



MEMORANDUM

February 24, 2023

TO: Members of the Subcommittee on Environment, Manufacturing, and Critical Materials

FROM: Committee Majority Staff

RE: Subcommittee on Environment, Manufacturing, and Critical Materials Markup

I. INTRODUCTION

On Tuesday, February 28, at 1:00 p.m. (or 30 minutes after the Subcommittee on Energy, Climate, and Grid Security markup concludes), the Subcommittee on Environment, Manufacturing, and Critical Materials will meet in open markup session in 2123 Rayburn House Office Building to consider the following:

- H.R. 1070, a bill to amend the Solid Waste Disposal Act (SWDA) to treat the owner or operator of a critical energy resource facility as having been issued an interim permit for the treatment, storage, and disposal, of hazardous waste, and for other purposes.
- H.R. 1131, a bill to require the Administrator of the Environmental Protection Agency to authorize the use of flexible air permitting with respect to certain critical energy resource facilities, and for other purposes.
- H.R. 1140, a bill to authorize the Administrator of the Environmental Protection Agency to waive application of certain requirements with respect to processing and refining of a critical energy resource at a critical energy resource facility, and for other purposes.
- H.R. 1158, the Elimination of Future Technology Delays Act.
- H.R. 1141, Natural Gas Tax Repeal Act.
- H.R. 1023, a bill to repeal section 134 of the Clean Air Act, relating to the greenhouse gas reduction fund.
- H.R. 1155, Keeping America's Refineries Act.

In keeping with Chair Rodgers' 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 EandCdocs@mail.house.gov. Any information with respect to an amendment's parliamentary standing (e.g., its germaneness) should be submitted at this time.

II. EXPLANATION OF LEGISLATION

- A. H.R. 1070, a bill to amend the Solid Waste Disposal Act (SWDA) to treat the owner or operator of a critical energy resource facility as having been issued an interim**

permit for the treatment, storage, and disposal, of hazardous waste, and for other purposes.

This legislation, which was included in Title VI of H.R. 8981 of the 117th Congress, is patterned after a previous SWDA practice. It would address delays for SWDA-regulated waste permitting that is a condition of operation, but only for facilities that deal with critical energy resources. Specifically, the permitting involved would relate to on-site storage of more than 90 days, onsite waste treatment, or on-site waste disposal. The legislation would provide a facility, that files a Part A permit application, “interim status” until EPA or the State requires the facility to submit its Part B permit application for a long-term permit. (Rep. Carter introduced this legislation.)

B. H.R. 1131, a bill to require the Administrator of the Environmental Protection Agency to authorize the use of flexible air permitting with respect to certain critical energy resource facilities, and for other purposes.

This legislation would authorize EPA to issue flexible air permits and facilitate flexible, market-responsive operations for critical energy resource facilities. Flexible air permitting is a procedure that has been promoted by EPA to allow industrial facilities to obtain advance approval for changes to an emissions source without requiring the change to be reviewed and approved individually. Flexible air permitting ensures equal or greater environmental protection than conventional air permits. (Rep. Joyce introduced this legislation.)

C. H.R. 1140, a bill to authorize the Administrator of the Environmental Protection Agency to waive application of certain requirements with respect to processing and refining a critical energy resource at a critical energy resource facility, and for other purposes.

This legislation would authorize the EPA Administrator, under certain conditions, to waive temporarily any Clean Air Act (CAA) or Solid Waste Disposal Act requirement the Administrator determines is necessary to allow for the processing or refining of a critical energy resource to meet national security or energy security needs and to serve the public interest. The introduced bill includes new language that establishes requirements, timeframes, and a public interest protection by which the Administrator must act to avoid or minimize any adverse environmental impacts of a temporary waiver. (Rep. Pence introduced this legislation.)

D. H.R. 1158, the Elimination of Future Technology Delays Act.

This legislation would address repeated, documented delays with EPA reviewing and making legally mandated, timely determinations of pre-manufacturing notices for new critical energy resources and new uses of existing critical energy resources. The legislation would prevent EPA from withholding judgment on a notice and preventing commercialization – without justification – of a substance beyond the Toxic Substances Control Act’s (TSCA’s) statutory deadlines. This legislation would also prevent EPA from proactively encouraging manufacturers to exercise their right to suspend or end the legal clock on EPA action if EPA has not made an initial review of the new critical energy resource and communicated the noted risks to the applicant. Finally, this legislation would require EPA to consider economic, societal, and environmental costs and benefits when determining whether an “unreasonable risk” exists from the manufacturing,

processing, commercial transportation, use or disposal of the critical energy resource. (Rep. Curtis introduced this legislation.)

E. H.R. 1141, Natural Gas Tax Repeal Act.

This legislation would repeal the natural gas tax contained in Sec. 136 of the CAA. The natural gas tax was established through amendments to the CAA contained in the Inflation Reduction Act (IRA), which was signed into law on August 16, 2022. Sec. 136 of the CAA authorizes the EPA to impose or collect a “charge on methane emissions,” also referred to as a tax on natural gas. H.R. 1141 also would rescind the unobligated balance of any amounts made available under Sec. 136. The IRA authorized and appropriated over \$1.5 billion under Sec. 136 of the CAA. (Rep. Pfluger introduced this legislation.)

F. H.R. 1023, a bill to repeal section 134 of the Clean Air Act, relating to the greenhouse gas reduction fund.

This legislation would repeal the program established under section 134 of the CAA and would rescind any unobligated balance of any funds made available under this section. Section 60103 of P.L. 117-169, the IRA, added this new section to the CAA to establish a Greenhouse Gas Reduction Fund and appropriated \$27 billion for EPA to award grants under the program until September 2024. (Rep. Palmer introduced this legislation.)

G. H.R. 1155, Keeping America’s Refineries Act.

This legislation responds to a regulatory proposal in the Biden administration’s Risk Management Rule (RMP) expansion (proposed on August 18, 2022). The regulatory proposal would make petroleum refineries using hydrofluoric acid alkylation units conduct technology and alternatives analyses of their existing plant’s chemical usage and manufacturing practices to identify changes that could be made. This bill would prevent this operations assessment requirement from applying to refineries with active construction or operating permits. A new refinery or refinery without its permits could choose to follow the RMP assessment requirement (if finalized) or demonstrate it conforms or will conform to American Petroleum Institute Recommended Practice 751. Of note, section 12(d) of the National Technology Transfer Act of 1995, requires the Federal government to defer to industry consensus standards when those standards intersect with agency goals. (Rep. Crenshaw introduced this legislation.)

III. STAFF CONTACTS

If you have any questions regarding this markup, please contact Mary Martin of the Committee Staff at (202) 225-3641.