills before us today involve longstanding issues. Present and past failures to deal with waste properly have left us with contaminated lands, contaminated air, and contaminated water.

Prior to the passage of Federal waste disposal laws in 1976 and the Superfund law in 1980, State and local governments had sole responsibility for policies on waste handling and disposal. This situation did not work well for many communities across the country. There was little recycling of usable material, and hazardous substances were disposed of with little concern for their ultimate fate and their impacts on people and the environment. Privately owned industrial sites also became contaminated.

The Federal Government's track record handling its own waste was no better. A number of Federal facilities, especially those of the Departments of Defense and Energy, are seriously contaminated, and cleanup of Federal sites will continue for decades.

Proper waste handling is expensive, but it is more expensive to address the problems created by when waste is handled improperly. The Solid Waste Disposal Act, the RCRA and Superfund are important laws that have helped all levels of government and private parties to handle waste in a responsible fashion, clean up legacy waste problems, and to protect the public and the environment from dangerous contamination.

We have not solved all of our problems or explored all of our opportunities with waste disposal policy. We still generate a lot of

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waste, recycle too little, and do not take advantage of energy embodied in waste. However, the bills before us today do not address those issues, and they do not offer better waste management or cheaper, faster cleanups of contaminated sites.

I would like to see a resolution of the issues with coal ash. I am certain that the communities living near the disposal sites would like this resolved. Industry would like a resolution. If, Mr. Chair, you would like to craft a bill on coal ash that could become law and provide certainty to those interested in this issue, our side is prepared to work with you, but the bill we are considering today does little more than codify the status quo. That simply is not good enough to ensure public safety and guarantee protection of our air, our land and water resources.

As for the Reducing Deadline Obligations Act, it appears to be a legislative attempt to shut down the pending lawsuits by industry and citizen groups to force long-overdue action by EPA on coal ash and to cut off any attempt by EPA to strengthen financial responsibility requirements for those generating and handling hazardous waste. I cannot support such an effort.

On a positive note, I am very pleased, and I thank you, that the new version of the Federal and State Partnership for Environmental Protection Act eliminates section 5 of the earlier discussion draft that would have slowed down cleanups and increased litigation. Thank you, Mr. Chair, for making this improvement to the bill. However, I

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am still not convinced that this legislation is needed. The witnesses at our hearing identified no instances where the Federal Government has listed sites on the national priorities list under Superfund over the objections of the State, and the witnesses from the Congressional Research Service and the Government Accountability Office indicated that consultation with the States commonly occurs throughout the site-cleanup process under Superfund.

This legislation offers a solution to problems that do not seem to exist. Perhaps additional oversight of the Superfund program would identify problems, indeed of a legislative solution, but at this point we should heed the old adage, if it isn't broken, don't fix it.

Finally, while I believe we all agree that cleanups on Federal property should be done in a fashion that respects State requirements for site remediation, the Federal Facility Accountability Act creates some significant concerns, especially with respect to sites that were formerly owned by our Federal Government. Perhaps we can work together to resolve these issues before the bill comes before the full committee. Achieving more timely and effective cleanups on Federal lands is a worthy goal, one that we can all agree upon, and would resolve some very strong concerns that everyone shares.

With that, I thank you and yield back, Mr. Chair.

[The prepared statement of Mr. Tonko follows:]

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Mr. Shimkus. Gentleman yields back the time.

Chair now recognize the chairman of the full committee Mr. Upton for 5 minutes.

The Chairman. Thank you, Mr. Chairman.

Today we take a key step towards enacting four pieces of important legislation to protect human health and the environment, reduce red tape, protect jobs, and improve the partnership between the Federal and State governments. We do have a strong working relationship with our States, and these bills reflect that ongoing partnership.

The coal ash bill before us today represents a multiparty compromise that has been years in the making; preserves the core of last year's House bill by making it clear that either the States' own implementing agency or EPA will administer a State coal ash program, but not both at the same time. And the States tell us that they will choose to take the responsibility. The House, the Senate, EPA all made enormous contributions to this legislation. It makes good balance between State authority to implement those programs and the congressional authority to establish stringent, but achievable national standards. And most importantly, it does protect jobs.

The Reducing Excessive Deadline Obligations, REDO, Act, makes two short, but important improvements to Federal environmental law. First, it amends RCRA to give EPA authority to review and revise RCRA regulations as appropriate instead of an arbitrary every 3 years under current law. It also ensures that if and when EPA promulgates

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financial requirements requirements under CERCLA, State financial responsibility requirements will not be preempted. This protection is important not only to State governments, project managers and the people who provide financial surety for projects, it also provides project financial responsibility commitments that have already been crafted and should be honored.

Federal Facility Accountability Act also improves the balance of responsibility between States and the Feds; provides that any Federal operation sites must respect State environmental protection laws, whether they are still operating or whether they are shut down a couple of years ago. A good neighbor policy is long overdue.

And finally, the Federal and State Partnership for Environmental Protection Act amends CERCLA to strengthen States' consultation role on removal and remediation actions and listings on the national priorities list. Since States are required to spend some of their own money on these cleanup projects, shouldn't they have a greater voice in the listing and remedial action decisions?

The bill also allows States credits for in-kind contributions to the removal or remediation action. That is good for everybody. It encourages States to volunteer contributions such as land that can be important pieces to a cleanup puzzle.

So I commend all of our colleagues on this subcommittee, particularly you, Mr. Chairman, for your good work in the four bills and urge their adoption and yield back.

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[The prepared statement of Mr. Upton follows:]

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Mr. Shimkus. Gentleman yields back his time.

The Chair now recognizes the ranking member of the full committee Mr. Waxman for 5 minutes.

Mr. Waxman. Thank you, Mr. Chairman.

Today this subcommittee once again turns its attention to the issue of coal ash disposal. The legislation we are considering is based on the proposal that 90 percent of Democrats opposed when it was considered on the House floor in September of last year. It is based on the proposal that has been exhaustively analyzed by the Congressional Research Service and found severely wanting. And it is based on the same language that has failed to get sufficient support in the U.S. Senate.

This bill would abandon the proven models of environmental protection and adopt an approach that we have every reason to believe would fail if enacted. This proposal will not ensure the safe disposal of coal ash, protect groundwater, or prevent dangerous air pollution; and it will not prevent another catastrophic failure like we saw in Kingston, Tennessee.

Today's bill includes a number of small changes. Some have little substantive effect, some represent modest improvements, and some make the proposal even more problematic. For instance, the legislation appears to clarify that EPA cannot find a State coal ash disposal program to be deficient on the basis that the State program is allowing public health to be harmed. Well, that makes no sense.

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I continue to oppose this legislation and believe that there is simply not the support for this proposal to become law. I continue to believe that this is an issue we could resolve if there is a desire to do so. As I said for 2 years now, I am willing to work with the majority on this issue to get a law if the chairman wants a law. That would require rethinking this legislation and listening to the expert views available to us, including the EPA and the Congressional Research Service. I have made suggestions about how we could do this. Unfortunately, there appears to be no desire to develop a consensus on this issue.

Today we are also considering three other bills. The so-called REDO Act would likely moot pending lawsuits brought by the environmental community and the coal ash recycling industry. The chairman has said it isn't the majority's intention to eliminate these lawsuits, and yet that is exactly what the bill would clearly accomplish.

The subcommittee is also considering two other legislative proposals involving hazardous and solid waste and the Superfund program. These bills cover an expansive array of topics that raise more questions than they answer. The Superfund bills are not based on a clear oversight record, and we are still lacking basic information about whether the bills are needed and what they would accomplish.

Superfund is an essential program for protecting communities across the country. The legislation we are considering today seems

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haphazardly developed and ill-considered. I would urge the chairman to develop a record for what we are trying to accomplish and refine the language accordingly before moving forward.

I yield back the balance of my time.

[The prepared statement of Mr. Waxman follows:]

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Mr. Shimkus. The chair -- the gentleman yields back his time.

The chair now recognizes the vice chair of the committee Mr. Gingrey from Georgia for 5 minutes.

Dr. Gingrey. Mr. Chairman, I want to thank you for calling this markup of four different pieces of legislation that, of course, will continue tomorrow. First and foremost, I would like to commend you for your commitment to regular order since each of the bills that we will be considering during this markup was subject to a hearing by this subcommittee.

There is one major theme among all four pieces of legislation. With each of these bills, we are taking an important step to restore the balance of responsibility between the States and the Federal Government when it comes to environmental regulation. We will provide experts within the States with more flexibility to implement Federal law and make them more active participants within this process.

Mr. Chairman, I think there is no better example of this than has been exhibited by H.R. 2218, the Coal Residuals Reuse and Management Act of 2013. This bipartisan legislation, authored by a colleague from the subcommittee, Mr. McKinley of West Virginia, saves jobs. At a time when our unemployment rate is still 7.5 percent, we need to implement commonsense policies to prevent job losses. Unfortunately, the EPA's proposed rule to regulate coal ash as a hazardous waste could potentially jeopardize between 184,000 and 316,000 jobs. This is according to a June of 2011 Veritas economic consultant study.

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H.R. 2218 is a solution that continues to allow for the safe regulation of coal ash without adding needless burdens on overstretched State budgets.

Mr. Chairman, under the efforts from both you and Mr. McKinley, we almost were able to find a balance needed for this legislation to pass -- to pass the Senate, actually, in the 112th Congress -- but despite this work, time ran out last year. It is my hope that this legislation will finally make its way to the President's desk during this Congress, and I stand committed to working with Members on both sides of the aisle to make this a reality.

I am also very supportive of the other bills that will assist in modernizing important environmental laws that elevate the roles of the States. I believe that the two-part hearing we held before Memorial Day provided us with further information on the merits of updating these laws through the REDO Act, the Federal-State Partnership for Environmental Protection Act, and the Federal Facilities Accountability Act.

Mr. Chairman, I urge my colleagues support each of these bills, and I yield back the balance of my time.

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[The prepared statement of Dr. Gingrey follows:]

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Mr. Shimkus. The gentleman yields back his time.

The chair now recognizes the chairman emeritus Mr. Dingell for 3 minutes.

Mr. Dingell. Mr. Chairman, I thank you. I express to you at the beginning of this statement my affection and respect. However --

Mr. Shimkus. I know it is coming.

Mr. Dingell. -- this is a prodigious waste of our time. The bill is not ready for prime time. The bill is a poor piece of legislation. It stands the traditional way in which we have dealt with the affairs of EPA on its ear. It says, if you do an outrageous job, we will fix it, instead of saying, if you do a proper job, we will let it go into place.

What we are doing is setting it up so that we will have some more fine spills of hazardous waste, or at least this nasty stuff that comes from ash of coal.

This side is prepared to work with my Republican friends to write a good bill. It is easily possible for this committee to write such a piece of legislation. We need a few more facts; we need a great deal more information; we need the counsel and advice of the industry, and also of EPA and of the concerned interested citizens amongst whom are the environment or the environmentalists.

As I stated a few weeks ago regarding the three CERCLA bills, I am unaware that this committee has conducted any significant oversight that has identified any problems necessitating the amendments before

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us today. It is possible, although I think slightly so, that my good Republican friends can find some.

The Superfund program has been an extraordinary example of success after it had a bad start, and it has completed construction activities at over 70 percent of national priority sites. Thousands of other shorter-term removal actions have been also completed.

At one hearing we had on these bills, I did not hear any significant support from the witnesses and majority. No support from them. And I am glad to see that some changes were made in response to the questioning in the testimony. But I don't see any problems these bills are designed or attempting to solve, nor do I see any good that they are going to confer on the Nation. So, I think we ought to give this sorry mess just a bit more time.

And returning back to the questions of coal ash, I would remind you that we have had two fine spills of this stuff. I would invite you to go down to the Southeast, where they had a splendid spill, and explain to those people that this waste is not hazardous. We just had one in Wisconsin where we had a dam break, and all of a sudden the stuff was flowing into Lake Michigan, one of the great treasures of this Nation. I would suggest that you have the gall to go and tell the folks in Wisconsin that this is not a hazardous waste, and I would like to see if you can get out of that State alive if you do so.

Now, having said this thing, this legislation is something where we offer you the hand of friendship and the willingness to work. We

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are glad to work, and we are glad to help you, but I certainly don't want to be embarrassed by putting anything like this on the House floor and then telling people how it is going to help, because I know as sure as God made green apples that we are going to see very shortly that people are going to be denouncing the silly asses that passed this legislation.

[The prepared statement of Mr. Dingell follows:]

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Mr. Shimkus. The gentleman yield back his time?

Mr. Dingell. I yield back my time with respect to the question.

Mr. Shimkus. The gentleman, I think -- I think on this historic week, being lectured by you is a true honor, so I will just place that into the record.

The chair now recognizes the gentleman from Ohio Mr. Latta for 3 minutes.

Mr. Latta. Well, thank you, Mr. Chairman.

The Federal Facility Accountability Act of 2013 is a commonsense legislation that updates CERCLA to ensure that Federal facilities are held to the same level of accountability at a private facility. During our previous legislative hearings, numerous States and State organizations indicated problems associated with Federal facilities excluding CERCLA cleanup responsibilities, and arguing they do not have to fully comply with State cleanup laws.

As Mr. Daniel Miller from the Colorado Department of Law said, the Federal Government has argued that the wording of section 120(a)(4), the sovereign immunity waiver, means the Federal Government does not have to comply with the State cleanup laws at Federal facilities that are listed on the CERCLA national priorities list. Mr. Miller also noted that the Defense Department has made the argument that CERCLA waiver does not apply to former used defense sites.

The Federal Facilities Accountability Act addresses these concerns and existing ambiguity by ensuring current and formerly owned

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Federal facilities will have to comply with the same State requirements as a private entity doing cleanup under CERCLA, and specifically identifies the types of State procedural and substantive requirements that are applicable to the Federal Government.

Some of the most pressing environmental problems that exist at current and former Federal facilities and States have come a long way in developing strong regulatory programs to protect public health, safety and the environment. It makes sense for Federal agents to comply with these State environmental laws in the cleanup contamination at Federal facilities to the same standards as anyone else.

With strong, independent State enforcement authority, the environmental performance of Federal agencies will undoubtedly improve. This has been evident with the updates to the waiver of sovereign immunity in the both the Solid Waste Disposal Act and Clean Air Act, and I urge support for extending the updates to CERCLA.

[The prepared statement of Mr. Latta follows:]

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Mr. Latta. And with that, Mr. Chairman, I yield back. And if I could just ask for just one moment of a point of personal privilege. If I could just also congratulate the gentleman from Michigan, the chairman emeritus, on his milestone that is going to be occurring this week. My hardest congratulations for that. And one of the individuals that protects my northern flank, my border with Ohio and Michigan, so congratulations.

Mr. Dingell. Thank you.

Mr. Shimkus. The gentleman yields back his time.

The chair now recognizes the gentleman from Texas Mr. Green for 3 minutes.

Mr. Green. Thank you, Mr. Chairman. And as much as I agree with our chairman emeritus, my good friend, and the end of this week being honored on this issue, I think we may have some differences, John.

I want to thank you, Mr. Chairman, for holding the markup on the Coal Ash Recycling Oversight Act, and Reducing Excessive Deadline Obligations Act, and the Federal and State Partnership for Environmental Protection Act, and the Federal Facilities Accountability Act.

In the 2012, in my role as ranking member of the subcommittee, I worked with several members of this committee towards signing a bipartisan solution to coal ash that would create State-run waste and disposal programs, while assuring that coal ash would continue to be reused and recycled in everyday products, such as wallboard and

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concrete. The economic benefits of recycled coal ash have been shown to be in the billions of dollars annually in our economy.

The beneficial uses of coal ash also have an important environmental component leading to decreased water and energy usage and lower carbon emissions. To this end, it is imperative that coal ash be regulated to a subtitle D of the Solid Waste Disposal Act.

I am well aware of the criticisms of coal ash legislation before us today. This is not the legislation I would necessarily have drawn up, but it is undoubtedly an improvement over the regulations on the books today and would provide greater environmental and economic certainty for States, utilities, and communities around the country. I hope the majority will be open to improvements to this bill that will further strengthen protection of human health and the environment, and be open to change that will give this legislation a fighting chance to clear both Chambers and be signed into law.

I have much stronger reservations about the other three bills being considered today which amend CERCLA and RCRA. As I noted in previous hearings, I represent an industrial district of several Superfund sites inside or near the district. This subcommittee needs to seriously examine ways to strengthen the Superfund program and ensure that the necessary procedures and resources are in place for Federal and State officials to clean up the hazardous sites affecting our communities. I welcome further hearings and discussion on these two statutes on how we can work together towards addressing the concerns

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of all stakeholders.

Thank you, Mr. Chairman. I yield back my time.

[The prepared statement of Mr. Green follows:]

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Mr. Shimkus. The gentleman yields back his time.

The chair now recognizes the gentleman from West Virginia Mr. McKinley for 3 minutes.

Mr. McKinley. Thank you, Mr. Chairman.

Two months ago this subcommittee held a hearing, and we listened to the EPA and the stakeholders regarding our fly ash legislation. At that hearing the EPA indicated that they would not oppose the draft legislation.

Since that time, we held additional meetings and discussions with the EPA, the Senate, and all the other stakeholders around the country to further strengthen the legislation. The bill is improved, and on Monday it was introduced with 10 Democrats and 35 total original cosponsors.

Let me show you what we are talking about here. This is fly ash. Every year across America we generate about 140 million tons of this material. It is produced in 48 of the 50 States. It creates electricity using coal, and you had the other States that use it for generating power in their manufacturing facilities. But it is created all across America. Forty percent of it is currently being recycled, but the other sixty percent is going to landfills and other uses.

Now, given that there is a growing consensus about the beneficial reuse of the 40 percent portion that is recycled, the issue remaining is how to handle and dispose of the remaining 60 percent.

Thanks in negotiations held with the States and the stakeholders,

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we have done a thorough job of addressing the issues under this legislation, so the bill before us is a commonsense solution. Recyclers can continue with the beneficial reuse of fly ash. For the first time there will be a national minimum standard for disposal all across the country. States will have primacy that the EPA can step in if necessary. It also will protect 316,000 jobs across America. It will prevent the cost of electricity from going up, and it will provide consistency in the regulatory process and eliminate the stigma associated within the recycling industry.

Not very often you have recyclers, labor unions, utility companies, coal operators and environment officials all in favor of the same piece of legislation. Without this legislation the status quo will prevail, and ash will continue to be disposed based on standards from the 1950s and the 1960s in some cases. The stigma posed by the environmental movement will continue. Common sense must prevail on this issue.

Working in a bipartisan fashion, we have made progress. After 32 years of debate, it is time for action. We passed bipartisan legislation on this issue four times in the last Congress. Our constituents deserve this protection for their health and the environment. This legislation makes that possible.

Thank you, and I yield back my time.

[The prepared statement of Mr. McKinley follows:]

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Mr. Shimkus. Gentleman yields back its time.

The chair now recognizes the gentlelady from Illinois Ms. Schakowsky for 5 minutes -- I mean, 3 minutes.

Ms. Schakowsky. Thank you, Mr. Chairman.

Well, I oppose all four bills under consideration because I believe they would undermine important public health and environmental protections. In 2008, over 1 billion gallons of coal ash spilled into the Emory River, contaminating drinking water with arsenic, chromium, selenium, lead, and mercury. The EPA has since submitted two options for regulating coal ash disposal and to prevent a similar disaster in the future. H.R. 2218 would require a standard weaker than either recommendation made by the EPA, standards deemed, quote, "remarkably deficient," unquote, by a Dam Safety Act expert -- D-A-M safety expert, I am not condemning this safety expert -- that testified before this subcommittee.

H.R. 2218 would allow millions of Americans to face an increased risk of cancer, neurological disorders, birth defects, reproductive failure, asthma and other complications. Our constituents deserve better than that.

Moving on to RCRA and CERCLA bills, I believe cleaning up contaminated and toxic sites should be a national priority. One in four Americans lives within 3 miles of a hazardous site. RCRA and CERCLA work. In a hearing last month, Thomas Duch explained how the Superfund program benefited his hometown of Garfield, New Jersey, where

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he is a city manager. Thirty years ago thousands of gallons of toxic chromium, which causes cancer, were spilled at a factory in Garfield. As a result of failed State efforts and an inability of Garfield to contain the damage, the EPA acted to protect the town under CERCLA.

EPA has been able to work with the city to effectively monitor contamination and clean impacted properties. Without the EPA thousands of Garfield residents would now be exposed to cancerous toxins. The bills we consider today would undermine protections the American people need and deserve. The REDO Act would -- is it REDO?

Mr. Shimkus. REDO.

Ms. Schakowsky. REDO. I will get it right.

The REDO -- of course it is -- REDO Act would eliminate a requirement for periodic review of RCRA regulations which helps to ensure the law remains up to date and effective. The Federal and State Partnership for Environmental Protection Act would for the first time allow lawsuits to delay cleanup of the most contaminated sites in the country, jeopardizing public health in the process.

Instead of undermining RCRA and CERCLA, we should seek ways to maintain and strengthen them so that more communities can benefit from their protections. I urge my colleagues to join me in opposing all four bills, and I yield back.

[The prepared statement of Ms. Schakowsky follows:]

***** COMMITTEE INSERT *****

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Mr. Shimkus. The gentlelady yields back the time.

The chair now recognizes the gentleman from Ohio Mr. -- for 3 minutes. I am sorry. Mr. Johnson.

Mr. Johnson. Well, thank you, Mr. Chairman.

I am proud to be sponsoring the Federal and State Partnership for Environmental Protection Act of 2013, and I want to thank you for working with me on this commonsense improvement to CERCLA. Throughout my district in eastern and southeastern Ohio, we have many Superfund sites that need cleaning up, so this legislation is very important to my constituents.

This legislation would accomplish three simple things. First, it would require the EPA to talk with the States during the process of selecting a cleanup plan for a site. Currently the EPA is doing this most of the time in practice. This section of the legislation would simply ensure States have a seat at the table when the EPA is making decisions on response actions.

Second, this bill would help States meet their 10 percent contribution match by taking into account in-kind contributions. In these economic times, States often may not have the cash resources to meet their cost share, but they may have the ability to contribute other services of value.

Again, CERCLA provides for credits toward the cost share, and it seems counterintuitive that this needs to be clarified, but currently States do not receive credit for certain contributions of real

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property, equipment, goods and services. The long and short of it is if a State makes a contribution that directly benefits the remedy at the site, they should get credit for it.

We all know that States are currently the recipient of many unfunded EPA mandates, and we should be doing everything in our power to lessen the financial burden we are placing on the States to ensure we are cleaning up these sites as quickly as possible.

Finally, the legislation grants States a larger voice in which sites get selected for the national priority list. Again, EPA has a policy of consulting with States when making a listing decision, but this legislation would simply put that policy into the statute.

This legislation also adds transparency to the listing process. Right now the EPA does not have to explain why a site that a State recommended for the NPL did not make the list. My bill would require the EPA to provide that information to the State.

This legislation would also allow States to object to a site being added to the list, but puts in place three circumstances in which the EPA could list a site even over the objection of a State, including if the State is potentially a responsible party and if contamination crosses State lines. Because States are in the best position to know of the need for cleanup on particular sites within the State, this section would also give States a silver bullet to name a site to the NPL once every 5 years.

Mr. Chairman, thanks again for bringing this bill up for

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consideration. I hope all my colleagues will support this commonsense legislation that seeks to improve the Federal-State partnership that exists under CERCLA, and with that, I yield back the balance of my time.

[The prepared statement of Mr. Johnson follows:]

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Mr. Shimkus. The gentleman yields back his time.

The chair seeks anyone -- no one else is here to recognition.

The chair reminds Members that pursuant to the committee rules, all Members' opening statements will be made part of the record.

[The information follows:]

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Mr. Shimkus. Seeing no other statements, I ask for unanimous consent for a letter that has been received by the committee by numerous environmental organizations throughout this country in opposition to H.R. 2218 -- actually, all of them, looks like -- to be submitted for the record. Without objection, so ordered.

[The information follows:]

***** COMMITTEE INSERT *****

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Mr. Shimkus. The chair calls up H.R. 2218 and asks the clerk to report.

The Clerk. H.R. 2218, to amend subtitle D of the Solid Waste Disposal Act to encourage recovery and beneficial use of coal combustion residuals and establish requirements for the proper management and disposal of coal combustion residuals that are protective of human health and the environment.

Mr. Shimkus. Without objection, the first reading of the bill is dispensed with, and the bill will be open for amendment at any point. So ordered.

[The information follows:]

***** INSERT 1-1 *****

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Mr. Shimkus. For the information of Members, we are now on H.R. 2218, and the subcommittee will reconvene at 9 a.m. tomorrow morning. I remind Members that the chair will give priority recognition to amendments offered on a bipartisan basis.

I look forward to seeing you all tomorrow, and, without objection, the committee stands in recess.

[Whereupon, at 4:43 p.m., the subcommittee recessed, to reconvene at 9 a.m., Thursday, June 6, 2013.]