

**Opening Statement of the Honorable John Shimkus
Subcommittee on Environment and the Economy
Hearing on “The Role of the States in Protecting the Environment Under Current Law”
February 15, 2013**

(As Prepared for Delivery)

I would like to welcome all the members of the subcommittee to our first hearing in the 113th Congress. I want to say a special welcome to our new Ranking Member, Mr. Tonko, as well as our new Vice-Chair Dr. Gingrey and all our new Republican and Democrat members.

Today’s hearing focuses on the important role that states play in environmental protection under current law.

This hearing will help raise awareness and set the stage for future discussions we are going to have on environmental protection. Many of us get caught up with what the U.S. EPA thinks or what it can do and fail to focus on the states and what they can and must do.

The states are by no means, “junior regulators” or the minor leagues of environmental protection. Rather, their plate is twice as full. To carry out federal environmental law, states have a lot of delegated authority. But states also have their own protective laws. Often, beyond anything the federal government has asked.

State regulators have every bit the same educational background, expertise, desire to protect the environment, and sense of professionalism as any employee at EPA, with the added bonus of actually living in the communities they are trying to make safe. They intimately know the terrain being regulated.

Some people might suggest states lack the will to enforce their laws or they are reluctant to pass anything serious. I think that answer is not fair, and I think history shows the states have generally acted first on matters before the federal government has stepped in to do something.

In this fast-paced technology driven society; a static regulatory regime cannot respond to innovations nor complex problems and challenging geologies. Let me offer a few examples of what I mean from issues familiar to our committee.

In the state of Maryland, there was a terrible coal ash problem. The state did not sit by powerless. Rather, in December 2008 the Maryland Department of the Environment issued one of the more robust sets of coal ash rules in the country. Maryland is not the only state, Pennsylvania and Wisconsin have demonstrated strong programs that are serious, flexible, and successful.

On the issue of hydraulic fracturing, Colorado has shown it can move 2 major changes to its rules on hydraulic fracturing in a matter of months. Ohio has also jumped in to address seismicity and other fracturing-related issues important to its state. Even North Carolina, which has not fractured a single gas well in the entire state, is moving legislation to place restrictions on this practice.

Back in Illinois, we are home to the New Albany shale gas formation with a footprint that’s much of the southern part of the state. At the state level they are quickly realizing the jobs and positive economic impact of hydraulic fracturing and moving steadily towards regulations.

While this “play” is still unproven, estimates have upwards of 47,000 jobs annually and \$9.5 billion of economic impact for Illinois if the New Albany Shale’s potential is realized.

It is well-known that the states, rather than EPA, have been dominating the regulatory space for hydraulic fracturing for decades. When you consider the amount of additional resources and new experience that

would need to be infused into EPA to replace what states already do well, it defies conventional budgetary wisdom that this is a good public policy move.

I am not trying to suggest EPA does not have an important role to play in protecting the environment, but when you contrast the nimbleness and commitment of the states with the cumbersome and lengthy process which characterizes US EPA's one-size-fits-all approach, trusting the states a little more seems the right thing to do.

I know some of my colleagues here will dismiss these arguments and suggest coal and gas need even more regulation because they are "dirty" and we need "cleaner" fuels. I would submit to my colleagues that if this is really about environmental protection – and not energy use manipulation, we must acknowledge that every fuel production method has risks.

On Monday, *ABC News* ran a story from the *Associated Press* about the negative environmental externalities with solar power.

It read: Fueled partly by billions in government incentives, the industry is creating "millions of pounds of polluted sludge and contaminated water."

"Companies must transport it by truck or rail to waste facilities hundreds and, in some cases, thousands of miles away.

AP compiled a list of the top 41 solar makers in CA, and based on state data, 24 of them did not report their waste. The state records show the 17 companies, which had 44 manufacturing facilities in California, produced 46.5 million pounds of sludge and contaminated water from 2007 through the first half of 2011. Roughly 97 percent of it was taken to hazardous waste facilities throughout the state, but more than 1.4 million pounds were transported to nine other states. And, though it could be manifested, *AP* reports 2.1 million tons are unaccounted.

Even though EPA and this administration are bullish on solar technologies, the same level of federal data does not exist.

I want to welcome the state officials who have joined us today from across the country to share their experience, perspective, and devotion to their states' environments. We have representatives from state groundwater, drinking water, oil and gas, and solid and hazardous wastes offices as well as their agency heads. We also have a state legislator and a city council member.

I now yield to Mr. Tonko, our subcommittee's ranking member for his opening statement.

###