



June 26, 2017

TO: Members, Committee on Energy and Commerce

FROM: Committee Majority Staff

RE: Committee on Energy and Commerce Markup

I. INTRODUCTION

The Committee on Energy and Commerce will meet in open markup session on Wednesday, June 28, 2017, at 10:00 a.m. in 2123 Rayburn House Office Building to consider the following:

- H.R. 3043, Hydropower Policy Modernization Act of 2017;
- H.R. 2786, to amend the Federal Power Act with respect to the criteria and process to qualify a qualifying conduit hydropower facility;
- H.R. 3050, Enhancing State Energy Security Planning and Emergency Preparedness Act of 2017;
- H.R. 2883, Promoting Cross-Border Energy Infrastructure Act;
- H.R. 2910, Promoting Interagency Coordination for Review of Natural Gas Pipelines Act;
- H.R. 3017, Brownfields Enhancement Economic Redevelopment and Reauthorization Act of 2017;
- H.R. 3053, Nuclear Waste Policy Amendments Act of 2017; and,
- H.R. 806, Ozone Standards Implementation Act of 2017.

In keeping with Chairman Walden's announced policy, Members must submit any amendments they may have two hours before they are offered during this markup. Members may submit amendments by email to peter.kielty@mail.house.gov. Any information with respect to an amendment's parliamentary standing (e.g., its germaneness) should be submitted at this time as well.

II. EXPLANATION OF LEGISLATION

A. H.R. 3043, Hydropower Policy Modernization Act of 2017

The legislation modifies the definition of renewable energy under the Energy Policy Act of 2005 to include hydropower, provides the Federal Energy Regulatory Commission (FERC) with discretion to extend the period of preliminary permits, and extends time limits for construction of hydropower facilities. The legislation also requires FERC to consider project-related investments that resulted in new development, construction, capacity, efficiency improvements, or environmental measures in determining the term of the license.

The legislation designates FERC as the lead agency for the purposes of coordinating all applicable Federal authorizations and establishes coordinated procedures for the licensing of hydropower projects. The legislation also establishes procedures for trial-type hearings conducted by an Administrative Law Judge to resolve disputes relating to conditions and fishway prescriptions under Part I of the Federal Power Act. In addition, the legislation facilitates the timely and efficient completion of license proceedings by minimizing duplication of studies and establishing a program to compile a comprehensive collection of studies and data on a regional or basin-wide scale.

B. H.R. 2786, to amend the Federal Power Act with respect to the criteria and process to qualify a qualifying conduit hydropower facility

The legislation promotes the development of small conduit hydropower facilities by requiring FERC to determine whether a facility meets qualifying small conduit facility criteria within 45 days of receipt of a notice of intent to construct. The legislation also strikes the five megawatt cap on qualifying conduit hydropower facilities.

C. H.R. 3050, Enhancing State Energy Security Planning and Emergency Preparedness Act of 2017

The legislation amends the energy emergency planning requirements of the Energy Policy and Conservation Act to strengthen the ability of states to secure the energy infrastructure of the United States against physical and cybersecurity threats and to mitigate the risk of energy supply disruptions. In addition, the legislation establishes necessary elements a state must include in developing a state energy security plan. A state's energy security plan must address physical and cyber threats across the energy sector and systems, include a state energy profile, identify risks to energy infrastructure, including cross-sector interdependencies, specify risk mitigation approaches to enhance reliability and end-use resilience, and address multi-state and regional coordination and planning.

D. H.R. 2883, Promoting Cross-Border Energy Infrastructure Act

The legislation replaces the Presidential Permit process, established through Executive Order, with a uniform and transparent process to authorize the construction, connection, operation, and maintenance of international border-crossing facilities for the import and export of oil and natural gas and the transmission of electricity. The legislation authorizes FERC to issue a certificate of crossing for border-crossing facilities consisting of oil or natural gas pipelines and the Secretary of Energy for border-crossing facilities consisting of electric transmission facilities.

E. H.R. 2910, Promoting Interagency Coordination for Review of Natural Gas Pipelines Act

The legislation reinforces FERC's role as the lead agency for siting interstate natural gas pipelines by directing FERC to identify and invite all agencies considering an aspect of an

application to establish a schedule for concurrent reviews, and to impose deadlines for final decisions.

F. H.R. 3017, Brownfields Enhancement Economic Redevelopment and Reauthorization Act of 2017

The legislation amends the Comprehensive Environmental Redevelopment and Compensation Act (CERCLA) to reauthorize the Brownfields Program under section 104(k) of CERCLA, which has not been authorized since 2006. The legislation makes certain improvements to CERCLA and the brownfields law, such as clarifying that a state or local unit of government that takes title to contaminated property involuntarily, is not an owner or operator under CERCLA. The legislation also clarifies when petroleum sites may be considered brownfield sites and when a leaseholder may be an eligible entity under the Brownfields Program. The legislation expands eligibility for nonprofit organizations and for publicly owned properties purchased prior to January 11, 2002, it creates multipurpose brownfields grants, increases the limit for remediation grants, and allows for limited recovery of administrative costs. The legislation also allows states to make grants to assist small communities, Indian tribes, and rural and disadvantaged areas to assess and remediate brownfields.

G. H.R. 3053, Nuclear Waste Policy Amendments Act of 2017

H.R. 3053 was introduced on June 26, 2017, by Rep. John Shimkus (R-IL). The legislation amends the Nuclear Waste Policy Act (NWPA) to update the Department of Energy's (DOE) nuclear waste management program and associated legislative changes to manage, store, and dispose of spent nuclear fuel (SNF) and high-level radioactive waste (HLW). The legislation would authorize a monitored retrievable storage (MRS) facility, also known as consolidated interim storage, and direct DOE to initiate an MRS program. The legislation also authorizes DOE to enter into an "MRS agreement" with a non-Federal entity to serve as an MRS facility, conditioned on certain requirements. The legislation provides for permanent land withdrawal for the repository, directs that the project is in the public interest for the purpose of securing water access, and updates procedures to consider the repository's pending construction authorization. The legislation clarifies when DOE takes title to SNF for the purposes of MRS. The legislation amends the NWPA to requalify the State of Nevada to enter into a benefits agreement with DOE and provides certain terms and conditions for such agreements. The legislation also allows certain covered units of local government to enter into benefits agreement with DOE. The legislation amends the NWPA to modify the assessment and collection of fees paid by contract holders into the Nuclear Waste Fund for the purposes of activities authorized by the Act and makes certain portions of the Nuclear Waste Fund available to DOE for repository costs after the site first receives SNF and HLW. The legislation requires the Environmental Protection Agency (EPA) to update the standards and criteria for a permanent disposal repository, but does not modify existing criteria for the Yucca Mountain repository. The legislation clarifies that the Office of Civilian Radioactive Waste Management is responsible for administering DOE's nuclear waste management program and provides the Director with a once renewable, five-year fixed term.

H. H.R. 806, Ozone Standards Implementation Act of 2017

H.R. 806 was introduced on Feb. 1, 2017, by Rep. Pete Olson (R-TX), together with Rep. Bill Flores (R-TX), Rep. Bob Latta (R-OH), Rep. Henry Cuellar (D-TX), Rep. Sanford Bishop (D-GA), Rep. Jim Costa (D-CA), Majority Whip Steve Scalise (R-LA), Majority Leader Kevin McCarthy (R-CA), and other original cosponsors. The legislation would provide additional time for states and localities to implement new ozone standards, and address other practical challenges under the National Ambient Air Quality Standards (NAAQS) program. The legislation seeks to facilitate more efficient implementation of ozone standards, and the NAAQS program generally.

H.R. 806 would phase in the implementation of the 2015 ozone standards by extending the date for final designations from 2017 to 2025 and aligning permitting requirements and would revise the time for mandatory review of NAAQS from 5 to 10 years, while providing the Environmental Protection Agency (EPA) Administrator discretion to issue revised standards earlier. The legislation also authorizes the EPA Administrator to consider technological feasibility as a secondary consideration when establishing or revising NAAQS, and directs the Administrator to obtain advice from the agency's scientific advisory committee regarding potential adverse effects prior to revising NAAQS, as required by Section 109 of the Clean Air Act. Administrator also must issue implementation regulations and guidance concurrently when revising NAAQS, including with respect to permitting requirements, and to ensure that for certain ozone and particulate matter nonattainment areas, states are not required to include economically infeasible measures in their implementation plans. The legislation revises the definition of exceptional events under Section 319 of the Clean Air Act to include droughts and extraordinary stagnation and directs EPA to submit two reports to Congress: (i) a report regarding the impacts of foreign emissions on NAAQS compliance and related matters and (ii) a report regarding ozone formation and effective control strategies.

III. STAFF CONTACTS

If you have any questions regarding this hearing, please contact Brandon Mooney, Andy Zach, Peter Spencer, Tina Richards, Annelise Rickert, or Tom Hassenboehler of the Committee staff at (202) 225-2927.