

**Opening Statement of the Honorable John Shimkus**  
**Subcommittee on Environment and the Economy**  
**Hearing on The Superfund Common Sense Act and The Increasing**  
**Manufacturing Competitiveness Through Improved Recycling Act of**  
**2012**  
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*(As Prepared for Delivery)*

Throughout this Congress, our committee has been investigating places where Congress can enhance opportunities for growing the private sector of our economy as well as examining places where duplicative red tape creates more burdens, but not greater protection. Our hearing today will examine legislative measures that touch upon each of these concepts.

The first bill is a Discussion Draft which directs EPA to collect better information on recyclable materials. As co-chairman of the House Recycling Caucus, I think the aspect we are looking into is particularly interesting and I think we should better understand the need for this legislation.

For decades, the EPA has been publishing a biennial report showing what products and materials are commonly collected and disposed. All of these materials, including paper, glass, and aluminum, are generated by residential and commercial sectors and are recycled, reused, combusted, or landfilled.

Despite all that has been accomplished in the collection of recyclables, there is concern among several recyclers that a considerable amount of quality feedstock materials are not ultimately being processed and reused. Many recyclers believe by asking smarter questions and collecting better data it will lead us to solutions to this problem.

The Discussion Draft directs the EPA, with the Energy and Commerce Departments, to gather and review voluntarily submitted information on waste streams and recycling from government and private entities. Specifically, the Discussion Draft requires EPA to report to Congress within two years on each type of recycled material separately and cover the quantities collected, the method of collection, the amount of recoverable material, and amount disposed. Importantly, the Discussion Draft leaves it to the private sector to figure out how to best use this information and does not create federal recycling regulations.

The second bill under consideration today is H.R. 2997, the Superfund Common Sense Act. This bill arises from the concern that courts or EPA will spell out something in law that is unwarranted or redundant and never directed by Congress.

Currently, Section 103 of the Comprehensive Environmental Response Compensation and Liability Act (CERCLA) and section 304 of the Emergency Planning and Community Right-to-know Act (EPCRA) establish reporting requirements for the release of hazardous substances that are above reportable quantities. Superfund also imposes strict, joint, several, and retroactive liability for the release of hazardous substances and has response and abatement provisions. While manure has not been classified

as a hazardous waste, concern exists -- based on past legal challenges -- that litigation or future regulation could change that equation.

Of note, in 2008, EPA issued a final rule exempting all reporting requirements for air releases from manure at farms under section 103 of CERCLA. The final rule also exempted certain livestock farms, based upon size, that had air emissions from animal waste that met or exceeded the level for reporting under EPCRA section 304. However, on October 21, 2011, EPA stated in the Federal Register it was “on a separate track” to develop regulations to amend reporting requirements for livestock operations for air emissions under CERCLA and EPCRA.

H.R. 2997 clarifies manure is not included in the meaning of “hazardous substance” or a “pollutant of contaminant” under CERCLA. H.R. 2997 also eliminates the emissions reporting requirement for releases associated with manure under CERCLA section 103 and section 304 of EPCRA. In addition, by changing the definition of “hazardous substance,” “pollutant,” or “contaminant” under CERCLA, H.R. 2997 also removes liability for releases of manure and precludes use of CERCLA sections dealing with response authorities and abatement actions.

While H.R. 2997 makes explicit the application of CERCLA and EPCRA as it relates to releases associated with manure, the bill preserves the applicability of other Federal, state, and local environmental law as it relates to the definition of manure, or the responsibilities or liabilities of persons regarding the treatment, storage, or disposal of manure.

I want to thank all of our witnesses for coming here to lend their time and experience to us, I look forward to their testimony.