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4 MARKUP ON S. 710, THE ``HAZARDOUS WASTE ELECTRONIC MANIFEST

5 ESTABLISHMENT ACT''

6 THURSDAY, JULY 26, 2012

7 House of Representatives,

8 Subcommittee on Environment and Economy

9 Committee on Energy and Commerce

10 Washington, D.C.

11 The Subcommittee met, pursuant to call, at 9:05 a.m., in

12 Room 2123 of the Rayburn House Office Building, Hon. John

13 Shimkus [Chairman of the Subcommittee] presiding.

14 Members present: Representatives Shimkus, Murphy,

15 Pitts, Bass, Latta, Harper, Cassidy, Upton (ex officio),

16 Barrow, and Waxman (ex officio).

17 Staff present: Nick Abraham, Legislative Clerk; Paige

18 Anderson, Commerce, Manufacturing and Trade Coordinator; Gary

19 Andres, Staff Director; Charlotte Baker, Press Secretary;
20 Mike Bloomquist, Deputy General Counsel; Sean Bonyun,
21 Communications Director; Jerry Couri, Professional Staff
22 Member, Environment; Mike Gruber, Senior Policy Advisor;
23 Peter Kielty, Associate Counsel; David McCarthy, Chief
24 Counsel, Environment/Economy; Katie Novaria, Legislative
25 Clerk; Andrew Powaleny, Deputy Press Secretary; Tina
26 Richards, Counsel, Environment; Chris Sarley, Policy
27 Coordinator, Environment and Economy; Phil Barnett,
28 Democratic Staff Director; Jen Berenholz, Democratic Chief
29 Clerk; Jacqueline Cohen, Democratic Counsel; Greg Dotson,
30 Democratic Energy and Environment Staff Director; Caitlin
31 Haberman, Democratic Policy Analyst; and Karen Lightfoot,
32 Democratic Communications Director and Senior Policy Advisor.

|
33 Mr. {Shimkus.} Good morning. The committee will now
34 come to order. The chair recognizes himself for an opening
35 statement.

36 Today we mark up S. 710, the Hazardous Waste Electronic
37 Manifest Establishment Act. A system for filing manifests
38 electronically is more needed than ever. Testimony at our e-
39 manifest hearing on June 21, 2012, confirmed electronic
40 filing makes sense for users, federal and state regulars,
41 first responders and the public.

42 Today, entities handling hazardous waste from the
43 factory where it is generated to the final storage or
44 disposal site must file multiple copies of paper manifests.
45 These manifests are subsequently postal mailed to state
46 regulators and back to the original waste generator. In the
47 Electronic Age, the burdens and inefficiencies created by the
48 existing system for both government and the private sector
49 are real and must be addressed. In fact, EPA testified that
50 the paper hazardous waste manifest burden is the most
51 expensive burden EPA imposes under subtitle C of RCRA.

52 Besides the cost reduction for waste handlers, States
53 and the federal government, there are other key benefits to
54 an e-manifest system. These include real-time access to
55 critical public safety and security information for first

56 responders, better tracking services for our citizens,
57 improved data for informed policy decisions and public
58 management, and greater accountability for how hazardous
59 wastes are transported and managed.

60 I will offer an amendment in the nature of a substitute
61 representing a bipartisan compromise to both improve the
62 operation of the bill and to address issues unique to the
63 House. I urge all members to support this amendment and
64 report the bill favorably.

65 [The prepared statement of Mr. Shimkus follows:]

66 ***** COMMITTEE INSERT *****

|
67 Mr. {Shimkus.} I have some time left. Would the full
68 chairman like the time?

69 The {Chairman.} I would be delighted to take your time
70 to finish up.

71 Let me begin by thanking you, Mr. Waxman, Mr. Green and
72 their staff for the efforts to produce this bipartisan,
73 commonsense bill.

74 Companies that handle hazardous waste have long been
75 required to submit manifests, detailed records of the type,
76 volume and location of each container from the time it leaves
77 the factory where it was generated to the final storage or
78 disposal site, so this bill does not reduce that information
79 requirement, it just makes it work better. With electronic
80 filing, we will eliminate millions of paper copies and reduce
81 expenses and labor. At the same time, the information will
82 be far more accessible to first responders and others. Data
83 retrieval will entail a few clicks on the keyboard instead of
84 rummaging through file cabinets suffered with paper copies.

85 Your manager's amendment preserves the essential
86 features of this bill while converting the bill from
87 mandatory to discretionary spending in line with the House
88 cut-go guidelines. So I would urge all of us to support it
89 and I yield back.

90 [The prepared statement of Mr. Upton follows:]

91 ***** COMMITTEE INSERT *****

|
92 Mr. {Shimkus.} The gentleman yields back his time.

93 The chair now recognizes the ranking member of the full
94 committee, Mr. Waxman, for an opening statement, 5 minutes.

95 Mr. {Waxman.} Thank you very much, Mr. Chairman.

96 I would like to thank you and Mr. Upton for working
97 closely with Ranking Member Green and myself over the last
98 week on this legislation. That work has paid off. I am
99 pleased to support the chairman's amendment in the nature of
100 a substitute, which we will consider shortly, and I believe
101 with that amendment, the bill has a high likelihood of being
102 acceptable all the way to the President's desk and his
103 signature.

104 Today we take a step forward towards modernizing the
105 tracking system for hazardous waste shipments in this
106 country. The goals of these efforts are to reduce burdens,
107 save money and improve data quality.

108 I have a regular statement, a further statement that I
109 would just as soon put in the record so that it can be
110 available for anybody that wants to review it, and I ask
111 unanimous consent that the rest of my statement be added to
112 the record.

113 [The prepared statement of Mr. Waxman follows:]

114 ***** COMMITTEE INSERT *****

|
115 Mr. {Shimkus.} Without objection, so ordered. Does the
116 gentleman yield back his time?

117 Mr. {Waxman.} I do.

118 Mr. {Shimkus.} Members are reminded that all members'
119 opening statements are made part of the record pursuant to
120 committee rules.

121 Are there further opening statements? The chair
122 recognizes the gentleman from Mississippi.

123 Mr. {Harper.} Thank you, Mr. Chairman.

124 The subcommittee is meeting today to mark up a bill that
125 aims to bring the process of hazardous waste management and
126 disposal into the 21st century. The current manifest system
127 required by the Solid Waste Disposal Act is outdated and in
128 need of overhaul. Currently, the manifest system creates an
129 unbelievable amount of paperwork which could be simplified by
130 having this electronic system.

131 The Environmental Protection Agency estimates that
132 anywhere between \$193 million and \$400 million are spent
133 annually to keep up with the requirements of a paper-based
134 tracking system. That is a lot of money spent by States and
135 private entities that could be put back into the economy if
136 an electronic manifest system were to be implemented. In a
137 time when we are looking for ways to reduce overly burdensome

138 regulation on American businesses, I believe an electronic
139 manifest makes sense.

140 I appreciate the chairman holding a hearing recently to
141 discuss this issue and I am glad to know that our colleagues
142 in the Senate are interested in this issue as well. I hope
143 that we will adopt the amendment in the nature of a
144 substitute today and that we can move forward with this
145 commonsense idea that will save money and make life a little
146 easier by bringing the manifest system up to date.

147 Thank you, and I yield back.

148 [The prepared statement of Mr. Harper follows:]

149 ***** COMMITTEE INSERT *****

|

150 Mr. {Shimkus.} The gentleman yields back his time.

151 Are there further opening statements?

|

152 S. 710

153 Mr. {Shimkus.} Seeing none, the chair calls up S. 710
154 and asks the clerk to report.

155 The {Clerk.} S. 710, to amend the Solid Waste Disposal
156 Act to direct the Administrator of the Environmental
157 Protection Agency to establish a hazardous waste electronic
158 manifest system.

159 [S. 710 follows:]

160 ***** INSERT 1 *****

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

164 The chair recognizes himself for the purpose of offering
165 an amendment in the nature of a substitute. The clerk will
166 report the amendment.

167 The {Clerk.} Amendment in the nature of a substitute to
168 S. 710 offered by Mr. Shimkus of Illinois.

169 [The amendment follows:]

170 ***** INSERT 2 *****

|
171 Mr. {Shimkus.} Without objection, the reading of the
172 amendment is dispensed with and the chair recognizes himself
173 for 5 minutes in support of the amendment.

174 Our amendment preserves the purpose of S. 710. The text
175 of this amendment was negotiated between the majority and
176 minority staff of the committee with input from the regulated
177 stakeholder community, the Congressional Budget Office and
178 other interested parties. Especially important was the
179 excellent work by our House legislative counsel, Kim Brown,
180 who helped us through some complex and drafting challenges.

181 First, the amendment makes all funding for the creation
182 of the electronic manifest system discretionary, making fees
183 collected from manifest users subject to appropriations for
184 activities required under this section. In contrast, S. 710
185 created mandatory spending of collected fees for use on the
186 program. This change should provide for greater
187 Congressional oversight of the contract and activities
188 related to the manifest system as well as address House
189 budget protocols.

190 Second, the amendment simplifies the contracting
191 provisions in legislation. The Senate bill relied on a
192 procedure known as share and savings, that which would
193 require the winning contractor to front the costs of the

194 system billed for recoupment from later fees. The
195 legislative language implementing this arrangement was very
196 complex and was difficult to score and understand. The
197 amendment in the nature of a substitute provides for
198 contracting of the system but strikes provisions in S. 710
199 related to share and savings. In this way, the amendment
200 makes the bill silent on the type of contract that should be
201 awarded so long as it is a high-value contract meeting the
202 needs of the regulators and the regulated communities.

203 Third, because of the change I just mentioned, the
204 amendment in the nature of a substitute authorized
205 appropriations of \$2 million for each fiscal year of 2013 to
206 2015 for startup activities. These startup costs are offset
207 through the collection of user fees resulting in no net
208 change in the amount of funds available under the bill and
209 further offsetting all spending created by the bill over a
210 10-year period.

211 Finally, the amendment in the nature of a substitute
212 requires adjustments in the user fee level are made such that
213 the fee charged by the Administrator of the EPA is both
214 sufficient and not more than reasonably necessary to cover
215 current and projected cost system-related costs. This
216 ensures the EPA has enough revenue to proper execute the
217 contract and operate the system but also protects the system

218 users both from being overcharged by the EPA as well as
219 having collected user fees pile up without being used.

220 I thank everyone who worked in a bipartisan fashion to
221 hammer this language out and I urge my colleagues to support
222 the passage of this amendment. With that, I yield back my
223 time.

224 Is there anyone else wishing time to speak on the
225 amendment? If there is no further discussion, the vote
226 occurs on the amendment in the nature of a substitute.

227 All those in favor will signify by saying aye.

228 Those opposed, no.

229 The ayes have it and the amendment is agreed to.

230 The question now occurs on favorably reporting the S.
231 710 as amended to the full committee.

232 All those in favor shall signify by saying aye.

233 All those opposed, no.

234 The ayes have it. The bill is favorably reported.

235 Without objection, staff is authorized to make technical
236 and conforming changes to S.710. So ordered.

237 Without objection, Subcommittee stands adjourned.

238 [Whereupon, at 9:15 a.m., the Subcommittee was
239 adjourned.]