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Statement of Rep. Henry A. Waxman
Ranking Member, Committee on Energy and Commerce
Hearing on H.R. __, the Promoting New Manufacturing Act
Subcommittee on Energy and Power
May 21, 2014

Today's hearing addresses the Promoting New Manufacturing Act. The bill's sponsors say the goal of the legislation is to facilitate a manufacturing renaissance in the United States by expediting air permits for new facilities.

But the premise of this bill is flawed. New manufacturing facilities aren't being held back by clean air requirements. Weakening the Clean Air Act won't create jobs. And the specific provisions of this bill will slow down permitting, not speed it up. In truth, this bill is yet another Republican attempt to weaken Clean Air Act protections.

The Clean Air Act requires major new or expanding sources of air pollution to obtain permits with pollution limits before the facilities start construction. It's a lot easier and less costly to minimize air pollution when you're designing and building a facility, compared to cleaning up existing facilities. These preconstruction permits are based on a simple principle – a new facility should not increase local air pollution above levels that are safe to breathe.

The bill violates this principle by creating a permitting loophole. When EPA issues a new, more protective air quality standard, new sources are supposed to get their permits under the new standard. But if this bill passes, new sources could get their permits based on the old out-of-date standard. The bill adds potentially years of delay to compliance with the new standards by delaying their applicability until EPA jumps through brand-new procedural hoops, such as issuing more regulations and guidance.

This is ill-advised for several reasons.

First, this could force states and EPA to issue permits for facilities that pollute more than they would under current law. In fact, this bill would allow new facilities to degrade air quality to levels that are not safe to breathe.

In areas where the air is already unhealthy, allowing new facilities to pollute more means that existing industrial facilities will have to pollute less. And those facilities are usually more expensive to clean up. This is neither fair nor economically wise.

It's also unclear what EPA would need to do to avoid this result. The bill says that EPA must issue rules and guidance for implementing a new air quality standard at the same time as it issues the standard. But it's entirely unclear what rules and guidance would be sufficient. That's a recipe for litigation.

Other aspects of the bill could actually slow the permitting process, making this bill counterproductive for the issue it aims to address.

The bill requires EPA to publish data and compile annual reports for Congress on permit timing and delays.

But EPA doesn't even issue the vast majority of preconstruction permits. Aside from Indian Country, the territories, and a couple local areas in California, preconstruction permits are issued by states and local air districts. EPA simply doesn't have much of the information required by the bill. EPA also can't expedite permitting without getting more involved in state and local permitting processes.

So this bill would require cash-strapped state and local officials to spend resources gathering information for Congress . . . instead of processing permits.

It would require EPA to spend time compiling that data . . . rather than drafting guidance and supporting state and local permit authorities.

EPA and state air pollution agencies don't need new loopholes in the Clean Air Act. They don't need more reports to Congress.

What they do need is adequate funding to implement the law. They need people and resources.

But my Republican colleagues have voted time and again to slash EPA's budget. Federal funding for state and local air pollution control agencies has not even kept up with inflation.

I urge my colleagues to get beyond the rhetoric and take a close look at what this bill actually does. It allows new facilities to release more harmful air pollution, disadvantages existing facilities, and increases burdens on state permit writers. This legislation may be good for polluters, but it's not good for the breathers.