

Statement for the Record by US Representative Keith J. Rothfus of Pennsylvania

To the House Energy and Commerce Committee, Subcommittee on Energy and Power

On behalf of the SENSE Act, H.R. 1119

2125 Rayburn House Office Building

10:00am, September 13, 2016

Thank you Mr. Chairman and the Subcommittee on Energy and Power for holding a hearing on an important piece of legislation, the SENSE Act (H.R. 1119). I also want to thank Vincent Brisini, Director of Environmental Affairs at Olympus Power for providing testimony and insight regarding my legislation, H.R. 1119. This Subcommittee previously held a hearing on the SENSE Act during the 114th Congress.

The SENSE Act stands for the Satisfying Energy Needs and Saving the Environment Act. This bill is a common-sense solution that allows innovative bituminous coal refuse-to-energy facilities to generate affordable, reliable energy while they continue their essential environmental remediation work in a responsible manner.

As many of you know, the coal industry has been a central part of the Pennsylvania and Appalachian regional economies for decades. Unfortunately, historic mining activity left Pennsylvania and a few other states with large piles of coal refuse, also referred to as waste coal. Coal refuse is a mix of lower quality coal, rocks, and dirt that remain after the mining and processing of coal. Before technology was invented to make use of this substance, it accumulated in open spaces alongside cities and towns. Many of these coal refuse piles are close to schools and neighborhoods, and many other places across coal country.

The piles have led to a number of environmental problems and public safety issues that plague affected communities. This includes air pollution, damage to vegetation and wildlife, and water pollution from acid mine drainage. I have been to several of these sites and seen firsthand the danger they pose. Coal refuse can also catch fire and burn for unacceptably long periods of time, polluting nearby neighborhoods and communities. Runoff from these sites can turn rivers orange and leave them devoid of life. According to Pennsylvania's environmental regulator, it would cost roughly \$2 billion to clean up these hazards in my state alone. Coal refuse poses a significant challenge, but it is one that Pennsylvanians and others in coal country are prepared to meet.

The coal refuse-to-energy industry has been a leader on solving this problem. With their advanced technologies, that industry has been able to use this previously worthless material to generate affordable and reliable energy. More importantly, they have removed over 200 million tons of coal refuse in Pennsylvania alone, and remediated many formerly-polluted sites.

Thanks to the dedicated people in this industry and their hard work, what used to be barren landscapes of coal refuse have been restored, rivers and streams brought back to life, and towns across coal country have been relieved from unsafe, unsightly waste coal piles. It should also be noted that private sector leadership on this issue has saved taxpayers millions of dollars in cleanup costs.

The work that this industry has done is remarkable, and it represents an environmental success story that should transcend partisan lines. I continue to advocate for compromise with the Environmental Protection Agency (EPA) to adjust the regulations that threaten to shut down many of the bituminous coal refuse-to-energy facilities, imperiling vital remediation efforts in Pennsylvania and West Virginia. The intensification of two existing rules, the Mercury and Air Toxics Standards (MATS) Rule and the Cross-State Air Pollution Rule (CSAPR), are especially concerning.

Though all coal-refuse fired power generators can meet the mercury standard under MATS, many bituminous coal refuse-fired facilities will be unable to meet either of the acid gas limits in the MATS rule for hydrogen chloride (HCl) or sulfur dioxide (SO₂). The SENSE Act provides operators with an additional SO₂ performance removal limit to comply with the acid gas standard. That limit is strict but achievable.

During Phase I of CSAPR's implementation, bituminous coal-refuse fired power generators were provided sufficient SO₂ allocations. Implementation of Phase II this year, on the other hand, left these facilities with insufficient allowances to account for their SO₂ emissions.

The SENSE Act will provide bituminous coal-refuse fired power generators with the same SO₂ allocations levels in Phase II as in Phase I. My bill contains provisions to ensure that this change preserves all health benefits ascribed to both CSPAR and MATS rules, and that these allocations will not create a profit center for this industry. SO₂ allowances allocated under the SENSE Act will only go to plants that use fluidized bed boilers utilizing a minimum of 75% bituminous coal refuse as fuel. Furthermore, those allowances must be used at the facility where the unit receiving the SENSE Act allowances is located, and cannot be sold or traded. Upon retirement of a generation unit, any unused SENSE Act SO₂ allowances must be retired as well.

The SENSE Act represents a common-sense compromise between the legitimate goals of controlling pollutants emitted from coal refuse-to-energy facilities and ensuring that regulations imposed on the industry are fair. These facilities are vital to coal refuse remediation and must be allowed to continue their work. The people who live near coal refuse piles and all of the communities downstream of these hazards expect us to find a solution that works for everyone. We owe it to them to pass the SENSE Act.

Again, I thank the Committee for holding this hearing.