From Gridlock to Growth/Permitting Reform Under the Clean Air: U.S. House of Representatives Subcommittee on Environment/Committee on Energy and Commerce Hearing



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The Subcommittee on Environment of the U.S. House of Representatives Energy and Commerce Committee held a September 16th hearing titled:

From Gridlock to Growth: Permitting Reform Under the Clean Air Act ("Hearing").

The stated purpose of the Hearing was to focus on:

…potential reforms to permitting and environmental reviews under the Clean Air Act.

The following bills will be addressed:

- H.R. 161, New Source Review Permitting Improvement Act (Rep. Griffith)
- Amends the definition of "modification" in multiple sections to clarify that certain activities that do not increase emissions do not trigger NSR permitting.
- H.R. ___, Air Permitting Improvements to Protect National Security Act
- Amends Section 173 to exempt advanced manufacturing facilities and critical mineral facilities from the requirement to offset emissions as part of the Nonattainment New Source Review (NNSR) permit process if the President issues a national security determination or if other conditions are met. This is based on a similar provision in Section 173 waiving emission offset requirements for rocket engines.
- H.R. ___, Reducing and Eliminating Duplicative Environmental Regulations Act (RED Tape Act)
- Amends Section 309 to eliminate the requirement for EPA review and provide written comment on federal construction projects or other actions by a federal agency that are already subject to environmental review under the National Environmental Policy Act.
- H.R. ___, Foreign Emissions and Nonattainment Clarification for Economic Stability (FENCES Act)
- Amends Section 179B to exclude emissions from foreign sources from being used to determine whether an area is attaining a NAAQS and considered as part of NSR permitting.
- H.R. ___, Fire Improvement and Reforming Exceptional Events Act (FIRE Act)
- Amends Section 319(b) to limit how emissions from wildfires, prescribed burns and exceptional events from the air monitoring data can be used to determine whether an area is attaining a NAAQS

and to require increased coordination between EPA and affected states regarding exceptional event determinations.

A September 12th Memorandum from the Committee Majority Staff has the following components:

- Clean Air Act Pre-Construction Permitting (discussing the three kinds of Clean Air Act pre-construction review and permit programs [often referred to as New Source Review or NSR Permit Programs]).
- Concerns about NSR Permit Process (stating that the permit process involves multiple steps, including public notice and comment, can take several years to complete).
- Issues for Discussion:
- How frequent changes in regulations and interpretive guidance create uncertainty for the regulated community and regulatory agencies and the role that Congress can play in providing regulatory clarity and simplifying the permitting process.
- The impact that air pollution from foreign sources, forest fires, and exceptional events can have on air quality and the ability to obtain pre-construction permits under the NSR permit process.
- Challenges that industries critical to national security face in navigating the NSR process and how NAAQS standards that approach background level concentrations impact economic development.
- How the Clean Air Act can be modernized to meet the nation's need for economic security while continuing to deliver clean air and a healthy environment.

Witnesses at the Hearing included:

- Clint Woods, Commissioner, Indiana Department of Environmental Management;
- Mark Gebbia, Vice President, Environmental and Permitting, Williams;
- Ashley Kunz, Senior Director, Environmental Health and Safety, Micron;
- Danny Seiden, President and CEO, Arizona Chamber of Commerce and Industry;
- Keri Powell, Senior Attorney for Community Health and Air Program Leader, Southern Environmental Law Center; and
- Ali Mirzakhalili, Air Quality Division Administrator, Oregon Department of Environmental Quality.

A copy of the Committee Majority Staff Memorandum can be downloaded here.