



**Statement for the Record  
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Before  
House Energy and Commerce  
Subcommittee on Energy and Power**

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Chairman Whitfield, Ranking Member Rush, thank you for the opportunity to testify in support of the draft legislation “Promoting New Manufacturing Act.” This legislation will remove much uncertainty and related schedule delays from the air emissions permitting process for major capital projects and help ensure continued growth in manufacturing in the United States.

Environmental Resources Management (ERM) is a leading global provider of environmental, health, safety, risk, social consulting services and sustainability related services. We have more than 5,000 people in over 40 countries and territories working out of more than 150 offices; approximately 70 of which are in the United States. Over the past five years we have worked for more than 50 per cent of the Global Fortune 500 delivering innovative solutions for business and selected government clients helping them understand and manage the sustainability challenges that the world is increasingly facing. In the United States, our staff includes approximately 350 Air Quality Professionals. Last year we completed around 800 air quality assignments in the US, many of which involved minor or major source permitting efforts. Most of our work is in the Oil and Gas, Power, Mining, Chemicals and Manufacturing sectors across a wide swath of American industry. A significant portion of my practice is advising my clients on the impacts of air permitting regulations on major capital projects.

My experience is that air preconstruction permits are typically on the critical path of the vast majority of major capital projects and that about 900 projects a year require the types of permits that would be facilitated by the Promoting New Manufacturing Act. Companies seeking to execute capital projects need to be able to develop realistic and predictable project timelines. This would ensure that equipment can be designed, procured, installed, and brought on-line when expected and also support investment decisions. The uncertainty in the permitting process creates significant issues for such investment decisions. Companies are forced to guess at the amount of additional time to build into the permitting cycle for planning as EPA often fails to meet the one-year time allowed in the Clean Air Act for processing a permit. For projects that have investment needs of billions of dollars, the impact of these delays should not be underestimated.

The “Promoting New Manufacturing Act” removes much of this uncertainty by ensuring that the EPA has issued final guidance to permit applicants on the exact manner in which to conduct the permitting analyses associated with capital project permitting. Guidance is necessary as many technical issues must be addressed in determining how to conduct the air dispersion analyses to show compliance with the National Ambient Air Quality Standards (NAAQS). This is particularly important as EPA is constantly updating the NAAQS.

For example, EPA recently tightened the NAAQS for nitrogen dioxide and sulfur oxides in 2010, and fine particulate matter in 2012, and is expected to propose a tighter ozone NAAQS later this year. At the same time, EPA is still working to implement these standards, along with some older NAAQS, including the 1997 and 2008 ozone NAAQS and the 1997 and 2006 particulate matter NAAQS. This disconnect results in state permitting agencies and the regulated community in not having clear direction from EPA regarding what needs to be done to complete the air preconstruction permitting process.

EPA’s failure to provide final implementation rules and guidance to the regulated community and state agencies is easily documented. Using the final particle matter standard as an example, it was not until May 16, 2008 that EPA promulgated its final rule for “Implementation of the New Source Review Program for Particulate Matter Less Than 2.5 Micrometers (PM<sub>2.5</sub>) despite

having promulgated a fine particle NAAQS in 1997 and 2006. Importantly, the 2008 rule required certain gases to be considered precursor emissions to fine particle formation. Precursor emissions are emitted as gases but react in the atmosphere to form fine particulate matter such as sulfates and nitrates. Despite having adopted this rule in 2008, even today there is no final guidance available from EPA on how to conduct a fine particle matter ambient air quality analysis nor is there an approved computer model available to analyze issues surrounding fine particle matter formation due to the chemical transformation of precursor emissions, a major contributor to fine particle concentrations in the ambient air. The most recent guidance from EPA on how to conduct a fine particle ambient air impact assessment is labeled draft and was issued in March of 2013. It has not been finalized now more than a year since its release.

Affected sources have been left with much uncertainty regarding how to conduct the required analyses and have no choice but to add time to project schedules to reflect such uncertainty. For example, at ERM, we routinely advise clients that obtaining a PSD permit can require anywhere from one to three years and that, at a minimum, twelve to eighteen months should be allowed in the project schedule for permit application, preparation, review and processing.

The types of issues that ERM has seen include:

- 1) A project to take advantage of low cost shale gas was delayed as the PM<sub>2.5</sub> NAAQS standard was made more stringent in the midst of the project schedule. The new more stringent PM<sub>2.5</sub> standard could not be met in the area of the project location so there was no way to make the required air quality demonstrations. EPA guidance was non-existent and the state did not know how to resolve the issue. This caused unnecessary project delays for a major new gas turbine.
- 2) ERM worked on a steel plant permit in Louisiana that was substantially delayed due to issues surrounding the NO<sub>2</sub> ambient air quality standard that was adopted during review of the permit application, and more than a year after the application was filed. We estimate the lack of appropriate guidance added two years to the project schedule and the permit is still not yet final. .

- 3) The existing air models are overly conservative, and can double count existing sources. Monitoring stations for pollutants monitor actual emissions from the surrounding area, including nearby industrial sources. But when models are used, the starting inputs are the hourly permitted emissions from industrial sources, not actual emissions.

These above examples are just a few of the obstacles ERM has experienced first-hand. The list of obstacles will likely continue to grow, as more facilities apply for preconstruction permits and as the NAAQS continue to get more stringent. The Promoting New Manufacturing Act would help provide facilities with certainty over the requirements and steps needed to obtain a preconstruction air permit within the Clean Air Act's required 12 month deadline.

Additionally, by requiring EPA to determine its track-record with respect to meeting the permit processing timeline mandated by the Clean Air Act, the Agency will have the information necessary to act on and remove the underlying causes of project delays created unintentionally by the permitting program.

Thank you very much for your time. I am happy to answer any questions you may have.