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MARKUP OF H.R. _____, PROMOTING NEW MANUFACTURING ACT

WEDNESDAY, MAY 29, 2014

House of Representatives,
Subcommittee on Energy and Power,
Committee on Energy and Commerce,
Washington, D.C.

The subcommittee met, pursuant to call, at 4:32 p.m., in Room 2123, Rayburn House Office Building, Hon. Ed Whitfield [chairman of the subcommittee] presiding.

Present: Representatives Whitfield, Latta, Olson, Barton, and Upton (ex officio).

Staff Present: Nick Abraham, Legislative Clerk; Gary Andres, Staff Director; Charlotte, Baker, Deputy Communications Director; Mike Bloomquist, General Counsel; Matt Bravo, Professional Staff Member; Allison Busbee, Policy Coordinator, Energy & Power; Sydne Harwick,

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Legislative Clerk; Tom Hassenboehler, Chief Counsel, Energy & Power; Brittany Havens, Legislative Clerk; Peter Kielty, Deputy General Counsel; Mary Neumayr, Senior Energy Counsel; Jen Berenholz, Chief Clerk; Stacia Cardille, Chief Counsel; Alison Cassady, Senior Professional Staff Member; Elizabeth Letter, Press Secretary; Alexandra Teitz, Senior Counsel, Environment and Energy.

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Mr. Whitfield. The subcommittee will come to order, and the chair will recognize himself for an opening statement.

Today this subcommittee begins its markup of the Promoting New Manufacturing Act. This discussion draft is one in a series of measures to reduce the red tape that is blocking many job-creating projects.

As you may remember, first quarter of this year, gross domestic product in the U.S. increased by one-tenth of 1 percent, very anemic. We have been sputtering along with our economy for some time, and anything that we can do in expediting the permitting process, particularly considering the plethora of natural resources we have, natural gas, oil, and other opportunities for energy expansion, we can create a lot of jobs in America by streamlining the air permits, preconstruction permits required under the Clean Air Act.

In recent years getting these permits in a timely manner has become extremely difficult. In particular, EPA has established or revised a number of new National Ambient Air Quality Standards. These standards become effective immediately, but the agency often will wait months or even years before finalizing the implementing regulations and guidance regarding how to comply with the new standards. This leaves regulated companies as well as States in the dark.

Permit applicants must demonstrate that they will meet the standards, but they don't have the information necessary to determine

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how to meet the standards. As a result, many proposed manufacturing projects are in a state of regulatory limbo. Some might even call it a de facto moratorium, which is the last thing that a struggling, sputtering, economy needs.

Last week when we had our hearing, the chemical industry pointed out that there are proposed 177 new projects in America, but for this potential to be realized, these facilities must meet with EPA's approval, including these preconstruction permits, and because of this delay in coming up with the guidance, as I said, it is creating a major problem.

I also want to thank our vice chairman of the subcommittee, Steve Scalise, for his work on this important effort to strengthen the American manufacturing sector and create jobs. This is his legislation, and this new manufacturing act will require that the implementing regulations and guidance be published concurrently with a new or revised National Ambient Air Quality Standard so that regulated entities seeking permits can comply in an expeditious manner.

I would like to reiterate that this discussion draft does not change the substantive requirements for manufacturing facilities under the Clean Air Act. Newly constructed American factories will still need to install the most modern, efficient, and clean technology available. This bill simply seeks to ensure that the permitting process will be timely and that permit applicants will not face

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unnecessary delays that may derail the project.

The bill also contains useful transparency provisions. It would make publicly available more EPA information about the number of permits issued and how long they took, as well as information about the timing of reviews by EPA's Environmental Appeals Board. It also requires an EPA report to Congress on steps it is taking to expedite the permitting process.

So I am going to urge everyone to support this legislation, and with that, I will yield back the balance of my time, and Mr. Rush, our ranking member from Illinois, will not be here this afternoon, and Mr. Waxman is not here, so at this time I will recognize the chairman of the full committee for 5 minutes, Mr. Upton.

[The prepared statement of Mr. Whitfield follows:]

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The Chairman. Well, thank you, Mr. Chairman. I am not going to take nearly my full 5 minutes. I just want to say thank you for this markup.

You know, for the last 5 years now under the Obama administration, we still have an unacceptably high unemployment rate. Manufacturing States have been among the hardest hit for sure, but today we can take a critical step towards creating hundreds of thousands of high-paying manufacturing jobs with the Promoting New Manufacturing Act.

Our domestic natural gas boom has rendered some of the lowest natural gas prices in the world. American manufacturers now have a global advantage, especially those industries that use natural gas as an energy source and a chemical feed stock. At last weeks hearing on this discussion draft we learned from the National Association of Manufacturers, as well as the American Chemistry Council, that the number and scope of new projects have, in fact, been proposed. For a manufacturing State like Michigan that is all ready to ramp up industrial output and employment, this is welcome news.

The potential for manufacturing jobs to help turn around the economy has never been greater, but unfortunately the regulatory challenges have also never been greater, too. In particular, for preconstruction permits there can be significant delays in regulatory uncertainty. One major area of concern has been that for such permits new and revised, National Ambient Air Quality Standards can become a

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serious roadblock. While permit applicants typically have to comply with the new standards as soon as they are issued, EPA has frequently failed to provide the necessary implementing regulations and guidance in a timely manner.

This makes it difficult, if not impossible, to get the necessary preconstruction permits required under the Clean Air Act. Regulated entities have not been given enough information from EPA to successfully navigate the permitting process. Like Keystone XL and other energy infrastructure projects, these manufacturing facilities can become part of the Nation's architecture of abundance. Made in America natural gas can be used to produce made in America products, but it can't happen until we clear away the delays as well as the red tape.

In his State of the Union address President Obama spoke of the potential for low natural gas prices to spark new factory construction, but he also warned of the red tape that needs to be cut before it can happen. I believe that the Promoting New Manufacturing Act is what the President has in mind. It requires EPA to publish its implementing regs and guidance at the same time that new or revised National Ambient Air Quality Standards take effect. This gives regulated companies the information that they need to get the required Clean Air Act permits in an expeditious manner.

The discussion draft also requires more public information from

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EPA to better assess the timing for obtaining preconstruction permits as well as report to Congress on ways to streamline and expedite the overall process.

The President struck a bipartisan tone on this issue, and I hope the subcommittee can continue. I welcome a constructive debate as we move ahead on the discussion draft. Let's work together to get Americans back on the job.

I yield back the balance of my time.

Mr. Whitfield. The gentleman yields back the balance of his time.

[The prepared statement of The Chairman follows:]

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Mr. Whitfield. At this time the chair will recognize the gentleman from Texas, Mr. Olson, for a 3 minute opening statement.

Mr. Olson. I thank the chair.

As I said last week, Texans demands clean air and clean water. We have made incredible and costly improvements for our environment, and that work continues, but we need a balance. Red tape can and does choke the life out of industries that keep Americans employed. Delays with permitting can mean the difference between a new factory and an empty lot. Who benefits if the company cancels the project and sends its jobs elsewhere because of regulatory hurdles?

As we heard last week, we have an administrative problem with the current air quality standards. EPA is ordering people to reach a destination without giving them the bearings. I can't see a common sense reason why EPA is allowed to release a new NAAQS without also releasing necessary modeling and guidance. Therefore, why this is acceptable seems to be that some States manage to work around EPA's failures. That is some pitiful, cold comfort.

As EPA times their quality rules, we need to get this right. We can't run a broken system. EPA's dereliction of duty makes meeting the rules even harder. For example, the upcoming bills on NAAQS will put huge swaths of America into nonattainment. Factories, power plants, and employers of all types in every one of our home States could face stringent new source review requirements. Our constituents need

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jobs. They need skilled labor opportunities. We need to get this process right, and we need to do this right now.

Today's bill does not, does not scrap the Clean Air Act. It does not create environmental chaos or send us back to the bad old days of environmental smog that I remember as a kid in the late 1960s growing up in the Midwest. This is a common sense, good government bill. I support it and urge all my colleagues to do so.

I yield back.

Mr. Whitfield. The gentleman yields back.

[The prepared statement of Mr. Olson follows:]

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Mr. Whitfield. At this time I recognize the gentleman from Ohio Mr. Latta for a 3 minute opening statement.

Mr. Latta. Well, thank you, Mr. Chairman, and thank you very much for holding this markup today.

There is no doubt that this country is on the cusp of a manufacturing resurgence, fueled by the new energy technologies that unleash new found access to our abundant, domestic energy resources. In places like my district in Northwest Ohio where I have over 60,000 manufacturing jobs, we have already experienced the positive effects and results of this boom in energy development. We have the opportunity to continue this growth so long as we have the right pro-growth policies in place.

Given that the energy landscape has changed drastically in recent years, I think it makes sense that we assess relevant permitting policies to ensure that the current policies fuel economic growth and not hamper it. That is why the Promoting New Manufacturing Act is a common sense and important policy proposal. This legislation applies a level of scrutiny to the preconstruction permitting process so we can determine whether the process currently in place is the most effective and most efficient.

Last week we heard from a host of expert witnesses that there is certainly the opportunity for improvement. As the National Association of Manufacturers pointed out, manufacturing regulators

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continue to struggle with the complex requirements in a new resource review, the NSR program. The representative identified a range of issues that we have attempted to address through this common sense legislation. Increased transparency and timeliness will improve the regulatory process while bringing certainty to the regulated community.

Building up our manufacturing sector is a policy goal we can all agree on. We have the energy, capital interests, knowledgeable workforce, technical advancements, that can give U.S. manufacturers a competitive edge in this global economy. Domestic investments bring new jobs, additional tax revenues, and important community investment. This legislation ensures that regulatory agencies don't get in the way of this economic potential.

Again, Mr. Chairman, I thank you for the markup and I urge my colleagues to support this important piece of legislation.

And I yield back the balance of my time.

Mr. Whitfield. Thank you very much.

[The prepared statement of Mr. Latta follows:]

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Mr. Whitfield. At this time recognize the gentleman from Texas, Mr. Barton, for 3 minutes.

Mr. Barton. Thank you, Mr. Chairman.

I am a strong supporter of the Promoting New Manufacturing Act, which we are going to mark up in this subcommittee. It will improve the regulatory permitting process for new manufacturing facilities, it will help to maximize the economic potential of the U.S. in terms of its natural gas price advantage. America's manufacturing industries, especially those that utilize natural gas as a fuel or feed stock, are undergoing historical expansion. We heard testimony last week that the chemical industry has projects valued at over \$112 billion. Isn't that amazing just in one industry, \$112 billion being invested in America.

Today the United States is among the most attractive places in the world to invest, yet time and again we see that the White House and the EPA are threatening to squander this opportunity by adding to the already lengthy and complex environmental permitting process. The scheduling uncertainty associated with obtaining preconstruction permits is only the tip of the iceberg, but it does present a formidable obstacle to companies looking to expand or begin new construction.

The Promoting New Manufacturing Act will improve the permitting process simply by requiring EPA to be more transparent. It will do this by creating a so-called dashboard that shows the total number of

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preconstruction permits issued during the year and the average of the review process. It will require the EPA to issue guidance in tandem with new rules so that the manufacturers know what they have to comply with, and it does direct the EPA to prepare an annual report to Congress on actions the agency has taken to expedite the permitting process.

Mr. Chairman, I applaud you for bringing this to the subcommittee and look forward to the markup, and I will vote for it on final passage as amended. With that, I yield back.

Mr. Whitfield. Thank you, Mr. Barton, and the gentleman yields back the balance of his time.

[The prepared statement of Mr. Barton follows:]

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Mr. Whitfield. Seeing no further requests for opening statements, the chair would now call up the discussion draft and ask the clerk to report.

The Clerk. Discussion draft to promote new manufacturing in the United States by providing for greater transparency and timeliness in obtaining necessary permits and for other purposes.

Mr. Whitfield. Without objection, the first reading of the bill is dispensed with, and the bill will be open for amendment at any point.

So ordered.

And now for the information of members, we are now on the discussion draft entitled the Promoting New Manufacturing Act, and the subcommittee will reconvene at 10:00 a.m. tomorrow morning. And I believe Mr. Shimkus will be chairing it tomorrow morning because I have a conflict in the morning, but I would remind members that the chair will give priority recognition to amendments offered on a bipartisan basis.

And I look forward to seeing all of you tomorrow, and without objection, the committee stands in recess.

[Whereupon, at 4:49 p.m., the subcommittee recessed, to reconvene at 10:00 a.m., Thursday May 29, 2014.]