UNLEASHING AMERICAN ENERGY, LOWERING ENERGY COSTS, AND STRENGTHENING SUPPLY CHAINS

JOINT HEARING

BEFORE THE

SUBCOMMITTEE ON ENERGY, CLIMATE, AND GRID SECURITY

AND THE

SUBCOMMITTEE ON ENVIRONMENT, MANUFACTURING, AND CRITICAL MATERIALS

OF THE

COMMITTEE ON ENERGY AND COMMERCE

HOUSE OF REPRESENTATIVES

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C O N T E N T S

[1] Submitted legislation has been retained in committee files and is available at https://docs.house.gov/Committee/Calendar/ByEvent.aspx?EventID=115306.

SUBMITTED MATERIAL

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UNLEASHING AMERICAN ENERGY, LOWERING ENERGY COSTS, AND STRENGTHENING SUPPLY CHAINS

TUESDAY, FEBRUARY 7, 2023

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON ENERGY, CLIMATE, AND GRID SECURITY,
JOINT WITH THE
SUBCOMMITTEE ON ENVIRONMENT, MANUFACTURING, AND CRITICAL MATERIALS,
COMMITTEE ON ENERGY AND COMMERCE,
Washington, DC.

The subcommittees met, pursuant to call, at 10:01 a.m. in the John D. Dingell Room 2123 Rayburn House Office Building, Hon. Jeff Duncan (chairman of the Subcommittee on Energy, Climate, and Grid Security) presiding.

Members present: Representatives Johnson (Subcommittee on Environment, Manufacturing, and Critical Materials chairman), Burgess, Latta, Guthrie, Griffith, Bucshon, Walberg, Palmer, Curtis, Lesko, Pence, Armstrong, Weber, Balderson, Pfluger, Rodgers (ex officio), DeGette (Subcommittee on Energy, Climate, and Grid Security ranking member), Tonko (Subcommittee on Environment, Manufacturing, and Critical Materials ranking member), Matsui, Castor, Sarbanes, Cárdenas, Peters, Veasey, Kuster, Blunt Rochester, Schrier, Fletcher, and Pallone (ex officio).

Also present: Representative Dingell.

Staff present: Sarah Burke, Deputy Staff Director; Michael Cameron, Professional Staff Member, Innovation, Data, and Commerce; Jerry Couri, Deputy Chief Counsel for Environment; Lauren Eriksen, Clerk, Oversight and Investigations; Nate Hodson, Staff Director; Tara Hupman, Chief Counsel; Peter Kielty, General Counsel; Emily King, Member Services Director; Elise Krekorian, Professional Staff Member, Energy; Mary Martin, Chief Counsel, Energy and Environment; Jacob McCurdy, Professional Staff Member, Energy; Brandon Mooney, Deputy Chief Counsel for Energy; Kaitlyn Peterson, Clerk, Energy and Environment; Carla Rafael, Staff Assistant; Peter Spencer, Senior Professional Staff Member, Energy; Michael Taggart, Policy Director; Timia Crisp, Minority Professional Staff Member; Waverly Gordon, Minority Deputy Staff Director and General Counsel; Tiffany Guarascio, Minority Staff Director; Anthony Gutierrez, Minority Professional Staff Member; Caitlin Haberman, Minority Staff Director, Environment, Manufacturing, and Critical Materials; Mackenzie Kuhl, Minority Digital

Manager; Kris Pittard, Minority Professional Staff Member; Kylea Rogers, Minority Policy Analyst; Andrew Souvall, Minority Director of Communications, Outreach, and Member Services; Medha Surampudy, Minority Professional Staff Member; Isaac Velez, Minority Intern; and Tuley Wright, Minority Staff Director, Energy, Climate, and Grid Security.

Mr. DUNCAN. The Subcommittee on Energy, Climate, and Grid Security and the Subcommittee on Environment, Manufacturing, and Critical Minerals will now come to order.

The Chair now recognizes himself for 5 minutes for an opening statement.

OPENING STATEMENT OF HON. JEFF DUNCAN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF SOUTH CAROLINA

First of all, I want to thank you all for being here. And I thank all of our witnesses for being here, as well. I preemptively want to say that we all appreciate your patience, as this might be a long day.

I am excited that we are holding our first legislative hearing, a joint hearing with the Energy, Climate, and Grid Security Subcommittee and the Environment, Manufacturing, and Critical Minerals [sic] Subcommittee. Our goal is to enact policy that delivers affordable, reliable, and clean energy to all Americans, a goal I believe we all share on this committee, regardless of party.

In our hearing on restoring American energy dominance last week, we heard how the Biden administration's energy policies are making energy unaffordable and less reliable for American consumers. The aggressive Rush to Green agenda is compromising our security by creating vulnerabilities in our energy supply chain, making us more reliant on our adversaries for energy and critical minerals.

I believe in unleashing all sources of American energy, from nuclear, oil, and gas to hydropower, renewables, hydrogen—a truly all-of-the-above approach. We also believe in unleashing innovation by creating a regulatory structure that encourages investment and growth in the private sector.

We have said it before: American energy production and reducing emissions are not mutually exclusive. We produce energy cleaner than anywhere in the world.

Unfortunately, many of our energy policies coming out of the Biden administration prioritize climate goals over reliable and affordable energy. They compromise the ability for Americans to afford their power bills and keep on the lights. They also fail to address the significant permitting barriers to bringing more clean energy online.

The bills we are reviewing today offer solutions. They will bring down the cost of energy, reduce emissions, strengthen our energy supply chains, and pave the way for restoring American energy dominance. We did invite the FERC Commissioners, Secretary of Energy, and the EPA administrator, all who, unfortunately, were unable to attend. I am hopeful that we can have them in front of this committee soon to give the administration's perspective.

I am, however, pleased we are moving this legislation through regular order, with a full committee hearing last week to inform us

of the state of American energy. The legislation in front of us today will address some of the issues and propel the United States into American energy dominance.

For example, my bill protects American energy production by prohibiting the President from declaring a moratorium on hydraulic fracturing. This is necessary because President Biden has repeatedly stated that he would end fossil fuel production in the United States.

Representative Pfluger's bill repeals the costly natural gas tax created in the Inflation Reduction Act. The Promoting Cross-border Energy Infrastructure Act encourages the construction of energy infrastructure across the borders of the U.S., Canada, and Mexico, helping us secure Western hemispheric energy security.

Several bills also address the importance of American energy exports in the global markets. The world is safer when America is energy dominant, and Representative Johnson's bill to unlock our domestic LNG would make it easier for FERC to approve export terminals to deliver clean energy to our friends and allies.

We also will be taking up a resolution that expresses support for the free trade and export of crude oil and petroleum products. This is necessary because President Biden and the Democrats on this committee have advocated for reinstating the crude oil export ban. Lifting the export ban in 2015 has lowered prices while also increasing our leverage globally. It would be shortsighted to reverse this.

We will also focus on securing our nuclear supply chain with a bill to wean off reliance on Russian uranium. Our grid and energy infrastructure increasingly have come under attack. The critical Electric Infrastructure Cybersecurity Incident Reporting Act will increase transparency between critical electric infrastructure owners and the Department of Energy to strengthen our systems.

Just over 2 years ago, America was energy dominant for the first time since 1952. We were the largest energy producer in the world, while also leading the world in emissions reductions. We can and should be a world leader, and these bills will help get us there. It is time to stop handing over leverage to the CCP, Iran, and the OPEC cartel. Not only leverage, but American dollars.

Every American should have access to reliable energy. The most recent blizzards underscore the need for resilient energy infrastructure and a diversified generation mix capable of responding to storms. It is time to flip the switch, unleash American energy production. These bills are the first step in achieving energy dominance.

I look forward to hearing from our witnesses on these bills.

[The prepared statement of Mr. Duncan follows:]

Chairman Jeff Duncan (SC-03) Opening Remarks
Joint Energy & Environment Committee Hearing
Joint Legislative Hearing: "Unleashing American Energy, Lowering Energy Costs, and Strengthening Supply Chains."
February 7, 2023

As prepared for delivery

Thank you all for being here. And thank you to all of our witnesses for being here. I preemptively want to say we all appreciate your patience; this will likely be a long day.

I am excited we are holding our first legislative hearing, a joint hearing with the Energy, Climate, and Grid Security subcommittee and Environment, Manufacturing, and Critical Materials subcommittee.

Our goal is to enact policy that delivers affordable, reliable, and clean energy to all Americans. A goal I believe we ALL share on this committee (regardless of party).

In our hearing on Restoring American Energy Dominance last week, we heard how the Biden Administration's energy policies are making energy unaffordable and less reliable for American consumers.

The aggressive "rush to green" agenda is compromising our security by creating vulnerabilities in our energy supply chain, making us more reliant on our adversaries for energy and critical materials.

We believe in unleashing all sources of American energy—from nuclear, oil and gas, to hydropower, renewables, and hydrogen. We also believe in unleashing innovation by creating a regulatory structure that encourages investment and growth in the private sector.

We've said it before—American energy production and reducing emissions are not mutually exclusive. We produce energy cleaner than anywhere in the world.

Unfortunately, many of the energy policies coming out of the Biden Administration prioritize climate goals over reliable and affordable energy. They compromise the ability for Americans to afford their power bills and keep on the lights. They also fail to address the significant permitting barriers to bringing more clean energy online.

The bills we are reviewing today offer solutions – they will bring down the cost of energy, reduce emissions, strengthen our energy supply chains, and pave the way to restoring American Energy Dominance.

We did invite the FERC Commissioners, Secretary of Energy, and EPA Administrator—all who unfortunately were unable to attend. I am hopeful we can have them in front of this Committee soon to give the Administration's perspective. I am however pleased we are moving this legislation through regular order. With a full committee hearing last week to inform us of the state of American energy, the legislation in front of us today will address some of the issues and propel the United States into energy dominance.

For example:

- My bill, Protects American Energy Production by prohibiting the President from declaring a moratorium on fracking. This is necessary because President Biden has repeatedly stated he would end fossil fuel production in the U.S.

- Representative Pfluger's bill repeals the costly Natural Gas tax created in the Inflation Reduction Act.

- The Promoting Cross-border Energy Infrastructure Act encourages the construction of energy infrastructure across the borders of the U.S., Canada, and Mexico – helping us secure Western Hemispheric energy security.

- Several bills also address the importance of American energy exports in the global market.

    - The world is safer when America is energy dominant and Representative Johnson's bill to "Unlock our Domestic LNG" would make it easier for FERC to approve export terminals to deliver clean energy to our allies.

    - We also will be taking up a resolution that expresses support for the free trade and export of crude oil and petroleum products. This is necessary because President Biden and Democrats on this Committee have advocated for reinstating the crude oil export ban.

    - Lifting the export ban in 2015 has lowered prices while also increasing our leverage globally—it would be shortsighted to reverse this.

- We will also focus on securing our nuclear supply chain with a bill to wean off reliance on Russian uranium.

- Our grid and energy infrastructure increasingly have come under attack. The Critical Electric Infrastructure Cybersecurity Incident Reporting Act will increase transparency between critical electric infrastructure owners and the Department of Energy to strengthen our systems.

Just over 2 years ago, America was energy dominant for the first time since 1952. We were the largest energy producer in the world while also leading the world in emission reductions.

We can and should be a world leader and these bills will help get us there. It's time to stop handing over leverage to the CCP, Iran, and the OPEC cartel.

Every American should have access to reliable energy. The most recent blizzards underscore the need for resilient energy infrastructure and a diversified generation mix capable of responding to storms.

Let's Flip the Switch, Unleash American Energy Production.

These bills are the first step in achieving energy dominance.

I look forward to hearing from our witnesses on these bills and I now recognize Ranking Member DeGette.

Mr. DUNCAN. And I now recognize Ranking Member DeGette.

OPENING STATEMENT OF HON. DIANA DEGETTE, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF COLORADO

Ms. DEGETTE. Thank you so much, Mr. Chairman. I am happy to be here today, and I would humbly suggest if we want to reduce our reliance on OPEC and other bad actors internationally, we should reduce our reliance on oil, since it is an international market.

And when I looked at these bills, they don't just unleash America's energy potential. They tether us more fully to a global commodity that strains our budgets and also causes real harm to our environment. They expand oil and gas drilling throughout the country, and they undo many of the bedrock environmental laws that we have put in place to ensure every American has access to the clean air, clean water, and a clean environment.

The bills that we are considering today bolster an industry that is already reporting record profits. Last year the United States produced an average of 11.9 million barrels of crude oil a day. Now, that is the second highest level in U.S. history. And the oil and gas industry is on track to produce even more in the years to come. According to the Energy Information Administration, the U.S. is on pace to produce 12.4 million barrels a day this year, which is an all-time record, and up to 12.8 million barrels a day in 2024.

So I am not really sure why the majority thinks we need to give even more incentives for big oil to produce more oil. So if—and the title of this hearing, "Unleashing American Energy," it really means—is giving big oil unfettered access to do as they please, well, I guess that is what these bills do.

But again, they do nothing to unleash our Nation's true energy potential. They don't do anything to protect the American people from the volatility of the global oil market and the skyrocketing prices we saw last summer. They don't do anything to combat the climate crisis or deliver environmental justice to some of the most vulnerable communities across this country.

So if we really, really want to unleash America's energy potential and drive down the cost of energy, then we need to break our addiction to oil and we need an orderly transition to cleaner, renewable energy sources. Not only will doing so help continue to reduce the harmful emissions that are driving the climate crisis, but it reduces our dependance on the global oil market, and it will reduce energy bills that many Americans are struggling to afford.

Clean energy is now one of the cheapest sources of energy, and it is why countries around the world are already making the transition to expand the use of new technologies that will serve as a foundation for them to continue to grow their economies into the future. And we cannot fall behind in that effort. We can either be the leaders of a global clean energy transition or our adversaries will, because they understand the risk as much as we do.

So, instead of furthering our dependance on oil, we should actually be fueling the innovation of new technologies that can provide clean, renewable energy that is both reliable and affordable, and also by increasing our grid security. We need to build the founda-

tion and we need to invest in training for the energy workforce so they can take on the jobs of the future. This is how we unleash America's energy potential.

So, Mr. Chairman, I want to say this again, because I think there is some confusion. People seem to think that if we produce more oil and gas domestically, even though we are producing record amounts, this is going to make us independent from international energy levels or from OPEC price increases. That is simply not the case, because it is an international market. And we saw that last year when oil and gas prices went up so much, even though there was the ability to have increased domestic production.

So I think that, by working together, we could find bipartisan solutions. We all have the same goal: a solid energy source, transition to renewable energy, and combating the climate crisis, and building the foundation to make sure that can happen.

I don't think these bills are the solution, so I think we should go back to the drawing board and get that right.

[The prepared statement of Ms. DeGette follows:]

Committee on Energy and Commerce

Opening State as Prepared for Delivery
of
Subcommittee on Energy, Climate, and Grid Security
Ranking Member Diana DeGette

Hearing on "Unleashing American Energy, Lowering Energy Costs, and Strengthening Supply Chains

February 7, 2023

Thank you so much, Mr. Chairman. I'm happy to be here today.

I would humbly suggest if we want to reduce our reliance on OPEC and other bad actors internationally, we should reduce our reliance on oil, since it's an international market.

When I looked at these bills, they don't just unleash America's energy potential, they tether us more fully to a global commodity that strains our budgets and causes real harm to our environment. They expand oil and gas drilling throughout the country, and they undo many of the bedrock environmental laws that we've put in place to ensure every American has access to the clean air, clean water, and a clean environment.

The bills that we're considering today bolster an industry that's already reporting record profits.

Last year, the United States produced an average of 11.9 million barrels of crude oil a day. Now that's the second highest level in US history, and the oil and gas industry is on track to produce even more in the years to come.

According to the Energy Information Administration, the US is on pace to produce 12.4 million barrels a day this year, which is an all-time record, and up to 12.8 million barrels a day in 2024.

I'm not really sure why the majority thinks we need to give even more incentives for Big Oil to produce more oil. If the title of this hearing, "Unleashing American Energy," really means "giving Big Oil unfettered access to do as they please," well, I guess that's what these bills do. But again, they do nothing to unleash our nation's true energy potential.

They don't do anything to protect the American people from the volatility of the global oil market and the skyrocketing prices we saw last summer. They don't do anything to combat the climate crisis or deliver environmental justice to some of the most vulnerable communities across this country.

If we really want to unleash America's energy potential and drive down the cost of energy, then we need to break our addiction to oil, and we need an orderly transition to cleaner renewable energy sources.

Not only will doing so help to continue to reduce the harmful emissions that are driving the climate crisis, but it reduces our dependence on the global oil market, and it will reduce energy bills that many Americans are struggling to afford.

Clean energy is now one of the cheapest sources of energy, and it's why countries around the world are already making the transition to expand the use of new technologies that will serve as a foundation for them to continue to grow their economies into the future.

We cannot fall behind in that effort. We can either be the leaders of a global clean energy transition, or our adversaries will, because they understand the risk as much as we do.

Instead of furthering our dependence on oil, we should actually be fueling the innovation of new technologies that can provide clean, renewable energy that's both reliable and affordable, and also increasing our grid security.

We need to build the foundation and we need to invest in training for the energy workforce so they can take on the jobs of the future.

This is how we unleash America's energy potential.

Mr. Chairman, I want to say this again, because I think there's some confusion. People seem to think that if we produce more oil and gas domestically, even though we're producing record amounts, this is going to make us independent from international energy levels or from OPEC price increases.

That's simply not the case, because it's an international market.

We saw that last year when oil and gas prices went up so much, even though there was the ability to have increased domestic production.

I think that by working together, we could find bipartisan solutions. We all have the same goal: a solid energy source, transition to renewable energy, combating the climate crisis, and building the foundation to make sure that can happen.

I don't think these bills are the solution, so I think we should go back to the drawing board and get that get that right. With that, I yield back.

Ms. DEGETTE. And with that, I yield back.

Mr. DUNCAN. The Chair now recognizes the chair of the Subcommittee on Environment, Manufacturing, and Critical Minerals, Mr. Johnson, for 5 minutes for an opening statement.

OPENING STATEMENT OF HON. BILL JOHNSON, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF OHIO

Mr. JOHNSON. Well, thank you, Mr. Chairman, and good morning, everyone. I, too, want to thank our panelists for being with us this morning.

You know, my constituents back at home in Ohio know firsthand the importance of affordable American energy and that abundant, affordable energy is vital to economic growth, and it is a key factor in ensuring our national security. Last week we heard about some of the domestic problems we face in meeting these challenges.

Today we will discuss thoughtfully removing some of the red tape and delays that can prevent constructing new critical energy projects, keep capital on the sidelines, and—that are killing innovation dead in its tracks. I am eager to get going on proposals to streamline the process for building essential energy projects in America. Producing more American energy will help reduce global emissions, improve energy reliability, and lower costs for American consumers.

President Biden's war on affordable and reliable energy—and the problems that war creates—is not limited to killing the use of oil, natural gas, and coal. His administration's policies are blocking progress on the President's own stated goal to develop domestic resources essential for the very energy alternatives he prefers, such as wind, solar, and batteries.

For example, the supply of minerals necessary to build these alternative energy sources is insufficient to meet some of this administration's climate goals, including a carbon-free power sector by 2035 and ensuring widespread use of zero-emission vehicles.

In addition, many of these critical minerals and the refining and processing capacity for them is controlled by adversaries like China and Russia. We cannot stake our future on certain technologies that then rely upon our enemies for the minerals and mineral processing needs to develop them.

This administration must stop promising Utopia while prohibiting our own mineral production, like canceling leases for new nickel and copper mines in Minnesota, blocking new lithium mines in Nevada, and rescinding a land swap necessary for a copper mine in Arizona.

Fortunately, the legislation we are considering today would reorient the law to reestablish America's energy dominance without weakening America's global leadership in advancing our higher environmental and labor standards.

So today we will consider a bill amending the Toxic Substances Control Act to require EPA to review and make timely decisions on the manufacturing of a new chemical or a new use of an existing chemical that is a critical energy resource. This bill still emphasizes risk protection but will prevent the marketplace from waiting an excessive amount of time for critical materials needed to meet our emissions, climate, and energy expectations.

We will also review legislation directing the EPA Administrator to allow more regulatory flexibility in enforcing air quality permits for critical energy resource facilities like processing and refining facilities.

Another measure amends the Solid Waste Disposal Act to allow for critical energy resources engaged in mineral processing to receive interim permit status for the treatment, storage, or disposal of their waste, a permit that the EPA must still review.

There is also a bill which authorizes EPA only during national security and energy security emergencies to waive certain regulations necessary for processing or refining of critical energy resources.

Additionally, we will look at legislation preventing EPA from imposing expensive design analysis requirements on already constructed gasoline refineries, which would elevate the EPA's view of what makes sense above what industry experts and best practices prove makes sense.

Staying on refineries, we will examine a bill to have the Department of Energy and the National Petroleum Council assess and report on the importance of petrochemical refineries in the United States, including a review of opportunities to expand capacity of such facilities, risk of such facilities, and an assessment of Federal and State regulations or policies that have contributed to a decline in the capacity of such facilities.

Finally, we will review a bill repealing the wasteful Greenhouse Gas Reduction Fund, which was established in the Inflation Reduction Act.

So, as you can see, a lot of work needs to be done to establish an energy strategy that encourages innovation, that drives investment, and benefits our economic and national security while we remain good stewards of our environment.

I want to also note that we are moving these in regular order. It is really good to be back to legislating through regular order.

I believe the new Republican majority on the Energy and Commerce Committee is leading with solutions to our Nation's energy and critical resource challenges, and I look forward to hearing from each of you as we talk today.

[The prepared statement of Mr. Johnson follows:]

Bill Johnson
Chairman
Subcommittee on Environment, Manufacturing, and Critical Materials
Opening Statement for Joint Subcommittee Legislative Hearing
"Unleashing American Energy, Lowering Energy Costs, and Strengthening Supply Chains"
February 7, 2023
As prepared for delivery

Well..Good morning, everyone.

I want to thank our witnesses for being here today.

You know…my constituents back home in Ohio know firsthand the importance of affordable, American energy…and that abundant, affordable energy is vital to economic growth…and is a key factor in ensuring our national security.

Last week, we heard about some of the domestic problems we face in meeting this challenge.

Today, we'll discuss thoughtfully removing some of the red tape and delays that can prevent constructing new critical energy projects…
keep capital on the sidelines, and kill innovation dead in its tracks.

I'm eager to get going on proposals to streamline the process for building essential energy projects in America. Producing more American energy will help reduce global emissions, improve energy reliability, and lower costs for American consumers.

President Biden's war on affordable and reliable energy – and the problems that war creates – is not limited to killing the use of oil, natural gas, and coal.

His Administration's policies are blocking progress on the President's own stated goal to develop domestic resources essential for the very energy alternatives he prefers – such as wind, solar, and batteries.

For example, the supply of minerals necessary to build these alternative energy sources is insufficient to meet some of this Administration's climate goals, including a quote "carbon-free power sector by 2035" and ensuring widespread use of quote "zero-emissions vehicles."

In addition, many of these critical minerals -- and the refining and processing capacity for them -- is controlled by adversaries like China and Russia.

We cannot stake our future on certain technologies that then rely upon our enemies for the minerals and mineral processing needs to develop them.

This Administration must stop promising utopia while prohibiting our own mineral production…like cancelling leases for new nickel and copper mines in Minnesota, blocking a new lithium mine in Nevada, and rescinding a land swap necessary for a copper mine in Arizona.

Fortunately, the legislation we're considering today would reorient the law to reestablish America's energy dominance without weakening America's global leadership in advancing our high environmental and labor standards.
So, today:

- We'll consider a bill amending the Toxic Substances Control Act (TSCA) to require EPA to review and make timely decisions on the manufacturing of a new chemical or a new use of an existing chemical that is a critical energy resource. This bill still emphasizes risk protection but will prevent the marketplace from waiting an excessive amount of time for critical materials needed to meet our emissions, climate, and energy expectations.
- We'll also review legislation directing the EPA Administrator to allow more regulatory flexibility in enforcing air quality permits for critical energy resource facilities…like processing and refining facilities.
- Another measure amends the Solid Waste Disposal Act to allow for critical energy resources engaged in mineral processing to receive interim permit status for the treatment, storage, or disposal of their waste – a permit EPA must still review.
- There's also a bill which authorizes EPA, only during national security and energy security emergencies, to waive certain regulations necessary for processing or refining of critical energy resources.
- Additionally, we'll look at legislation preventing EPA from imposing expensive design analysis requirements on already constructed gasoline refineries, which would elevate the EPA's view of what makes sense above what industry experts and best practices prove makes sense.
- Staying on refineries, we'll examine a bill to have the Department of Energy and the National Petroleum Council assess and report on the importance of petrochemical refineries in the United States…including a review of opportunities to expand capacity of such facilities, risks to such facilities, and an assessment of Federal and State regulations or policies that have contributed to a decline in the capacity of such facilities.
- Finally, we'll review a bill repealing the wasteful Greenhouse Gas Reduction Fund, which was established in the Inflation Reduction Act.

So, as you can see, a lot of work needs to be done to establish an energy strategy that encourages innovation, drives investment, and benefits our economic and national security, while we remain good stewards of our environment.

I also note…we're moving these bills through regular order so that we can gather feedback, including constructive criticism. Several of the bills are in discussion draft form for this very reason. Chairs Rodgers, Duncan, and I welcome input on these bills…it's good to be back to legislating with regular order.

I believe the new Republican majority on the Energy and Commerce Committee is leading with solutions to our nation's energy and critical resource challenges, and I look forward to hearing from each of our panelists and yield back the balance of my time.

Mr. JOHNSON. And I yield back the balance of my time.

Mr. DUNCAN. I thank the gentleman. I will now recognize the ranking member of the Subcommittee on Environment, Manufacturing, and Critical Materials, Mr. Tonko, for 5 minutes.

OPENING STATEMENT OF HON. PAUL TONKO, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW YORK

Mr. TONKO. Thank you, Mr. Chair. I strongly support this committee's efforts to examine and legislate ways to enhance our long-term energy security, affordability, and sustainability for the American people.

But, unfortunately, nearly all of the bills before us today continue to look backwards toward the energy needs of our past rather than embracing the energy opportunities of the future. And those opportunities are overwhelmingly about positioning the United States to become the global leader in the clean energy technologies and supply chains that will dominate the energy system over the next several decades.

We need our national energy policy to have vision, and that vision cannot solely be how to further enrich oil and gas companies, which are raking in record profits. That is why we should be celebrating the Inflation Reduction Act's nearly $370 billion in clean energy and climate investments, which are already beginning to support the deployment of new clean energy resources, commitments in domestic manufacturing, and a significant reduction in climate pollution.

But, sadly, two of the bills being considered today would repeal critical sections of the IRA, which were developed and enacted by the Democrats of this committee in the 117th Congress. The Greenhouse Gas Reduction Fund is going to facilitate historic investments to decarbonize our grid, our transportation system, and buildings by supporting well-paying jobs and guaranteeing benefits in disadvantaged communities. And the Methane Emissions Reduction Program provides industry with significant funding to adopt emission-reducing technologies before using a market-based approach to incentivize pollution reductions. This is a sensible program that provides certainty for industry while incentivizing the reduction of superpollutants from the oil and gas sector.

I am also concerned that several of the bills under consideration would create new loopholes and—in important environmental laws, allowing a broad and inadequately defined group of polluting industries to get fast-tracked for approval with little consideration for the potential harms they may pose to Americans' air, water, and safety. This is not the way to achieve our shared goals of a more secure, affordable, and cleaner energy system.

But there are steps that we could take together that would. We could have focused hearings to wrestle with complex energy issues. How should hydrogen pipelines be regulated? What reforms are needed to the hydropower licensing processes? How can we build more interstate and interregional transmission lines to improve the reliability and affordability of our electricity system while enabling greater deployment of cost-effective, clean energy resources?

I suspect these questions may interest Members on both sides of the aisle, and each of those topics could be the subject of a narrow,

largely bipartisan hearing. This approach would certainly require work and negotiations, but that is surely true of any serious effort to enact bipartisan energy legislation.

Unfortunately, the approach being offered today will not achieve this goal. We are considering 17 Republican bills covering a wide range of topics and amending numerous statutes. Several of these draft bills were seen for the first time just a little over a week ago.

During the Democrats' time in the majority, we often tried to give our minority counterparts an opportunity to contribute to legislative hearings' agendas. As far as I am aware, that—there were not discussions of potentially Democratic-sponsored bills that could have fit this hearing's theme.

I also expect we will hear criticisms of the administration for failing to attend today. I agree with my Republican colleagues that we should seek and expect to hear from the agencies at legislative hearings, but we should also make efforts to accommodate their participation, including by providing legislative texts well in advance and being flexible with the hearing calendar.

When the Republicans were last in the majority during the Trump administration, EPA did not testify at any legislative hearings in 2017 and only twice in 2018. We should be consistent both in our expectations that the administration provide witnesses and technical assistance on legislation, and that we need to be flexible to accommodate schedules to ensure that their participation is well informed and instructive to the development of legislation.

So, while I am disappointed in the process that has led us here today, I still believe there are bipartisan policies that we can and should work on together to achieve the goals of this hearing's title. And with that said, I look forward to the discussion on the 17 bills before us today.

[The prepared statement of Mr. Tonko follows:]

Committee on Energy and Commerce

Opening State as Prepared for Delivery
of
Subcommittee on Environment, Manufacturing, and Critical Minerals
Ranking Member Paul D. Tonko

Hearing on "Unleashing American Energy, Lowering Energy Costs, and Strengthening Supply Chains

February 7, 2023

Thank you, Mr. Chair.

I strongly support this Committee's efforts to examine and legislate ways to enhance our long-term energy security, affordability, and sustainability for the American people.

But unfortunately, nearly all of the bills before us today continue to look backwards, toward the energy needs of our past, rather than embracing the energy opportunities of the future.

And those opportunities are overwhelming about positioning the United States to become the global leader in the clean energy technologies and supply chains that will dominate the energy system over the next several decades.

We need our national energy policy to have vision. And that vision cannot solely be how to further enrich oil and gas companies, which are raking in record profits.

That is why we should be celebrating the Inflation Reduction Act's nearly $370 billion in clean energy and climate investments, which are already beginning to support the deployment of new clean energy resources, commitments in domestic manufacturing, and a significant reduction in climate pollution.

But sadly, two of the bills being considered today would repeal critical sections of the IRA, which were developed and enacted by the Democrats of this Committee in the 117th Congress.

The Greenhouse Gas Reduction Fund is going to facilitate historic investments to decarbonize our grid, transportation system, and buildings by supporting well-paying jobs and guaranteeing benefits in disadvantaged communities.

And the Methane Emissions Reduction Program provides industry with significant funding to adopt emission-reducing technologies before using a market-based approach to incentivize pollution reductions.

This is a sensible program that provides certainty for industry while incentivizing the reduction of super pollutants from the oil and gas sector.

I am also concerned that several of the bills under consideration would create new loopholes in important environmental laws, allowing a broad and inadequately defined group of polluting industries to get fast-tracked for approval with little consideration for the potential harms they may pose to Americans' air, water, and safety.

This is not the way to achieve our shared goals of a more secure, affordable, and cleaner energy system.

But there are steps that we could take together that would.

We could have focused hearings to wrestle with complex energy issues— How should hydrogen pipelines be regulated? What reforms are needed to the hydropower licensing process?

How can we build more interstate and interregional transmission lines to improve the reliability and affordability of our electricity system while enabling greater deployment of cost-effective clean energy resources?

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And each of those topics could be the subject of a narrow, largely bipartisan hearing
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But we should also make efforts to accommodate their participation, including by providing legislative text well in advance and being flexible with the hearing calendar.

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We should be consistent— both in our expectations that the Administration provide witnesses and technical assistance on legislation, and that we need to be flexible to accommodate schedules to ensure that their participation is well-informed and instructive to the development of legislation.

So, while I am disappointed in the process that has led us here today, I still believe there are bipartisan policies that we could work on together to achieve the goals of this hearing's title.

With that said, I look forward to the discussion on the 17 bills before us today, and I yield back.

Mr. TONKO. And with that, Mr. Chair, I yield back.

Mr. DUNCAN. I thank the gentleman. It is now my honor to recognize the chair of the full committee, Mrs. McMorris Rodgers, for 5 minutes for an opening statement.

OPENING STATEMENT OF HON. CATHY MCMORRIS RODGERS, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF WASHINGTON

Mrs. RODGERS. Thank you, Mr. Chairman, Chairman Duncan, Chairman Johnson. It is great to be kicking off our legislative agenda with you.

Our goal on Energy and Commerce is to ensure reliable, secure, and affordable energy, and that it is available to power homes and businesses across this country.

America has been blessed with abundant natural resources. We should be looking toward developing a predictable regulatory landscape across the board that inspires innovation, entrepreneurship, and technological leadership. Hydropower, nuclear, fossil energies, wind, solar, and batteries: we need all of them in order to secure a stronger, more prosperous America, reduce costs and emissions, address climate issues, and create more robust and resilient communities.

Rush-to-green energy policies, both at the State and Federal level, have curtailed reliable energy and infrastructure, resulting in everything from blackouts to spiking prices. We have seen the devastating impact these policies have had on people in Europe, where forced government transition away from reliable energy sources resulted in more dependance upon Russia. These policies are unsustainable and lead to greater reliance on countries like Russia or, in our case, China.

If we cede our energy leadership to countries like Russia and China, they will always leverage that influence to advance their own authoritarian agenda. This is not the future that any of us want. The best way to address future risks, whether they be climate change or global price shocks, is with a strong economy and a more secure, abundant energy supply here at home. We need to put energy security back at the center of energy policy.

The solutions we are discussing today reflect key steps to return from the path of shortages and high prices to a path of prosperity. We have several bills that will help unlock American natural gas and its delivery systems. To provide reliable, affordable, and clean natural gas is essential for heating our homes and businesses and strengthening America's global standing, all while continuing to lead the world in reducing carbon emissions.

These solutions build on the lessons of the shale revolution, which proved energy expansion can be unprecedented and bring energy security while also helping drive down American emissions.

We also need to restore America's leadership in clean nuclear energy. I am leading a bill that aims to eliminate our reliance, which is currently 24 percent, on Russian nuclear fuels for our nuclear reactors. Expanding our leadership and developing and expanding nuclear energy is going to be one of the top priorities of this Congress. And addressing our reliance on Russian fuel is just the beginning.

To unleash American energy, we also need a regulatory environment that doesn't hamper industry. Several measures improve regulatory flexibility to assist with the reshoring of industries that manufacture and process critical energy materials. These bills strengthen existing regulations, and provide new authorities to enable the EPA and States, working together, to permit new and expand existing manufacturing—manufacturing that is key for strengthening our energy security, national security, and ending our reliance on China. It is also a necessary step as we incorporate technologies like electric vehicles and renewables into our energy mix.

Additionally, we will consider bills that make sure the EPA focuses on its core mission, which does not include forcing a transition to more expensive, less reliable energy sources and systems.

Many of these issues have been bipartisan in the past, and I do hope and expect us to come together. This hearing is an opportunity to provide feedback as we work through regular order.

And I should note that it is disappointing representatives from the Department of Energy, the Federal Energy Regulatory Commission, the Environmental Protection Agency declined to appear. Appearing before this committee is an important part of their obligation to Congress, and we expect them to fulfill it.

In closing, I look forward to our discussion today on how this committee can improve American energy leadership, security, and people's lives. It is time to get to work.

[The prepared statement of Mrs. Rodgers follows:]

Chair Cathy McMorris Rodgers
Joint E&E Legislative Hearing: "Unleashing American Energy, Lowering Energy Costs, and Strengthening Supply Chains"
February 7, 2023
As prepared for delivery

Thank you, Chairman Duncan, Chair Johnson.

It's great to kick off our legislative agenda with you.

Our goal on Energy and Commerce is to ensure reliable, secure, and affordable energy is available to power homes and businesses across the country.

America has been blessed with an abundance of natural resources.

We should be working towards developing a predictable regulatory landscape across the board that inspires innovation, entrepreneurship, and technological leadership....

...hydropower, nuclear, fossil energies, wind, solar, and batteries.

We need all of them in order to secure a stronger, more prosperous America...

...reduce costs and emissions, address climate issues, and create more robust and resilient communities.

Rush-to-green energy Policies—both state and federal -- have curtailed reliable energy and infrastructure, resulting in everything from blackouts to spiking prices.

We've seen the devastating impacts these policies have had on people in Europe...

...where forced government "transition" away from reliable energy sources resulted in more dependence on Russia.

These policies are unsustainable and lead to greater reliance on countries like Russia... or in our case, China.

If we cede our energy leadership to countries like Russia and China, they will ALWAYS leverage that influence to advance their own authoritarian agenda.

This is not a future any of us want.

The best way to address future risks, whether they be climate change or global price shocks, is with a strong economy and a more secure, abundant energy supply here at home.

We need to put energy security back at the center of energy policy….

The solutions we're discussing today reflect key steps to return from the path of shortages and high prices, to a path of prosperity.

We have several bills that will help unlock American natural gas and its delivery systems.

Providing reliable, affordable, and clean natural gas is essential for heating our homes and businesses, and for strengthening America's global standing…

… all while continuing to lead the world in reducing carbon emissions. . .

These solutions build on the lessons of the shale revolution, which proved energy expansion can bring unprecedented prosperity and energy security, while also helping to drive down American emissions.

We also need to restore America's leadership in clean, nuclear energy.

I am leading on a bill that aims to eliminate our reliance—which is currently about 24% -- on Russian nuclear fuels for our nuclear reactors.

Expanding our leadership in developing and expanding nuclear energy is going to be one of our top priorities this Congress…
… and addressing our reliance on Russian fuel is just the beginning.

To unleash American energy, we also need a regulatory environment that doesn't hamper industry.

Several measures improve regulatory flexibility to assist with the reshoring of industries that manufacture and process critical energy materials.

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Many of these issues have been bipartisan in the past—I hope we can continue to come together.

This hearing is an opportunity to provide feedback as we work through regular order.

I should note that it is disappointing representatives from the Department of Energy, the Federal Energy Regulatory Commission, and the Environmental Protection Agency declined to appear.

Appearing before the Committee is an important part of their obligation to Congress…and we expect them to fulfill it.

In closing, I look forward to our discussion today on how this committee can improve American energy leadership, security, and people's lives.

It's time to get to work.

With that, I yield back, Mr. Chairman.

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Mrs. RODGERS. And with that, I yield back, Mr. Chairman.

Mr. DUNCAN. I thank the chairwoman.

I want to pause and just say that Congress's thoughts and prayers are with the folks in Syria and Turkey after the devastating earthquake.

And I now recognize the ranking member of the full committee, Mr. Pallone, for 5 minutes.

OPENING STATEMENT OF HON. FRANK PALLONE, JR., A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW JERSEY

Mr. PALLONE. Thank you, Chairman Duncan.

Committee Republicans are showing today that their top energy and environmental priorities are to do the bidding of Big Oil, and to undermine our Nation's bedrock environmental laws. And these are not the same priorities of committee Democrats.

Over the last 2 years, Democrats delivered historic wins for the American people. We enacted laws that are already creating good-paying jobs, cutting costs for working families, and advancing homegrown clean energy, all while tackling the worsening climate crisis. And while we want to build upon these successes for the American people, House Republicans are stuck in the past and failing to address the energy challenges and opportunities we face today.

I would like to start by highlighting my serious concerns with some of the fossil-focused bills that we are discussing today. The Cross-border Energy Infrastructure bill is nothing more than a shadow approval of the Keystone Pipeline masquerading as legislation. It establishes that every single cross-border energy project is in the public interest, a radically higher bar than exists now. And this is not serious legislation.

Representative Burgess's bill would put the Federal Energy Regulatory Commission in charge of permitting reviews that it doesn't have the expertise or the time to lead, and the Unlocking our Domestic LNG Potential Act would eliminate the requirement that the Department of Energy determine that exporting natural gas from a U.S. facility is in the national interest. This legislation would effectively greenlight sending unrestricted amounts of LNG to adversaries like China. It is just more proof that committee Republicans are more interested in doing the bidding of their fossil fuel friends than actually protecting our energy security.

And I am also deeply disappointed with the legislative proposals being considered in the Environment Subcommittee's jurisdiction. Two of the bills would revoke programs enacted as part of the Inflation Reduction Act that are projected to cut climate pollution, reduce the deficit, and leverage private-sector investment in clean energy projects across the Nation.

H.R. 484 targets the Methane Emission Reduction Program, which establishes a suite of incentives to drive down excess methane pollution and remediate the effects of the pollution that does occur. This program fundamentally ensures polluters pay for wasted methane, and not customers.

Republicans also target the Greenhouse Gas Reduction Program, which invests $27 billion in non-State and local climate finance in-

stitutions that support the rapid deployment of low- and zero-emission technologies. My Republican colleagues claim to support all-of-the-above policies, yet they oppose a program that invests in clean energy projects.

We are also considering bills that allow so-called critical energy sources to bypass commonsense environmental protections. One bill would circumvent consideration of safer technologies to avoid chemical disasters under the risk management program, while another bill would undercut protective health policies that were developed and passed on a bipartisan basis by this committee in the Frank Lautenberg Act. And we should not be putting polluters over people by waiving critical public health and environmental protections that keep American communities safe.

Now, if Republicans really want to unleash American energy, I invite them to stop trying to tear down critical climate and environmental programs, and work with us to build a better future for all by investing in clean energy and bolstering our environmental safeguards.

I can't find much value in the legislation before us today, which is unfortunate, since many Members are interested in working on clean energy permitting. And instead, my majority colleagues scheduled a hearing on 17 Republican bills or discussion drafts without even asking Democrats if we have any bills that would address the underlying topic. If they truly want to enact legislation that addresses energy security and affordability, this is not the path. The American people deserve better.

Finally, I must set the record straight about why the administration could not testify at today's hearing. The majority claims they gave the administration 2 weeks' notice and that the administration said this was not enough time to secure witnesses.

What they left out is that the 2 weeks' notice came in an email right before midnight on January 24th. It did not contain the list of bills for the hearing, the legislative text of the bills, or any information about other invited witnesses. How were the agencies supposed to prepare for a hearing when they have not been told what bills they are supposed to be commenting on?

And to be clear, only 2 of the 17 bills had been introduced when this hearing was noticed 1 week ago. If the bills were not ready to share with the administration or with Democratic Members, then this hearing should have been postponed until a later date.

[The prepared statement of Mr. Pallone follows:]

Committee on Energy and Commerce

Opening Statement as Prepared for Delivery
of
Ranking Member Frank Pallone

Hearing on "Unleashing American Energy, Lowering Energy Costs and Strengthening supply Chains"

February 7, 2023

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Representative Burgess' bill would put the Federal Energy Regulatory Commission (FERC) in charge of permitting reviews that it doesn't have the expertise or the time to lead.

And the Unlocking our Domestic LNG Potential Act would eliminate the requirement that the Department of Energy determine that exporting natural gas from a U.S. facility is in the national interest. This legislation would effectively greenlight sending unrestricted amounts of LNG to adversaries like China. It's just more proof that Committee Republicans are more interested in doing the bidding of their fossil fuel friends than actually protecting our energy security.

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pollution and remediate the effects of the pollution that does occur. This program fundamentally ensures polluters pay for wasted methane, not customers.

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We are also considering bills that allow so-called critical energy sources to bypass commonsense environmental protections. One bill would circumvent consideration of safer technologies to avoid chemical disasters under the Risk Management Program. While another bill would undercut protective health policies that were developed and passed on a bipartisan basis by this Committee in the Frank Lautenberg Act. We should not be putting polluters over people by waiving critical public health and environmental protections that keep American communities safe.

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How are the agencies supposed to prepare for a hearing when they have not been told what bills they are supposed to be commenting on? And to be clear, only two of the 17 bills had been introduced when this hearing was noticed one week ago. If the bills were not ready to share with the Administration, or with Democratic members, then this hearing should have been postponed until a later date.

Mr. PALLONE. And with that, Mr. Chairman, I yield back.

Mr. DUNCAN. I thank the gentleman. This now concludes with Member opening statements.

The Chair would like to remind Members that, pursuant to committee rules, all Members' opening statements will be made part of the record.

I want to thank all the witnesses for being here today and taking time to testify before the subcommittees.

Each witness will have the opportunity to give a 5-minutes opening statement, followed by a round of questions from Members.

There are some lights in front of you. Green means go, yellow means you have got 1 minute, a 1-minute warning, and red means you need to wrap up.

Our witnesses today are the Honorable Mark Menezes, Mr. Jeffrey Eshelman, Mr. Raul Garcia, Ms. Katie Sweeney, Mr. Tyson Slocum, and the Honorable Bernard McNamee.

We appreciate you being here today. I will now recognize Mr. Menezes for 5 minutes to give an opening statement.

STATEMENTS OF MARK W. MENEZES, FORMER DEPUTY SECRETARY, DEPARTMENT OF ENERGY, AND FORMER CHIEF COUNSEL, ENERGY AND ENVIRONMENT, HOUSE COMMITTEE ON ENERGY AND COMMERCE; JEFF ESHELMAN, PRESIDENT AND CHIEF EXECUTIVE OFFICER, INDEPENDENT PETROLEUM ASSOCIATION OF AMERICA; RAUL GARCIA, LEGISLATIVE DIRECTOR FOR HEALTHY COMMUNITIES, EARTHJUSTICE; KATIE SWEENEY, EXECUTIVE VICE PRESIDENT AND GENERAL COUNSEL, NATIONAL MINING ASSOCIATION; TYSON SLOCUM, ENERGY PROGRAM DIRECTOR, PUBLIC CITIZEN, INC.; AND BERNARD MCNAMEE, FORMER COMMISSIONER, FEDERAL ENERGY REGULATORY COMMISSION

STATEMENT OF MARK W. MENEZES

Mr. MENEZES. Good morning. Madam Chair McMorris Rodgers, Ranking Member Pallone, Subcommittee Chairmen Duncan and Johnson, Ranking Members DeGette and Tonko, and members of the subcommittee, thank you for the invitation to testify on legislative solutions designed to promote U.S. energy production, lower energy costs, and to strengthen our supply chains of critical minerals and energy resources. Today's hearing features bills designed to achieve these important goals.

Now, in order to unleash American energy, it is important that Congress ensures the legislative will of the people is carried out by the President and the executive branch. Frequently, the executive branch is at odds with the laws of Congress, and takes actions without clear congressional authority. Several of the bills under consideration today make congressional intent clear to the executive branch.

The Protecting American Energy Production Act clarifies that States have primacy regulating hydraulic fracturing. Congress made this clear in the overwhelmingly bipartisan Energy Policy Act of 2005. Our global friends and allies are grateful for our production and export and have come to rely on U.S.-produced oil and natural gas as a reliable source of energy and an alternative to

Russian supply. This bill prohibits the President from issuing any moratoria on hydraulic fracturing, thus preserving States' rights.

Similarly, the sense of Congress resolution opposes the executive branch placing restrictions on the export of oil and petroleum products. This makes clear the congressional intent that the President and all Federal agencies follow the law as written when a bipartisan Congress lifted the oil export ban in 2015.

The Unlocking our Domestic LNG Potential Act removes redundant reviews and the need for multiple Federal permission slips to produce and liquefy LNG for export. The bill makes clear that it is FERC and not the Department of Energy which has the exclusive authority to approve or deny requests to export natural gas to a foreign country.

The Promoting Cross-border Energy Infrastructure Act makes clear that it is the DOE and FERC, the Federal agencies with expertise in energy, that have the authority to grant or deny the interconnections and modifications of cross-border electricity lines and pipelines without the need for a presidential permit.

Turning now to lowering energy costs, it is important that the Members appreciate that, with the shale revolution, the U.S. now has an abundance of cheap natural gas which is replacing baseload coal, complementing the increased deployment of wind and solar, and is the primary reason why the U.S. leads in actual emission reductions.

The Promoting Interagency Coordination for Review of Natural Gas Pipelines Act ensures increased access and delivery of supply to lower natural gas costs by authorizing FERC to be the lead agency to coordinate other agencies, establish reasonable timelines, and keep track of progress of the permitting and environmental reviews required under NEPA and other laws.

Reducing costs of government can save taxpayers dollars to offset the cost of energy. The repeal of the Greenhouse Gas Reduction Fund repeals the $27 billion appropriated to EPA to provide grants and financial assistance to States, municipalities, Tribal governments, and nonprofits for zero-emission technologies. While laudable and generous, there is little oversight of EPA required by Congress to administer this fund. Remember, EPA's requested budget in 2022 was only $11.4 billion.

Another bill to lower energy costs is the Natural Gas Tax Repeal Act, which repeals the methane waste fee and statutory methane regulations included in the nonbipartisan Inflation Reduction Act. EPA has proposed a supplemental rule to regulate methane emissions open for public comment now, which essentially does the same thing without the methane waste fee but with Clean Air Act penalties.

Turning now to strengthening our supply chains, we know the U.S. relies on imports for 31 of 35 of our critical minerals necessary for the U.S. defense and our clean economy, 14 of which we are totally dependent on imports. To ensure critical energy resources, Congress should designate DOE with the responsibility to do this. That is what Securing America's Critical Mineral Supply Act does. It amends the DOE Organization Act to give DOE the responsibility of securing our supply of critical energy resources.

Congress should ensure our critical energy facilities produce our critical energy resources during emergencies and threats to our energy security. Several of the bills under consideration here today do just that.

The National and Energy Security Waiver bill authorizes the EPA Administrator, in consultation with DOE and the Governor, to waive certain requirements, sanctions, or fees during times of threats to our national or energy security to maintain an adequate supply of gasoline and diesel and other critical refined resources.

Another bill addresses EPA's backlog of pending applications to complete risk assessments of chemical substances necessary today to produce our critical energy resources. EPA's backlog is so great that U.S. companies are hesitant to make capital investments to produce critical battery components necessary for the deployment of EVs. This inexplicable delay is a problem China and our global competitors simply do not have.

Likewise, the interim permit bill for safe storage and disposal of critical energy resources allows temporary onsite storage and disposal similar to past practices and, like other bills, a commonsense approach to accelerate U.S. development of critical mass——

Mr. DUNCAN. I am going to ask the gentleman to wrap up his opening.

Mr. MENEZES. [continuing]. Our transition to battery technologies, EV use, and grid scale battery storage.

I will. I am in the course of wrapping up.

Since 2009, EPA has had the use of its flexible air permitting rule. EPA limits its use, and so we have a bill to allow that.

Congress also needs to ensure that interstate electric transmission infrastructure——

Mr. DUNCAN. I am sure a lot of this will be covered in the question-and-answering, so I am going to ask you to wrap up.

Mr. MENEZES. It is. Well, with that, I will, in fact, thank you for the opportunity to testify today.

I ask that my written statement be included in the record, and I look forward to your questions.

[The prepared statement of Mr. Menezes follows:]

Testimony of the Honorable Mark W. Menezes

Former Deputy Secretary
U.S. Department of Energy
Former Chief Counsel, Energy and Environment
U.S. House of Representatives Committee on Energy and Commerce

Before the U.S. House Committee on Energy and Commerce, Subcommittee on Energy, Climate, & Grid Security and Subcommittee on Environment, Manufacturing, & Critical Materials

Hearing on

"Unleashing American Energy, Lowering Energy Costs, and Strengthening Supply Chains"

Tuesday, February 7, 2023

Chair McMorris Rodgers, Ranking Member Pallone, Subcommittee Chairmen Duncan and Johnson, Ranking Members DeGette and Tonko, and members of the Subcommittees:

Thank you for the invitation and opportunity to testify before you today at this joint legislative hearing to discuss legislative solutions to promote US production, use and export of its energy resources, to lower energy costs to the American people, and to strengthen our supply chains of critical minerals and energy resources. Today's hearing features bills designed to help achieve these important goals.

Unleashing American Energy

To help achieve the Congressional goal of American production, use, and export of its energy sources, it is important that Congress ensures that the legislative will of the people is carried out by the President and the Executive Branch. While our Founders created our three independent branches of government and the Constitution protects separation of powers, the Executive Branch is frequently at odds with the laws that Congress has passed and takes actions without clear Congressional authority to either implement new policies or to impede Congressional intent. Several of the bills under consideration today make Congressional intent clear to the Executive Branch.

H.R. 150 by Mr. Duncan and others, the "Protecting American Energy Production Act," clarifies Congressional intent that States have primacy regarding the regulation of hydraulic fracturing. Each State decides whether to permit or ban hydraulic fracturing. Under current law, each State has primary regulatory authority over oil and natural gas production using hydraulic fracturing. Congress made this clear in the overwhelmingly bipartisan Energy Policy Act of 2005. It is important that all the members of this Committee understand that following that bipartisan act of Congress in 2005, along with improved drilling and production technologies, the use of

hydraulic fracturing in the production of both natural gas and oil caused the "Shale Revolution"[1] propelling the US to become the world's leading producer in both by 2019. Our global friends and allies are grateful for our production and export and have come to rely on US produced oil and natural gas as a reliable energy provider and an alternative to Russian supply.

Notwithstanding the dramatic success of hydraulic fracturing, the Federal Government has sought to regulate it ignoring the law and Congressional intent.[2] Thus, to ensure an abundant source of supply of clean, US-produced natural gas and oil, the bill prohibits the President from issuing any moratoria on hydraulic fracturing, thus preserving States rights and curtailing autocratic actions of the Executive Branch in contravention of clear Congressional intent.

Similar opposition to the Executive Branch placing restrictions on the export of oil and petroleum products is expressed in the proposed "Sense of Congress" Resolution. Our global partners' growing reliance on exported US energy products has increased dramatically since Russia's invasion of Ukraine. Our global friends and allies are looking to the US to replace Russia oil on the global markets as they have announced commitments to no longer use Russian natural gas or oil. The Resolution makes clear that the "Federal Government" should not impose any moratoria or other restrictions on the export of oil or petroleum products. Congress made clear the conditions under which oil and petroleum products exports might be limited when it lifted the ban of US oil exports in 2015. The Resolution expresses the clear intent that the President and all Federal Agencies follow the law as prescribed by Congress when it lifted the oil export ban.

The "Unlocking our Domestic LNG Potential Act" also helps our friends and allies around the world to provide a steady source of clean natural gas to replace Russia gas and to help them meet their net-zero emission goals. The bill removes redundant reviews and the need for multiple federal permission slips to produce and liquefy LNG for export. It removes the anachronistic distinction between countries with Free Trade Agreements and those without as those distinctions are no longer indicative of the true extent of our global friends, partners and allies.[3] The bill makes clear that it is the Federal Energy Regulatory Commission (FERC), not the Department of Energy (DOE), which has the exclusive authority to approve or deny requests to export (or import) natural gas to a foreign country. The bill ensures US natural gas will go to only our friends and allies as it prohibits exports to any country that is an enemy of the US, is designated as a state sponsor of terrorism, or that is subject to sanctions, like Russia.

The "Promoting Cross-Border Energy Infrastructure Act" sets forth clear authority for energy interconnections with Canada, Mexico and the US for both electricity lines and pipelines. Congress is making clear that the Federal Agencies with expertise in the energy operations and energy needs of the three countries have the authority to grant or deny the interconnections and modifications—without the need for a Presidential permit. These clear lines of authority stop

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[1] See Daniel Yergin, The New Map: Energy, Climate, and the Clash of Nations (New York: Penguin Press 2020) at 26-30.

[2] *Wyoming vs. U.S. Dept. of Interior*, U.S. District Court, 2015; Case No. 2:15-CV-043-SWS (Lead Case) Case No. 2:15-CV-041-SWS. Wyoming v. U.S. Dep't of the Interior, Case No. 2:15-CV-043-SWS (Lead Case) | Casetext Search + Citator

[3] Free Trade Agreements | United States Trade Representative (ustr.gov). The US has an FTA with only 20 countries.

autocratic decision making impeding Congressional intent to maintain an interconnected North American energy system necessary for a reliable, affordable, and sustainable supply of energy for the US and our neighboring countries. Plus, the bill will allow the three countries to be able to better withstand the global energy shocks of autocratic actions, like Putin's invasion of Ukraine. Had the Keystone Pipeline not been cancelled by President Biden, the US and its allies would have had access to Canadian oil to lessen the import and use of Russian oil. The proposed House Concurrent Resolution recognizes that sentiment by expressing disproval over President Biden's revocation of the Keystone Pipeline on his first day in the Oval Office.

Lowering Energy Costs

It's important for the US to maintain the necessary infrastructure to deliver its critical energy resources to the American people in sufficient supply at affordable prices. With the "Shale Revolution" the US has enjoyed an abundance of cheap natural gas which has lowered the energy prices for the American people for years. Because of its relatively low production and delivery costs, natural gas has replaced coal as the primary source of electric power in the US. Additionally, because of the environmental benefits and ramping abilities of combined cycle natural gas turbines, natural gas has complemented the growth of wind and solar in the US being the primary reasons why the US leads in actual emission reductions since 2005. However, as more and more electricity customers are using natural gas and renewables, it is necessary to ensure the adequacy of natural gas pipelines for its delivery at affordable costs. In our bid-based electricity markets today, it is typically the cost of natural gas which sets the price of electricity delivery throughout the day. Greater pipeline capacity serving the FERC-approved electricity markets will help lower the cost of electricity and home heating for consumers.

The "Promoting Interagency Coordination for Review of Natural Gas Pipelines Act" by Mr. Burgess both ensures domestic supply of natural gas for both domestic consumption and export and increases access and delivery of supply to lower the costs of natural gas to homes and businesses and the cost of electricity to consumers. This bill authorizes the FERC, an independent agency within DOE, to be lead agency to coordinate other agencies, establish reasonable timelines, and keep track of progress of the permitting and environmental reviews required under the National Environmental Policy Act (NEPA) and other applicable laws for the siting and construction of natural gas pipelines. This bill improves the accountability, transparency, and efficiencies of the processes involved in the siting and construction of natural gas pipelines without changing any permitting or environmental standards. Importantly, the bill also requires the FERC to consult with the Transportation Security Administration (TSA) regarding pipeline security and cybersecurity measures.

Not only is it imperative that all Americans have clean and reliable energy, Congress should prioritize efforts to reduce energy costs. Reducing costs of government can save taxpayers' dollars for use to offset the costs of energy.

One of the bills under consideration today is the "Repeal of [the] Greenhouse Gas Reduction Fund," section 134 of the non-bipartisan Inflation Reduction Act,[4] which appropriates $27 billion to EPA. The intended goal of this fund is to provide grants and financial assistance to

[4] untitled (congress.gov)

States, municipalities, Tribal governments, and non-profits for zero-emission technologies to be developed and deployed over a 10-year period. But there is little oversight required by Congress. While the Act appropriates $25 million to GAO to "help support the oversight" of the $369 billion expenditures contained in the Act, Congress did not expressly require GAO to audit EPA's use or expenditure of these funds. Nor did Congress provide much in the way of direct oversight, accountability, or reports to keep the public informed as to how EPA is using the $27 billion. Keep in mind that EPA's annual budget request in 2022 was $11.4 billion.[5]

Another bill to lower energy costs to the American people is the "Natural Gas Tax Repeal Act" by Mr. Pfluger (H.R. 484). This bill repeals the methane waste fee and the statutory methane regulations included in the non-bipartisan Inflation Reduction Act.[6] Methane (natural gas) is a valuable energy product and industry is taking action to better detect, address, monitor, and measure methane leaks. EPA has a proposed supplemental rule to regulate methane emissions that is in the public comment period. These proposed regulations address methane leaks in a similar manner as does the statutory scheme. EPA's supplemental proposed regulations do not include the methane leak fee in its proposed rules, although a violation of the supplemental regulations, once final, carries the full penalties and fines set forth in the Clean Air Act.

Strengthening our supply chains:

Members of the Subcommittees know well that the innovative technologies necessary to provide abundant, affordable, clean energy and to achieve emission reduction goals will depend on critical minerals. Whether wind and solar power, safe battery technology, or EVs virtually all sources of energy and products necessary to achieve net zero goals require critical minerals, which are produced primarily in other countries. And several of these countries, like China, do not share our values. The severity of this overdependence on other countries for critical minerals was brought to the public's attention by the report released during the Trump Administration.[7] The US relies on imports for 31 of the 35 critical minerals necessary for the US defense and economy. Many Americans were surprised to learn that for 14 of the listed critical minerals, the US relies completely on imports from other countries; having no US production at all. Following the release of this report, this Committee recognized the need for action and considered several bills to address this vulnerability. Congress funded critical mineral research and development in the Energy Act of 2020[8] but the COVID pandemic disruptions in international supply chains further highlighted the urgency to do more. The Biden Administration performed updated assessments on critical minerals with its 100-day report.[9] In response, Congress created an interagency critical minerals task force and incented recycling in the Bipartisan Infrastructure Law (Infrastructure Investment and Jobs Act).[10] Congress then provided tax incentives to

[5]$27 billion is actually quite a significant amount of money to the American people. To put $27 billion in perspective, EIA estimates the US per capita average energy expenditures per year is around $3500. The $27 billion amount given to EPA would be equal to Congress footing the bill for over 7.7 million people for an entire year—that's the combined population of almost 9 states!
[6]See FN 4.
[7]See Critical_Minerals_Strategy_Final.pdf (commerce.gov)
[8]PUBL260A.PS (congress.gov)
[9]100-day-supply-chain-review-report.pdf (whitehouse.gov)
[10]PUBL058.PS (congress.gov)

stimulate the development of critical minerals necessary for battery components in the non-partisan Inflation Reduction Act.[11] But more needs to be done.

We need to designate an agency with clear authority to address these issues and to serve as the experts in the interagency process for energy. That's what "Securing America's Critical Minerals Supply Act" does. It amends the DOE Organization Act to add to its list of functions the responsibility to securing the supply of critical energy resources necessary to develop energy technologies and the operation of energy systems. This bill is a needed clarification of DOE's responsibility and leadership throughout the interagency process in ensuring a sufficient US supply of critical minerals to maintain the robustness of our nation's energy systems.

While plenty of attention is on the supply chains of critical minerals, we mustn't forget that, as a nation, we should continue to ensure the operation of our critical energy facilities producing our critical energy resources during emergencies and threats to our energy security. Congress has recognized the importance and efficiency of executive agency action necessary to ensure the speedy recovery from natural disasters.[12] But more needs to be done to provide sufficient energy and fuel supplies to the American people. Several of the bills under consideration here today do just that.

In order to ensure an adequate supply of gasoline and diesel and other critical refined resources, the national security and energy security waiver bill authorizes the EPA Administrator, in consultation with DOE, and the Governor of the State in which the critical energy facilities are located, to waive certain requirements, sanctions or fees during times of threats to our national security or energy security.

Similarly, in order to get EPA to act on its backlog of pending applications to complete risk assessments of chemical substances that are being used today to produce our critical energy resources, the bill mandating EPA action is necessary. The backlog on routine chemical risk assessments is so great that US companies are frustrated and hesitant to make significant capital investments in the production of critical battery components necessary to accelerate the deployment and adoption of EVs. This inexplicable delay is a problem China and our global competitors do not have. The private sector is ready to invest billions in the US but our governmental assessment processes are not keeping up with our race for global leadership in critical energy resource use and deployment. Any risk in chemical use should not be presumed to be an "unreasonable" risk. Government inaction or delay has societal costs and global leadership repercussions. It's a common sense effort to get our government bureaucracy to implement the law in a responsible and timely manner.[13]

Likewise, the bill allowing an interim permit for the safe storage and disposal of critical energy resources allows for their onsite storage and disposal consistent with existing environmental laws during EPA's review. Like the other bills, this is a common sense approach to allow the US development of critical mineral refining and processing to accelerate US development of critical

[11] See FN 4.
[12] For example, the Disaster Relief Act of 1974. STATUTE-88-Pg143-2.pdf (congress.gov)
[13] CCI: Commercializing Innovative Chemical Products (chemicalinnovations.org)

supply chains during our transition to battery technologies, EV use, and grid-scale battery storage.

Since 2009, EPA has allowed the use of its "Flexible Air Permitting Rule." EPA promulgated this rule "to promote flexible air permitting (FAP) approaches that provide greater operational flexibility and, at the same time, ensure environmental protection and compliance with applicable laws."[14] EPA, however, limits FAP's use. Thus, in order for the US to accelerate its development of critical energy resources, a bill is necessary to require the EPA to allow FAP's use by the owner or operator of a critical energy resource facility. This bill will facilitate the development and deployment of energy resources necessary to accelerate the production and deployment of materials necessary for the energy transition to a more decarbonized economy.

In order to ensure we have abundant, affordable, and clean energy, Congress needs to ensure that our infrastructure is safe from malign cybersecurity attacks. In 2005, Congress mandated cybersecurity standards for our nation's bulk power system to be set by our nation's electric reliability organization, the North American Electric Reliability Corporation or NERC, and enforced by FERC. Ten years later, Congress designated DOE as the sector specific agency for cybersecurity in the electricity sector. In carrying out these responsibilities, DOE has set up a process for it to be notified of cyber incidents but there lacks clarity for which federal agency should be notified when cyber incidents impacts critical electric infrastructure. That's why the Critical Electric Infrastructure Cybersecurity Incident Reporting Act is necessary. It designates DOE as the Federal Agency to receive such notices. It authorizes DOE to promulgate rules to "facilitate the submission of the timely, secure, and confidential notifications" regarding cybersecurity incidents and potential incidents. The bill applies to the owners and operators of critical electric infrastructure and other Federal Agencies.

As members of this Committee know well, available fuel supply is necessary to maintain downward pressures on retail gasoline prices. All elected officials care greatly when the price of gasoline increases to historic highs. There are several reasons for high gasoline prices but a key factor is our nation's ability and capacity to refine its own gasoline. Our nation's refining capacity has been on a decline since the 1970s due to several reasons not the least of which is our inability to build new refineries. For policymakers to more fully understand all the various impacts on the state of our refining industry today, a bill is needed to require the Secretary of Energy to direct the National Petroleum Council to analyze the matter and produce a report available to Congress and the public. The National Petroleum Council has been in existence since President Truman established it recognizing "the importance of petroleum in the life of the Nation and the consequent necessity for assuring the adequate and continuous availability of this vital resource."[15] The council is composed members of the refining industry as well as all stakeholder groups making it well-equipped to provide such an assessment and offer recommendations for policymakers to consider.

In addition to the NPC study, to help address our decreasing refining capacity, is the proposed bill to prohibit the phase out of gasoline. This bill ensures the continued environmentally-compliant operations of a widely used refining process. This bill is necessary to keep fuel costs

[14] E9-23794.pdf (justia.com)
[15] NPC Letter from President Truman

affordable and fuel available to the American people. EPA currently is proposing changes to its Risk Management Plan (RMP) which is targeting a well-known chemical used in the refining processes to manufacture almost 40% of US fuel. Should these refineries choose to make changes due to the modified RMP, it is estimated it will cost billions of dollars to redesign or replace current facilities. Such a cost would likely cause some refineries to close or go off line for significant periods of time further restricting gasoline and diesel supply leading to increase costs to the American people.[16]

Lastly, the Russian uranium import ban bill phases out and prohibits the US import of enriched uranium from Russia. For years, the US has been dependent on significant amounts of imports from Russia and other countries for enriched uranium to fuel our civilian nuclear fleet which is our largest producer of emission-free energy in the US. Recognizing the decline of our abilities to provide nuclear fuel and maintain our technological leadership in nuclear energy, the DOE released a report in 2020 recommending action to restore our competitive edge in nuclear energy.[17] Bold action is needed especially since Russia is no longer viewed as a reliable partner by NATO countries for critical resources. Compounding our lack of production, processing, and conversion facilities in the US for nuclear fuel is energy pricing in the FERC-approved electricity markets. Most of our civilian fleet sells emission-free electricity into these markets which inadequately values clean nuclear energy. As a result, our nuclear fleet is very sensitive to fuel costs. Of course, the Russians know this which is why they continue to provide cheap uranium fuel and a reason why we continue to import enriched uranium from Russia today.

Thank you for the opportunity to testify before you today. I look forward to your questions.

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[16] "Replacing 100% of the existing HF alkylation unit capacity with sulfuric acid capacity across 41 refineries would require a total capital investment cost of $15 to 45 billion, excluding unforeseen inflationary pressure. On a facility-basis, cost of investment would be between $200 to $850 million, depending on the size of the unit, and excluding recent cost escalation and inflationary pressures. These costs are only direct capital costs and do not factor in the costs associated with unit downtime to demolish the HF units and build sulfuric acid units and the ability to replace alkylate during the transition. EPA failed to consider any of these costs in its Proposal." See AFPM's Comments on EPA's Accidental Release Prevention Requirements: Risk Management Programs Under the Clean Air Act; Safer Communities by Chemical Accident Prevention (EPA–HQ–OLEM–2022–0174), at 43-44, citing "Critical Considerations and Factors for US Refiners to Address as Part of an HF Alkylation Technology Conversion, Becht at 4 (Oct. 28, 2022) ("Becht Paper").".

[17] Restoring America's Competitive Nuclear Advantage_1.pdf (energy.gov)

Mr. DUNCAN. Thank you for that, and I apologize, but we do have a broad panel. So the Chair will go to Mr. Eshelman.

STATEMENT OF JEFF ESHELMAN

Mr. ESHELMAN. Good morning, and thank you for having me here today. It is a pleasure to be here. I am Jeff Eshelman, president and CEO of the Independent Petroleum Association of America.

I would like to thank Chairman Duncan and Chairman Johnson for gathering this hearing today. We really appreciate being a part of it.

As you know, the American natural gas and oil industry is very diverse and consists of many sectors. My organization, IPAA, represents the exploration and production part of the industry. The independent companies who don't have refineries or gasoline stations, these companies specifically search for and produce the Nation's gas and oil wells.

There are about 6,000 independent producers exploring and producing for the Nation's energy supply each day. They are spread across 33 States. And here is the kicker that a lot of people don't recognize: Collectively, these small businesses, the 6,000 of them, are responsible for developing 91 percent of the Nation's natural gas and oil wells, accounting for 83 percent of America's oil supply and 90 percent of our domestic natural gas supply.

Through good times and bad, our companies invest billions in new projects, searching for America's energy. So the characterization that this industry is Big Oil is actually a big myth. It is the independent, smaller companies that are drilling most of the wells and providing for most of the energy in this country.

Through the effort of independent producers, today America is a world leader in natural gas and oil production. And we are doing it responsibly. In this time of continuing uncertainty, one thing is certain: A healthy oil and natural gas industry is good for America. It is good for our economic and national security, as well as for our allies across the globe.

Let me take a few minutes to address some of the strengths, weaknesses, opportunities, and threats that we see at IPAA.

Strengths. Natural gas is actually good for the environment. Today the Nation has its cleanest air in 20 years. In fact, total greenhouse gas emissions continue to decline, despite production and consumption of natural gas increasing.

Our industry is committed to reducing leaks and improving pipeline infrastructure. American producers are taking the right, responsible approach to these issues.

Other strengths of our industry include that we have America's vast natural gas supply right under this ground, about 100 years' worth. Oil and gas will remain America's largest fuel source through 2050. And coupled with wind, solar, hydro, nuclear, coal, batteries, America has a strong, reliable energy portfolio.

The weaknesses we see. Inflation, which affects all Americans. Our industry is not just producing energy, but it is also consuming it. A weak economy results in a weakened industry.

Labor and service costs—for example, purchasing tubular goods—have driven up the costs of drilling and completing wells by

30 percent year over year. It is often difficult for us to find a new workforce, to even find trucks.

And the need for a takeaway capacity through pipelines and gas storage are essential.

But there are some good opportunities to keep in mind. America's natural gas and oil production are vital here at home.

On the legislation being discussed today, IPAA strongly supports H.R. 150, the Protecting American Production Act, sponsored by Congressman Duncan. This legislation prohibits the President from declaring a moratorium on the use of hydraulic fracturing unless Congress authorizes such a prohibition.

IPAA also supports H.R. 484, the Natural Gas Tax Repeal Act, sponsored by Congressman Pfluger. This legislation would strike language designed to establish a tax on natural gas imposed on America's independent oil and natural gas producers.

IPAA recognize that the importance of managing our emissions of methane and other volatile organic compounds, and we are committed to working diligently to comply with State and Federal agencies.

Now the threats. And mostly it is about uncertainty in our industry. Uncertainty breeds inaction, and that is not an option for us. So what are the threats that create uncertainty for our businesses?

Well, we have lawsuits, we have new permitting infrastructure regulation threats, we have proposed threats of new regulations with the Endangered Species Act and increased taxes on methane, we have the Securities and Exchange Commission looking at climate plans, we have bans and setbacks, we have electrification proposals, like for natural gas stoves that we have seen so much about in the news, and there is delayed-lease sales in onshore and offshore. And there is so much more.

But I want to work with this committee—or IPAA wants to work with this committee to make sure that we can address these threats, strengths, weaknesses, and opportunities. Thank you for the opportunity.

[The prepared statement of Mr. Eshelman follows:]

Testimony

Of

Jeff Eshelman, President & Chief Executive Officer

The
Independent Petroleum Association of America

Regarding

House Energy & Commerce Subcommittee on Energy, Climate, and Grid Security and Subcommittee on Environment, Manufacturing, and Critical Materials

February 7, 2023 Joint Legislative Hearing

"Unleashing American Energy, Lowering Energy Costs, and Strengthening Supply Chains"

INDEPENDENT PETROLEUM ASSOCIATION OF AMERICA ▪ 1201 15TH STREET, NW ▪ SUITE 450 ▪ WASHINGTON, DC 20005
202-857-4722 ▪ FAX 202-857-4799 ▪ WWW.IPAA.ORG

February 7, 2023

I am Jeff Eshelman, President and CEO of the Independent Petroleum Association of America (IPAA). I would like to thank Chairman Duncan and Chairman Johnson and all the members of the Energy and Commerce Committee for holding this important hear today.

IPAA represents thousands of America's independent oil and natural gas producers. Our members are the primary producers of the nation's oil and natural gas and account for 83 percent of America's oil production and 90 percent of its natural gas output. These independent producers are a driving force in our economy and support roughly 4.5 million jobs in the United States. IPAA member companies are innovative leaders that broke the code to usher in the shale oil and natural gas revolution in the United States.

As the United States and the world struggle to rebound from the economic hardship caused by the COVID-19 pandemic, it is essential for America to continue to be a leader in energy development. All forms of energy will be needed in the coming years and natural gas and oil produced in the United States will be a key component of that energy mix. Oil and natural gas will not be the only energy sources for the United States, but they will be essential to the American economy for years to come.

The choices the nation makes regarding its energy mix will have a huge impact on its economy and its international position. If America does not pursue a thoughtful energy policy, the nation will suffer economically. Unless demand for fossil energy changes dramatically, efforts to suppress U.S. oil and natural gas production will be counterproductive to the goals of addressing greenhouse gas emissions, increasing job growth and expanding America's impact around the globe.

Energy is a geopolitical issue. For the last half-century, American foreign policy has been predicated on the nation's vulnerability to oil and natural gas supply disruptions. The shale revolution turned the United States into an energy superpower, enhanced American national security and created significant geopolitical advantages for this nation around the globe. Additionally, natural gas production and use has created the cleanest air quality the nation has seen in two decades. The United States has become the envy of nations for its dedication to reliable, affordable, responsible energy production.

Independent producers recognize the need to manage their emissions, including methane emissions. Over the past several years, as methane regulations have been developed, IPAA has been active in trying to assure that the regulations are designed appropriately for the diverse elements of the industry, including the small business operations that dominate ownership of low producing wells.

While oil and natural gas greenhouse gas emissions must be managed, their use provides key environmental benefits. America's success in reducing its greenhouse gas emissions comes from its expanded use of natural gas. Internationally, expanded use of natural gas promises to help the world improve its greenhouse gas emissions. The environment and public health challenges across the world are large and complex and failure to address fundamental health challenges limits nations' ability to address their greenhouse gas emissions.

IPAA supports the committee in its efforts to pass legislation that will increase American energy production, lower energy costs, strengthen domestic supply chains and protect America's energy grid. The various pieces of legislation being considered today will move the nation

forward in our effort to enhance and strengthen American energy security. The Energy and Commerce Committee should be commended for these efforts.

Although IPAA supports all legislative efforts to enhance American energy and security, we would like to especially focus on two pieces of legislation being considered by the Committee today. First, IPAA strongly supports H.R. 150, the "Protecting American Energy Production Act" sponsored by Congressman Duncan. This legislation prohibits the President from declaring a moratorium on the use of hydraulic fracturing unless Congress authorizes such a prohibition. The bill also expresses the sense of Congress that states should maintain primacy for the regulation of hydraulic fracturing for oil and natural gas production on state and private lands.

Hydraulic fracturing is a decades old well completion technology that is often coupled with horizontal drilling to develop oil and natural gas resources from tight rock formations. Hydraulic fracturing occurs after drilling has been completed and involves pumping fluid – typically 99 percent water and sand – into the target formation at pressure in order to open small fractures in the rock, which allow oil and natural gas to flow out of these tight formations.

Advances in hydraulic fracturing technology have reversed the U.S. trajectory from that of energy scarcity to being the leader of oil and natural gas production around the globe. There is no doubt that hydraulic fracturing has allowed the United States to increase oil and natural gas production and enhanced American energy security. In addition, through the use of increased natural gas, made possible by hydraulic fracturing, air quality has also dramatically improved.

Despite all of the facts and data showing that hydraulic fracturing has enhanced America's quality of living and made the nation energy secure, relentless attacks on this technology continue from the environmental community. IPAA applauds Congressman Duncan for introducing H.R. 150 to ensure that any efforts by the Executive Branch to prohibit the use of hydraulic fracturing technology, must first be authorized by Congress. Hydraulic fracturing is too important to the energy security of the nation and the world to be subject to the whim of a President determined to handcuff America's energy producers.

IPAA also supports H.R. 484, the "Natural Gas Tax Repeal Act" sponsored by Congressman Pfluger. This legislation would strike language designed to establish a tax on natural gas imposed on America's independent oil and natural gas producers as part of the "Inflation Reduction Act" passed by Congress last year.

IPAA recognizes the importance of managing air emissions of methane and other volatile organic compounds. The American oil and natural gas production industry participates in voluntary programs to identify and implement cost effective management technologies. Our members work diligently to comply with state and federal regulations.

The Methane Emissions Reduction Program (MERP), which was passed as part of last year's Inflation Reduction Act, is an inappropriate and unworkable methane emissions tax. This tax was included despite not ever being considered in a hearing, receiving expert testimony in favor or opposition, no economic analysis, and no consideration of efficacy. Instead of looking at this issue holistically, the MERP was on the simple premise that if something is taxed, less of it will be produced.

The methane emissions tax proposes to collect emissions data, which has historically reported under Subpart W of the Clean Air Act, and use that information to assess a tax for emissions exceeding 25,000 tons of CO2 equivalent. Beginning in 2024, companies will be required to collect this data and begin paying a fee of $900 per metric ton beginning in 2025. That cost

ramps up to $1200 per metric ton in 2026 and ultimately settles at $1500 per metric ton for 2026 and beyond.

Currently, the Environmental Protection Agency (EPA) is in the process of revising regulation of methane emissions under OOOO. Comments are due next week, and that process is ongoing. The methane tax is a redundant effort to lower methane emissions that goes beyond EPA's historical jurisdiction and mandate. Regulating emissions under the CAA through the regulatory process is within the scope of the agency's jurisdiction, experience, and expertise. The methane tax would add the burden of moving EPA into tax collection, including audit processes which involve a degree of accuracy in measurement and tax assessment that goes well beyond the agency's capacity.

Further, the MERP formula requires an operator to calculate the number of tons of methane emitted in a year from applicable facilities. The formula then subtracts that tonnage from a number called the waste emissions threshold. The aforementioned fee schedule applies to any overage.

The IRA establishes a waste emissions charge for methane from applicable facilities that report more than 25,000 metric tons of CO2 equivalent per year to the Greenhouse Gas Reporting Program (GHGRP) petroleum and natural gas systems source category (GHGRP Subpart W) and that exceed the statutorily specified waste emissions thresholds. None of the tools that the law uses to generate the tax were ever designed to be used for this purpose. Moreover, this law creates a tax collection function within EPA that triggers complex audit challenges and the potential for abusive use of Clean Air Act (CAA) enforcement authorities by OECA.

The methane tax established as part of the IRA will impose financial and filing burdens on independent American oil and natural gas producers that will jeopardize many of their operations. It will add another complexity to these small businesses and divert their attention from what they do best, produce the cleanest and safest oil barrels of oil and natural gas in the world.

We thank Congressman Pfluger for introducing H.R. 484 and urge the Committee to take quick action to stop the implementation of this misguided and unreasonable tax on natural gas.

Conclusion

Oil and natural gas will remain a key component of energy supply in the world for the foreseeable future. Their emissions will need to be managed, but no modern economy will function without them. This is clearly true in the United States where oil and natural gas contributes approximately 70 of the energy consumed in the country now and in 2050. Growth in other energy sectors will occur, but more energy will be needed to maintain a robust American economy.

Artificial political efforts to suppress American supply will not reduce demand; it will only lead to a return to an import dependent energy structure with attendant energy security risks. False attacks targeting American oil and natural gas producers will reduce supply while hurting independent producers, particularly small businesses, and royalty owners. They will not reduce

greenhouse gas emissions. The ultimate beneficiaries of these actions would be foreign national oil companies producing with less emissions management than those in the United States.

Congress should oppose all efforts to reduce American energy supply. IPAA commends the Energy and Commerce Committee for holding this hearing today and looks forward to the

Committee acting on these important pieces of legislation that will protect and enhance American energy security.

Thank you for this opportunity and I look forward to answering your questions.

Mr. DUNCAN. I thank the gentleman. The Chair will now recognize Mr. Garcia for 5 minutes.

STATEMENT OF RAUL GARCIA

Mr. GARCIA. Thank you, Chairman. Thank you, all the ranking members, for the invitation to speak. My name is Raul Garcia. I am the legislative director for healthy communities at Earthjustice.

In giving an opinion about the 17 bills that we are considering today, I can't—I don't have enough time to go one by one. But there are some narratives that the bills overall establish for us.

Overall, there are litany of exemptions, a litany of go-arounds, and a litany of ways that big industries get to go around laws that we have in the books already that were put in the books by Congress in bipartisan support in order to protect the communities that this very Congress represents.

And so, when we talk about already having industries that act responsibly, one has to beg the question: If they are acting responsibly, why do they want to waive the laws that hold them accountable to acting responsibly? And we have not gotten an answer on that front.

But we also have to remember that what is at stake here is broader than the simple choice that the proponents of these bills give us. So they give us a false choice between having healthy communities, a healthy environment, and energy security. And that is simply not true. We can have both. But it is a clever twist.

I mean, it is a clever ploy, even if it is a cruel one. Because on the one hand, some of these bills actually repeal parts of the laws they have made—that have made it into the books that would speed up a transition to clean energy, that would give us energy security in a clean and healthy way, like the—like parts of the IRA, particularly the Greenhouse Gas Reduction Fund. Now, that would speed up distributed solar energy so that people can have energy at their own homes so that grids going down are not a problem for an entire State. But we want to take that away in these bills.

And then, on the back end, we actually want to give industry loopholes that they can use in order to not comply with the Clean Air Act, with the Toxic Substances Control Act. These laws were established by this Congress in bipartisan fashion to protect the air that we breathe, and the toxics that are in our environment, the water that we drink, the makeup that we put on our faces, everything that goes into our stomachs. And we want to peel that away.

Now, we hear a lot about energy security and this phrase of critical minerals, critical energy sources. So let's talk about critical energy sources. Few bills of the 17 that we have here today actually establish a definition for critical energy sources. What they actually say is, "Let's leave that definition up to the Secretary of Energy." That is a Trojan horse. That means everything can suddenly become a critical energy source.

And so what are we talking about when we are talking about these sources? We are talking about making sure that we have a responsible way to get to clean energy that establishes safe protections for our communities. And these bills, frankly, do exactly the opposite.

And so, when we talk about the Toxic Substances Control Act, for example, one of the bills would have us consider the economic impacts, the economic costs of—when determining whether a substance is toxic or not. So that would mean that, if we put poison in three cups of water, we are going to drink them all and figure out what the economic cost is going to do to us.

So the—another question that I have for the proponents of the bill is, what is the cost of a human life? What is the cost that that poison is going to inflict on a human being? Because it is good to talk about everything that is on paper and laws and exemptions and procedures. How do we explain the emissions coming out of the fossil fuel industry or the mining industry to our communities who are suffering from cancers, from asthma, from cardiac conditions? But we haven't talked about that here yet.

And so I believe that that is what we need to focus on, and that is what we need to do. And so these bills, by and large, fail, flat-out fail to address what communities across the country are dealing with.

Thank you.

[The prepared statement of Mr. Garcia follows:]

TESTIMONY OF RAUL GARCIA

LEGISLATIVE DIRECTOR FOR HEALTHY COMMUNITIES

EARTHJUSTICE

BEFORE THE UNITED STATES HOUSE OF REPRESENTATIVES

JOINT ENERGY, CLIMATE, & GRID SECURITY SUBCOMMITTEE AND ENVIRONMENT, MANUFACTURING, & CRITICAL MATERIALS SUBCOMMITTEE LEGISLATIVE HEARING: "UNLEASHING AMERICAN ENERGY, LOWERING ENERGY COSTS, AND STRENGTHENING SUPPLY CHAINS."

FEBRUARY 7, 2023

Good Morning Chairman Duncan, Ranking Member DeGette, Chairman Johnson, and Ranking Member Tonko:

Thank you for inviting me to testify today. My name is Raul Garcia, and I am the Legislative Director for Healthy Communities at Earthjustice, the nation's oldest and largest nonprofit public interest environmental law organization. Please accept this testimony for the hearing's official record. My testimony addresses serious concerns and strong opposition to the draft bills discussed in this hearing. Overall, these bills create a false narrative aimed at circumventing critical environmental and public health protections in order to greenlight harmful corporate polluters that profit at the expense of frontline communities across the country.

The bills attempt to create exemption after exemption for harmful industries to avoid complying with laws like the Clean Air Act (CAA), the Toxic Substances Control Act (TSCA), and the Solid Waste Disposal Act (SWDA), among many others. Before addressing the problems with some of the specific proposed legislation, we must remember that the laws they seek to waive are important

for the health and safety of all people in this country. They were passed for a reason. The CAA, for example, is the most important legal tool available to protect the air we breathe from harmful pollutants caused by dirty industries. In a similar way, TSCA sets up protections so that toxic substances like lead, asbestos, and PFAS are not manufactured and consumed in ways that harm our communities. In turn, the SWDA establishes requirements for polluting industries to clean up areas that they have contaminated to such toxic levels that they pose a serious threat to human life. Concretely speaking, these laws are at times the only line of defense that our communities—your constituents—have to prevent even more devastating and ever-increasing numbers of respiratory diseases like asthma, cardiovascular conditions, and other serious illnesses like cancer.

The bills in question in today's hearing are a litany of waivers that would allow dirty corporate industries to violate the environmental and health requirements in our laws. Many of them would waive protections for what they label as "critical energy resources" or some similar phrasing. However, none of these bills actually define what those "critical" resources would be. Instead, they rely on the discretion of the Department of Energy to make that determination. This means that, at any given point, anything can be deemed as "critical," subject to the whims of whoever is at the Department of Energy. There is nothing in these bills that would stop any random and harmful industry from being falsely labeled as "critical." The bills before the subcommittees today are a trojan horse that would bypass critical health protections to line the pockets of dirty polluters and toxic chemical manufacturers. To be clear, this is not about critical resources that our country needs; it is about giving a free pass to deadly chemicals like lead, asbestos, sulfuric acid, mercury, and PFAS that are not critical to our national energy interests. In effect, these waivers would allow even the most harmful polluters to manufacture and spread the deadliest poisons into our air, water, and even our homes with impunity.

Together, many of the bills presented before the subcommittees create a narrative that our environmental and health protections exist to stop or significantly hamper energy and other development. This is utterly false. Our environmental and health protections are designed to ensure that energy production and other industrial activities are safe for our communities, especially those living at the fenceline and in close proximity. We have the capability to advance our technologies, create responsible clean energy development, and deliver it across the country in a way that protects our health and our children's future. Congress should avoid advancing bills that eliminate these critical public health protections and facilitate harmful energy production and poisonous chemical manufacturing. Lawmakers should instead focus on strengthening protections and holding bad actors who violate our laws and betray your constituents accountable for their actions. We reject the false choice between energy creation and human health. We can and must have both.

I offer the following as clear examples of the problems that plague the bills being proposed today:

H.R. __, To amend the Toxic Substances Control Act with respect to critical energy resources, and for other purposes.

We express our strong opposition to the draft bill: "To amend the Toxic Substances Control Act for critical energy resources, and for other purposes." In just three short pages, the bill would reverse and eviscerate several of the core reforms to the nation's chemical safety law, even after **TSCA passed the House and Senate overwhelmingly with bipartisan support just a few years ago. It was reported out of this Committee unanimously and passed the House 403-12.** In fact, nine of the nay votes were from Democrats, many of whom believed the final bill wasn't strong enough. Every Republican on this Committee who was in Congress in 2016 and cast votes voted in

favor of the legislation, including Chairs McMorris-Rogers, Duncan, and Johnson, and Representatives Burgess, Latta, Guthrie, Griffith, Bilirakis, Bucshon, Hudson, Walberg, Carter, Palmer, and Weber.

The draft legislation would make it virtually impossible for EPA to meaningfully review the safety of new chemicals that are classified as "critical energy resources," regardless of their health risks. The bill promotes cursory assessments, followed by default approvals, of any new chemical that is deemed necessary for a "critical energy resource," no matter how toxic, how persistent, or how mobile in the environment. These chemicals could be used in anything from fracking to petrochemicals to mining.

The revisions to TSCA would sacrifice the health and safety of the public – including children, workers, the elderly, and fenceline communities – to expedite production of any potentially toxic chemical that the industry can persuade the Department of Energy, which is not charged with reviewing the health and safety of chemicals, to deem a "critical energy resource." We already know the limitless scope of what the chemical industry is likely to claim as "critical" based on their recent insistence that some of the most toxic chemicals in existence are "critical" for renewable energy or energy security, including PFAS,[1] asbestos,[2] and lead.[3] **TSCA's failure to protect the public from asbestos, as well as other toxic chemicals like TCE and methylene chloride, served as**

[1] ACC, *PFAS: Critical to Renewable Energy*, https://www.americanchemistry.com/chemistry-in-america/chemistries/fluorotechnology-per-and-polyfluoroalkyl-substances-pfas/pfas-critical-to-renewable-energy

[2] ACC, *ACC Urges EPA to Reconsider its Flawed Chlor-alkali Proposal*, https://www.americanchemistry.com/chemistry-in-america/news-trends/press-release/2022/acc-urges-epa-to-reconsider-its-flawed-chlor-alkali-proposal

[3] International Lead Association, *Using Lead Responsibly is Critical to Achieving a Sustainable and Low Carbon Future*, https://ila-lead.org/sustainability/)

Congress's catalyst to strengthen the law. To now roll back TSCA's protections in order to fast-track approval of chemicals like asbestos would be a sad irony.

The draft bill would:

- Mandate that EPA's risk evaluation of chemicals, rather than continuing to focus on the potential health risks, must also include the consideration of all cost and other "non-risk factors" when evaluating whether the chemical substance poses an unreasonable risk (as opposed to basing safety determinations solely on risks to health or the environment). The prioritization of economic considerations over public health protection was the major flaw that had stymied progress under the old TSCA, and **Congress's deliberate shift to risk-based evaluations and decision-making was the fundamental reform that brought the law back to life** after being ineffective for decades and badly in need of reform.

- Allow new chemicals to begin production before EPA has completed its determination whether they pose an unreasonable risk to human health or the environment. Because Congress wanted EPA to make an affirmative determination of safety for all new chemicals, TSCA explicitly provides that no new chemical can enter production until that determination has been made. **The bill would completely reverse this vital health-protective policy.**

- In addition to the newly-added consideration of costs and any other non-risk factors to EPA's analysis, which will lengthen the time necessary for review, the bill simultaneously prevents EPA from extending the review period for chemicals designated "critical energy resources." The inevitable result will be rushed and superficial reviews that fail to identify risks to health and the environment or incomplete reviews that result in default approvals of

unsafe chemicals. As we have seen over and over, **where a toxic chemical begins manufacture without a thorough review by EPA, it is almost impossible to end its production, or retrospectively establish sufficient protections** from the chemical to protect the public.

- Create a limitless loophole from TSCA's chemical assessment and health protection requirements. **"Critical energy resource" is an open-ended and undefined concept that could apply to virtually any chemical** that plays a role in the production, refining, distribution, and use of energy and is designated as "critical" by the Department of Energy. Once a substance is deemed to be a "critical energy resource," and therefore is fast tracked through the TSCA pre-manufacture notice process, **there is no limit on how the substance can then be used, beyond its ostensible "critical energy resource" use, and no constraint on non-energy applications that could also be harmful to health and the environment.**

The bill would establish a precedent for enacting further loopholes to gut the health protective provisions of the Act. **If it is acceptable to gut health reviews of chemicals for "critical energy resources," what is the principle that will prevent other broad categories or uses of potentially toxic chemicals from also getting special treatment** under Section 5 of TSCA?

Notably missing from the draft bill are any findings demonstrating the need for the bill. In fact, **there is no evidence that the public must sacrifice health protections from toxic chemicals in exchange for clean energy.** We can develop and deploy new energy technologies without waiving chemical review requirements or placing the communities burdened by PFAS and other toxic

chemicals at risk. The draft bill's rejection of that clean and health-protective energy future sells American innovation short. **Overwhelmingly, the public wants more, not less, protection from toxic chemicals.**[4] Yet the draft bill would roll back critical public health protections and weaken the nation's bedrock chemical safety law.

H.R. __, the "Securing America's Critical Minerals Supply Act."

This draft legislation modifies the organization and jurisdiction of the Department of Energy, which seems rather mundane at first glance. However, the draft legislation is about far more than critical minerals, as it uses the amorphous definition of "critical energy resource," which could include essentially anything pertaining to energy. The Environmental Protection Agency (EPA) and Department of Interior (DOI) would have their authority to protect communities and the environment removed, even though they have the expertise and mandate to protect our health, water, and lands. The Department of Energy's new authority would effectively have the only metrics for consideration in production be economic or "security", which will mean that our environment and communities will be left behind.

H.R.__, To amend the Clean Air Act to prohibit the phase out of gasoline and prevent higher prices for consumers and for other purposes.

This legislation is an attack on the Environmental Protection Agency's Risk Management Program (RMP), which are safeguards intended to protect workers, fenceline communities, and first-responders from chemical disasters. The bill would amend the Clean Air Act to exempt refineries

[4] University of California San Francisco Program on Reproductive Health and the Environment, *Public Opinion on Chemicals,* https://prhe.ucsf.edu/public-opinion-chemicals

that use dangerous hydrofluoric acid (HF) from conducting a safer alternatives assessment. Safer technology and alternatives assessments are commonsense best practices that help facilities innovate and identify opportunities to prevent disasters and save lives. Alternatives identified in such assessments can prevent chemical disasters, such as the one that occurred in 2019 at the HF alkylation unit at the Philadelphia Energy Solutions Refinery in Philadelphia, Pennsylvania. This devastating series of explosions injured five workers and a first responder, led to the evacuation of 4,000 people, and culminated in over 1,000 workers being laid off with no severance and almost no notice when the plant shut down. During the incident, over 5,000 pounds of highly toxic HF were released, and the estimated property damage loss was $750 million.

As the climate rapidly changes, the risk and severity of chemical disasters and releases are being exacerbated by extreme weather, making EPA's Risk Management Program even more important in preventing catastrophic disasters that lead to injury and loss of life and property. When industrial facilities, including HF refineries, located in these areas fail to adequately prepare for extreme storms, wildfires, earthquakes, heat waves, floods, rising sea levels, and other natural disasters this can lead to a cascading series of harms, including toxic chemical exposures, on top of the effects of the weather event itself.

This bill would disregard recommendations and information from the U.S. Chemical Safety Board and the Government Accountability Office and instead caters to the American Petroleum Institute and other fossil fuel interests. The dangers of HF are well-established, and millions of Americans live in the worst-case scenario zone for a toxic release. Congress should reject this bill and support EPA as they update the Risk Management Program Rule and work to better protect industrial workers, environmental justice and fenceline communities, and first-responders.

H.R. __, To authorize the Administrator of the Environmental Protection Agency to waive application of certain requirements, sanctions, or fees, with respect to processing or refining of critical energy resources at a critical energy resource facility, and for other purposes.

This legislation would allow the Environmental Protection Agency (EPA) to waive the Clean Air Act (CAA) and Solid Waste Disposal Act (SWDA) requirements for waste produced during production of energy related products. The CAA and SWDA are essential for protecting our health and the environment from the hazards of countless types of industry waste. The draft legislation would exempt certain energy facilities from provisions of the SWDA, potentially including everything from fracking wastewater, to mine processing facilities and tailing sites to nuclear facilities. The SWDA was passed to protect human health and the environment from hazardous waste; exempting these types of waste from these laws threatens public health. It would destroy drinking water, increase negative health impacts on Indigenous and frontline communities, and pollute our public lands as well as the air we breathe. The EPA consistently classifies energy production waste as the most toxic, and often the waste site is impossible to completely remove contamination from, or it exists for hundreds of years.

H.R. __, To amend the Solid Waste Disposal Act to treat the owner or operator of a critical energy resource facility as having been issued an interim permit for the treatment, storage, or disposal of hazardous waste, and for other purposes.

This legislation bypasses normal permitting processes, by advancing interim permitting for certain energy facilities. The draft legislation would thus allow the facilities to operate before securing a permit, whose entire purpose is to review the facility's impact on air, water, and the community. By preemptively providing these interim permits, the result would almost certainly be an increase of

negative health consequences and the destruction of cultural resources due to toxic pollutants being released into our air and water. The facilities that could receive an interim permit without a full understanding of their impact include everything from mining waste in tailings ponds, to fertilizers and petrochemicals.

H.R. __, 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 draft legislation would take the science out of decisions around air permitting, regarding flexible permitting for certain energy facilities. It would allow the Environmental Protection Agency (EPA) to circumvent the transparent process of approving or denying flexible air permitting. Doing so could insert politics into the decision and potentially allow the EPA Administrator to increase air pollution from vaguely defined "critical energy resource facilities," subsequently harming public health and contributing to climate change. Similar to the other bills I've discussed, the facilities this could apply to are vast. If up to the discretion of the Department of Energy, they could include some of the worst offenders of pollution, including oil and gas, mining and petrochemicals.

Conclusion

Earthjustice represents and partners with communities on the frontlines of the climate and environmental justice crises across the country. Each day we see the real human consequences of what happens when polluting industries fail to follow the law. From the petrochemical plants lining Cancer Alley in the Gulf to the legacy of mining on Indigenous lands, we know what happens when environmental protections are removed, and people are left at the mercy of industry to regulate

themselves. The bills before the sub-committees today will exacerbate the problem. Under the guise of guarding our national energy interests and security, these bills seek to gut commonsense protections and safeguards that all Americans, but especially environmental justice communities, depend on to protect them in their neighborhoods, workplaces, and homes. We look forward to continue working with the Committee to ensure that our country remedies existing environmental injustices, strengthens environmental protections to prevent those injustices from occurring in the future, and ensures that our clean energy future proceeds in an equitable and just way. Thank you for giving me the opportunity to testify today.

Sincerely,

Raul Garcia

Legislative Director for Healthy Communities

Earthjustice

Mr. DUNCAN. Thank you. I now recognize Ms. Sweeney for 5 minutes.

STATEMENT OF KATIE SWEENEY

Ms. SWEENEY. Thank you. Good morning, members of the subcommittee. I appreciate being here on behalf of the National Mining Association's mineral and hardrock mining companies to talk about the need to strengthen our mineral supply chains to unleash American energy and lower energy cost.

Domestic mining, conducted under world-leading environmental safety and labor standards, is critical to securing virtually every key supply chain, especially energy. But the right policies are needed to unlock our full potential.

Minerals are an integral part of all current forms of energy and for those we hope to rely on more in the future. From copper, nickel, and silver, and renewables to cobalt, and lithium, and EVs to barite, and molybdenum that keep oil and gas moving, to uranium and coal, which produced over 40 percent of our electricity, minerals security makes energy security.

As we enter the most mineral-intensive era in human history, the International Energy Agency estimates demand for some minerals required for energy generation transitions could grow by more than 40 times by 2040. Urgent action is needed to secure these essential supply chains. But recent U.S. Geological Survey information shows our country is headed in the wrong direction.

Despite the rhetoric around securing our mineral supply chains, we are at a crisis point. In 2022, the U.S. reached its highest recorded mineral import reliance. Imports made up more than one-half of U.S. apparent consumption for 51 nonfuel mineral commodities, up from 2021, when only 47 commodities met that metric.

We are more dependent than ever before on China and others for minerals essential to modern life. And each new announcement of a blocked mine, such as Twin Mines—Twin Metals Project in Minnesota, or foreign sourcing agreements with countries with documented problematic labor practices locks in our position of competitive weakness.

The U.S. must focus on supplying these minerals at home as well as restoring domestic smelting, refining, and processing capabilities. In a 2019 hearing, Benchmark Minerals talked about growing mineral demand for EV batteries and lack of domestic production, cautioning that those who control these critical raw materials and those who possess the manufacturing and processing know-how will hold the balance of industrial power in the 21st century auto and energy storage industries.

Automakers understand that truth and worry that the coming battery minerals shortfall will decimate the EV revolution. Ford's president and CEO recently highlighted the need to focus on domestic supply chains all the way to the mines to reduce our reliance on minerals sourced from countries with documented child labor practices and corruption.

Without permitting reform, the U.S. will be watching the global competition for energy dominance from the sidelines. Providing additional funds or incentives for projects that will never be approved does nothing. As the IEA concluded in a recent report, governments

must leverage private investment in sustainable mining but also ensure clear and rapid permitting procedures to avoid potential supply bottlenecks.

Opening or expanding a U.S. mine typically involves multiple agencies and tens or even hundreds of permitting processes at the local, State, and Federal levels. Delays arise from duplication among agencies, absences of firm timelines, and failures in agency coordination. Necessary authorizations take an average of 7 to 10 years, one of the world's longest permitting processes. Valid environmental concerns should be fully addressed, but permitting processes should not serve as an excuse to trap mining projects in a limbo of duplicative, unpredictable, endless, and costly review.

We can build on important work done by this committee to support new domestic production and processing. Chair McMorris Rodgers and Natural Resource Chair Westerman's Securing American Mineral Supply Chains Act offers commonsense solutions to reestablish a domestic mineral supply chain. The act prioritizes responsible development and would provide certainty to mining companies, investors, and manufacturers; establish lead agencies and improve permitting timeliness; maintain access to mineralized Federal lands unless withdrawn by Congress and unless the USGS can assure that the withdrawal does not threaten supply chains; support research, development, and demonstration funding; and workforce development and training.

It is time for the United States to walk the talk on mineral security. As our minerals needs skyrocket for everything from EVs to advanced energy technologies, the U.S. is stumbling when it comes to our supply chains.

NMA appreciates this committee's prioritization of these issues and is eager to help craft solutions. Thank you.

[The prepared statement of Ms. Sweeney follows:]

Testimony
of
Katie
Sweeney
Executive Vice President & General
Counsel
National Mining
Association before the
United States
House of
Representatives
Committee on Energy & Commerce

"Unleashing American Energy, Lowering Energy Costs, and Strengthening Supply Chains."

February 7, 2023

Good morning members of the subcommittees. I am Katie Sweeney, Executive Vice President and Chief Operating Officer of the National Mining Association (NMA). America's mining industry supplies the essential materials necessary for nearly every sector of our economy – from technology and healthcare to energy, transportation, infrastructure and national security. The NMA is the only national trade organization that serves as the voice of the U.S. mining industry and the hundreds of thousands of American workers it employs before Congress, the federal agencies, the judiciary and the media, advocating for public policies that will help America fully and responsibly utilize its vast natural resources. We work to ensure America has secure and reliable supply chains, abundant and affordable energy, and the American-sourced materials necessary for U.S. manufacturing, national security and economic security, all delivered under world-leading environmental, safety and labor standards. The NMA has a membership of more than 275 companies and organizations involved in every aspect of mining, from producers and equipment manufacturers to service providers. I am pleased to testify this morning on behalf of the mineral and hardrock mining companies in the NMA.

Ever-increasing Demand for Minerals

There is widespread recognition that we are entering the most mineral and metal intensive era in human history.[1] Consequently, the right policies to

[1] Google results for the term "critical minerals" return nearly 24,000 responses (7,000 news specific) for the last month alone.

secure new domestic mineral production and our supply chains are more important than ever.

The international competition for minerals will be fierce. The European Union (EU) recently unveiled its "REPowerEU Plan" to scale-up and speed up renewable energy in the next decade.[2] Late last year, the United Kingdom (UK) released its "Resilience for the future: The UK's critical minerals strategy."[3] In December, Canada released its "Canadian Critical Minerals Strategy," a generational "plan to position Canada as the global supplier of choice for critical minerals and the clean technologies they enable."[4] Of course, China, with its much longer planning horizon, moved earlier and more quickly to address the risks to its mineral supply chains. In 1999, the Chinese government announced its aggressive "go global" campaign to secure raw materials. The policy, which was fully implemented around 2002-2003, articulated three main objectives: (1) to support national exports and expand into international markets; (2) to push domestic firms to internationalize their activities as a means of acquiring advanced technologies; and (3) to invest in the acquisition of strategic resources.[5]

Many public analyses evaluate the demand for minerals for new technologies but especially energy generation. Last year the International Energy Agency (IEA) issued a cautionary report about risks related to the mineral supply chains required for energy generation transitions.[6] IEA estimates and others show that demand for some minerals could grow by more than 40 times by 2040. According to IEA:

- Lithium demand is anticipated to grow by more than 40 times by 2040, followed by graphite, cobalt and nickel at around 20-25 times;
- Copper demand for grid infrastructure and electrification more than doubles by 2040
- Demand for cobalt is expected to be anywhere from 6 to 30 times higher than today's levels; and
- Rare earth elements may see three to seven times higher demand in 2040 than today.[7]

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[2] Communication from the Commission to the European Parliament, The European Council, The Council, The European Economic and Social Committee and the Committee of the Regions: REPowerEU Plan, {SWD(2022) 230 final}, May 18, 2022. https://eur-lex.europa.eu/resource.html?uri=cellar:fc930f14-d7ae-11ec-a95f-01aa75ed71a1.0001.02/DOC_1&format=PDF.

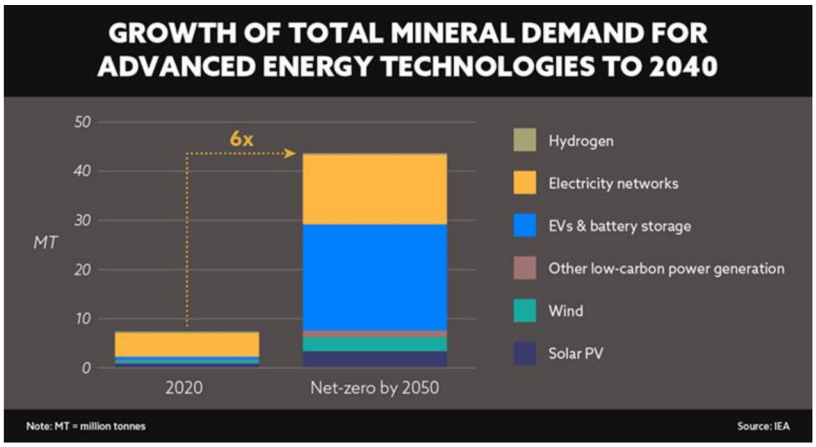
[3] Department for Business, Energy and Industrial Strategy, "Resilience for the future: The UK's critical minerals strategy, 22 July 2022. https://www.gov.uk/government/publications/uk-critical-mineral-strategy/resilience-for-the-future-the-uks-critical-minerals-strategy

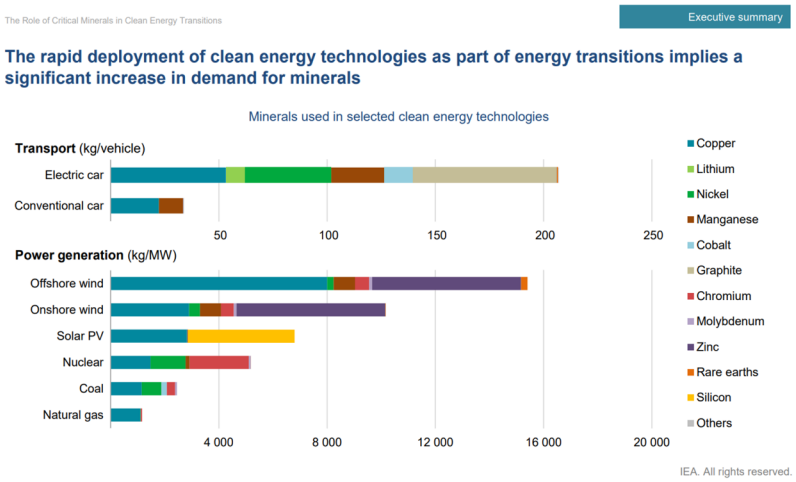
[4] Natural Resources Canada News Release, "Countries Commit to the Sustainable Development and Sourcing of Critical Minerals," Dec. 12, 2022. https://www.canada.ca/en/natural-resources-canada/news/2022/12/countries-commit-to-the-sustainable-development-and-sourcing-of-critical-minerals.html

[5] CRS," China's Mineral Industry and U.S. Access to Strategic and Critical Minerals: Issues for Congress," R43864, March 20, 2015, p. 2. https://crsreports.congress.gov/product/pdf/R/R43864/6

[6] International Energy Agency, "The Role of Critical World Energy Outlook Special Report Minerals in Clean Energy Transitions," May 2021.

[7] Id at pp.8-10





Other major reports echo the findings of the IEA. Wood Mackenzie, the World Bank,[8] the Wilson Center[9] and others outline staggering demand

[8] World Bank Group, "Minerals for Climate Action: The Mineral Intensity of the Clean Energy Transition," 2020. https://pubdocs.worldbank.org/en/961711588875536384/Minerals-for-Climate-Action-The-Mineral-Intensity-of-the-Clean-Energy-Transition.pdf

[9] D. Wood, A. Helfgott, M. D'Amico, and E. Romanin, Woodrow Wilson International Center for Scholars, "The Mosaic Approach: a Multidimensional Strategy for Strengthening America's Critical Minerals Supply Chain," Oct. 12, 2021, https://www.wilsoncenter.org/sites/default/files/media/uploads/documents/critical_minerals_supply_report.pdf.

increases that are likely to outplace the available minerals supply. According to Wood Mackenzie:

- Demand for copper and aluminum is anticipated to increase by a third by 2040,
- Nickel demand grows by two-thirds and cobalt and lithium by 200 percent and 600 percent, respectively.[10]

Matching the speed and scale of this rising demand requires a permitting regime that enables the mining sector to respond to market signals. Current U.S. permitting timelines do not.

As the IEA recently concluded in a July 2022 battery supply chain report:

> Electrifying road transport requires a wide range of raw materials. While all stages of the supply chain must scale up, extraction and processing are particularly critical due to long lead times. Governments must leverage private investment in sustainable mining and ensure clear and rapid permitting procedures to avoid potential supply bottlenecks.[11]

Impacts Down the Supply Chain

End users of minerals have awoken to the challenge of securing mineral supply chains, a development perhaps most pronounced by the automotive sector as it advertises a transition to electric vehicles (EVs). Over the last few years, many of the major U.S. car makers have made ambitious announcements about their EV plans. As examples, General Motors has announced it will invest $35 billion in electric and autonomous vehicle product development until 2025 and that it will phase out petrol and diesel cars by 2035; Volkswagen wants half of its vehicle sales to be electric by 2030 and nearly 100 percent electric sales by 2040; and Audi will launch fully electric models only from 2026 and aims for all car sales to be electric by 2030.[12]

At the same time, automakers are warning with ever greater frequency that the coming battery material shortfall could stop the EV revolution in its tracks. As recently noted by RJ Scaringe, CEO of EV start-up Rivian, the auto industry's current semiconductor problems "are a small appetizer to what we are about to feel on battery cells over the next two decades."[13] No wonder, as the battery supply chain is already facing the pinch of rising material prices as the gap between demand and supply widens. Battery pack costs – which had been on a

[10] Gavin Montgomery, Wood Mackenzie, "COP26: Why battery raw materials are a highly-charged topic:- Aggressive EV uptake is needed to meet a 2° C target, but metals supply will struggle to meet demand." 13 October 2021, https://www.woodmac.com/news/opinion/cop26-why-battery-raw-materials-are-a-highly-charged-topic/

[11] IEA, "Global Supply Chains of EV Batteries," July 2022. https://www.iea.org/reports/global-supply-chains-of-ev-batteries.

[12] van Halm, I. and Mullan, C., Feb. 14, 2022, " Booming EV sales challenge critical mineral supply chains," *Energy Monitor* https://www.energymonitor.ai/sectors/transport/booming-ev-sales-challenge-mineral-supply-chains

[13] Wall Street Journal," Rivian CEO Warns of Looming Electric-Vehicle Battery Shortage," April 2022. https://www.wsj.com/articles/rivian-ceo-warns-of-looming-electric-vehicle-battery-shortage-11650276000

long downward trend – are now rising. Metals accounted for 40 percent of battery costs in 2015. Today, they account for 80 percent. Where the price of these metals goes, so does the cost of batteries and EVs. According to EV automaker Stellantis CEO Carlos Tavares, there will be a shortage of EV batteries by 2024-2025, followed by a lack of raw materials for the vehicles that will slow availability and adoption of EVs by 2027-2028 as the global automotive industry pivots to EVs to meet an expected increase in consumer demand and government regulations. He recently cautioned that the "speed at which we are trying to move all together for the right reason, which is fixing the global warming issue, is so high that the supply chain and the production capacities have no time to adjust."[14]

Automakers have been seeking solutions, including inking deals directly with mining companies. For example, last year Tesla addressed its concern about obtaining the nickel for its EVs by entering into an agreement with BHP to obtain nickel from Australia and more recently with Talon Metals to buy quantities of nickel directly from a mine the company is building in Minnesota. Ioneer has signed a binding offtake agreement with the Ford Motor Company to supply lithium from its Rhyolite Ridge lithium-boron project in Nevada.[15] Only last week, General Motors announced it was investing $650 million in Lithium Americas to secure access to production from its Nevada operations, which General Motors estimates will contribute to one million EVs annually.[16] For this deal, General Motors was one of more than 50 automakers and companies seeking a secure supply of minerals from Lithium Americas.[17]

At the same time, automakers are urging the ramp up of domestic mining. Last year, the Alliance for Automotive Innovation wrote President Biden expressing concerns that "neither the current trajectory of consumer adoption of EVs, nor existing levels of federal support for supply- and demand-side policies, is sufficient to meet our goal of a net-zero carbon transportation future."[18] One of the specific policy recommendations offered by the Alliance is to promote national security and economic security enhancements through the development of U.S.-based supplies of critical minerals (extraction, processing and recycling), battery and fuel cell manufacturing, and other critical components, including semiconductors.[19] And as succinctly stated recently by Jim Farley, President and CEO of Ford Motor Co.:

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[14] Media interview, May 24, 2022, https://www.cnbc.com/2022/05/24/stellantis-ceo-warns-of-ev-battery-shortage-lack-of-raw-materials.html

[15] PR Newswire," Ioneer Signs Binding Lithium Offtake Agreement with Ford," July 21, 2022

[16] Lithium Americas General Motors Transaction Announcement, January 31, 2023, https://www.lithiumamericas.com/news/lithium-americas-provides-general-motors-transaction-details-and-update-on-construction-plan-for-thacker-pass. Cecilia Jamasmie, January 31, 2023, "GM invests $650m in Lithium Americas to develop Thacker Pass mine" www.mining.com, https://www.mining.com/gm-lithium-americas-to-jointly-develop-thacker-pass-mine-in-nevada/

[17] The Electric, "The New 'Elephants'—GM Grabs the Biggest Lithium Deposit in the U.S., Feb. 2, 2023. https://subscriptions.theinformation.com/newsletters/the-electric/archive/the-electric-the-new-elephants-gm-grabs-the-biggest-lithium-deposit-in-the-u-s

[18] Alliance for Automotive Innovation letter to President Biden, March 29, 2021. https://www.autosinnovate.org/posts/communications/Auto%20Industry%20EV%20Policy%20Letter%20to%20President%20Biden%20March%2029%202021.pdf

[19] Id. at 4.

> We have to bring battery production here, but the supply chain has to go all the way to the mines. . . So are we going to import lithium and pull cobalt from nation-states that have child labor and all sorts of corruption or all we going to get serious about mining?" . . . We have to solve these things and we don't have much time."[20]

We have our work cut out for us to build our domestic mineral supply chains quickly. As recently reported by *The New York Times*, how automakers will obtain enough materials for an all-electric lineup remains unclear. Just last month, Farley told analysts that only 50 percent of the raw materials needed to meet the auto industry's announced EV targets were actually available.[21]

Demand Cannot Be Met Without New Mining

The automakers are just one stakeholder group that acknowledges the role of domestic mining in securing our supply chains. Certainly, the federal government has repeatedly noted that boosting sustainable domestic mining must be part of the solution. For example, in May 2021, the White House rebutted reporting from *Reuters* claiming that President Biden will primarily rely on ally countries to supply the bulk of the metals needed to build EVs. In its clarification, the White House noted that the reporting incorrectly characterizes the Biden-Harris administration's approach:

> President Biden is focused on seizing the electric vehicle (EV) market, sourcing and manufacturing the supply chain here in America, and creating good-paying, union jobs. Building American-made EVs and shipping them around the world will include leveraging American-made parts and resources. This includes responsibly pursuing, developing, and mining critical minerals and materials used for EV batteries. As we strengthen our supply chains, we will pursue strong environmental standards and broad, rigorous consultations with local and indigenous communities to support a responsible, fair, and sustainable EV industry."[22]

Working with our allies, like Canada, to build these supply chains is smart. But that must complement the essential work of standing up production and these supply chains at home. It cannot come in place of it.

Recent withdrawal decisions this month locking up more than 225,000 acres in federal Forest Service lands from mining for two decades after also withdrawing federal leases nearly sixty years old from projects in the same areas known for some of the nation's largest reserves of nickel, cobalt, copper, platinum, and

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[20] Jim Farley remarks, Detroit Homecoming VIII, Live-streamed interview with Mary Kramer (director of the annual event). Sept. 25, 2021. https://detroithomecoming.com/livestream-events/

[21] Boudette, Neal E. 2022. "California E.V. Mandate Finds a Receptive Auto Industry." The New York Times, August 25, 2022, sec. Business. https://www.nytimes.com/2022/08/25/business/energy-environment/electric-vehicles-automakers.html.

[22] Statement from Ali Zaidi, Deputy National Climate Advisor, Reuters, Epoch Times etc.: https://www.theepochtimes.com/white-house-denies-report-that-biden-looks-overseas-for-electric-vehicle-metals_3832373.html?welcomeuser=1

palladium could only be described at best as short sighted and at worst self-sabotage.[23]

Current Permitting Process Discourages Investment in U.S. Mining

With over $6 trillion worth of mineral resources here in the United States, a highly trained and highly compensated workforce, and world-class environmental and safety standards, the U.S. mining industry is essential to helping the nation meet ever-increasing demand for minerals for electrification, infrastructure and manufacturing needs.

However, there is real room for improvement. To improve supply chain security, we must also have a robust domestic mineral supply chain. That includes more smelting, processing and refining capabilities in the U.S. necessary to claw back these essential processes from geopolitical adversaries like China, which controls more than 80 percent of global rare earth element production, nearly 90 percent of global mineral processing capabilities as well as the market prices for rare earth elements at each step of the process.

Permitting delays have been, and continue to be, one of the most significant risks to meeting domestic mineral production goals. As the permitting process for important projects across the U.S. drags on, geopolitical rivals are taking advantage of our bureaucratic inertia. Opening or expanding a mine in the U.S. typically involves multiple agencies and the navigation of tens or even hundreds of permitting processes at the local, state and federal levels, with little transparency into status, delays arising from duplication among federal and state agencies, an absence of firm timelines for completing environmental assessments, and failures in coordination of responsibilities between various agencies. Necessary government authorizations now take an average of seven to 10 years to secure – one of the longest permitting processes in the world for mining projects – a time period that is completely out of step with the dramatic increases in minerals production that will be needed in the coming decades to keep up new technologies, infrastructure, manufacturing and even with the administration's goals.

In the U.S., necessary government authorizations place the U.S. at a competitive disadvantage in attracting investment for mineral development. By comparison, permitting in Australia and Canada, which have similar environmental standards and practices as the U.S., take between two and three years. The NMA believes that valid concerns about environmental protection should be fully considered and addressed but permitting processes should not serve as an excuse to trap mining projects in a limbo of duplicative, unpredictable, endless and costly review without a decision point. Moreover, there is little evidence that such delays yield commensurate environmental benefits. The length of the permit process should not be confused with the rigor of review. Ironically, it takes about two years to

[23] Wall Street Journal, "Biden's Green-Energy Mineral Lockup. The feds block mining that is essential for making EV batteries" January 29, 2023, https://www.wsj.com/articles/biden-administration-mining-duluth-complex-minnesota-superior-national-forest-deb-haaland-electric-vehicles-11674860178.

build a new battery gigafactory, but it takes at least eight years (sometimes more than 10 years) to build a new lithium mine.[24]

Nearly two decades ago, the U.S. attracted almost 20 percent of the world's total mining investment. Unfortunately, in the time since, there has been a sharp decline in U.S. exploration investment. This is not due to lack of resources, but rather a lack of confidence in the U.S. as a viable mining jurisdiction in which to invest hundreds of millions of dollars in upfront costs due to duplicative, inefficient and costly permitting timeframes, making the U.S. more dependent on other countries for metals.

Current Permitting Process Encourages Foreign Dependence

The U.S. is increasingly vulnerable to supply chain disruptions and retaliation from geopolitical adversaries due to our ever-increasing reliance on imports for these essential resources. Less than half of the mineral needs of U.S. manufacturing are met by domestically produced minerals, which leaves our economy and national security at a strategic disadvantage. The U.S. Geological Survey's annual commodity summary released only last week makes some key findings:

- Last year, imports made up more than one-half of the U.S. apparent consumption for 51 nonfuel mineral commodities, and the United States was 100 percent net import reliant for 15 of those.

- Of the 50 mineral commodities identified in the "2022 Final List of Critical Minerals," the United States was 100 percent net import reliant for 12, and an additional 31 critical mineral commodities (including 14 lanthanides,

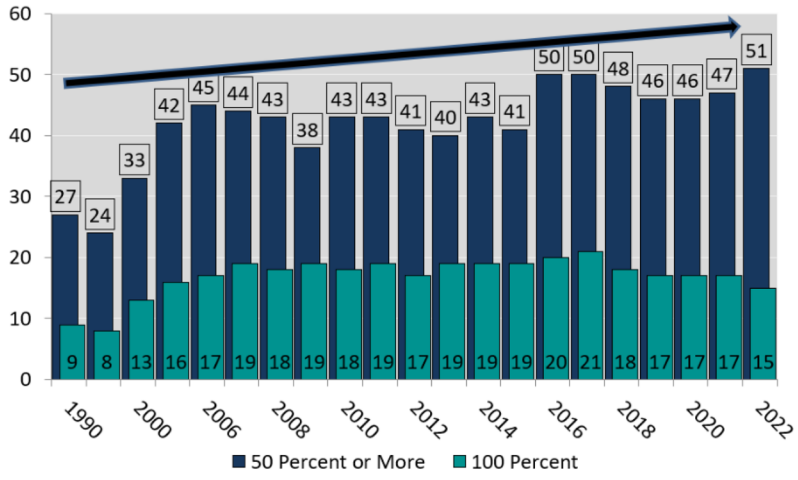
[24] Comments of Dr. Qichao Hu, founder and CEO of Massachusetts-based battery maker SES, in an interview with Charged.

which are listed under rare earths) had a net import reliance greater than 50 percent of apparent consumption.

- Underscoring the vulnerability of U.S. mineral supply chains, China was the leading source of mineral commodities with a greater than 50 percent import reliance providing 26, with significant imports of other essential commodities also coming from Russia.

- The estimated value of U.S. metal mine production in 2022 was $34.7 billion, six percent lower than the revised value in 2021. In 2022, the capacity utilization for the metals mining industry was 61 percent, less than the 63 percent capacity utilization in 2021.[25]

U.S. Mineral Import Reliance



Source: USGS Mineral Commodity Summaries 1990-2023 editions

While alarming, these findings are the latest in a 20-year trend of net imports that cost our country roughly $90 billion last year alone. Though the warning signs about our import reliance have been highlighted by a few key legislators for years, overall political concern about minerals supply chains has waxed and waned – with periods of frenzy following unexpected shortages, especially for military

[25] U.S. Geological Survey, 2023 Commodity Summary, https://pubs.er.usgs.gov/publication/mcs2023

applications such as China's exercise of its dominance over the rare earths' minerals supply chain – followed by periods of complacency.[26]

Before the more recent exposure of supply chain vulnerabilities from the pandemic and geopolitical developments of the last few years, the most recent panic occurred in 2010, when China threatened global rare earth supplies. As the Congressional Research Service (CRS) explained:

> Chinese export quotas on a type of critical minerals referred to as rare earth elements (REEs) and China's curtailment of rare earth shipments to Japan over a maritime dispute in 2010 *represented a wakeup call* for the United States on China's near-monopoly control over global REE supply. The actions of the Chinese led to record high prices for REEs and, as a result, *began to shine a light on the potential supply risks and supply chain vulnerability for rare earths and other raw materials and metals needed for national defense, energy technologies, and the electronics industry,* among other end uses. U.S. legislators have introduced and deliberated on bills that would address the potential supply risk and vulnerability with respect to rare earth supply and bills that would promote domestic rare earth mine development.[27] (Emphasis added.)

Unfortunately, none of these past efforts or policies have reversed the U.S. overreliance on foreign sources of minerals despite widespread acknowledgement that this overreliance weakens our economy and endangers our national security. China's mineral dominance remains a major threat. Currently, China is the leading producer and/or supplier of 66 percent of mineral commodities listed as essential to U.S. economic and national security including lithium, rare earths and other battery metals.[28] According to USGS, production concentration has increased markedly over the past few decades for many mineral commodities with the most notable global shift has being the increasing production of mineral commodities in China.[29] As illustrated by the following USGS data, China's share of global mineral production and processing has grown markedly since 1990 for many mineral commodities, including aluminum, bismuth, refined cobalt, gallium, lead, magnesite, magnesium metal, mercury, REEs, silicon, steel (raw), titanium, vanadium and zinc.

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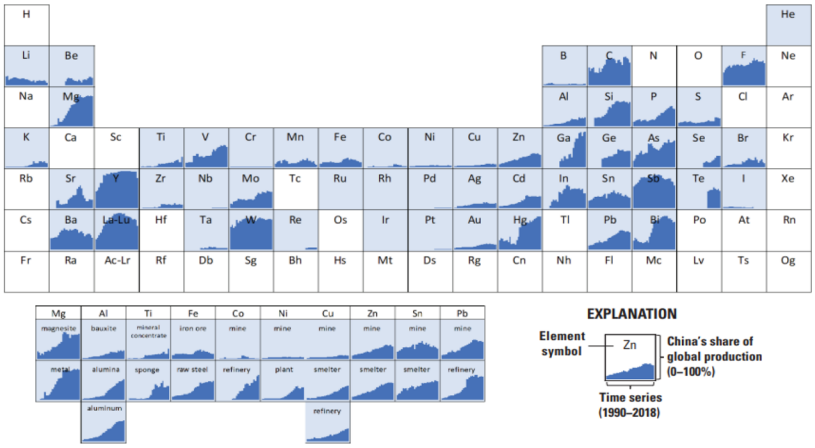
[26] *See e.g.,* The Domestic Minerals Program Extension Act of 1953; the Mining and Mineral Policy of 1970; the Federal Land Policy and Management Act; the National Materials and Minerals Policy, Research and Development Act of 1980; and the 1984 National Critical Materials Act.

[27] Humphries, Marc. Congressional Research Service, "Critical Minerals and U.S. Public Policy." R45810, June 28, 2019, p. 5. https://www.everycrsreport.com/files/20190628_R45810_b3112ce909b130b5d525d2265a62ce8236464664.pdf

[28] Notably this reliance comes despite existing U.S. resources. In the 2022 Mineral Commodity Summaries, the USGS indicated the U.S. had an estimated 48 million metric tons (mt) of copper that can be mined and processed economically, 69 million mt of cobalt, 340 million mt of nickel and 750 million mt of lithium. Regardless, in 2021, the U.S. imported 48 percent of U.S. consumption of nickel, 76 percent of cobalt, 45percent of copper, and more than 25 percent of lithium.

[29] Nassar, N.T., Alonso, E., and Brainard, J.L., 2020, Investigation of U.S. Foreign Reliance on Critical Minerals—U.S. Geological Survey Technical Input Document in Response to Executive Order No. 13953 Signed September 30, 2020 (Ver. 1.1, December 7, 2020): U.S. Geological Survey Open-File Report 2020–1127, p. 4. https://pubs.usgs.gov/of/2020/1127/ofr20201127.pdf

China's share of global primary mineral commodity production over time[30]



China's strong supply chain position stems, in large part, from state investment in processing and manufacturing, rather than an inherent advantage in reserves for most materials. China's "go global" strategy included $390 billion in outbound direct investments in the mining sector.[31] For example, as discussed in a recent White House report on supply chains:

- China is the primary global supplier of cobalt for batteries, despite having very limited reserves, through its aggressive investment in processing capacity coupled with foreign direct investment for ores and concentrates.

[30] For selected elements of the periodic table, the figure displays a time series of China's estimated share of global production for various associated mineral commodities for the years 1990–2018. In the periodic table, production refers to primary production or mine production. In the subfigure below the periodic table, multiple supply chain stages or forms are displayed for each mineral commodity. Elements not assessed are white. For a few mineral commodities (gallium, germanium, indium, selenium, silicon, strontium, and tellurium), data are not available for all years in the time series.

[31] Humphries, Marc. Congressional Research Service, "China's Mineral Industry and U.S. Access to Strategic and Critical Minerals: Issues for Congress," March 20, 2015. http://fas.org/sgp/crs/row/R43864.pdf).

- China has a dominant position over the Democratic Republic of Congo cobalt reserves, which constitute half of the known global cobalt reserves.
- China has billions invested in nickel projects in Indonesia, home to one-quarter of overall global reserves.
- Mexican-based Sonora clay lithium deposit, operated by China-based Gangfeng Lithium, is currently under development, and would increase total lithium production by roughly half of today's production. [32]
- Chinese firms have also made multiple and large investments in mining operations around the world to ensure their supply of critical materials like cobalt, nickel and lithium.[33] Just last month, China based CATL, the world's largest EV battery manufacturer, beat out U.S. and Russian companies to develop the worlds largest lithium deposit in Bolivia.[34]

As a result of these tactics, China controls significant portions of the global mineral supply chain. The IEA reported in May 2021 that China was responsible for 60 percent of global rare earth elements production and nearly 90 percent of global processing for rare earth elements in 2019.[35] And this threat is not limited to rare earths. As noted in USGS criticality methodology, "of the 54 mineral commodities evaluated, China was the leading producer of at least one stage of the supply chain for 35 commodities."[36]

It did not used to be this way and it does not have to be our future. At every turn, our import dependence is both outsized and unnecessary. As explained in a recent opinion piece published in *The Hill*:

> In the 1980s, the U.S. was the mineral capital of the world. Since then, China has developed a juggernaut battery supply chain industry. The industry is centered around chemical processing of battery materials, backed by substantial government funding and coordination. These subsidies led to a wave of outsourcing by

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[32] White House, "Building Resilient Supply Chains, Revitalizing American Manufacturing, and Fostering Broad-based Growth, 100-Day Reviews under Executive Order 14017," June 2021, p. 94.

[33] *See also*, USGS 2020 Investigation of U.S. Foreign Reliance on Critical Minerals (There are instances where the mineral deposit or mining and mineral processing operation of a commodity is partially or completely owned and (or) controlled by foreign companies with strong ties to their governments. For example, Chinese firms have purchased equity stake in lithium deposits and operations in Australia and Chile, niobium operations in Brazil, a rare earth deposit in Greenland, and cobalt operations in the D.R. Congo, Papua New Guinea, and Zambia (S&P Global Market Intelligence, 2020). Investigating China's investment in cobalt assets worldwide, Gulley and others (2019) found that when taking into account Chinese companies' ownership in foreign assets on an equity-share basis, China's share of global cobalt production increases from 2 to 14 percent for cobalt mine materials and from 11 to 33 percent for cobalt intermediate materials (figure 6). Furthermore, if the Chinese companies' equity shares of the production from these assets are assumed to be as secure as its domestic production, then these acquisitions have the effect of reducing China's NIR from 97 percent to an adjusted 68 percent, thereby reducing China's exposure to supply disruptions (Gulley and others, 2019).) p. 8.

[34] Reuters, "Bolivia taps Chinese battery giant CATL to help develop lithium riches," Jan. 20, 2023. https://www.reuters.com/technology/bolivia-taps-chinese-battery-giant-catl-help-develop-lithium-riches-2023-01-20/

[35] International Energy Agency. "The Role of Critical Minerals in Clean Energy Transitions," 2021. https://iea.blob.core.windows.net/assets/24d5dfbb-a77a-4647-abcc-667867207f74/TheRoleofCriticalMineralsinCleanEnergyTransitions.pdf

[36] 2021 Methodology, p. 7.

> American companies across industries from semiconductors to steel. In addition, China has spent the last two decades investing in the mining industry abroad, including major investments and mineral rights in Australia, Africa, Asia and South America. This has led to an overreliance on China — and in turn vulnerable supply chains and a lost economic opportunity at home.[37]

Our mineral import dependence will be our next Achille's heel. The U.S. must focus on supplying these metals at home as part of the solution "to diversify supply chains away from adversarial nations and sources with unacceptable environmental and labor standards."[38]

In order to support new domestic production, a robust domestic supply chain that includes minerals and metals sourced, refined, processed and smelted within our borders, we need to build on the important work done by this committee.

The following data from the mining program at the University of Missouri of Science and Technology is an important snapshot which allows us to better understand the domestic supply chain issues impacting production and refining and processing for simply one widely used metal.

United States – Copper Mining, Smelting and Refining

- 1995
  - 40 mines produce copper
    - 1.9 million tons production
  - 7 primary smelters
  - 4 secondary smelters
  - 7 electrolytic refineries
  - 15 electrowinning facilities
    - 2.3 million tons refined copper
- 2020
  - 25 mines produce copper
    - 1.2 million tons production
  - 3 primary smelters
  - 0 secondary smelters
  - 3 electrolytic refineries
  - 14 electrowinning facilities
    - 0.9 million tons refined copper

China – Copper Mining, Smelting and Refining

- 1995
  - 0.4 million tons mine production
  - 0.7 million tons refined copper
- 2020
  - 1.7 million tons mine production
  - 9.8 million tons refined copper

All information from USGS National Minerals Information Center's Mineral Commodity Summaries or Yearbook
All tons are metric tons

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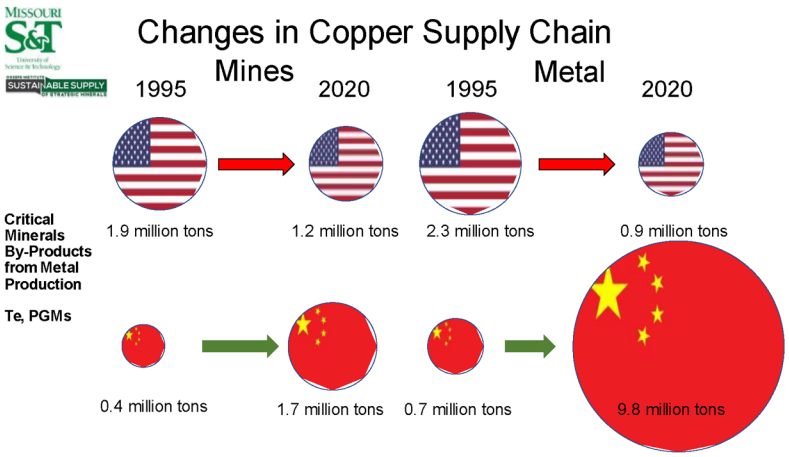
[37] Ellen Hughes-Cromwick, Ph D. 2022. "How the US.. Can Secure a Resilient Electric Vehicle Battery Supply Chain." The Hill. June 8, 2022. https://thehill.com/opinion/energy-environment/3516265-how-the-us-can-secure-a-resilient-electric-vehicle-battery-supply-chain/.

[38] "FACT SHEET: Biden-Harris Administration Announces Supply Chain Disruptions Task Force to Address Short-Term Supply Chain Discontinuities." 2021. The White House. June 8, 2021. https://www.whitehouse.gov/briefing-room/statements-releases/2021/06/08/fact-sheet-biden-harris-administration-announces-supply-chain-disruptions-task-force-to-address-short-term-supply-chain-discontinuities/.

This next graphic further illustrates the enormity of the supply chain issues that the U.S. and our allies continue to face if we do not take the necessary steps to support regulatory policies that encourage private investment rather than attempting to control it.



What are the Solutions?

Chairwoman Cathy McMorris Rodgers and Natural Resources Committee Chairman Bruce Westerman's *Securing American Mineral Supply Chains Act* supports a robust domestic mineral supply chain that prioritizes responsible resource development through policies that provide certainty to all mining operations and manufacturers; sets lead agencies and improves the timeliness of the permitting process with timelines; maintains access to mineralized federal lands unless specifically withdrawn by Congress and unless the U.S. Geological Survey can assure that a withdrawal does not threaten supply chains; supports research, development and demonstration funding at the USGS and Department of Energy; new workforce development and training opportunities; and unlocks innovation by not supporting prescriptive mineral policies.

These policy recommendations are commonsense changes that would provide regulatory certainty to investors that the U.S. seeks to once again compete on a global scale in the mineral supply chain. Instead of only seeking to secure mineral supplies from foreign sources or exporting domestically extracted materials for further refinement, processing and smelting, these improvements in the permitting process would signal that the U.S. intends to secure the entirety of its supply chain, lessening vulnerabilities from outside sources, including geopolitical impacts.

Finally, other legislation on today's legislative agenda speaks to the need for domestic uranium production. NMA strongly supports the funding Congress has appropriated to develop a uranium reserve. However, more needs to be done to support and fund a uranium reserve at the Department of Energy. Although recently removed from the critical mineral list, uranium is no less critical to the U.S.

Other opportunities within the committee's jurisdiction to support a domestic mineral supply chain is to pass bipartisan Good Samaritan legislation. Last Congress, the NMA worked with groups like Trout Unlimited to develop legislation introduced in the U.S. Senate by nearly twenty bipartisan senators and supported by state departments of environmental quality, Tribes, and conservation organizations. This is the first bipartisan introduction of Good Samaritan legislation in twelve years. We are working toward an introduction of this legislation again this Congress in the House and Senate. This would not only allow the processing of tailings and other mine waste from historic mining operations long since abandoned and with no current liable owner, but also provide the added benefit of cleanup and remediation activities that if left alone, will continue to degrade the water quality conditions and pose ongoing safety risks to surrounding habitat and neighboring communities.

Conclusion

The U.S. is at a mining crossroads. Mineral demand is soaring, but our policies are lagging. We must encourage more domestic mining and processing to meet future demand and ensure that the materials required for everything from infrastructure to electrification are readily available. The NMA appreciates the prioritization of these issues by the House Energy and Commerce Committee and is eager to help craft important policy solutions for the future.

Mr. DUNCAN. Thank you for that. The Chair will now recognize Mr. Slocum for 5 minutes.

STATEMENT OF TYSON SLOCUM

Mr. SLOCUM. Thank you, Mr. Chairman, Ranking Member, members of the committee. It is my pleasure to be here today. I am Tyson Slocum, and for the last two decades I have been the director of the energy program with Public Citizen here in Washington, DC.

So liquefied natural gas exports are the disruptive event that is radically upending domestic energy markets. For the first time in history, American natural gas consumers—whether they be households, operators of power plants—are forced to compete with their counterparts in Berlin and Beijing on price. That is why, coast to coast, Americans are now paying significantly higher prices for electricity and to heat their homes.

There have been periods in the last 2 months where prices on the U.S. West Coast and in New England have been more expensive for natural gas than in Ukraine. That is because we are now—because, prior to LNG exports, our domestic markets were insulated from global calamities. War could break out in Europe, and there would be no bump in price. Now our domestic benchmarks are directly linked with global events like the same that has been the way with oil and gasoline markets for more than a generation.

So this is not a crisis of inadequate natural gas production. We are breaking records on natural gas production in the U.S. every month, according to the Energy Information Administration. Twenty percent of U.S. natural gas production is exported out of the United States, and that is what is driving the imbalance.

But on the production side, we are far and away the largest producer on the planet. The number 2 and number 3 global producers of gas, Russia and Iran, combined don't produce as much as the United States every day. So we are not going to produce our way to lower prices as long as the export spigot remains open.

So, of course, a focus of policy on energy efficiency and promoting zero emission alternatives to gas has to be part of the solution. But in the meantime, we need stronger regulation over LNG exports, not less. And so I am just going to briefly cover 4 of the 17 bills.

So H.R. 647 would eliminate the requirement that natural gas exports be consistent with the public interest. That is a standard that has been in place for 85 years, and we believe that it is crucial that all natural gas exports continue to be subject to that public interest standard.

The Cross-border Energy Infrastructure Act would require FERC to approve any natural gas export pipeline within 30 days of receiving the application. So that is a de facto approval. We are a party in a case at FERC right now involving a natural—a proposed natural gas cross-border pipeline, a 155-mile pipeline that would connect the Permian Basin at the Waha Hub to Mexico, and then directly send that U.S.-produced gas through Mexico to new LNG export terminals on Mexico's Pacific coast.

Thankfully, there is a public interest review, and we are an intervener in that FERC proceeding, where we are going to raise concerns about the threat to the public interest of exporting Permian

gas directly to China. And removing that review would not be advisable.

H.R. 484 would eliminate the methane fee in the recently enacted Inflation Reduction Act. What is wild about this is the Inflation Reduction Act bends over backwards to accommodate the oil and gas sector. Congress appropriates a billion and a half dollars in grants to the oil and gas sector to help them invest in facilities to reduce their methane emissions. I don't see the oil and gas industry complaining about a billion and a half dollars in taxpayer grants to help their business. And in addition, the fee is waived if you successfully comply with EPA regulations on methane emissions. So that makes the industry a partner with effective regulation. And so I don't think that that legislation is advisable.

And last, I just want to touch on the bill that would prevent the EPA from requiring oil refineries using hydrofluoric acid alkylation to explore less hazardous alternatives. It is important to note that, in October of 2022, the U.S. Chemical Safety and Hazard Investigation Board, in response to a series of tragic accidents with a hydrofluoric acid alkylation, recommended and urges the EPA to subject these facilities to hazard reviews. So I think it would be imprudent to remove that opportunity.

Thank you so much. I look forward to your questions.

[The prepared statement of Mr. Slocum follows:]

PUBLIC INTEREST REVIEW FOR LNG EXPORTS ARE ESSENTIAL TO PROTECT AMERICANS

Testimony before the Joint Subcommittee on Environment, Manufacturing, and Critical Materials & Subcommittee on Energy, Climate, and Grid Security of the U.S. House Energy and Commerce Committee

February 7, 2023

Tyson Slocum, Energy Program Director

Public Citizen, Inc.
215 Pennsylvania Avenue SE
Washington, D.C. 20003
(202) 588-1000
tslocum@citizen.org
Twitter @TysonSlocum

PUBLICCITIZEN

Introduction

I am Tyson Slocum, and I direct the Energy Program at Public Citizen. We are a national consumer advocacy organization with over 500,000 members and supporters nationwide. I serve on two advisory committees to the U.S. Commodity Futures Trading Commission (Energy and Environmental Markets; and Market Risk); am a member of the faculty at the University of Maryland; for two decades have routinely intervened on behalf of households at the Federal Energy Regulatory Commission; and have provided testimony for Congress for years about the detrimental impacts natural gas exports have on raising prices for domestic consumers.[1] My organization's financial details are on our website.[2]

The purpose of today's legislative hearing is to consider several proposed bills, including two designed to eliminate or reduce regulatory oversight of fossil fuel exports:

- H.R. 647: To repeal restrictions on the export and import of natural gas.[3] The legislation eliminates the requirement that exports and imports be "consistent with the public interest"—a standard that has been in place to protect consumers for 85 years. This legislation would remove all routine regulatory review to ensure that exports are not increasing prices for American families, and would allow unregulated exports to China. I do not support this legislation.

- The Promoting Cross-border Energy Infrastructure Act.[4] The legislation is based upon H.R.575 from the 117th Congress, and S.23 in the 118th Congress. It would require FERC to approve any natural gas pipeline designed to import or export natural gas to or from Canada and Mexico within 30 days of receiving the complete application. This automatic approval eviscerates the Commission's current public interest determination, and will encourage the construction of cross-border pipelines to Mexico designed to re-export U.S.-produced natural gas from LNG terminals in Mexico. The legislation would also remove regulatory review of any modifications to existing cross-border oil and natural gas pipelines. I do not endorse this legislation.

And legislation repealing a fee on methane emissions that exceed standards established by the U.S. Environmental Protection Agency:

- H.R.484, The Natural Gas Tax Repeal Act.[5]

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[1] Including 2018 testimony before the U.S. Senate on problems of LNG exports, www.energy.senate.gov/services/files/E86FB560-F2B6-4D3D-B016-F92526D10CD7

[2] www.citizen.org/about/annual-report/

[3] www.congress.gov/bill/118th-congress/house-bill/647, text: https://d1dth6e84htgma.cloudfront.net/06_HR_46aa939aae.pdf

[4] https://d1dth6e84htgma.cloudfront.net/03_HR_66ea55d203.pdf

[5] www.congress.gov/bill/118th-congress/house-bill/484/text

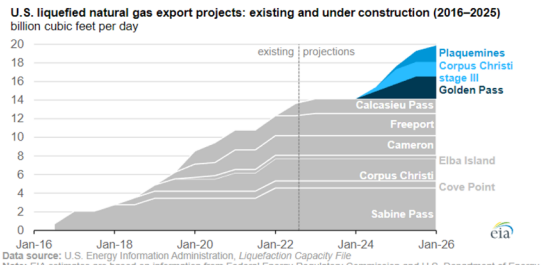
My testimony will address these proposed bills, as well as issues related to the impact natural gas exports have on increasing energy costs for American families; the threat of re-exports of U.S. produced gas from Mexican LNG terminals; the need to Congress to address FERC's recent loophole of oversight of smaller-scale LNG export terminals; the importance of FERC improving oversight of natural gas pricing markets; the benefits of the new fee on methane emissions; that no additional Congressional action is needed to encourage electric transmission siting; and legislative proposals to prevent effective EPA regulation of hydrofluoric acid alkylation is premature.

Record Natural Gas Exports Increase Energy Bills For American Families

In 2023, the United States is the world's largest natural gas and petroleum producer and exporter on the planet. Sixty percent of our domestically-produced petroleum is now exported,[6] and 20% of our natural gas is now allocated for export.[7] These numbers will only increase as domestic demand continues to flatten and export infrastructure capacity continues to expand. While oil markets—and domestic gasoline prices—have long been directly influenced by global calamities, natural gas had been insulated from Our record natural gas exports have radically upended domestic energy markets, forcing American families to compete with Berlin and Beijing for U.S. produced energy. Natural gas exports are directly responsible for Americans paying higher prices to heat and cool their homes. Current statutes and regulations clearly present little challenge to domestic gas production, and offer minimal impediments to their export to foreign countries. Congress should be strengthening, not weakening, public interest protections for gas exports.

SEPTEMBER 6, 2022

U.S. LNG export capacity to grow as three additional projects begin construction



Data source: U.S. Energy Information Administration, *Liquefaction Capacity File*
Note: EIA estimates are based on information from Federal Energy Regulatory Commission and U.S. Department of Energy filings, company websites, trade press, and other industry sources.

The United States is far and away the largest natural gas producer in the world: we alone account for 25% of the entire world's production every day, outproducing the next two biggest (Russia and Iran) *combined*,[8] with U.S. natural gas production reaching an all-

[6] https://twitter.com/TysonSlocum/status/1617998886660112384
[7] www.citizen.org/article/letter-to-dept-of-energy-to-protect-consumers-from-lng-exports/
[8] www.eia.gov/international/data/world/natural-gas/dry-natural-gas-production

time high in 2022.[9] At the same time, natural gas exports have exploded. Exports via pipeline to Mexico and Canada, combined with Liquified Natural Gas (LNG) exports by ship today account for 20% of domestic gas production—up from 6% in 2015. And in 2023 the United States will claim the title as biggest LNG exporter in the world.[10]

These record exports have come with a tragic cost: American households, power producers and other consumers are now forced to directly compete with their counterparts in Berlin and Beijing, which has globalized domestic benchmark prices, exposing Americans to higher prices and increased volatility.

The Federal Energy Regulatory Commission's 2022-23 *Winter Energy Market and Reliability Assessment* concludes that "continued growth in net exports, including from liquified natural gas (LNG) export facilities, will place additional pressure on natural gas prices this winter . . . Traditionally, domestic fundamentals drive U.S. natural gas prices; this winter, international markets will likely also affect U.S. natural gas markets and prices . . . the expansion of LNG export capability has integrated formerly disparate North American regional natural gas markets into the global market . . . In New England, high global LNG prices are contributing to higher winter natural gas futures prices."[11]

LNG is natural gas that has been cooled to –260° F, changing it from its natural vapor state into a liquid that is 1/600th of its original volume, making it more economical to transport via ship.

USA Today reports that record LNG exports are directly contributing to punishing high energy bills for American families.[12]

The U.S. Energy Information Administration notes that "2022 average wholesale U.S. natural gas spot price at the Henry Hub was the highest in real and nominal terms since 2008"—which was the era just prior to the fracking boom,[13] and reports that the "U.S. residential price of electricity will average 14.8 cents per kilowatthour in 2022, up 7.5% from 2021. Higher retail electricity prices largely reflect an increase in wholesale power prices driven by rising natural gas prices."[14]

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[9] www.eia.gov/naturalgas/weekly/archivenew_ngwu/2023/01_12/

[10] Stephen Stapczynski, "US Surges to Top of LNG Exporter Ranks on Breakneck Growth," January 2, 2023, Bloomberg, www.bloomberg.com/news/articles/2023-01-03/us-surges-to-top-of-lng-exporter-ranks-on-breakneck-growth

[11] https://ferc.gov/media/report-2022-2023-winter-assessment

[12] Medora Lee, "Electricity bills may continue to shock you even as overall inflation eases", January 24, 2023, www.usatoday.com/story/money/personalfinance/2023/01/24/electricity-prices-inflation/11089430002/

[13] www.eia.gov/naturalgas/weekly/archivenew_ngwu/2023/01_12/

[14] www.eia.gov/outlooks/steo/

The National Energy Assistance Directors' Association estimates that household heating costs will be 34.3% higher for families using natural gas and 6.9% higher for those relying on electricity this winter.[15]

The *Wall Street Journal* reports "that natural-gas exports are pushing domestic prices higher . . . The pinch shows a growing tension between exporters and buyers who have enjoyed cheap gas for more than a decade. Some manufacturing and chemical companies have built entire businesses around low U.S. gas prices . . . Utilities from the Pacific Northwest to New England have filed regulatory requests to raise rates for natural gas this winter, citing a supply squeeze as a result of higher global demand . . . the U.S. is exporting a larger share of its natural gas than it ever has and shale producers aren't quickly ramping up in response to high prices . . . some of the biggest natural-gas producers have vowed to keep investments in production growth low."[16] Therefore so-called capital discipline is keeping a check on domestic production not rising on pace with exports in order to ensure domestic producers will enjoy higher prices.

There are several legislative proposals for today's hearing that would suspend various environmental compliance for critical mineral mining and production. In general, such approaches should—at a minimum—be subject to notice and opportunity for public intervention and comment, so that communities and experts have a chance to challenge environmental exemptions.

These high prices are creating significant economic hardship for tens of millions of American families. Twenty-six percent of respondents to a U.S. Census Bureau survey taken in the summer of 2022 said they had forgone necessities like food or medicine to pay their energy bills sometime during the preceding year.[17] Rising energy costs—anchored by higher natural gas prices stemming in part from record LNG exports—are the biggest factor driving inflation in the U.S.[18]

While sanctions in response to the 2022 Russian Federation invasion of Ukraine constrained Russian supply, raised European gas benchmarks above other global benchmarks, and led to a reorientation of U.S. LNG exports from Asia to Europe, 2023 will likely see diminished U.S. LNG exports to Europe and a return to increased flows to Asia. Europe has been reluctant to sign long-term LNG contracts, thereby disincentivizing commitments to the continent.[19] And at the end of the day, U.S. LNG exports will chase whatever country is willing to pay the highest price, which typically will be Asia:

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[15] https://neada.org/wp-content/uploads/2022/09/winter2022-23PR.pdf

[16] Collin Eaton and Katherine Blunt, "Natural-Gas Exports Lift Prices for U.S. Utilities Ahead of Winter," November 7, 2021, www.wsj.com/articles/natural-gas-exports-lift-prices-for-u-s-utilities-ahead-of-winter-11636281000

[17] www.census.gov/data/tables/2022/demo/hhp/hhp48.html

[18] www.bls.gov/cpi/

[19] Justin Jacobs, "US companies say EU climate goals are deterring new gas deals," February 6, 2023, www.ft.com/content/5f13fee7-dc04-4f47-bd06-cfbb3c444011

> *Russia's invasion of Ukraine last February upended long-standing expectations about natural gas supplies to Europe and resulted in elevated global gas prices as countries bid for LNG to fill the void. But U.S. suppliers can only produce so much LNG, and how much of it ends up in Europe versus Asia or other gas-consuming regions in 2023 and beyond will depend largely on market forces — in other words, who needs the LNG more and is willing to pay up for it.*[20]

How U.S. Department of Energy Currently Authorizes Natural Gas Exports

DOE is responsible for authorizing exports of U.S. produced natural gas, including LNG, to foreign nations pursuant to section 3 of the Natural Gas Act.[21] 1992 amendments to the Natural Gas Act deemed exports to countries with which the U.S. has a free trade agreement requiring national treatment for trade in natural gas are automatically deemed to be in the public interest. The U.S. has such free trade agreements with 18 countries, only two of which (South Korea and Singapore) are in Asia, with none in Europe.[22] From 2016 through November 2022, only 23.5% of all LNG exports are to nations with which we have a free trade agreement.[23]

The bulk of LNG exports (76.5%) are to nations with which we do not have free trade agreements, and therefore require DOE to only authorize them "it finds that the proposed exportation or importation will not be consistent with the public interest."

Seven currently operating LNG terminals (Sabine Pass, Cove Point, Elba Island, Corpus Christi I and II, Cameron, Freeport and Calcasieu Pass) have received authorizations from DOE to export to non-free trade agreement countries, and will have combined export capacity of 14 billion cubic feet per day before the end of 2022. Three additional terminals authorized to export and under construction (Plaquemines, Corpus Christi III and Golden Pass will boost export capacity to nearly 20 million Bcf/d by 2025.[24]

As a result, the U.S. catapulted from zero LNG exports prior to 2016 to the largest LNG exporter in the world today. Nearly 20% of natural gas produced in the U.S. was exported in 2022, up from 11.5% in 2017.

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[20] Richard Pratt, "Portfolio Players Take On Critical Roles In Rapidly Commoditizing Global LNG Market," February 1, 2023, https://rbnenergy.com/two-of-us-portfolio-players-take-on-critical-roles-in-rapidly-commoditizing-global-lng-market

[21] 15 USC § 717b.

[22] The other 16 nations are Australia, Bahrain, Canada, Chile, Colombia, Dominican Republic, El Salvador, Guatemala, Honduras, Jordan, Mexico, Morocco, Nicaragua, Oman, Panama and Peru.

[23] www.energy.gov/fecm/articles/lng-monthly-2022

[24] www.eia.gov/todayinenergy/detail.php?id=53719

Courts have long interpreted the intent of the Natural Gas Act public interest determination "was to protect consumers against exploitation at the hands of natural gas companies."[25]

On June 8, 2022 the Freeport LNG export terminal in Texas experienced a massive explosion that has kept the facility offline for 8 months. PHMSA concluded that human error and equipment malfunctions caused the blast.

Congress left it to the executive branch to define what factors would determine exports to be consistent with the public interest. DOE assesses several variables, including net economic impacts, international impacts, the security of domestic natural gas supply, and environmental impacts.[26]

DOE's 2018 *Policy Statement Regarding Long-Term Authorizations To Export Natural Gas to Non-Free Trade Agreement* Countries makes clear that Section 16 of the Natural Gas Act gives it authority to "amend, and rescind such [export] orders . . . as it may find necessary or appropriate . . ." to satisfy its statutory responsibilities.[27]

Over the years, DOE has commissioned macroeconomic studies to determine whether LNG exports provide net economic benefits, in order to be consistent with the public interest. These studies attempt to estimate the impact exports have on domestic energy prices, and the economic contributions that LNG exports have for employment and other contributions to gross domestic product.

The most recent of these reports was conducted in 2018 during the Trump Administration, when LNG exports were still in relative infancy. *Macroeconomic Outcomes of Market Determined Levels of U.S. LNG Exports* was prepared by NERA Economic Consulting for DOE.[28] This study has aged poorly, as it assumed that consumer welfare—which it defines as the present value measure of the standard of living of all U.S. households—was directly and beneficially linked with higher LNG exports.[29] The 2018 study gave only a 3% probability that significant LNG exports would result in domestic prices above $10/MMBtu, concluding that "increasing U.S. LNG exports under any given set of assumptions about U.S. natural gas resources and their production leads to only small increases in U.S. natural gas prices."[30] Furthermore, the study claims that "as U.S. LNG exports increase . . . households who hold shares in companies that own liquefaction plants receive additional income from take-or-pay tolling charges for LNG exports. These additional sources of income for U.S. consumers

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[25] *FPC v. Hope Nat. Gas Co.*, 320 U.S. 591 (1944).
[26] www.govinfo.gov/content/pkg/FR-2018-06-21/pdf/2018-13427.pdf
[27] www.govinfo.gov/content/pkg/FR-2018-06-21/pdf/2018-13427.pdf
[28] www.energy.gov/sites/prod/files/2018/06/f52/Macroeconomic%20LNG%20Export%20Study%202018.pdf
[29] At page 20.
[30] At page 55.

outweigh the income loss associated with higher energy prices."[31] DOE relies upon the conclusions of this discredited 2018 study to help determine whether exports will be consistent with the public interest.

DOE currently performs no distributional analysis to measure the impact that LNG exports may have on families at different incomes, and provides no assessment of the impact exports have on energy burdens of communities of color. Utility bill burdens are regressive, meaning lower-income families pay larger proportions of their income on such necessities compared to their more affluent neighbors. With natural gas representing the largest share of fuel (37%) for electric power generation in the U.S., combined with many families' reliance on natural gas for home heating, the export-driven energy spikes are resulting in profound energy insecurity for millions of Americans.

A distributional incidence analysis that measures the impact higher natural gas prices have on households at different income quintiles is necessary to demonstrate whether LNG exports are consistent with the public interest. DOE's failure to measure the price impacts for vulnerable populations renders its current methodological approaches inadequate to capture the adverse pricing dynamics impacting millions of households.

Providing price impacts by population quintile is one necessary reform; the other must be a geographic assessment of these price impacts. Because different regions of the country have unique energy profiles—including the types of home heating fuels, and the proportion of gas used in regional power generation—geographic modeling of the price impacts of LNG exports must also be determined.

A central component of both of the approaches are quantifying the impact higher prices have on communities of color. The Biden Administration's energy justice initiatives must translate to assessing the impact LNG exports have on communities of color.

Congress Intended The 1992 Natural Gas Act Amendments To Promote a North American Gas Market For the Benefit of American Consumers—Not To Promote Unfettered Exports

The legislative history of the Energy Policy Act of 1992 demonstrates that the Natural Gas Act amendments do not endorse re-exports of U.S. produced gas from Mexico as qualifying for the automatic public interest designation.

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[31] At page 67.

The Natural Gas Act language designating exports to countries with free trade agreements deemed to be in the public interest were added as Section 201 of the Energy Policy Act of 1992.[32] At the time of passage, the United States only had a free trade agreement with Canada that included natural gas treatment, and there were active negotiations with Mexico on the North American Free Trade Agreement. The congressional record makes clear that the purpose of Section 201 was to promote a North American natural gas market that would benefit consumers—and not tolerate the use of a free trade agreement public interest determination to freely re-export to nations with whom no free trade agreement exists.

The Report of the Committee of Energy and Commerce (Rept. 102-474, Part 1) noted that Section 201 was intended to establish fewer restrictions on natural gas imports from Canada and Mexico, ensuring that such imports would be treated "more like domestic American natural gas production" by designating them as "first sale" status; barred FERC "or state regulators from treating these imports differently than domestic gas"; making "the current import approval process purely automatic, so that this procedure—which domestic gas does not undergo—cannot cause any delays"; and "ease regulation of Mexican gas imports if a free trade agreement with Mexico is reached."[33]

U.S. Rep. Phillip Sharp (D-Indiana) further elaborated congressional intent when he spoke on the floor of Congress in support of the conference report on the Energy Policy Act of 1992:

> *the conferees did agree to expressly forbid discrimination against imported natural gas . . . [and ensures] a broad policy of free and competitive wellhead markets in North America by, in effect, deregulating Canadian natural gas imports in section 201 . . . As for section 201, we note it applies, for example, to imports of Canadian natural gas into the United States; exports of natural gas to Canada from the United States; and imports of liquified natural gas into the United States . . . Finally, as drafted, the new fast track process would not be available for LNG exports to, for example, Pacific rim nations other than Canada.*[34]

And U.S. Representative Barbara B. Kennelly (D-Connecticut) spoke on the House floor on remarks May 20, 1992 that "section 201 of this bill eases existing rules for

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[32] www.congress.gov/102/statute/STATUTE-106/STATUTE-106-Pg2776.pdf

[33] Legislative history of the Energy Policy Act of 1992, prepared for the Committee on Energy and Natural Resources, United States Senate; by the Congressional Research Service, Library of Congress, November 1994, Volume 4 of 6, at pages 2731-2732. https://babel.hathitrust.org/cgi/pt?id=pst.000023406209

[34] Legislative history of the Energy Policy Act of 1992, prepared for the Committee on Energy and Natural Resources, United States Senate; by the Congressional Research Service, Library of Congress, November 1994, Volume 6 of 6, pages 4555, 4557 and 4560. https://babel.hathitrust.org/cgi/pt?id=pst.000023406032

importing natural gas thereby protecting this region's [New England's] access to affordable, clean burning natural gas."[35]

The congressional record elaborated that Section 201 "is intended to increase the free flow of natural gas ***throughout the North American market***" [emphasis added].[36]

U.S. Rep. Norman F. Lent (R-NY) noted the importance of Section 201 to protect his state's consumers:

> *The Energy Policy Act of 1992 contains important provisions that remove regulatory barriers which hinder the importation of natural gas from countries with which the United States has entered into a free trade agreement requiring national treatment for trade in natural gas. Currently, this means Canadian gas must be treated the same as domestic gas. Once the North American Free Trade Agreement is ratified, this will also apply to Mexican gas. Section 201 of this act is vital to assuring that U.S. regulators do not interfere with the importation of natural gas to customers in the United States. Its provisions provide critical protection to the citizens of my home state, New York, who receive supplemental volumes of natural gas from Canada. The purpose of these provisions is not to give imported natural gas an advantage, but to ensure a level playing field for imported gas . . . Section 201(b) deems the importation to the United States, and exportation from the United States, of natural gas consistent with the public interest. By making this determination, applications for import of Canadian natural gas are granted automatic approval. The result is, imported natural gas is not subjected to burdensome import licensing proceedings that place it at a disadvantage relative to domestically produced gas . . . these provisions are good competitive policy. U.S. producers supply over 92 percent of the natural gas needs in this country. Fair treatment of imports helps maintain healthy competition in the United States without posing any threat to U.S. producers. Greater access to a variety of natural gas sources will help create a more stable natural gas market so that more U.S. consumers will benefit from this economic and environmentally sound source of energy.*[37]

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[35] Legislative history of the Energy Policy Act of 1992, prepared for the Committee on Energy and Natural Resources, United States Senate; by the Congressional Research Service, Library of Congress, November 1994, Volume 5 of 6, page 3868. https://babel.hathitrust.org/cgi/pt?id=pst.000023406063

[36] Legislative history of the Energy Policy Act of 1992, prepared for the Committee on Energy and Natural Resources, United States Senate; by the Congressional Research Service, Library of Congress, November 1994, Volume 5 of 6, page 3729, https://babel.hathitrust.org/cgi/pt?id=pst.000023406063

[37] at page 4578-4579

Mexico Will Rely On U.S. Produced Gas To Emerging As A Major LNG Exporter To Asia—Demonstrating The Need For Public Interest Evaluations To Protect American Consumers

One of the proposed bills subject to today's legislative hearing—the *Promoting Cross-border Energy Infrastructure Act*—would require FERC to approve the siting and construction of a cross-border natural gas pipeline in 30 days, thereby repealing the current public interest standard of review. This would detrimentally impact American consumers, because the legislation would allow for unregulated U.S. gas exports to Asia. There are multiple LNG export terminal projects being built on Mexico's pacific coast to serve Asian markets. Exports from Mexico's pacific coast avoid the expense and time of scheduling travel through the Panama Canal faced by LNG export terminals located on the U.S. gulf coast. Because Mexico does not currently produce enough natural gas for its domestic needs—let alone to export—U.S. produced gas would supply these proposed LNG export terminals on Mexico's pacific coast.

Bloomberg notes that the LNG export terminals planned for Mexico's pacific coast will rely almost exclusively on U.S. produced natural gas for those exports:

> *Mexico—which imports nearly all of the natural gas it burns—has laid out a somewhat surprising mission: to become one of the world's top exporters of the fuel, and fast. Although natural gas exports from Mexico are today non-existent, seeing as it produces too little of the power-plant fuel to supply even its own domestic needs, the country's physical proximity to booming US reserves positions it well to supply American gas to hungry buyers in Europe and Asia. With US shale in mind, a total of eight liquified natural gas export projects have been proposed south of the border boasting annual combined capacity of 50.2 million tons. Some of the operations aim to come online as soon as next year. If they're all completed, the Latin American newcomer would join a very small club of nations that ship abroad the superchilled fuel—commonly called LNG — clocking in at No. 4 behind only the US, Australia and Qatar. And unlike those other three export heavyweights, Mexico would mostly be shipping out gas that it imported in the first place.*[38]

Companies developing LNG export terminals "have cited strong offtaker interest in Asia for their projects under development on Mexico's West Coast."[39] Sempra's Costa Azul and Vista Pacifico LNG export terminals; Saguaro LNG[40] and Amigo

[38] Sergio Chapa, "Mexico Plans to Become an Export Hub With US-Drilled Natural Gas," August 12, 2022, www.bloomberg.com/news/articles/2022-08-12/mexico-plans-to-become-lng-export-hub-using-american-drilled-natural-gas

[39] Andrew Baker, "U.S. Firms Advancing Mexico LNG Export Plans as Asian Buyers Line Up Supply," *Natural Gas Intelligence*, December 28, 2022, www.naturalgasintel.com/u-s-firms-advancing-mexico-lng-export-plans-as-asian-buyers-line-up-supply/

[40] https://mexicopacific.com/

LNG[41] will all rely on Permian basin gas and are possible export conduits for Oneok's proposed border crossing.

This isn't hypothetical. On December 20, 2022, Oneok, Inc. submitted an application with FERC to construct a natural gas border crossing pipeline with Mexico. Oneok's application specifically mentions the free trade agreement with Mexico, and therefore requests that FERC automatically find it to be in the public interest. The border crossing would directly connect with the Waha hub in the Texas Permian Basin via Oneok's proposed 155 mile pipeline. Oneok states in the application that the gas would travel from its border crossing facility on a new pipeline to directly supply LNG export terminals on Mexico's pacific coast.[42] So Oneok's border crossing will bridge a seamless and interconnected export infrastructure that begins in Texas' Permian basin and extends to LNG export terminals on Mexico's pacific coast. Under Oneok's proposal, Mexico will only serve as a land mass conduit to export U.S. produced gas to foreign nations with whom we do not necessarily have free trade agreements, like China.

FERC's LNG Export Loophole

On March 25, 2022, FERC approved a petition by Nopetro LNG to exempt the planned export terminal in the Florida panhandle from the Commission's oversight.[43] The Commission justified the exemption because the facility's three liquification trains would be located 1,300 feet from the export dock, where trucks (rather than a pipeline) would traverse the quarter-mile with LNG-filled ISO shipping containers. FERC concluded that this 1300 foot gap effectively severs its oversight of the planned facility. We have sued FERC in the DC Circuit to challenge the Commission's order.[44] If the erroneous order is allowed to stand, we predict a wave of similar facilities designed explicitly to exploit the Commission's new design loophole. When large-scale LNG terminals cost billions of dollars and take years to build, FERC's Nopetro loophole will incentivize smaller scale facilities that cost $50-$80 million and can be built in 12 months absent FERC oversight, posing risks to communities.[45]

Congress Should Ensure FERC Protects Consumers From Natural Gas Index Price Gouging

A natural gas index price is derived from trades within specific geographical boundaries that market participants voluntarily report to a price index developer. Price index developers are private, for-profit companies that classify most of the voluntarily-reported data as proprietary, that the index developers then

[41] www.lngalliance.com
[42] www.citizen.org/article/oneok-saguaro-natural-gas-export/
[43] www.citizen.org/article/rehearing-request-of-nopetro-lng-export-order/
[44] U.S. Court of Appeals DC Circuit docket # 22-1251, www.citizen.org/litigation/public-citizen-v-ferc-2/
[45] www.citizen.org/article/tyson-slocum-port-st-joe-nopetro-lng/

commodify and sell only to those that can afford the very expensive subscription fees.

These voluntarily-reported transactions determine the price of natural gas for millions of households and businesses across the country, as market participants reference index prices in their physical and financial transactions: natural gas pipelines and Regional Transmission Organizations feature natural gas indices in their FERC-jurisdictional tariffs for various terms and conditions of service; state utility commissions rely on natural gas indices as benchmarks when setting rates; and many natural gas financial derivative contracts used in hedging and speculation settle against the natural gas price indices.[46] In a way, hundreds of billions of dollars of energy transactions rely upon voluntarily-reported price indexes—a 21st century version of a smoke-filled, price-fixing establishment.

Federal law requires the Commission to ensure that spot natural gas price indices feature adequate price discovery and market transparency. Spot natural gas price indices are structurally non-competitive and the voluntary nature of reporting trades renders them susceptible to market manipulation. The rest of the world has been replacing voluntary price indices for benchmarks with far larger economic impacts that U.S. natural gas spot prices (such as replacing the London Interbank Offered Rate (LIBOR) with the Secured Overnight Financing Rate (SOFR)). The Commission should therefore establish an electronic information system, as authorized by 15 USC § 717t–2(a)(4), which states that "the Commission shall consider the degree of price transparency provided by existing price publishers and providers of trade processing services . . . *The Commission may establish an electronic information system if it determines that existing price publications are not adequately providing price discovery or market transparency*" [emphasis added]. Such "an electronic information system" could be based on actual transactions, and not limited to those voluntarily reported, and would be freely available to all interested parties through a platform hosted by the Commission, rather than the proprietary, commodified data model of the index publishers.

Indeed, FERC conceived of the idea of having authority to create its own electronic natural gas price reporting system. In testimony before the House Committee on Energy and Commerce on February 10, 2005, FERC's general counsel Cynthia A. Marlette included in her prepared testimony a section entitled Price Transparency in Natural Gas and Electric Markets, where she declared:

> *It would be helpful if the Congress clarified the Commission's authority to require the development of an electronic price reporting system, and if the Congress gave the Commission the ability to require all electric market participants to participate in such a reporting system . . . and make it publicly available.*[47]

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[46] NOPR, at 4.

[47] At pages 28-29, www.govinfo.gov/content/pkg/CHRG-109hhrg99906/pdf/CHRG-109hhrg99906.pdf

Methane Fee Repeal Unwarranted

Section 60113 of the Inflation Reduction Act (Public Law 117-169) establishes a fee on emissions of methane from the oil and gas industry, starting at $900 per ton in 2024 and increasing to $1,500 per ton by 2026. The section also provides $1.5 billion in grants to the oil and gas industry for compliance assistance for the new fee, including money to purchase equipment to capture methane emissions. Furthermore, companies are fully exempt from paying the fee if they are in successful compliance with EPA's methane emissions reduction rule.[48] While the fee covers some emissions that the EPA's rule does not—including offshore operations and LNG export terminals—the law provides ample incentives for industry to avoid paying the fee. In addition, companies like Range Resources have been able to underreport methane emissions by exploiting loopholes in the reporting of the use of certain oil-field devices.[49] Therefore, we view H.R.484 as unnecessary, and we oppose the legislation.

Recent Congressional and FERC Action on Electricity Transmission Is More Than Sufficient To Ensure New Capacity

On April 21, 2022, FERC proposed a rulemaking *Building for the Future Through Electric Regional Transmission Planning and Cost Allocation* that would establish 20 year, dynamic long term planning for proposed transmission projects; would elevate states from stakeholders to decisionmakers on project selection and cost allocation; eliminate Construction Work In Progress incentive rates; and require incumbent utilities interested in new transmission to collaborate with non-affiliates.[50]

On November 15, 2021, President Biden signed H.R.3684 into law, establishing new authority for FERC to expedite transmission siting, and a $10 billion loan fund to help finance transmission projects like Dayton Power's.[51] And on August 16, 2022, President Biden signed into law the Inflation Reduction Act of 2022.[52] Section 50151 (*Transmission Facility Financing*) of the IRA appropriates $2 billion for a direct loan program for the development of transmission projects, and Section 50152 (*Grants to Facilitate the Siting of Interstate Electricity Transmission Lines)* spends $760 million for grants aimed at facilitating the siting of transmission lines.

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[48] www.congress.gov/117/plaws/publ169/PLAW-117publ169.pdf

[49] Zachary Mider, "Methane 'Loophole' Shows Risk of Gaming New US Climate Bill," August 10, 2022, www.bloomberg.com/news/articles/2022-08-10/methane-loophole-shows-risk-of-gaming-new-us-climate-bill

[50] Docket No. RM21-17.

[51] www.congress.gov/bill/117th-congress/house-bill/3684/text

[52] www.congress.gov/bill/117th-congress/house-bill/5376

In December 2020, FERC proposed a new rulemaking to adopt the statutory changes stemming from the infrastructure bill, including expansion of "national interest electric transmission corridors"; ensuring that states are involved in the pre-filing process; requiring an "Environmental Justice Public Engagement Plan" and an Applicant Code of Conduct to ensure the project's responsiveness to landowners.[53]

And in June 2022, FERC proposed a rulemaking to expedite interconnection procedures to bring new electric generation facilities to the grid, as current procedures often result in unnecessary years-long queues.[54]

The combination of these FERC actions will ensure that needed generation resources will be able to deliver affordable, reliable and clean energy for Americans.

Legislation To Prevent Effective EPA Regulation of Hydrofluoric Acid Alkylation Is Premature

One of the proposed bills considered in today's hearing would stop the EPA from requiring oil refineries utilizing hydrofluoric acid alkylation to explore less hazardous alternatives.[55] About 40% of America's refining capacity currently utilizes hydrofluoric acid as a catalyst to produce alkylate. Alkylate is valuable for its high octane, low volatility and low sulfur content for gasoline. But prior to the proposed EPA rule, some domestic refiners—including Chevron—have adopted ionic-liquid alkylation as a safer alternative to hydrofluoric acid. Congress should permit the EPA to move forward with its proposal in an effort to work with domestic refiners to improve the public safety of their operations.[56]

This concludes my testimony.

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[53] Docket No. RM22-7, www.govinfo.gov/content/pkg/FR-2023-01-17/pdf/2022-27716.pdf
[54] Docket RM22-14, www.ferc.gov/news-events/news/ferc-proposes-interconnection-reforms-address-queue-backlogs
[55] https://d1dth6e84htgma.cloudfront.net/10_HR_59e00433e4.pdf
[56] Housley Carr, "For Refiners, Are There Viable Alternatives To HF Alkylation?" February 5, 2023, https://rbnenergy.com/whats-it-all-all-about-alky-part-3-for-refiners-are-there-viable-alternatives-to-hf-alkylation

Mr. DUNCAN. I thank the gentleman. The Chair will now recognize Mr. McNamee for 5 minutes.

STATEMENT OF BERNARD MCNAMEE

Mr. MCNAMEE. Thank you, Mr. Chairman. Chairman Duncan, Ranking Member DeGette, Chair Johnson, Ranking Member Tonko, Chair Rodgers, and Ranking Member Pallone, members of the committee, thank you for inviting me to participate in this hearing. I am Bernie McNamee, and I am here and want to make it clear that I am only expressing my own views, and they are not of my employer or any of its clients.

Today we are facing a new energy crisis. The people of the—the American people are facing a new energy crisis. Americans are now faced with energy scarcity, artificial shortages of natural gas and oil despite massive reserves in the United States, and an electric grid that is less reliable.

Nor can all this be blamed on Putin's war in Ukraine. Misguided government policies, as well as the politicization of capital, are causing much of the current energy crisis in this country. The energy challenges are wide ranging.

We have the means to reinvigorate our energy priorities for the benefit of the American people. Many of the bills here today will help do that. But recognizing the limited time for these opening comments, I will focus on three major issues: permitting reform, the importance of natural gas to energy security, and restoring reliability to our electric grid.

Permitting reform. Over the years we have seen a number of initiatives to speed up environmental reviews, including permitting reform. And the problem is not just agencies reviewing projects. The substantive aspects of various environmental laws contribute to the rejection, delay, and cost of energy projects. Therefore, attempts to make the bureaucracy work more efficiently may not result in more projects being approved or constructed.

To address permitting challenges, Congress should look at the substantive requirements in various laws and agency regulations that they are implementing, so as to ensure that they properly protect the environment but also do not create artificial barriers.

But there is another problem, and it is related to NEPA litigation. As enacted by Congress, NEPA does not provide for a private cause of action. But the courts have allowed agency actions on NEPA decisions to be challenged in court through the Administrative Procedures Act. The result is that agencies now spend an inordinate amount of time and effort trying to address every minor comment and issue raised in environmental reviews. And no matter how good an agency's review is, the agency's action can still be challenged in court, which can then hold up a project for years. Such delays can end up killing a project or making it more expensive.

Congress should consider reforming NEPA and the EPA to limit how legal challenges can be made against agency actions. But of course, this is a two-edged sword. We want agencies to be accountable, so Congress will have to engage in a careful balancing of its authorities.

Next, natural gas energy security. American energy security and affordability is vitally dependent on access to domestically produced natural gas. Natural gas is important for home heating, manufacturing, but also provides about 38 percent of our electric generation. Unleashing natural gas production should be a priority, and natural gas pipelines are very important to get end product to users.

Furthermore, Federal and State policymakers need to recognize the interdependence of the electric grid and natural gas, especially natural gas pipelines. This means ensuring that pipelines are also safe from cyber and physical threats, which I also know is being considered by this committee.

Finally, restoring the reliability of the electric grid. Electric reliability is decreasing in many parts of the country. And we have seen this in California, Texas, and part of the East Coast this past December. And these failures have not been the usual causes for power outages, which are usually downed power lines. What we have been seeing is a lack of enough generation on the grid, dispatchable generation to keep the power going.

This is the result of policy choices, in particular the convergence of subsidized renewables and regional transmission organizations. Though described as electric markets, RTOs are actually complex regulatory constructs. And, unlike traditional utilities, generators and RTOs have no obligation to serve customers. Furthermore, RTOs and generators are not passing the full economic benefits of no-fuel and subsidized renewables to customers. The end result has been higher prices for customers, less reliability, and little accountability.

This can be contrasted with traditional utilities which engage in an integrated resource planning to provide reliability, have the rate set in a manner that is—provides the economic benefits of fuel diversity to customers, and is accountable to State public utility commissions and legislators.

As you look at the various issues about reliability, particularly the interaction between natural gas and electric, you may want to consider reforms to the Federal Power Act, FERC oversight, and enhancing the role of the States. Reliable, affordable, and abundant energy is essential for the American people and the Nation.

I am grateful for the committee's work. Thank you for having me here. And I ask that my written comments be put in the record.

[The prepared statement of Mr. McNamee follows:]

The U.S. House of Representatives
Energy and Commerce Committee
Joint Energy, Climate, & Grid Security Subcommittee And Environment, Manufacturing, & Critical Materials Subcommittee Legislative Hearing:
"Unleashing American Energy, Lowering Energy Costs, And Strengthening Supply Chains"

February 7, 2023

Opening Statement of Hon. Bernard L. McNamee
Former Commissioner of the Federal Energy Regulatory Commission

One Page Summary of Major Points
February 7, 2023
Hon. Bernard L. McNamee

Three ways to enhance access to reliable, affordable and abundant energy:

1. Permitting reform.

- The substantive aspects of various environmental laws contribute to the rejection, delay and costs of energy projects. Therefore, attempts to make the bureaucracy work more efficiently may not result in more projects being approved or constructed.
- NEPA does not provide for a private right of legal action, but agencies' NEPA determinations are subject to legal action under the Administrative Procedures Act (APA). Permitting reform should consider limiting how APA challenges are applied in the NEPA and environmental contexts.

2. Enhancing natural gas production and natural gas pipelines.

- America has abundant natural gas resources, but government policies need to support the production, transportation, and use of natural gas for the benefit of the American people.

3. Restoring reliability to our electric grid.

- The reliability of the electric grid is declining. The convergence of regional transmission organizations (RTOs) and subsidized renewables result in price distortions, reduced reliability, and failure to pass along the full economic benefits of no-fuel, subsidized renewables to customers.
- Reforms to the Federal Power Act, FERC oversight, and role of the states should be considered.

The U.S. House of Representatives
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February 7, 2023

Opening Statement of Hon. Bernard L. McNamee

Chair Duncan, Ranking member DeGette, Chair Johnson, and Ranking Member Tonko—and Chair Rodgers and Ranking Member Pallone, Members of the Committee: Thank you for inviting me to participate in this hearing.

Before I begin, I want to make clear that the views expressed are my own and I am not representing anyone else in this hearing—neither my employer nor its clients.

New Energy Crisis

Today, the American people are facing a new energy crisis. Since the American Energy Renaissance of the early 2000s that transformed the United States from a net energy importer to energy independence and then energy dominance on the world stage, Americans are now faced with energy scarcity; artificial shortages of natural gas and oil despite massive reserves within the United States; and, an electric grid that is less reliable

Nor can this all be blamed on Putin's war on Ukraine. Misguided domestic government policies, as well as a politicization of capital investment, are causing much of our current energy crisis. The results are reduced energy supplies and increased energy costs that hurt individuals and families; makes businesses that create jobs that drive our economy less competitive; and makes America less energy secure.

Though our energy challenges are wide-ranging, we have the means to reinvigorate our energy economy for the benefit of the American people.

Recognizing the limited time for these opening comments, I will focus on three major issues: 1) permitting reform; 2) the importance of natural gas to energy security; and 3) restoring reliability to our electric grid.

Permitting Reform

Over the years there have been a number of initiatives to speed up environmental reviews, including permitting reform. The problem is not just the agencies reviewing projects. Congressional actions such as the FAST Act[1], or One Federal Decision[2] have helped some, but the problems are much deeper than bureaucratic efficiencies.

Environmental reviews involve the interaction of NEPA (the National Environmental Policy Act) and other federal statutes, executive orders and guidance from CEQ. Agencies must apply substantive laws, such as the Clean Water Act and Endangered Species Act, as well as executive orders. Merely telling agencies to work faster, work together, or limiting page limits on environmental reviews, though helpful, will not resolve the underlying problems that make it so difficult to build anything.

The substantive aspects of various environmental laws contribute to the rejection, delay and costs of energy projects. Therefore, attempts to make the bureaucracy work more efficiently may not result in more projects being approved or being constructed.

To address permitting challenges, Congress should look to the substantive requirements in various laws and the agencies' regulations that implement them so as to ensure they properly protect the environment, but do not create artificial barriers.

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[1] Fixing America's Surface Transportation Act (42 U.S.C. § 4370m et seq.) ("FAST-41").
[2] One Federal Decision started as an Executive Order under President Trump (Executive Order 13807, Aug. 15, 2017) and was also part of the Infrastructure Investment and Jobs Act (IIJA) (Nov. 15, 2021).

In addition, Congress should provide clear direction about the limits of CEQ's authority when issuing regulations implementing NEPA. Congress should consider repealing or narrowing regulations as to how an agency looks at cumulative impacts and indirect effects from projects. Furthermore, attempts to use the social cost of carbon in reviewing projects should be a decision made by Congress. Congress should also pay careful attention to how decisions related to environmental justice are made.

Another problem is NEPA litigation.

As enacted, NEPA does not provide a private cause of action. But courts have allowed agencies' NEPA decisions to be challenged in court using the Administrative Procedure Act (APA). The result is that agencies now spend an inordinate amount of time and effort trying to address every minor comment or issue raised in environmental reviews. And no matter how good the review is, the agency action can still be challenged in court and a project can be held up for years. Such delays can end up killing a project or making it more expensive.

Congress should consider reforming NEPA and the APA to limit how legal challenges can be made against agency actions. Of course, this is a two edged sword. We want agencies to be held accountable. So Congress needs to engage in a careful balancing of agency authority.

The Importance of Natural Gas to Energy Security

American energy security—and affordability—is vitally dependent on access to domestically produced natural gas. Natural gas is used for home heating and manufacturing; but also provides 38 percent of our electric generation[3]—though it varies

[3] U.S. EIA, "What is U.S. electricity generation by energy source?" 2021 data, https://www.eia.gov/tools/faqs/faq.php?id=427&t=3

by region and state. Unleashing natural gas production should be a priority and natural gas pipelines are needed to get the product to end-users.

The United States has abundant supplies of natural gas, particularly in Texas and in the Marcellus shale formations. Pipelines are needed to get the gas to local distribution companies, manufactures, electric generators, and LNG export facilities. Through a combination of permitting reform and FERC's adherence to its obligations under the Natural Gas Act when considering pipeline applications, all Americans will benefit from access to natural gas.

Furthermore, federal and state policy makers also need to recognize the interdependence of the electric grid and natural gas, especially natural gas pipelines.[4] Because natural gas fired generation is dispatchable, on-demand, with fast ramping, it can provide electricity quickly when intermittent renewable resources are not available. In addition, access to abundant natural gas helps keep electric prices down. This means ensuring that those pipelines are also safe from cyber and physical threats.

Restoring Reliability to Our Electric Grid

Over 330 million Americans rely on electricity for their livelihood, quality of life, and survival. Yet, electric reliability is decreasing in many parts of the country—we have seen this is California, Texas and parts of the east coast. For example, the blackouts and shortages in California in August 2020 and summer 2022; Texas in February 2021 and summer 2022; and the December 2022 near misses in the eastern part of the United

[4] NERC, "Electric–Gas Interdependencies, Potential Summer Energy Shortfalls are Focus of Board Discussions" (May 13, 2021), https://www.nerc.com/news/Headlines%20DL/Board%2013MAY21.pdf; NERC, "Special Reliability Assessment: Potential Bulk Power System Impacts Due to Severe Disruptions on the Natural Gas System" (November 2017) https://www.nerc.com/pa/RAPA/ra/Reliability%20Assessments%20DL/NERC_SPOD_11142017_Final.pdf

States. In fact, NERC warned of the potential for shortages in the summer of 2022[5] and this winter of 2022-23.[6] And these failures have not been the usual weather related causes of blackout—mainly downed power lines. These blackouts have been caused by a lack of enough generation to power the grid. This is primarily a result of policy choices. In particular, the convergence of subsidized renewables and regional transmission organizations (RTOs).

Though described as "electricity markets," RTOs are actually complex regulatory constructs regulated by FERC. RTOs generally use marginal price clearing auctions to set prices for wholesale electricity paid to generators throughout the day, but subsidized renewables are distorting price formation in the RTOs and undermining market fundamentals. These price distortions have made it harder for traditional baseload resources like coal and nuclear to stay in business. The price distortions are even undermining the ability of dispatchable natural gas to make the investments necessary to back up wind and solar. This does not mean wind and solar should not be part of the generation mix; rather, we need to have an all of the above approach that allows us to take advantage of the best attributes of each resource. Unlike traditional utilities, generators in RTOs have no obligation to serve customers. Furthermore, RTOs and generators are not passing on the full economic benefits of no fuel, subsidized renewables to customers. The end result has been higher prices for customers, less reliability, and little accountability.[7]

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[5] NERC, "2022 Summer Reliability Assessment" (May 2022), https://www.nerc.com/pa/RAPA/ra/Reliability%20Assessments%20DL/NERC_SRA_2022.pdf
[6] NERC, "2022–2023 Winter Reliability Assessment" (November 2022), https://www.nerc.com/pa/RAPA/ra/Reliability%20Assessments%20DL/NERC_WRA_2022.pdf
[7] For a more in depth discussion of the challenges with RTOs see Bernard L. McNamee, "Time to Update Wholesale Electric Markets – But Don't Forget the Benefits of Traditional Utility Regulation," RealClearEnergy, April 8, 2021

This can be contrasted with traditional utilities which engage in integrated resource planning to provide reliability; have there rates set in a manner that passes the economic benefits of renewables and fuel diversity to customers; and are accountable to state public utility commissions and state legislatures.

Congress may want to consider reforms to the Federal Power Act, FERC oversight, and enhancing the role of the states.

Conclusion

Reliable, affordable and abundant energy is essential to the American people and our nation. I am grateful that these committees are working on solutions to our energy challenges. I look forward to answering your questions.

(https://www realclearenergy.org/articles/2021/04/08/time_to_update_wholesale_electric_markets__but_do nt_forget_the_benefits_of_traditional_utility_regulation_771956 html)

1Mr. DUNCAN. Well, let me thank you all for your testimony, and we will now move into the question and answering portion of the hearing, and I will begin the questioning, and I will recognize myself for 5 minutes.

Seeing Ranking Member DeGette's coffee this morning, I am reminded that America runs on Dunkin.

[Laughter.]

Mr. DUNCAN. I spell it a little differently.

The truth of the matter is, America runs on energy. For example, my bill, Protecting American Energy Production Act, clarifies congressional intent that States have primacy regarding hydraulic fracturing. It also prohibits the President from issuing any moratorium on hydraulic fracturing.

Two years ago, America was energy dominant for the first time since 1952. We went from the largest net importer to the—to a net exporter. We became number 1 in—oil and gas producer of the world. We became a global price setter, undercutting the leverage of OPEC. Finally, we achieved the—President Jimmy Carter's mission for the DOE: We were no longer reliant on foreign adversaries for our energy security.

We have now seen a reverse of this. The Democrats' energy policies have made us weaker and more reliant on other nations for energy and our supply chains. The Biden administration and congressional Democrats have taken over 100 actions to make it more difficult to produce oil and gas here in the United States. This may be why—that the administration didn't want to testify today. They know they have taken all executive action possible to undercut American energy production.

President Biden has then blamed energy companies for not producing enough, while pushing a rush-to-green energy agenda that would make us overwhelmingly dependent on China, Russia, and our adversaries for energy.

The bottom line is we have the resources here in America to meet all of our energy needs and help those around the globe, abundant natural resources.

The goal of the legislation we are reviewing today is the reverse of this: to make American energy and its supply chains more secure while driving down consumer costs and emissions. So, Mr. Eshelman, I appreciate your comments on the shale revolution. We are going to talk about the hydraulic fracturing and the moratorium today.

The innovation and entrepreneurial spirit helped make America energy dominant and a global leader in emissions reductions. This didn't happen in countries with price and supply controls. What would happen if this administration sought to curtail the use of hydraulic fracturing?

Mr. ESHELMAN. Well, it would——

Mr. DUNCAN. Mr. Menezes.

Mr. ESHELMAN. It would be——

Mr. DUNCAN. Or Mr. Eshelman, I am sorry.

Mr. ESHELMAN. Yes, so it would be devastating. I remember back in 1994, when I worked at IPAA, we issued a request to the Commerce Department called a Section 232 because we were so dependent on foreign oil that we wanted a national security, basically,

ranking for America, that it is a threat to the United States, all this foreign oil coming into America.

But now, if we look back 20 years later, 30 years later, America has become energy independent, basically. We produce 12 million barrels of oil a day. We have—imports about 7 million, so it is not even half, because we also export about 3 to 4 million. So it has made us a global leader. It has created jobs. It has brought down prices. It has taken down the trade deficit, it has helped local communities.

I know, Mr. Joyce—I am from Pennsylvania, Dr. Joyce—and we are the number 2 natural gas producers. It has made our counties rich.

And so we operate in every community across the country, pretty much. We live in the communities. We are not headquartered all the time in Houston, or wherever you might think Big Oil is. So jobs, deficit reduction, helping local communities, it has done so much.

Mr. DUNCAN. Thank you for that. Yes, I meet with gas producers and pipeline managers all the time, owners.

And Mr. Slocum, you mentioned our natural gas production. I would argue that we have so much natural gas in this country we can't truly measure how much. You talked about, I think, 20 percent that we are exporting. Producers and pipelines tell me that they could provide more natural gas to the Nation if they had somewhere to put it. They just don't have anywhere for the gas to go. They are at capacity on the pipelines, what is produced in the Marcellus. They could produce more, they just don't have anywhere to send it.

My communities need it. My State needs it. The rest of the Nation needs it. Natural gas is what got us here in our emissions goals.

The goal of these bills today is to counter misguided energy policies that will offshore investment, make us reliant on countries that don't share our values. If they had their way, we would be relying on critical minerals primarily produced in countries with no regard for human rights or emission reduction goals, countries like China. These bills would reflect that the U.S. is serious about building out all forms of energy here, a true all-of-the-above approach.

What happens, Mr. Menezes, if we recede from the world on the energy production, would it be cleaner?

Mr. MENEZES. Well, we need to maintain our ability to produce because our global allies and partners have really become—to depend on U.S.-produced LNG. They prefer to do business with LNG. After Putin's invasion, Europe came to us asking us to increase production. So they have—really have come to rely on us.

Plus, with the agreement with the Biden administration to—that our U.S. LNG providers were going to produce more and provide Europe over this winter and next winter, also came the realization that natural gas helped Europe meet its net zero goals.

Mr. DUNCAN. Yes.

Mr. MENEZES. And indeed, so countries are looking to U.S. for LNG to help meet net zero goals, which, you know, the U.S. is proud to be a leader in that.

Mr. DUNCAN. Yes. My time is expired, but lessen their dependance on Vladimir Putin and others for their energy sources.

And I will go to the ranking member, Ms. DeGette, for 5 minutes.

Ms. DEGETTE. Thank you so much, Mr. Chairman. The first thing I want to start with, Mr. Chairman, so we get this subcommittee off on the right foot, is I know the administration would love to come and testify on these bills.

And so, first of all, I think we should have another hearing with the administration on these bills. Secondly, if you expect the administration to come, then we would expect that you give them the same comity that we did when Mr. Trump was in the White House, and give them advance notice. But in addition, you have got 17 bills up today, and they only had notice of what 2 of those bills were. So if you really want fulsome testimony, you need to give them the bills.

The second thing I want to point out is that I have good news for you, Mr. Eshelman and everybody else and you, Mr. Chairman, which is, you know, we have a lot of fracking in my State of Colorado, too. And I have been dealing with it for some time. And as you know, fracking occurs a lot in places where traditional drilling did not. And so it is really important—so I don't think anybody is seriously saying we should eliminate fracking.

But what I am saying and what many are saying is we should have adequate environmental and security legislation to make sure that it is safe for the communities around it. And I don't think you could disagree with that. Is that right, Mr. Eshelman?

Mr. ESHELMAN. I believe you are correct, that the States——

Ms. DEGETTE. Thank you.

Mr. ESHELMAN. [continuing]. And local communities are doing their part.

Ms. DEGETTE. Right.

Mr. ESHELMAN. But I don't think the Federal Government can put——

Ms. DEGETTE. OK, thanks.

Mr. ESHELMAN [continuing]. A one-size-fits-all on——

Ms. DEGETTE. I have only got 5 minutes, unfortunately. So I would like to talk to you, Mr. Slocum, for a minute about this notion of increasing oil and gas production in the United States, whether it is traditional drilling or fracking, and this concept that that will somehow make us independent from foreign oil. And the chairman was talking to you about that.

Is that correct, that if we have increased oil and gas production here, that that will make us independent from international oil? And if not, why not?

Mr. SLOCUM. Yes. No, that is not correct, because, as you noted, oil and gasoline markets are globally priced, and they have been since the futures exchange opened in 1982 in New York.

And so that is why whenever—during the first Gulf War in 1990, we saw significant price spikes here in the United States, even though there were no domestic impediments to that. It was because the commodity is a globally priced commodity. And prior to the export boom of natural gas, natural gas was insulated. And now that

we have got LNG exports, Americans are now exposed to global natural gas price shifts.

Ms. DEGETTE. So what would the best way to become independent from these—this foreign market?

Mr. SLOCUM. To get our economy off of volatilely priced, globally priced fossil fuels like oil and natural gas——

Ms. DEGETTE. And move more into renewable fuels that were domestically developed?

Mr. SLOCUM. Correct.

Ms. DEGETTE. OK. Now I want to ask you one more thing about H.R. 484, because one of the focal points I have been working on for some years is reducing methane emissions. And so H.R. 484 rolls back the Obama-era methane rule that had bipartisan support and industry support, including BP and Shell.

So I want to ask you why section 60113 of the Inflation Reduction Act is so important.

Mr. SLOCUM. It is so important because methane is an incredibly powerful greenhouse gas, far more destructive than CO_2. It is shorter-lived in the atmosphere, but capturing those methane emissions from the oil and gas sector is critical if we are going to successfully address the climate crisis.

And so that is why I thought that the methane provisions in the IRA were extremely fair. They provide——

Ms. DEGETTE. And it gives the——

Mr. SLOCUM. They accommodate industry——

Ms. DEGETTE. Yes.

Mr. SLOCUM [continuing]. To help industry achieve those emission reduction——

Ms. DEGETTE. They actually give funding to the industry to help them comply with the bill, right?

Mr. SLOCUM. Correct.

Ms. DEGETTE. And finally, Mr. Garcia, I want to thank you for your testimony. But I would particularly ask the committee to look at your written testimony, where you analyze every one of these 17 bills and talk about the fundamental problems. I don't have time in 5 minutes, like you didn't have time in your testimony, but it is really helpful analysis. And I think we should really try to work together to move this discussion forward rather than just rehashing tired debates that we have had over all the many years I have been on this committee.

With that, I yield back. And welcome to the new chairman.

Mr. JOHNSON [presiding]. The gentlelady yields back, and the Chair now recognizes himself for 5 minutes for the purpose of asking questions.

And let me—I want to touch on my legislation, the Unlocking our Domestic LPG Potential Act. And I mentioned last week how unleashing U.S. LNG exports strengthens America's geopolitical posture on the world stage, but it can also bring considerable benefits here at home.

Mr. Menezes, thank you for you—thank you for mentioning my legislation and for saying how America can lead the way in providing the world's energy. Can you explain how increasing U.S. LNG exports can have a positive effect on increasing production here at home, bringing with it the jobs and economic growth in

places like my district in Ohio that sits atop the Utica and Marcellus Shale?

Mr. MENEZES. Thank you very much for the question. Indeed, you know, throughout the world, many of our friends and allies are coming to the United States and asking us to try to produce as much LNG for the purpose of export. They are aware that, when we produce natural gas, it is used, obviously, to drive our very powerful economy. But they have come to look to us, really, as part of the solution. They do not want to go to any of the monarchies if they have to. They do not want to go to Iran. And they certainly now have announced that they are no longer going to rely on Russia. So they have looked to the U.S. to replace this supply.

We need to look at a future where Russia will no longer be a reliable provider. Now, Russia will likely do deals with the monarchies and perhaps China, but it is important for our friends and allies to know they can depend on the United States.

And so with that demand for export, increases domestic production and lowers prices.

Mr. JOHNSON. Thank you, Mr. Menezes. Now let's shift gears a bit.

We have an impressive slate of bills from our Members on the Environment, Manufacturing, and Critical Materials Subcommittee that would address some of the major challenges that we are facing. Ms. Sweeney, please allow me to start with you, because you mentioned in your testimony that some critical materials needed for future industries and technologies like lithium and cobalt will skyrocket some 30 or even 40 times beyond current demand right now. Frankly, this increase is hard to even comprehend.

The bottom line is we need a lot more mining and a lot more mines, and it is going to have to be done somewhere. So, Ms. Sweeney, wouldn't we want to do more of this right here in America?

Can you tell us how, if we had the right permitting reforms and regulations in place, our domestic mining industry would be able to extract the minerals and metals we need in a safer and more environmentally responsible way than in other countries?

Ms. SWEENEY. Thank you so much for that question. And yes, we have about 6.2 trillion of value of minerals known in the U.S. today. And there is further mapping all the time. So there are more minerals that will be found, and we can mine here under the best standards—environmental, labor, and safety standards—in the world.

But we do need the right policies in place to really unlock that potential. And permitting is one of the impediments. We need more efficiencies. We are not asking for environmental shortcuts. We are asking for a more efficient process, similar to the processes that are similarly stringent in Canada and Australia, but they do more to focus on coordinating amongst the various agencies. They have firm timelines in place.

Mr. JOHNSON. OK. All right. Well, thank you.

And back to you, Mr. Menezes, very quickly. We are considering multiple bills today to allow America to protect its, quote, "critical energy resources" when America is under threat. Would you agree

that, in addition to, say, oil and gas, this definition could also include critical minerals and rare earths?

Mr. MENEZES. Absolutely. They are going to be necessary for our transition to a cleaner——

Mr. JOHNSON. OK. Would you agree this is a broad definition? Could it also include things like battery and solar components, perhaps electrical, steel?

Mr. MENEZES. Yes, it can include all of those necessary for our energy production and use.

Mr. JOHNSON. OK. Well, thank you, because it is essential that we protect all of these components and their manufacturing supply chain.

I do want, in my remaining time, I want to go back. I heard, Mr. Garcia, you mentioned that these bills are replete with exemptions and go-arounds. These bills are actually the removal of burdensome regulatory barriers that are—to advancing a true, all-of-the-above, market-driven energy strategy, the kind that the President actually wants.

But yet these barriers for permitting, for mining, for exporting clean natural gas, you name it, those are things that would promote the President's agenda. But this administration doesn't want that. And that is what we are trying to break down today. Because good, solid energy policy is also good climate policy. And we believe Republicans are offering those up today.

And with that, I would yield back. And now I recognize our colleague, the ranking member on the Environment and Manufacturing and Critical Materials Subcommittee, Mr. Tonko, for 5 minutes.

Mr. TONKO. Thank you, Mr. Chair.

Mr. Garcia, thank you for your testimony. I am grateful to you and the Earthjustice organization for the partnership with frontline communities seeking protection from environmental and health threats.

Yesterday, Members received a letter from Earthjustice and seven other environmental organizations expressing opposition to five bills under consideration today. While I understand you have several concerns with each of these bills, the broad definition of "critical energy resource" seems to be a common issue. What is your understanding of what could be included in these bills' definition of "critical energy resources," and what risks might this pose to the communities with which you partner?

Mr. GARCIA. Yes, absolutely. As I mentioned, the bills themselves don't actually give us a definition of what critical, whether it be critical minerals or critical energy sources, actually are. And so it really defers to the Secretary of Energy in any given administration to determine what these are. And so that means that virtually anything can become a quote/unquote "critical energy resource."

And so, you know, the idea here is that we have to make sure that the energy that we produce is clean, but the manufacturing that goes into the creation of that clean energy also has to be clean, and it has to protect communities themselves.

And so, when we are talking about broad outlines, right, and broad schemes that do go around the laws, it is going to be particularly problematic because, again, we are talking about laws and

regulations. And we certainly heard about red tape, but few people actually mentioned that it is not red tape, it is actually protections that people rely on. NEPA, the National Environmental Policy Act, is at times the only law that communities have on the ground to actually know what is going to happen in their back yards and then to be able to comment on what is going to happen, say, on a mining project or on a drilling project or an energy project.

And so we have to really think about how expansive this definition can really get, because, you know, when we are talking about the—for example, the TSCA bill, it says that for critical energy sources you have to study the economic costs to see if the substance is safe, which is backwards. A substance is either safe or not. It is either poisoning or it is not. And you can't figure that out afterwards.

It also puts these chemicals on the market before the determination of whether they are safe or not is actually made. And so you can imagine that, right? Like, you—hey, you got three cups in front of you. "Go ahead and drink them all. We will find out later if one of them is poisoned." It is backwards logic. And that is what we are doing to our—that is what we would be doing to our communities day in and day out, if we allowed this to move forward.

Mr. TONKO. Thank you.

Ms. Sweeney, your testimony highlighted the increasing international demand for critical minerals and the strategies developed by several foreign governments, including the UK and Canada, to address these growing demands. A common thread highlighted in these strategies is the importance of bringing greater transparency to supply chains.

I know that the National Mining Association has said that the Inflation Reduction Act's clean vehicle tax credit, coupled with other provisions in the IRA, can help U.S. energy security and supply chain resilience. As you know, a key component of this tax credit is verifying material sourcing, and I want to hone in on that verification effort.

What do you see as the need for increased supply chain transparency and tracking in helping verify and promote compliance with the domestic sourcing requirements in the recently enacted battery incentives?

Ms. SWEENEY. Thank you very much for that question. That is a great question, and transparency is needed.

I mean, there is information that we do get from the U.S. Geological Survey about where minerals come from, but it can be quite complicated to trace them back to the source, and additional resources are probably needed to be able to do that.

Mr. TONKO. So what——

Ms. SWEENEY. Of course, if we get them here, we wouldn't have to trace too far.

Mr. TONKO. Right. But what specifically should we do to improve that tracing, tracking opportunity?

Ms. SWEENEY. You know, I have not spent a lot of time thinking about that. I would love to get back to you with an answer.

Mr. TONKO. Sure. Thank you. And I also believe Congress should consider other methods for meeting our critical mineral demands, including investing in R&D to develop alternative battery chem-

istries that are less reliant on critical minerals, and putting a greater emphasis on the recycling of critical minerals already in commerce.

Mr. Garcia, do you believe more can be done to achieve more sustainable sourcing through recycling and reuse of critical minerals, provided this is done using safe and environmentally sound processes?

Mr. GARCIA. Yes, absolutely. And the laws that are in the books, far from being obstacles, are actually guides. They guide us in order to make sure that, while we are doing more recycling of these minerals and while we are figuring out what we want to do in terms of the next innovation, that we are doing it in a way that it is safe. And so, far from obstacles, these are guideposts that we need to make sure that we are keeping in mind as we move forward in innovation.

Mr. TONKO. Thank you very much.

With that I yield back, Mr. Chair.

Mr. JOHNSON. The gentleman yields back. The Chair now recognizes the chairlady of the total committee, Energy and Commerce, Mrs. McMorris Rodgers, for 5 minutes.

Mrs. RODGERS. Thank you, Mr. Chairman. Our goal is to put security back at the center of our energy policy. That is what this, the package before us today—each of these bills is central to our energy work.

And flipping the switch for more American energy and energy-related industrial activity, it is key, while maintaining America's highest labor environmental safety standards. There is nothing in any of the bills before us that would undermine those high standards.

And I—and, you know, Russia's invasion of Ukraine, it didn't cause the energy crisis. It just exposed what was going on in weakening American energy security. The risks extend way beyond oil and gas supplies to vulnerabilities in the civilian nuclear sector.

The sad fact is our domestic fuel infrastructure, from uranium mining and conversion to enrichment services, has eroded. Upwards to 24 percent of America's fuel this year—this year—will be Russian sourced, which places our fuel supplies at greater risk of disruption.

Mr. Menezes, during your time as Deputy Secretary of Energy, DOE highlighted the importance of restoring American nuclear leadership in the world. Would you speak briefly as to why a strong nuclear industrial base, from fuels to technological development, is critical to domestic nuclear development, quality energy supplies, and to our national security?

Mr. MENEZES. Well, thank you very much. I mean, we have always been aware of the need for the U.S. to maintain its global leadership in nuclear technology, but it became more apparent as I began to travel overseas and to see the role that Russia and China is playing, doing deals with our friends and allies across the world, trying to bring their nuclear technology to them.

Now, one might say, well, you know, that is not a big deal, but it is a big deal, because what we are doing is we are ceding the leadership, the technological leadership, the institutional knowledge, and the 50- to 100-year relationships with China and Rus-

sia—with our friends and allies. They are turning away from the U.S. So that is an important thing: We are losing the global leadership.

We have 123 requirements in our law. China and Russia do not. And so we should all be concerned about maintaining that. Regardless of how you feel about nuclear energy, we need to maintain that leadership. It is very real, and it is very threatening.

And then our own history is that we really have—we need to improve our mining, our milling, our conversion, our fuel fabrication, and, of course, enrichment. And so I really—I ask this committee to please look seriously at it.

We released a report in 2020 where we tried to look at it in a very broad view, and I would like to submit that in the record, as well, with my testimony. Thank you.

Mrs. RODGERS. Thank you very much.

Ms. Sweeney, just to build on this a little bit, my legislation is designed to send a clear signal to industry that a date certain America's nuclear industry can no longer rely on Russian-sourced, low-enriched uranium. What do you believe this signal would mean for building out our domestic fuel industry?

Ms. SWEENEY. It is a lifeline. Frankly, you know, talking about insecure supply chains, our reliance on foreign sources of uranium, over 97 percent is foreign. It is just crazy when you think about that. And that industry is on the precipice of extinction. They need that lifeline.

Mrs. RODGERS. So this week we are all talking about a Chinese spy balloon that made its way across America, underscored the importance of Americans and—having safe and secure systems, supply chains. It is real. The threat from China is real. It is active.

So Ms. Sweeney, what do you believe this event says about the urgency for us building out our mineral, metal, and energy materials supply chains?

Ms. SWEENEY. It is such an important topic. You know, we need to be able to rely on ourselves for as much as we can, and we have so much here that we can be using. We have the great workforce, we have great transportation infrastructure. We can and should be doing it here, and that will protect us, you know, in energy crisis, in military crisis, in economic crisis.

Mrs. RODGERS. So would you speak to where do we get the minerals and the metals that we need right now? Where do they come from?

Ms. SWEENEY. Could you repeat that?

Mrs. RODGERS. The minerals, the metals that we need in energy, in——

Ms. SWEENEY. Oh, oh——

Mrs. RODGERS. Yes, yes.

Ms. SWEENEY. China, mostly China, right? And the processing, as well.

I mean we are 80 percent reliant on rare earths that come from China. Processing, they do about 90 percent of the rare earths processing there.

Mrs. RODGERS. And what has been happening recently in America, as far as making more of this available in America?

Ms. SWEENEY. Well, we have gotten a lot of funding for new projects in the U.S., but what we are lacking is the permitting reforms to accompany that. So what—we are seeing money going to projects, but we are not seeing approvals happening. So it is really delaying our ability to unleash our full potential.

Mrs. RODGERS. Yes, you can't build without permitting reform.

I yield back, Mr. Chairman.

Mr. JOHNSON. The gentlelady yields back. The Chair now recognizes the ranking member of the Energy and Commerce Committee, Mr. Pallone, for 5 minutes.

Mr. PALLONE. Thank you, Chairman. I am going to try to get in some questions for Mr. Slocum and Mr. Garcia.

So, Mr. Slocum, in your testimony you talked about how increased LNG exports have increasingly tied American natural gas markets with global markets, meaning that American consumers are now sharing in the volatility that global markets are experiencing due to Russia's invasion of Ukraine. And American natural gas markets are currently reflecting that volatility.

Last year, American natural gas futures fluctuated wildly from a low of just under $4 per unit to nearly 10. I don't know how families in New Jersey are supposed to budget for gas to heat their homes when it could double in price on them with no warning whatsoever.

So first question, Mr. Slocum: Can you talk about how increased LNG exports have increased home energy costs for Americans?

Mr. SLOCUM. Yes. So the Department of Energy has authority to review export applications, and it has approved every one. And so, as a result, we went from zero LNG exports in 2016 to now we are the largest LNG exporter in the world. And what that has done is it has forced consumers in New Jersey and Texas and elsewhere to compete with our foreign counterparts for that gas.

And obviously, we want to help our allies in need after the Russian invasion, but I think that there needs to be a balanced assessment because, when there are physical shortages in New England and extremely high prices on the West Coast, it is clear that the level of export is creating detrimental impacts for energy affordability at a time when families are already stretched thin with high energy prices.

Mr. PALLONE. Well, thank you.

Now, I wanted to enter into the record—if I can ask unanimous consent to enter into the record—a CNBC article from last June detailing the decrease in U.S. natural gas prices after the explosion at a Freeport LNG terminal. If I could ask unanimous consent, Mr. Chairman.

Mr. JOHNSON. Without objection, so ordered.

[The information appears at the conclusion of the hearing.]

Mr. PALLONE. Thank you.

So if—my understanding is that, you know, because that Freeport terminal export was closed, that we had more natural gas here, and prices went down. Accurate?

Mr. SLOCUM. That is 100 percent correct. So on June 8th, 2022, there was a massive explosion at the Freeport LNG facility, which alone accounts for 20 percent of all of U.S. LNG exports, so it is a very large facility. And the futures market immediately reacted

to the fact that that 20 percent export capacity was going to be offline for some time by sending domestic prices significantly lower, a recognition of the direct impact that exports have on domestic pricing.

Mr. PALLONE. All right. Let me just focus on Mr. Johnson's bill, Mr. Slocum. Then I have to get to Mr. Garcia.

Can you talk about how removing the requirement for DOE to find that LNG exports are in the public interest would worsen the problem of expensive natural gas?

Mr. SLOCUM. Correct. Right now, under the standard established in 1938, Congress dictated that no exports are allowed to occur unless they are found to be consistent with the public interest. And right now the Department of Energy performs that test.

We banded together with a number of other organizations in October, noting some methodology flaws in the way that the Department of Energy currently does that. But the statutory requirement is very important to ensure that exports are consistent with the public interest. And I think removing that public interest standard would not be advisable.

Mr. PALLONE. All right. Let me go to Mr. Garcia about methane.

Consumers are also paying for market failures that make it cheaper for the industry to waste methane than to install or upgrade equipment to prevent leaks. And this leaked or intentionally wasted gas never makes it to consumers, but they are nevertheless stuck with the bill. So that is why we enacted the Methane Emission Reduction Program to ensure consumers stop paying for wasted energy or the harm its emissions cause. Cleaning up legacy damage and preventing future pollution from the oil and gas industry were also reasons for the program.

So Mr. Garcia, you have got less than a minute. Could you speak to how frontline communities would benefit from holding the oil and gas industry accountable for its methane pollution?

Mr. GARCIA. I mean, throughout we see, whether it be oil and gas production or petrochemical facilities across the country do some of the worst damage to communities across the country. And we can almost pinpoint the communities, the Ironbound community out in New Jersey, the Cancer Alley between Baton Rouge and Louisiana—sorry, and New Orleans in Louisiana.

All you have to do is really go—and I really encourage everybody on this committee—go and take a what they call the toxic tour of these communities to truly understand what they are dealing with left and right, day in and day out.

And people say, well, it is their choice to live there. They were there before. They were there before. And industry has come in, and they have utterly ravaged the health of these communities throughout.

And they will tell you about the cancer clusters. They will tell you about all of the concerns that they have about the respiratory health, cardiac health. And I honestly can't do it justice here.

But it is imperative that the protections that we have stay in the books. And what really needs to be the focus of this Congress is how do we strengthen protections so that not only are we addressing the energy needs, which we have heard a lot about here today—and what we haven't heard, many things, in fact, anything

about—are the health protections that need to be in place for communities to actually thrive in the face of oil and gas, mining, and other dirty industries.

Mr. PALLONE. Thank you.

Thank you, Mr. Chairman.

Mr. JOHNSON. The gentleman yields back. The Chair now recognizes the gentleman from Texas, Dr. Burgess, for 5 minutes.

Mr. BURGESS. Thank you, Mr. Chairman.

Deputy Secretary Menezes, let me just ask you a question, if I could. The statement was made that natural gas prices fell in June after the unfortunate accident at the Freeport facility.

Do you know what has happened since then, as far as the futures on natural gas?

Mr. MENEZES. Well, I think today, you know, they are back at their normal historic lows since the shale revolution. So that has been the constant thing. There was indeed a blip of the prices, as mentioned. But you have to look at the long-term view.

And so DOE has done, like, five studies using EIA and other experts in the field to look at if, in fact, all of the facilities that are pending there were actually permitted and built and exported. The studies have all been—the projections have been clear: modest increases in prices. And this is going out to 2040.

Mr. BURGESS. Yes. According to Bloomberg, the price did drop in late June and early July. It then immediately came back up for the balance of the summer, dropped again a little bit in September, when perhaps energy demands—air conditioning and electricity demands—fell off, and currently stands at 2½ dollars per million BTU, I mean, which is in line with its historical precedent.

So—but there is probably another reason why they are paying higher prices in Boston. Can you help us with that?

Mr. MENEZES. So on the price of natural gas, there are several reasons for that. It should not surprise anyone that, due to limited capacity on the West Coast and the East Coast, that those prices are going to be high. Those areas of the country have taken the position to restrict natural gas going in there. So their constituents should be prepared to pay higher prices.

On pricing with respect to electricity, that is something actually different. So the pricing there is done, you know, at different points within the bid-based markets. And so those are—it is locational marginal pricing, and it really depends on the price of natural gas, really, to set the electricity.

But to be sure, when you restrict access to natural gas and our economy is growing on the use of natural gas, you will have higher electricity prices at the points where you can't get natural gas. And more and more of our generation is replacing coal and ramping renewables. So it is a good thing that it is growing, but you have got to be careful about how you characterize pricing.

And with respect to the jump in LNG going down, remember that was in—the prices went up for the unanticipated Putin invasion of Ukraine. That is what set the prices up. So when it came down because of the Freeport accident, it could only come down, to be frank about it, because the Putin invasion caused the global prices to go so high.

Mr. BURGESS. So what is the principal source for natural gas in Boston?

Mr. MENEZES. I don't know if there is a principal source. I do know that New England has, you know, the ability to import natural gas from Yamal and other places. Our Jones Act restricts, you know, our ability to get natural gas from the Gulf of Mexico up to New England. So that is——

Mr. BURGESS. So let me just ask Mr. Eshelman.

Are—those are your independent producers that are selling in Boston?

Mr. ESHELMAN. No, we are not up in Boston. I was going to say probably the biggest source of methane in New England is dairy farms.

Mr. BURGESS. Is what?

Mr. ESHELMAN. Dairy farms.

Mr. BURGESS. Well, look. And Mr.—or Secretary Menezes, I appreciate your thoughts on this and the restriction of natural gas. One of the bills we have under discussion is to help get product that is stranded in the Permian Basin and get it into the stream of commerce. So I appreciate your comments on that.

Mr. MENEZES. Just on a point on that, so, I mean, the President was taking the credit for increasing exports so they could get to Europe. You know where the exports were coming from? The exports were coming from the Permian Basin in——

Mr. BURGESS. Correct.

Mr. MENEZES [continuing]. Texas to the export facilities there with—beyond Federal overreach. That is the source. The President didn't make that point when he was taking credit for increasing production to help our European——

Mr. BURGESS. Well, maybe you could help him with that line in the State of the Union tonight. He likes to take credit for stuff.

But, look, I really appreciate your efforts on helping us with the bill to get the siting and the permitting for natural gas pipelines.

Yes, I get the concern that you don't—in the production of natural gas, you don't want flaring and venting. The problem with stranded gas in the Permian Basin is you can't get it—sometimes you can't get it to market. So this is an effort to do that. And I appreciate you pointing out how we are helping the President in the process.

So thank you all for being here today, and I appreciate the lively discussion.

And I will yield back, Mr. Chairman.

Mr. JOHNSON. The gentleman yields back. The Chair now recognizes the gentlelady, Ms. Schakowsky, for 5 minutes.

Ms. SCHAKOWSKY. Thank you to our witnesses.

Drill, baby, drill is what Big Oil and Big Gas wants right now. And it seems as if, from the list of bills that are being considered today, that that is what my Republican colleagues want, as well. It is really a wish list, I think, and a laundry list of policies on the Big Oil agenda.

So, Mr. Slocum, I want to ask you, consumers have been on a natural gas roller coaster, with prices reaching their highest level since 2008. Do the bills that we have—or that we are considering

today do anything to combat the high gas prices that consumers have suffered for this last year?

Mr. SLOCUM. I am unable to find any consumer protections in these proposed bills. In fact, I think that the expansion of exports would likely hurt consumers.

What is striking to me is the lack of any energy efficiency or demand reduction initiatives in this legislation. It is not always about supply, it is also about demand.

And how do we get more tools in the hands of consumers to help them avoid these high costs? More incentives. More funding for building efficiency, for building electrification, if municipalities and States want to go that direction. Weatherization. All of these types of tools can empower consumers to avoid their exposure to increasingly volatilely priced fossil fuels for energy.

Ms. SCHAKOWSKY. So I want to ask you this. So in that case, what can—tell us what we can do to encourage the utility companies to transition away from fossil fuels, while at the same time, of course, lower home energy costs and promote energy efficiency.

Mr. SLOCUM. Right. I think——

Ms. SCHAKOWSKY. I mean, we want to hear your ideas of what we can do going forward.

Mr. SLOCUM. Well, I think, you know, Congress already has directed a lot of financial incentives through the Inflation Reduction Act to try to spur the deployment of a number of different clean energy and energy efficiency technologies. And I think anything else that Congress can do to assist States with ensuring that utilities are making those investments in energy efficiency.

There are a number of States that have recognized that prodding their utilities to invest more in their consumers to increase energy efficiency is the best path forward. And so providing more regulatory incentives and financial incentives for utilities, for building owners, for landlords, and for homeowners to deploy and adopt energy efficiency technologies and clean energy technologies, that is only going to help reduce customers' bills and their exposure to volatilely priced fossil fuel energy.

Ms. SCHAKOWSKY. Can you give us some examples of things that are happening around the country that are delivering that kind of good outcome?

Mr. SLOCUM. Sure. So I live in Maryland, which has very proactive—it is called Empower Maryland, where the Public Service Commission, backed by the legislature, requires utilities to invest not necessarily in building new power plants to meet demand, but investing in consumers to help obtain energy efficiency initiatives. So, you know, I live in a house built in 1900 that needed a whole lot of weatherization renovation. And that was helped in part because of incentives through the utility.

And so I think looking at energy providers not as just providing energy, but assisting customers in avoiding energy use through improvements in energy efficiency, has to be a central component. And all investments in energy efficiency are typically far more cost effective, meaning the bang for your buck for investing in energy efficiency is always better than building new energy resources.

Ms. SCHAKOWSKY. I thank you so much for your comments——

Mr. SLOCUM. Thank you.

Ms. SCHAKOWSKY [continuing]. And I yield back.

Mr. JOHNSON. The gentlelady yields back. The Chair now recognizes the gentleman from Ohio, Mr. Latta, for 5 minutes.

Mr. LATTA. Well, thanks, Mr. Chairman, and thanks for our witnesses for being here today. I really appreciate it.

And one key area that is holding the United States back from reaching its full potential for energy production is refining capacity. Last year the Energy Information Administration estimated that North America lost over 1 million barrels of fuel per day in refining capacity in a 3-year period.

Where refining capacity has decreased, demand for energy has gone in the opposite direction. Our remaining refineries struggling to keep up with this demand are running at close to 95 percent of total capacity. Any economist will tell you that the situation—resulting in higher prices for the consumer. And my legislation, the Researching Efficient Federal Improvements for Necessary Energy Refining and Refinery Act, would address this.

If I could start with you, Secretary Menezes, how important is it for the Federal Government to drive the conversation towards increasing refining capacity in this country?

Mr. MENEZES. We do need a robust refining capacity here, simply so we don't have to import from any other country, and we can provide our consumers with what we need. But the fact is that there hasn't been another major—a new, major refinery built—greenfield—since 1977. We have built some small refineries, but we have been closing more of——

Mr. LATTA. Sorry, would you repeat that again? What was the date, again, for our major refinery?

Mr. MENEZES. In 1977, the last major greenfield oil production, I believe it was the Marathon refinery.

Now, there have been some small refineries that have been built, typically on brownfield sites, but we have been—our industry has been ratcheting out the inefficiencies back from the 1970s. And so we have been closing, we have been doing with what we can.

But the permitting process, essentially, is too difficult to overcome. I believe we have a North Dakota plant and a Utah plant that, I think, have basically stalled out because of lack of permits.

So we are doing—we are making improvements with what we have had for many years, and that—it operates at the 95 percent efficiency that you say—does not leave much wiggle room for when the President wants us to increase refining. For example, we simply, A, don't have the facilities or it would be too costly for us to suddenly begin to take them out of mothballs and then try to get them going again.

So that is why we should look at this comprehensively to see what we can do to help, you know, get a robust, clean, environmentally compliant refinery.

Mr. LATTA. And just to follow up, what is the benefit going to be to the consumer? What is the benefit to the consumer?

Mr. MENEZES. Well, you would have a ready supply of refined products.

Mr. LATTA. Thank you very much.

You know, we have talked a little bit earlier today in regards to having a strong nuclear fuel security program, and I totally sup-

port it. And I also fully support our chair's legislation that would ban the importation of Russian uranium. And, Mr. Chairman, I ask unanimous consent to place into the record two letters of support in favor of this bill: one from the Uranium Producers of America and the other from the organization ClearPath.

Mr. JOHNSON. Without objection, so ordered.

[The information appears at the conclusion of the hearing.]

Mr. LATTA. Thank you very much.

Ms. Sweeney, if I could switch gears real quickly and talk about your testimony, because, interestingly enough, you know, just by chance—everybody saw the second page of The Wall Street Journal today. It is all about what? It is all about our—what we are going to do about EVs and our batteries in this country. And it is a very interesting article, and I thought right—apropos for where we are today.

But, you know, in your—this testimony that you talked—that you presented today, you know, you have that the lithium band is going to—demand is going to increase by more than 40 times by 2040, followed by graphite, cobalt, nickel at 20 to 25 percent in that timeframe. Our automakers are warning that the coming battery shortage could stop the EV revolution in its tracks.

And also in your testimony you state that, with over $6 trillion worth of mineral resources that we have right here in this country, you know, it is right in our own back yard.

But it goes right to—a question, then, is on the permitting and the delays out there, because also in your testimony you have your chart that shows that, you know, we could be looking at anywhere from 7 to 10 years to get a production site up. And I have been to the only lithium facility that we have in this country, out in Nevada.

But you also state that unexpected permitting delays could reduce that—mining projects by more than a third.

But do you also—when you think about all of these things, you know, what are we going to do in this country, especially when we look to our friends to the north in Canada, that their permitting is taking 2 to 3 years, and here in this country it is taking 7 to 10? What can we do?

Ms. SWEENEY. You know, they have some efficiencies in Canada and Australia, you know, which have very similar NEPA regulations and statute in place that do allow the permitting process to move a little bit faster.

One of those is actually allowing the project proponent to prepare the environmental impact statement. The Government then does a thorough review, and makes sure that, you know, that meets all the standards, and they allow the opportunity for the public to comment on the NEPA project—or the analysis, just like we do here.

But the project proponent is—has the best information. They are on the ground right there. They know what is happening on the ground. They have got the data in front of them, and they have the incentive to move more quickly. And they are only focusing on one project at a time. When the Government has to do it, they are looking at a lot of different projects, and it is just a matter of getting the resources to the project. That is part of the delays.

Another process that works better——

Mr. LATTA. Oh, excuse me. I am afraid my time has expired, but I would ask, if you could put that in writing, and I will address that to you then.

Thank you very much, Mr. Chairman.

Ms. SWEENEY. Sure.

Mr. JOHNSON. I thank the gentleman for yielding. The Chair now recognizes the gentlelady from California, Ms. Matsui, for 5 minutes.

Ms. MATSUI. Thank you, Mr. Chairman, and thank you for the witnesses for being here today.

Recent research from the Energy Innovation shows it is now cheaper to replace almost every coal plant in this country with new, renewable generation rather than pay to keep those old coal plants running.

In my community, our utility, the Sacramento Municipal Utility District, affectionately called SMUD, is on track to be zero carbon by 2030. At the same time, our electricity rates are among the cheapest of any competitors.

Mr. Slocum, fast forward to 2030. Based on current modeling, will the clean energy transition save consumers money?

Mr. SLOCUM. Yes.

Ms. MATSUI. OK. Again, Mr. Slocum, given the expected costs of climate change, will the clean energy transition save our Government money?

Mr. SLOCUM. Yes.

Ms. MATSUI. OK. I want to follow up on what you said about what utilities can do. Are utilities doing all those kinds of things, and making sure that—they are making sure that their customers have good investments so that we can transition?

As I mentioned, our municipal utility in Sacramento is on track to be zero carbon by 2030, 5 years ahead of the President's goal for decarbonizing the U.S. power sector.

The clean energy transition is achievable, it is cost effective, and the potential benefits are enormous.

Mr. Garcia, if every utility in this country were zero carbon by 2030, what kind of benefits would we see among the low-income and minority communities living adjacent to fossil fuel facilities?

Mr. GARCIA. Well, it is going to be a huge impact, and that is why the investments coming out of the IRA are so important, because we are basically reducing the process that is poisoning the communities across the country, right? And so, the less they have to rely on those dirty fuels, the less poisoned air they have to breathe.

Ms. MATSUI. And for those focused on economic impacts above all else, what are the potential economic benefits of improved health in those frontline communities?

Mr. GARCIA. Well, throughout the—you know, throughout all of the economic impacts, they would be quite substantial.

One, because, you know, I mean, you can think about, in very concrete terms, how much does an inhaler cost for—you know, for a child per se? And that is a saving. The trips to the emergency room, the hospital bills.

On top of that, it also makes electricity way easier for them to get, and not as expensive as it used——

Ms. MATSUI. OK. Nature-based solutions are among the most cost effective and underappreciated tools in our toolbox when it comes to mitigating and adapting to climate change. And I am very concerned to see a number of bills here today that would roll back important environmental protections and threaten fragile ecosystems.

Mr. Garcia, what would be the cumulative impact of those bills on our ecosystems, natural lands, and biodiversity across America?

Mr. GARCIA. It would be extremely destructive, not only because of the—I mean, one is the climate emissions that they would—that they bring about, and all of the way that they are going to make—the storms, the droughts, all of that is going to get worse.

But in addition to that, a lot of these projects are happening without any regard to nature, and I think that oftentimes we talk about nature as some distant place where we don't actually go. But we have to recognize that air knows no borders. It travels all across our States, and so does water. And so when we are polluting the water, when we are polluting the air, when the wildlife can't adapt quick enough, when we are throwing away grasslands that would protect our communities, say, from hurricanes or bigger storms that way, we are all going to end up suffering.

And unfortunately, communities of color and low income are at the front lines of that suffering.

Ms. MATSUI. Certainly, they are the most exposed, especially to nature's wrath and those dependent on the resources provided by the natural ecosystems.

How could we work better with low-income, minority, and frontline communities to protect these ecosystems and improve the potential of these ecosystems to help mitigate and adapt to climate change?

Many of these are in low-income neighborhoods, and it is very difficult to figure out how to work with them.

Mr. GARCIA. Absolutely. And, you know, the way that we work with them is by following the guideposts that laws like NEPA set in place, because NEPA is really about engaging the public, engaging frontline communities.

And so making sure that it is not industry's alternative that gets put front and center all the time, making sure that communities on the ground are actually being able to say, "That is actually a conflict of interest," making sure that communities on the ground are able to say, "That is actually going to affect my water, so you shouldn't do that," and, frankly, all of those protections that, again, many people here keep calling obstacles and red tape are those guideposts in order to engage those communities in a way that is going to be helpful to them and helpful to the project's sponsor themselves——

Ms. MATSUI. OK.

Mr. GARCIA [continuing]. To create better projects.

Ms. MATSUI. Well, thank you very much, Mr. Garcia, and thank you for the witnesses for being here today. Thank you.

Mr. JOHNSON. The gentlelady yields back. The Chair now recognizes the gentleman from Kentucky, Mr. Guthrie, for five——

Mr. GUTHRIE. Thank you——

Mr. JOHNSON [continuing]. Minutes.

Mr. GUTHRIE [continuing]. Mr. Chair. I appreciate the recognition.

And there is a cost. First of all, I will bring up Paradise, Kentucky, in Muhlenberg County. It is—TVA shut down its coal-fired power plant. It devastated that community, it devastated the people that live in that community, but it also devastated everybody in the TVA power area.

December 23rd, 24th, it was a cold day, it was unusually cold. But TVA wasn't prepared for it. They will give you about 10 different reasons because their board wants them to get out of fossil fuels. But I will tell you, people are suffering because of it. We had rolling blackouts, which is hard to believe in America during this time and this day.

The rising cost of gas, the rising cost of energy affects people at the low-income level at the most. I hate paying when we were paying $5—almost $5 a gallon worth of gas. I hate paying it. But I know people that had to change their lifestyle because they couldn't afford to pay it. And so this is serious stuff.

I mean, we don't need technology deniers. We need to understand that we have to have a system where people have access to affordable, reliable, and sustainable energy.

And for instance, you know, Germany tried it. We export coal, the price of coal has increased because the German economy decided they cannot continue down the path they were on. If we didn't export coal, then we wouldn't have the increased price of coal. Therefore, we wouldn't—they wouldn't have opened mines. And so now it has brought more coal into production because of the decisions that's happening in Europe.

You know, thank goodness Germany has had a mild winter. You know, I was praying for a mild winter for Germany because of some of the decisions they made. You are talking about people affected? People could have died from the cold weather if it had moved forward.

So it is important that we are part of this global economy. And for instance, I was in—I think Ms. Schakowsky has left—I was in her neighborhood, dropping my daughter off for college, when I heard that Iran had bombed a Saudi Arabian oil production facility. And being a child of the 1970s, my first thought is I better top my car off—because I can get home on one tank of gas if it is all the way to the full—expecting disruptions in the gas supply. But because of energy independence, we didn't have any. And I think it went up maybe a dime for a half a day, or a day or so.

So the point is we have got to do all the—and I grew up, I went to college on the Hudson River, about 45 miles from New York City. You couldn't swim in it when I was there. We don't want that, absolutely don't want that. Now, it is—fortunately, it has rejuvenated itself. We put in protections in place.

And so we need communities that are safe, we need communities that people can live in and enjoy the beauty of the Hudson Valley, which they can now because of laws that Congress put into place and efforts that people moved forward.

So we are not selling that, but we want people to have access to affordable, reliable, and sustainable energy. And one way to do it—I want to talk, Mr. Menezes and Mr. Eshelman, on—I have a bill in this, or a resolution with—that says we don't want export bans on petroleum and natural gas. And the reason is that it actually produces lower prices for everybody when producers can engage in the world marketplace. It allows expansion of supply. So that is why, even though the expansion of demand allows expansion of supply at the price that is sustainable, you may get some short-term lower prices, but not in the long term.

Also, do we want our friends and our neighbors and our allies to be dependent on dictators? If you are dependent on dictators, you are vulnerable to them. So when we choose to say we are going to keep it all here, we are going to say to our European friends, "You are going to have to buy from Putin, you are going to have to buy from Iran, you are going to have to buy from Venezuela."

And so, if the two of you would, kind of talk to why it doesn't make sense to ban exports of petroleum, natural gas, Mr. Eshelman and Mr. Menezes.

Mr. ESHELMAN. Well, Congressman, there are a few reasons.

One is if we continue to produce oil here at home, those are jobs that remain. If we would stop exporting the oil, those jobs would disappear. So it actually helps when we are producing more here at home and exporting to keep those wells pumping.

The other thing I mentioned before is the trade deficit. It has come down tremendously because of the export of oil and natural gas to other countries. About 68 percent of our LNG exports go to Europe. So it helps our allies, and it helps our own national security. It makes sure that we are on the world stage and being a player.

And so those are the big themes that I would hit.

Mr. MENEZES. And I look at it, really, from a separation of powers, you know, viewpoint, because having worked for Congress for many years—and I got, you know, accustomed to the fact that, unless Congress says it, you know, others can't do it, and we set the law of the land, and then you go over to the executive branch, and the first question you ask is, well, if Congress doesn't prohibit me from doing something, then I have all the authority I need to do something.

And it becomes relevant when emergencies occur, and the President wants to take action to solve a problem. What emergency authorities, you know, do I have? What can I do? What do I have in the Constitution? What is—what has Congress said I can and cannot do?

And with respect to bans of oil, Congress has been—has set a process in place. The President can actually take decisions to limit exports, but he has to do it following a process that Congress clearly put in the bill when they decided to lift the export ban. So he can't simply unilaterally declare an emergency and take such action.

And this is what you do: You make him follow the law that Congress enacted. So that is my view of this and why I think it is important for Congress to express the clear intention to the executive branch to read the law and follow the law.

Mr. JOHNSON. The gentleman yields back. The Chair now recognizes the gentleman from Maryland, Mr. Sarbanes, for 5 minutes.

Mr. SARBANES. Thanks very much, Mr. Chairman.

Thank you all for your testimony today. As we know, we are considering several bills that would, according to our colleagues on the other side of the aisle, unleash American energy.

But, no surprise, a lot of these bills that are on the docket here are more of the same. They are really unleashing more profit-making by the big oil companies, and doing that at the expense of the American people, in my view. And it is beyond me why our colleagues, with these pieces of legislation, would seek to erode what are bedrock environmental laws for the sake of unleashing American energy, as if we need to choose between health and safety of communities on the one hand and promoting energy on the other hand.

One of the bills we have talked about—but I want to come back to it—that we are being—that we are considering today would create this new regulatory pathway for, quote, "critical energy sources" under TSCA, and it would circumvent what were bipartisan reforms that Congress passed in 2016. It would require EPA to consider nonrisk factors when determining the risks associated with a substance, which is very backwards thinking, you would think, in this day and age.

Congress deliberately and explicitly prohibited EPA from considering such factors when determining whether a chemical presents unreasonable risk. These factors are, however, considered in the risk management stage.

The bill would also provide a pathway for a, again, critical energy source to enter the market without regulation if EPA does not act in the review period, thereby potentially exposing communities and workers to toxic chemicals.

Mr. Chairman, without objection, I would like to enter into the record a letter that we received from the Natural Resources Defense Council and nine other environmental groups opposing this particular legislation.

Mr. JOHNSON. Without objection, so ordered.

[The information appears at the conclusion of the hearing.]

Mr. SARBANES. Thank you, Mr. Chairman.

Mr. Garcia, getting back to the broader frame here—and you have spoken to it, but I would like you to do it again, if you would. Is it necessary to roll these environmental protections back in order to secure our Nation's energy independence?

I mean, do we need to choose, make this choice between our environmental laws and energy, or can we do both?

Mr. GARCIA. Absolutely not. We don't have to choose. We can absolutely do both. We have the technology. And in fact, some of the legislation presented today would actually curtail that technology, which is sad to see.

Mr. SARBANES. Arguably, if you look historically, when we have leaned in with more—a more of an enlightened perspective on what we need to do with the environment, not only has that not compromised our economy, it ends up driving new economies that benefit. The pie grows from that. And I think the same can happen

here. And if we go in the other direction, as is being suggested by these bills, we could undermine that kind of opportunity.

So I definitely agree with you, and it is one of the reasons that we passed in the last Congress the Inflation Reduction Act, which would put our Nation on track to reduce greenhouse gas emissions, accelerate the development of reliable and clean energy.

Unfortunately, again, our colleagues here seem unwilling to commit to a more sustainable future, as evidenced by their eagerness to get in there and start repealing all these things—again, many of them that came to pass and are on the books because of a bipartisan consensus and understanding that this is the right thing to do for our environment and for our economy and for our energy future.

So, Mr. Garcia, let me ask you one last thing while I have the time. What would erosion of our environmental laws mean for particularly disadvantaged and underserved communities, which, as you know, are already overburdened? If you could, speak to that.

Mr. GARCIA. Yes, absolutely. You know, I don't know if I caught that right, but where—when Mr. Menezes mentioned, you know, we are not creating refineries and the old refineries that we had are going out, I am not sure if I caught that right, but I heard they were brownfield sites now.

Now, think about that. Brownfield sites, which are hugely contaminated sites that have not been cleaned up, that were contaminated by industry, are in that place now, and we want more of these things throughout the country? Right? That is what is compromising communities everywhere.

And so, unfortunately—and I have to say this very explicitly—these facilities are not in upper-class White portions of cities. These facilities exist primarily in neighborhoods of color, people—where people of low income live. And so that means that they are the ones absorbing this pollution, first and foremost.

And even though our laws are not perfect, they offer protection. We are now to weaken them further with these loopholes left and right, whether it is the Clean Air Act, cleanup laws, and planning laws, permitting laws that would avoid us having to clean up because we are planning correctly—that seems like it would multiply the damage.

Mr. SARBANES. I yield back, Mr. Chairman.

Mr. JOHNSON. The gentleman yields back. The Chair now recognizes the gentleman from Virginia, Mr. Griffith, for 5 minutes.

Mr. GRIFFITH. Thank you very much, Mr. Chairman.

I am so glad to have another Virginian here today, my old friend—I hope that doesn't hurt your reputation any; I know we have known each other at least 20 years, probably more than that—Bernie McNamee. Mr. McNamee, it is good to have you with us as an energy expert and somebody who teaches law at the Appalachian School of Law in Grundy, Virginia, in Buckhannon County.

Now, I mention that because I recently had an interesting tour, which is right on your way as you drive there, as you get to that turn where 460 and 19 separate, and you turn west heading towards Grundy in Russell County—or excuse me, in Tazewell County, headed towards Richlands. Just off on your left behind the Food

City is a CONSOL office, and they are doing some fascinating new work.

They have got a new technique to more efficiently and cleanly capture coal bed methane, and they are using it right now at Buckhannon No. 1. As you know, Buckhannon No. 1 is a huge underground mine for metallurgical coal. That means we make steel out of it, for those who don't know. The footprint underground right now is about the size of Washington, DC, and they are getting ready to open up a new section in the next couple of years. And so they are capturing, in a very clean and efficient manner, the coal bed methane out of that mine.

But what people may not realize is they also can use this technique to capture this from existing mines or mines that—or areas that have coal that may not have ever been mined, but because they may be close to the surface or whatever, they have escaping methane gas. We can use it on that, too, but they don't get any credit for having a clean, efficient way, because it is the dreaded fossil fuel. It is natural gas. Oh, my gosh, egads, it must be bad. But here is a way that American technology is helping us.

Do you think that is a good way that we should go, and that if we are going to do something with credits, that we ought to be looking at things that make it so that smaller steps forward can be made with existing fuel sources and baseload like natural gas, et cetera?

Turn your mic on.

Mr. MCNAMEE. Congressman Griffith, it is great to be back in front of you once again. And I think you are correct—is that the innovation—the American people have been the ones that have solved most of our energy crisis and energy challenges.

You think about the fracking revolution with George Mitchell in Texas, the innovation that CONSOL is doing, these resources—and what is neat about natural gas, what is great about the methane that is being produced is that it is something that can be dispatched and used to keep the grid growing. And these are very important things that we need to be focused on as a country.

It is great to talk about—you know, we think we can go 100 percent renewables, but the reality is, with technology we have today, we have to have dispatchable energy, and that is going to come from natural gas, from the methane that is captured at the coal seam, and these are things that we should not look negatively about. They have made our economy, people's lives, and the quality of life for all American people much better. And it is something we should embrace.

Mr. GRIFFITH. Yes, I appreciate that.

Mr. Menezes, you agree that we probably ought to be using this technology and rewarding it, instead of excluding it from being able to receive money from, you know, the Greenhouse Gas Reduction Program? Because it is a fossil fuel, I don't think they are eligible.

Mr. MENEZES. To be sure. I mean, there are a lot of technologies that we can be deploying right now to help reduce emissions. Remember, our quest here is not to choose one type of energy over another. Our quest here to solve the climate problem is to reduce emissions.

Mr. GRIFFITH. Yes, and I appreciate that.

Mr. MENEZES. So anything we can do to reduce emissions, it doesn't make any difference whether you are using coal or fossil, you have technologies to deploy, and the IRA actually encourages it in some in some ways to do that. So it is reducing emissions, not saying something should be antifossil or, you know, or renewables. That is the——

Mr. GRIFFITH. Yes.

Mr. MENEZES [continuing]. False narrative. It is reducing emissions.

Mr. GRIFFITH. And I appreciate that.

Back to you, Mr. McNamee. You know, it is interesting that that Buckhannon No. 1 mine, it is expanding. A lot of times people want to talk about, oh, we are going to have new sectors, and we are going to hire all these people in the renewables area. And while the CEOs may make good money, the frontline people don't make nearly what the miners in Buck 1 make. The new section, they estimate, is going to be about an average of $103,000 a year for people with sometimes not even a high school education. They are able to get in there, and they are able to learn a trade and go forward, and that is very exciting.

Also, as a former FERC representative, I would like to see us move forward on our pipeline reforms, including possibly even having collocation. But my time is out, so we will have to talk about that privately another time.

Mr. MENEZES. I would be happy to.

Mr. GRIFFITH. I appreciate. Always good to see you. Thank you for being here today, and for spending your time with us.

I yield back, Mr. Chairman.

Mr. DUNCAN [presiding]. The gentleman's time is expired. We will now go to Mr. Cárdenas for 5 minutes.

Mr. CARDENAS. Thank you, Mr. Chairman, and also Ranking Member, for holding this committee today.

As Members of Congress, we have been entrusted with the duty to protect and improve constituents' quality of life, their health, and overall well-being. And, as members of this committee, we have a unique opportunity to examine and put forth real solutions that advance our Nation's energy independence while ensuring a healthier future for our children and grandchildren.

Today we have convened to discuss 17 bills, all of which are partisan, none of which Energy and Commerce Committee Democrats were consulted about. Welcome to the Republican rodeo, ladies and gentlemen. And this ain't my first rodeo. I have been in the minority in the House of Representatives once before, and here we go again.

The bills being discussed today are an attack on the environmental and public-interest laws that are most essential to ensuring that our constituents can breathe clean air and drink clean water. These bills will not serve the American people. They are intended to serve fossil fuel companies who continue to see record-shattering profits while everyday Americans pay higher prices at home.

Today's hearing is an—is indicative of my Republican colleagues' misplaced priorities, and their willingness to sacrifice the health, the safety of the American people, starting with frontline communities like the one that I represent.

My district and too many communities across our Nation know all too well the challenges of environmental injustices. In 2020 my district was impacted by a methane gas leak, a leak we later found out had been occurring for over 3 years before the actual community found out that it was going on right in their midst. In my district, residents already breathe some of California's most polluted air, and a chemical disaster can be a death sentence to vulnerable communities like the one that I represent.

There are far too many communities across the country that we were sent here to help protect and to make sure that their quality of life is secured. But yet, with some of these bills, they are really focused mostly on what industry prefers, rather than what the American people truly do deserve.

My first question is for Mr. Garcia. Can you elaborate on the implications of proposals that hinder efforts from the EPA's risk management program, and what would happen if they became law?

Mr. GARCIA. Absolutely. So EPA's risk management program essentially calls on refineries to be able to present safer alternatives or to try to study safer alternatives to their methods of production. And so it is a huge problem, because the bill that we are seeing today would essentially exempt—again, a loophole—from the Clean Air Act to refineries using hydrofluoric acid, which is incredibly dangerous for communities that live near the refineries and that really depend on the air around the refineries themselves.

And so this is something that it is very much common sense. In fact, much of the industry is already doing it. The fact that we are talking about a bill that would eliminate this is sort of puzzling, because large refineries are doing it. And again, it is common sense. It is the idea that you should study to see if there are safer and effective ways to go about the business that you have already been doing for quite some time.

Mr. CÁRDENAS. Thank you. And what would accountability look like for communities facing chemical disasters, particularly those that are low-income communities across the country?

Mr. GARCIA. Well, you know, on the foremost, we have to make sure that—we have seen disasters before. I mean, a couple of years ago, the plant in Philadelphia exploded and was a national disaster because of this same kind of lax enforcement of laws.

So what we really need to focus on is making sure that it doesn't repeat itself. And particularly for communities of color and low income, and those that live near those refineries, We need to make sure that the planning is done right and that it is reoccurring. We can't just pretend that a facility that is there and that is exempted from the Clean Air Act is suddenly going to be responsible enough to do its job. It has to be held in check, and that is why those laws exist.

Mr. CÁRDENAS. One of the reasons why I ran for office many years ago was to make sure that I am a voice for the community that I grew up in, and I grew up in one of the most impacted communities in all of Los Angeles or Southern California, with more dumpsites and plants around my home than most people would ever want to have to deal with.

In your testimony you explained that, under the bill that amends the Solid Waste Disposal Act, facilities could operate before securing a permit?

Mr. GARCIA. That is right. That is right. It essentially allows industry to roll out the red carpet, march in, do everything that it wants to do before we even know whether the practice is going to be safe, whether the appropriate precautions are being taken, whether the community's—the community alternatives, those projects that the community is actually bringing forward to accomplish the same goal, are being considered. All of that gets done through those laws, and somehow it is not going to matter.

And then it is like this, right? And then, once it is operational, we get the excuse that, well, it is already there, so we can't draw it back. It is like——

Mr. CÁRDENAS. So——

Mr. GARCIA. It is like pouring, like, food coloring in a cup of water.

Mr. CÁRDENAS. Thank you.

Mr. GARCIA. Good luck getting that out.

Mr. CÁRDENAS. Thank you.

Mr. Chairman, I just want to note that I think the clock was backwards on my——

Mr. DUNCAN. It was.

Mr. CÁRDENAS. So did it actually start at——

Mr. DUNCAN. Yes. You got 5 minutes and 44 seconds as of right now.

Mr. CÁRDENAS. OK. But I noticed that it was going up, in—rather than going down then.

Mr. DUNCAN. That is correct.

Mr. CÁRDENAS. OK, thank you.

Mr. DUNCAN. They didn't reset it, but you weren't shorted on time.

Mr. CÁRDENAS. OK, thank you so much.

Mr. DUNCAN. We apologize. They are going to make sure to reset it.

Mr. CÁRDENAS. No, no——

Mr. DUNCAN. And I will go to the crossroads of America, the gentleman from Indiana, Dr. Bucshon.

Mr. BUCSHON. Thank you, Mr. Chairman. Today I am speaking in support of the Securing America's Critical Minerals Act, a bill that our former colleague, Mr. Upton, introduced last Congress and I am introducing this Congress, and I am looking for Democrat cosponsors, if anyone is interested.

I do find it fascinating that some of the same groups that support total conversion to electric vehicles are also the same groups that are working to block the mining of minerals such as cobalt and lithium that are required for the batteries—block it here in the United States.

Just to mention, you know, that China is a major supplier of the lithium. And as far as the cobalt goes, I don't know if anybody has seen the video of the mines in Africa, but, essentially, slave labor in Africa to get the cobalt. And I would encourage everybody to look at the YouTube videos of those mines with little children digging through the dirt, trying to find cobalt.

So over the last few years we have discussed in these subcommittees the importance of critical minerals and other energy resources necessary to providing for our energy needs, as well as the potential vulnerabilities that exist in the supply chain and domestic production and capacity limitations.

This bill would ensure that the Secretary of Energy is engaged productively in addressing the issue. It would require the Secretary to conduct an assessment of our Nation's energy supply, identify resources that are critical to our economy and vulnerabilities in the supply chains of critical energy resources, and determine the extent to which critical energy resources play a role in developing new energy technologies.

The bill defines critical energy resources as those that are "essential to the energy sector and energy systems of the United States," and the supply chain of which is vulnerable to disruption.

The bill would also direct the Secretary of Energy to diversify energy sourcing and increase domestic production, refining, and processing of these resources.

As a supporter of an all-of-the-above energy approach, I appreciate our need for a diverse energy portfolio. We must take steps to ensure we safeguard our supply chains as well as prevent our adversaries from weaponizing potential vulnerabilities in these supply chains, and critical minerals is a large part of our vulnerability—I can't get that out today for some reason. As a country, we need more production here.

So, Ms. Sweeney, how potentially could securing America's Critical Mineral Supply Act help our country and the energy sector reduce this reliance on China and other foreign sources of these critical mineral needs?

Ms. SWEENEY. Thank you so much for the question, and that is a really important question.

I think that one area that the act really is important is having the Energy Information Agency actually look at that connection between minerals and energy. As I said in my testimony here earlier, there isn't any form of energy that doesn't rely on minerals as the—you know, as the base of that energy. So it is very important to focus on where these come from, where we are getting them.

And in particular, you know, you mentioned the processing and smelting and refining. You know, that is an area where we need to focus attention, as well. It is not just the mines themselves, but the processing also needs to take place here in the U.S.

Mr. BUCSHON. Mr. Menezes, do you have any comments on that?

Mr. MENEZES. Well, I think the bill is especially important because there are other agencies that also would like to get resources to look at critical minerals, and it is important to have the Department of Energy, in its organizational act, have the statutory authority to be the experts throughout the interagency process. Those agencies compete at—for Congress dollars.

And so when you can point to legislation that says we need this to do our jobs, it is important, really, and we hope that this would be a strong bipartisan bill to declare the Department of Energy—the Department of Energy has those national laboratories. I mean, they are better equipped than any other agency. But at the end of the day, it is resources.

And so this act is really important for that. Put that expertise at the Department. It will protect this committee's interest throughout that interagency process that can get pretty tough.

Mr. BUCSHON. Thank you. I do also want to emphasize what my colleague, Mr. Guthrie, mentioned.

We now have an example of what happens when you take an energy approach that this administration appears to be taking, and that is Europe, and that is countries like Germany. They are now building coal-fired power plants, importing coal from in the United States also, and it is probably going to set their clean energy agenda back decades by getting too far ahead of themselves and trying to restrict certain forms of energy rather than taking an all-of-the-above approach and advancing innovation and technology in every area of energy production.

I yield.

Mr. DUNCAN. I thank the gentleman. Now we will go to California, Mr. Peters, for 5 minutes.

Mr. PETERS. Thank you, Mr. Chairman. Last week I encouraged Republicans and Democrats on this committee to engage in a constructive bipartisan process to enact sensible permitting reforms to deliver energy security and environmental protection for the American people. I spoke about the need to reduce excessive process requirements necessary to build clean energy projects and reform environmental laws from the 1970s to meet the challenges of today. I talked about the dismal state of our electric grid and how we must build 200,000 miles of new transmission lines by the 2030s to keep the lights on, lower costs for Americans, and build clean energy projects like solar, wind, hydropower, and nuclear.

And my Republican colleagues have said publicly they are committed to advancing permitting reform, and that they are focused on an all-of-the-above energy agenda to secure our energy future, and that is why I am a little bit disappointed about the hearing today. We are discussing 17 bills, and almost all of them are focused on solely natural gas and oil. And doubling down on oil and gas will lead to more price uncertainty and financial pain for Americans.

Speaking of all of the above, the Energy Information Administration says that a very small amount of the planned projects on the ground today are going to be natural gas, and that 86 percent are zero-emission projects. That is what we are trying to build. But we don't really address that today. There is no focus today on key energy technologies like solar, wind, transmission, energy storage, advanced nuclear, hydropower, or hydrogen. And for a party that claims it doesn't want to pick winners and losers, Republicans are seeming to pick oil and gas every single time.

So I am not going to give up hope. But if we are going to pass permitting reform in this Congress, it has to be bipartisan. Today we are using our time to discuss partisan bills that I really don't think will be going anywhere, relitigating a pipeline that was terminated more than 2 years ago by the company developing it. I think we could do better.

I am a proud Democrat. I am a former environmental attorney. I am a climate hawk ready to have hard conversations about permitting reform. And we can compromise on NEPA, the Nuclear

Regulatory Commission, hydropower relicensing, critical minerals, interstate electric transmission, and more, but I really want to get about that business.

Let me ask a couple of questions of the witnesses today, and thank you for being here.

Mr. Menezes, you helped negotiate the Energy Policy Act of 2005, which included language intended to streamline the construction of electric transmission lines. Can you elaborate on why we need to build these lines faster and the importance of advancing bipartisan legislation to permit these projects faster?

Mr. MENEZES. Well, even today, as it was back then, I mean, there are probably more difficult things to build and site—interstate transmission line, but it is hard for me to come up with what they are.

Mr. PETERS. Yes.

Mr. MENEZES. Really, it has opposition almost everywhere you turn. And although the goal of modernizing our grid, to make it green, et cetera, and to embrace the energy transition, it is one of the most difficult things to overcome, an interstate transmission line crossing States of low populations, et cetera.

So I know Congress has been looking at this. There are ways to go about trying to do this. We tried it with backstop authority. Two courts told us we didn't quite get it right.

Mr. PETERS. Right.

Mr. MENEZES. There's been some proposals over in the Senate to look at that. And so I think that this is something that certainly is within this committee's jurisdiction to take another look at.

Mr. PETERS. I drafted the POWER ON Act, which was put in by the Senate into the infrastructure bill to provide backstop authority. That is certainly helpful. But when we have a project that takes 10 years, and 7 of those years are permitting and processing, we will not be able to build the grid that we need to electrify this economy. And I think we are going to lose a lot of the benefit of the IRA if we do—if we don't.

Mr. Slocum, methane is a superpollutant responsible for about 25 percent of humanmade warming. Today we hear claims that we produce the cleanest energy in the world. I am not sure, if you consider methane, that that is true. But isn't it essential that oil and gas producers significantly reduce methane leaks to be the cleanest in the world?

Mr. SLOCUM. Yes.

Mr. PETERS. The IRA included billions of dollars of new funding to help large and small oil and gas companies reduce their methane emissions. The EPA is finalizing a new rule to reduce those emissions from oil and gas operations.

Will the oil and gas industry significantly reduce methane emissions in the absence of that regulation and strong funding?

Mr. SLOCUM. I don't think so. I think you need to have that regulatory structure and—in order for the industry to make those investments.

Mr. PETERS. I agree. And on this too I would reiterate my willingness to work in a bipartisan way.

One of the things I think we can offer to the small producers who are concerned about these costs is that the IRA provides funds to help those companies comply.

I also don't pretend that oil and gas is going away tomorrow. It is going to be around for a while. While it is around, we need to make it cleaner, and I am willing to work on that, as well.

Mr. Chairman, my time is expired. I yield back.

Mr. DUNCAN. I thank the gentleman. Now we will go to the vice chair of the Energy, Climate, and Grid Security Subcommittee, Mr. Curtis, for 5 minutes.

Mr. CURTIS. Thank you, Mr. Chairman. I, like many of you, view PFAS as a four-letter word. And I think on this committee it has been demonized frequently, and in some cases rightly so. But it might surprise all of us and my colleagues to know that a number of products needed for transformation and energy production require PFAS.

As a matter of fact, semiconductors, green hydrogen membranes needed for electrolyzers, hydrogen used in fuel cells, and lithium batteries all require fluoropolymers, especially plastics. Critical PFAS is used in EV charging infrastructures, batteries, powertrains. I have a list here of 21 uses in the semiconductor industry of PFAS. So frequently, when we quick rush to judgment and lump all of these together, it is probably a mistake.

I have a bill, one of the 17 that has been discussed today, that would make sure that these chemicals are approved in a timely manner. There is nothing about this bill that asks the agency to approve anything that is not safe, that is not healthy, simply to do it in a timely manner.

In short, chemicals are all around us and necessary for every industry, but especially to achieve decarbonization of our economy in the world. If we want a clean future, we need to approve chemicals more effectively and responsibly. My bill would help deploy clean energy technology more quickly and puts the following three conditions on there.

Hard deadlines on EPA's ability to make a decision on the risk presented by the critical energy resource. I believe, if we give them 180 days, it will take 280. If we give them 280, it will take 380. They need to stick to the guidelines that we have given them.

It prevents the EPA from telling an applicant to suspend their application unless EPA has reviewed the notice—it sounds reasonable—and make a determination.

And it requires EPA to consider cost and other nonrisk factors in determining if an unreasonable risk is present. We heard earlier from Mr. Garcia that that was akin to killing people, and I adamantly disagree with that. It does not say that they should make an unwise decision, simply that they should take that into consideration, and that seemed pretty melodramatic to me.

Mr. Menezes, you have experience as a former Deputy Secretary of Energy. Can you speak to the importance of chemicals in the energy sector?

Mr. MENEZES. Without critical—one of the two—I learned two lessons when I visited the labs. To achieve breakthrough technologies, we need two things: one, high-performing computing to do modeling and continue to do modeling—and it is modeling that is

important—and another thing is we need to create chemicals and products that do not exist today. They do not exist, and we need to do that.

And to make that point, they actually gave me a new product that they had made.

[Holds up a coaster.]

Mr. MENEZES. This was at Argonne, and this is cesium aluminate. It didn't exist before 2017. It is going to be a key product that is going to be used in our green energy future. And to even make the point, they used the same product to make me a 3D printed replica of our Capitol building.

So this is what the future looks like. The problem is that these chemicals are bollocksed up at EPA. EPA reads risk as almost any risk is unreasonable, and so they can't seem to make decisions.

And so all the companies are asking, particularly those driving toward the EV technologies, et cetera, is, "Please tell us what the rules are, tell us what we need to do," and we need to do that.

But China is going to maintain the dominance in the electric vehicle space, OK? They are beating us. We need to get our act together, please. Just——

Mr. CURTIS. So, first of all——

Mr. MENEZES [continuing]. What we need to do.

Mr. CURTIS [continuing]. Everybody is not going to believe that this wasn't a setup, you came prepared with your props for my question. So you and I didn't rehearse this.

Mr. MENEZES. We did not rehearse it. In fact, as I was reading the bill, it dawned on me that this made a big impression on me. It was on my desk when I was preparing for this hearing. This was not set up.

Mr. CURTIS. So before we run out of time, my friends on the Democratic side often emphasize the importance of decarbonizing quickly, and I agree with them. But then they call bills like mine undermining environmental laws. Do you think it is possible to move in a reasonable speed and protect ourselves, as well?

Mr. MENEZES. Of course. We are trying to figure out ways to get the laws that are on the books to actually produce results. Please do your job. Stop with the delays.

The applicants go in and they are told—and they are—the bureaucrats are aware of the 90-day rule. So they will get you to withdraw and resubmit, because they can't meet the statutory deadlines. So they are sort of trying to do their job, but we have reached the point where the backlog now is so significant that those that want to take advantage of the IRA provisions can't do it because——

Mr. CURTIS. I am going to run out of time, but——

Mr. MENEZES [continuing]. They can't get the——

Mr. CURTIS [continuing]. So I just want to make two——

Mr. MENEZES [continuing]. Can't get their permits.

Mr. CURTIS [continuing]. Two quick points. There is a lot of parallel here with permitting reform.

Just tell us what the rules are, and then let us do it and make it timely and predictable. That is what people are asking for.

And Mr. Chairman, regrettably, I am out of time. I yield the balance of my time.

Mr. DUNCAN. I thank the gentleman. The Chair will now go to the gentlelady from an energy-producing area of the State of Texas, Mrs. Fletcher, for 5 minutes.

Mrs. FLETCHER. Thank you so much, Mr. Chairman. Thanks for holding this hearing. Thanks to you and, of course, Ranking Member DeGette, as well as our chairman—chairwoman, and ranking member, and others.

And I have listened to the testimony today and to the questions. I appreciate all of your time in being here. I think there has been a lot of really important information conveyed, as well, in your written testimony. And I am a little bit concerned about some of the things that I have heard this morning, specifically some of the bills that have been introduced for this hearing.

And I would, of course, like to note that we are considering 17 bills, many of them aimed at repealing some of, I think, the very good work that we did in the last Congress to try to address the complexities of the policy that we are trying to do here.

And so, you know, I would request, hopefully, that we will get a little more notice in the future in time to review these bills, because I think that, you know, we all know—and everyone on this committee should know and understand—that energy policy is complex. And we have had no better example than what we have seen happen over the last year, and the importance of all of us really having a depth of understanding on this committee as we work to make policy.

Certainly, what we have seen happening in Europe with Russia's unjustified and unconscionable invasion of Ukraine, what we have seen happen to our friends and allies in Europe, what we have seen happen here in the United States as a result of the market demands and some of the things that we have talked about today—I disagree with some of our witnesses about the importance of, for example, exporting natural gas and being able to help our allies reduce their dependance on Russian oil and gas at this critical moment.

What we know is this is domestic policy, it is foreign policy. It has real consequences in our communities. People who are living, especially in my hometown of Houston, people who are living near the largest petrochemical complex, arguably, in the world, there are real-world health impacts. There are real-world economic impacts. These are also our jobs.

So coming together and building consensus around what we can do, I think, is incredibly important for this committee. And I heard a few things today that I just—I want to take up.

Most important, I think, Mr. Menezes, you said—and I agree with you—that the issue here is that we want to reduce emissions. That is what we are trying to do, and that is what the good legislation that we passed in the last Congress really does. And so, you know, I think that what we did in the Infrastructure Investment and Jobs Act and, importantly, the Inflation Reduction Act is really important to accomplishing those goals.

And I am going to disagree with and I am disappointed to see the bill 484 that has been introduced by my friend from Texas, Mr. Pfluger, because I think it undoes the important work that we did on this committee just last year in trying to address the impacts

of methane and deal with that in a way that is reasonable and workable for industry.

And we spent a lot of time on this committee and got a lot of criticism for what we have, a billion and a half dollars to help small operators employ the technology, this grant program. And so I want to kind of direct my question there, because I think, Mr. Eshelman, I saw you shaking your head during Mr. Slocum's testimony about the IRA and the methane fee. But there is funding there to help smaller operators in particular, because that was a real concern that we heard about, the ability to implement the technology to reduce methane emissions, which should be the goal of everybody here. And I think on both sides of the aisle we keep saying that is what we want to do.

So, you know, I would like to see if there are real concerns still about the implementation and the ability to implement that, something that we can do that doesn't involve repealing what many people in the industry have said is a very smart solution to try to address the complications but also address methane emissions. And so that is a concern that I have. And, you know, the question I have for you is, does this mean—I mean, it sounds like you don't support this, you want to see it repealed.

Are your members not going to take the grant money that we provided to try to assist them? What do you think should be happening with that?

Mr. ESHELMAN. As we speak with our members, it has been a very contentious relationship with EPA, especially the enforcement office. So we are mostly concerned that this grant money will come out of EPA. We think it should better come out of DOE and maybe the Petroleum Technology Transfer Council. So we are just mostly concerned that it is EPA that is making these regulations.

Mrs. FLETCHER. And so what I am hearing you say is the idea of the program, the idea of reducing emissions and having some coming——

Mr. ESHELMAN. Right.

Mrs. FLETCHER [continuing]. Through this legislation, it is designed to work in tandem with EPA, so that there can——

Mr. ESHELMAN. Our——

Mrs. FLETCHER. The concern you are expressing is the funding source, versus the idea of what we tried to do with this legislation. So it sounds like we——

Mr. ESHELMAN. That would be one——

Mrs. FLETCHER [continuing]. Don't necessarily need to repeal it.

Mr. ESHELMAN. That would be one of our concerns, yes.

Mrs. FLETCHER. OK. Well, I am going to run out of time. I have a ton of questions. We are going to cover them on this hearing. I hope I can work with Mr. Pfluger and my friends on both sides of the aisle to really work on understanding the depths of this incredibly complicated work we have in front of us and working together to achieve all of our shared objectives.

So thank you so much, Mr. Chairman, for the time, and I yield back.

Mr. DUNCAN. Agreed, and I look forward to working with you.

The Chair will now go to Michigan, Mr. Walberg, for 5 minutes.

Mr. WALBERG. Thank you, Mr. Chairman, and thanks to the panel today for being with us. It is an important hearing.

Threats to our critical energy infrastructure have increased year after year. In 2022, attacks on United States power grids rose to an all-time high. More apparently needs to be done to protect our critical energy infrastructure, which is why I plan to introduce the Critical Electric Infrastructure Cybersecurity Incident Reporting Act.

Mr. Menezes, electric utilities and other energy infrastructure owners and operators are required to report critical infrastructure cyber incidents to DOE and FERC. Last Congress a law was passed that also required some of these entities to submit incidents to CISA. The FAST Act clearly establishes DOE as the sector-specific agency for energy cybersecurity and granted them authority to address grid security emergencies. As such, DOE has the expertise to best address some of these threats.

Mr. Menezes, do you agree that it makes the most sense for energy sector stakeholders to submit threat incidents to DOE and then have DOE share that information as necessary with CISA?

And secondly, how can Congress clarify DOE's role in the process?

Mr. MENEZES. Thank you very much. It is very important that you clarify DOE's role that it is the agency that private sector and other Government agencies need to report cyber incidents to. Because when Congress passed CISA, it created confusion as to where reports needed to go. When we were there, we knew the importance of cybersecurity. Of course, Congress had mandated cybersecurity standards. We created the Office of CESER, which remains today: the Cybersecurity, Energy Security, and Emergency Response.

But within the interagency—you are hearing this a lot from me today, I am bringing the experience that I gained in the executive branch—is that we need to designate DOE to have—to be the agency that all cyber incident reports on the bulk power system—this is electricity, it is not oil and natural gas, but it is electricity—to go to DOE. And that is important because we have all the expertise there, we have the information sharing there, we have some of the modeling that the labs develop to look for anomalies on data pools, et cetera.

So this is an important piece of legislation. It seems as though, you know, it is a simple thing to do. But we are going to need all support to get this through. And it is an important piece of legislation to give DOE clarity.

Mr. WALBERG. And I would hope that it would make more efficiency in the process for Members of Congress to understand what is going on and get information and more transparency, as well.

Mr. MENEZES. Absolutely.

Mr. WALBERG. Mr. McNamee, as a former FERC Commissioner, how will increased sharing and coordination of cyber incidents improve the safety and reliability of our electric infrastructure?

Mr. MCNAMEE. I think it is very important that anything that can be done to make the sharing information on the bulk power system and threats to it be done. The threats are real. As you men-

tioned in your comments, they are happening all the time, both cyber and physical securities.

And one of the things that frightens me the most is what happens with the limited natural gas pipeline capacity up to the northeast. If there is a physical attack on the pipelines up there, you are going to lose a lot of power. Then the problems that you have on the bulk power system in relation to transformers or the SCADA systems, these things are real threats. The utilities are being pinged every single day by foreign actors trying to get into the systems to be able to flip the switch off when we need it the most, on the coldest days of the year.

So I think legislation like yours makes sure that there is focus, and that is, as Secretary Menezes said, that there is one source in the Government that is absolutely responsible. Of course, FERC has responsibility for establishing, along with NERC, reliability standards, SIP standards, but I think it is important that reporting go through DOE.

Mr. WALBERG. Thank you. Being from Michigan, I am extremely concerned about the current backlog at EPA of hundreds of TSCA section 5 applications and the impact it has had on our auto supply chain. Last year my Michigan colleagues and I sent a letter to Administrator Regan imploring him for the bare minimum of timely review of two premanufacturing notice applications that were essential to the launch of an EV battery plant in the State.

Mr. Chairman, I would like to, if you would allow, to include that letter for the record.

Mr. DUNCAN. Without objection.

[The information appears at the conclusion of the hearing.]

Mr. WALBERG. Mr. Menezes, the Biden administration is forcing a transition to electric vehicles, yet it took almost a year for the EPA to approve this project that would supply the needed batteries. How will Representative Curtis's draft legislation improve the efficiency and timeliness of the TSCA review process so that auto supply chains remain in the United States?

Mr. MENEZES. Well, thank you, and we talked a little bit about that before.

It basically—it says that, look, not any risk is an unreasonable risk. Two, it stops them from forcing applicants to withdraw and resubmit so that they can reset the statutory deadline there. And basically, it allows them to be able to go forward after a certain time period that has elapsed while they were pending review. This will allow us to accelerate our move to the—through the energy transition, you know, to more EV use.

The letter that you mentioned, you know, expressed the frustrations clearly, and I think that is why Mr. Curtis's bill will go a long way to helping streamline the process, not remove any environmental protection.

Mr. DUNCAN. The gentleman's time is expired.

Mr. WALBERG. Thank you, Mr. Chairman. I yield back.

Mr. DUNCAN. Thank you. Now we will go to New York, Ms. Clarke, for 5 minutes.

Ms. CLARKE. Thank you, Chairman Duncan, Chairs Duncan and Johnson, and Ranking Members DeGette and Tonko for holding

this hearing today. I would also like to thank our witnesses, as well, for being here to testify on these bills.

There are real challenges in America's power sector as our Nation begins an economywide transition to clean energy in the midst of the climate crisis. But I reject the premise presented today that the only way we can unleash American energy is through creating loopholes in our bedrock environmental laws and/or sacrificing the health of our communities. Many of the bills considered today would not only weaken our economic and national security but also turn the clock backwards on the progress that we have made combating climate change and protecting public health.

My first question is to Mr. Garcia.

In your testimony you state that many of these bills would circumvent bedrock environmental laws like the Clean Air Act, TSCA so polluters can profit at the expense of frontline communities. Could you elaborate on the connection between frontline communities and what waiving the Clean Air Act and Solid Waste Disposal Act would mean for communities sited near these facilities?

Mr. GARCIA. Yes, absolutely. I mean, when we are talking about the Clean Air Act, one of the—again, what they are seeking to waive with the bill that waives—that addresses the Clean Air Act is a commonsense practice that many industries already take on, which is simply to study how can we achieve the same goals that we already have in a safer way.

And we are dealing with hydrofluoric acid. And it exempts any refinery that uses hydrofluoric acid from that requirement to study if there is a safer way to do this. It is problematic, because hydrofluoric acid is extremely dangerous to the human body. It is—it can explode. And not only that, but there are already recorded alternatives that many across the industry already use in order to do the same thing in a safer way. And so there is really no other way to characterize this. It is something that industry absolutely doesn't need. And yet we are still seeing this bill being pushed through.

So, you know, unfortunately, the brunt of this comes down on those communities that live near these facilities and the workers that work in these facilities. Unfortunately, we have seen facilities like these blow up. And when that happens, it hurts the people who are there, first and foremost.

And so I think that, you know, Vice Chair Curtis said I was being melodramatic when I was talking about life and death. But it really is. It is really hard to not get dramatic when you are talking to the families of those that get devastated by the deaths of their loved ones. And so that is what is really at stake here, and that is why we have—what we have to keep front and center.

Ms. CLARKE. Thank you. My next question is for you again, Mr. Garcia, and Mr. Slocum.

So much of the discussion today has been focused on how burdensome regulations are. Can you tell us why it is so important to center community voices, especially those who have been historically marginalized, like communities of color and indigenous populations, when it comes to permitting decisions in the energy industry?

Mr. SLOCUM. It is absolutely essential that frontline communities that are being asked to host all of the hazards play a prominent role in the siting process.

We are working with an African-American community in the Florida Panhandle that is opposed to a liquefied natural gas export terminal that—we learned about it through a FERC regulatory process. Nobody in the local governments there had told these folks that this was the plan.

And this is a common, unfortunate occurrence that we see throughout the country, where the local community does not have involvement or consent. And it is crucially important that, as part of any sort of regulatory review, that those frontline communities play a prominent role in being able to have a say in the development within their own communities.

Ms. CLARKE. Thank you. Well, my time is winding down pretty quickly.

Let me just say that studies have continued to find that race, more than any other demographic, is the primary indicator for living near an energy facility emitting toxic pollutants. In fact, more than half of the individuals live—living life close to any hazardous waste site are people of color.

With that, Mr. Chairman, I yield back.

Mr. DUNCAN. I thank the gentlelady. The Chair will now go to Mr. Carter from Georgia.

Mr. CARTER. Thank you, Mr. Chairman, and thank all of you for being here.

Mr. Chairman, thank you for continuing on this theme that we have started with in the Energy and Commerce Committee this year, and that is about unleashing American energy. This is extremely important. We have all seen and witnessed what happens when we neglect American energy dominance and our own independence. It is to our own detriment. We—it results in high energy prices and diminished supply chains. And that is why I am really happy that we continue to focus on this.

And we know about supply chains, but there is perhaps nothing more important in supply chains when we talk about them than critical minerals. That has to be perhaps one of, if not the most, glaring weaknesses that we have. All of you have mentioned our dependance on China for critical minerals and how that needs to end. And we all recognize that. And we have got legislation in this package to fix that.

And I want to talk about some of that, because I am eager to talk about a bill that I am introducing, and it has to do with the Solid Waste Disposal Act, and it has to do with mining. As I understand it, when you get a mining permit, you get the first permit, then you have to—if you are going to keep the hazardous waste for longer than 90 days, you have to get a second permit. But while you are waiting on that second permit, what my legislation—what this legislation will do will be to give you an interim permit, if you will, until you can go through the process to get the second permit.

So I think it makes a lot of sense. It helps us with our supply chain for critical minerals, and it needs to be done now, because there is no time to waste. We have got to address this issue right

now. No, it is not a silver bullet, but I think it is a fix that will help us tremendously.

Ms. Sweeney, I want to go to you, and I want to ask you, because it is interesting. You say in your written testimony—and I quote—"an average of 7 to 10 years to secure"—it takes "an average of 7 to 10 years to secure—one of the longest permitting processes in the world for mining projects"—to receive necessary permits to even begin to build the mine project. And then you compare this to Canada and Australia, who have kind of similar environmental regulations as we have, and there it only takes them a few years, 2 to 3 years, to complete.

How can—how have they been able to maintain comparable environmental standards to the U.S. and complete the permitting process for new mines in a fraction of the time that we do?

Ms. SWEENEY. They have a lot more coordination up front of the various agencies involved, whether they be provincial, territorial, or the overarching Canadian Government. They are seeking to do, like, one-stop permitting shopping.

They also allow the project proponent to prepare the environmental impact statement, which really involves a lot of efficiencies because you are not waiting for the agencies to have to do that. But the Federal—but the Government does oversee that to make sure that the rigorous rules are——

Mr. CARTER. So there are a lot of lessons we could learn from them, and a lot of good takeaways from them.

Ms. SWEENEY. Absolutely.

Mr. CARTER. What would be one of the most immediate that could help us?

Ms. SWEENEY. Up-fronting litigation. I think that is something in Canada that they are focused on, and getting that done, so you are not at the end of your 10-year process just entering into the litigation that could add another 10 years before you can actually start operations.

Mr. CARTER. Good, good. OK, I want to go to Mr. McNamee.

And when we talk about unleashing American energy, part of that is the structure of the market that the energy goes into. Can you help me out? Restructured electricity markets like regional transmission organizations, RTOs, do they lead to lower rates? Do they lead to greater reliability?

I mean, tell me what the advantage, if there is any, of these are.

Mr. MCNAMEE. They don't. And the RTOs were originally structured on the idea to use market forces to get efficiencies.

But the problem is that there are seven RTOs in the country, six of them regulated by FERC. The problem is that they use marginal pricing to set power prices, so you get bids in by each of the generators into—to bid to meet every 5 minutes of what the energy needed.

And the problem is usually natural gas does set the clearing price on that, but every other resource is getting paid that natural gas price. So if you are a subsidized renewable, you have no fuel costs, you have tax credits, yet you are getting paid the natural gas price. So the economic benefits of renewables are not passing through to customers. Hence the reason energy prices keep going up, despite adding all these renewables.

And then secondly, you have got a reliability problem, because none of these generators are like your utility. None of them have an obligation to serve. And so they bid in, and if they are picked, they run, if they don't—but then you have problems like you had in Texas, which you have seen also in this past winter, where there is no incentive to winterize your unit because you are, like, "Well, why should I do it if it is going to make it more expensive?"

What you want is a system that allows—that is designed to serve the people, and you need reliability as the number 1 thing.

Mr. CARTER. Good. Well, thank you all.

And again, this permitting process is crushing us. We have got to do something about it.

Thank you, Mr. Chairman. I yield back.

Mr. DUNCAN. The gentleman—the Chair will now recognize Ms. Barragán for 5 minutes.

Ms. BARRAGÁN. Thank you, Mr. Chair. I am especially concerned about legislation under consideration today which says that no hazard assessment is required on the use of hydrofluoric acid at a refinery to understand the risk of an accidental release. This chemical is deadly. It is toxic. It is deadly toxic to people, and it is extremely corrosive. A hazard assessment is a common, safe safety measure the Environmental Protection Agency has proposed.

We also know there are safer alternatives available that many refineries already use.

The refineries in and near my district that still use hydrofluoric acid—and it is a safety—a serious safety concern. In 2015 there was a near miss at a refinery near my district in Torrance, California. An explosion at the refinery launched debris that landed close to two tanks containing hydrofluoric acid. People could have been killed.

Mr. Garcia, what safer technologies are available for oil refineries to replace hydrofluoric acid, and should the oil industry have to consider them?

Mr. GARCIA. Yes. I mean, there are quantities of alternatives. And that is the saddest part about this bill, is that there are quantities. One of them is sulfuric acid.

But the idea is that that is what the analysis should tell you, right? That is what the analysis that industry should have to do. That is the one that tells you, yes, there are better alternatives to do this and still accomplish the goal that we need to accomplish.

And so when we hear about it, just this piece of the Clean Air Act being completely dismantled, it is really puzzling because you have everything—industry has everything that it could want in order to keep this in the books, and that—actually, compliance is relatively easy. So it is puzzling to see this.

Ms. BARRAGÁN. Thank you.

Mr. Chair, I would like to enter into the record a letter I led with Senator Booker to EPA on the proposed risk management plan rule signed by 47 Members and Senators. The letter asks EPA to finalize a rule that requires refineries to transition to safer chemicals and processes. This letter was supported by environmental groups and labor, including the United Steelworkers and United Auto Workers.

I will hand you that letter at the end of the questioning.

Mr. DUNCAN. Without objection.

[The information appears at the conclusion of the hearing.]

Ms. BARRAGÁN. Mr. Slocum, I am concerned about the Unlocking our Domestic LNG Potential Act, which eliminates the requirement that our Department of Energy find imports and exports to be consistent with the public interest.

What could the consequences of this bill be on domestic energy prices and our climate?

Mr. SLOCUM. Well, the public interest should be comprehensive. It should look at environmental justice considerations. It should look at climate and clean energy considerations. So it should be requiring the Department of Energy to perform those assessments, to require applicants to document how LNG exports—whether or not they are displacing dirtier forms of energy abroad, or whether or not they are displacing renewables by bolstering existing gas infrastructure.

Right now, the Department of Energy is not performing that assessment. To eliminate that assessment altogether, which has been in place for 85 years, would be a huge disservice to communities, especially in the Gulf, that are being asked to host these massive facilities.

Ms. BARRAGÁN. Well, thank you for that, and thank you for raising the issue of environmental justice issues.

I share the climate concerns, and I want to underscore the impact of energy prices because my constituents have been hit hard by this—by rising natural gas prices. And this shows how volatile fossil fuel prices are and why we need the Department of Energy to be a check on the fossil fuel industry's proposals to have countries like China competing with American consumers to buy gas. This is why the Industrial Energy Consumers of America, a coalition of manufacturing companies, has opposed this bill. I think it is bad for the U.S. manufacturing.

Mr. Garcia, legislation under consideration proposes to repeal the Greenhouse Gas Reduction Fund that was passed by Democrats in the Inflation Reduction Act. This fund would provide low-income communities with grants and loans to reduce greenhouse gas emissions with zero-emissions technologies. Can this fund help low-income residents to reduce their energy bills?

Mr. GARCIA. Absolutely. I mean—and we saw that—that fund is really meant to make sure that we don't make the mistakes that have happened in previous energy revolutions, where often people of color and low income get left out. And so this fund is specifically meant to make sure that low-income and people of color have access to those funds.

Ms. BARRAGÁN. And can the fund help create clean jobs, energy jobs, in low economic communities——

Ms. GARCIA. Absolutely.

Ms. BARRAGÁN [continuing]. Low-income communities?

Mr. GARCIA. Absolutely.

Ms. BARRAGÁN. Well, thank you for that. It is unfortunate, the Republican talk about lowering energy costs and creating jobs. They talk about it, but they want to repeal programs that empower communities to do just that.

With that, Mr. Chair, I yield back.

Mr. DUNCAN. The gentlelady yields back, and the Chair will now go to the gentlelady from Arizona, Mrs. Lesko, for 5 minutes.

Before I do that, there are going to be votes called around 1:30. Apparently, there's two votes. We are going to plow through and get as far as we can, but we will recess and come back and finish the hearing. Members are encouraged to come back right after the second vote is called. And vote, come back, and we will get back on it, because there is another hearing following this.

Mrs. Lesko, you are recognized for 5 minutes.

Mrs. LESKO. Well, thank you, Mr. Chairman. I love this committee, because we are talking about energy, critical minerals on the environment. What could be more important than that?

Mr. Chairman, I am proud to sponsor the House concurrent resolution expressing disapproval of the revocation by President Biden of the presidential permit for the Keystone XL pipeline. This is a simple resolution, and I hope my colleagues will support it. Many of my colleagues on the other side of the aisle have said they disapprove of the cancellation of the Keystone XL pipeline, and this resolution gives them and the entire House of Representatives the opportunity to show our disapproval.

On day one of his administration, President Biden canceled the Keystone pipeline. Soon after he canceled the Keystone, he removed sanctions on the Nord Stream II pipeline. This paved the way for Russia to hold the EU hostage to Russia's energy and not allow cleaner, U.S.-provided LNG.

Canceling the Keystone pipeline did not stop the drilling or exporting of the sand oils, as the extreme environmentalists thought. The 830,000 barrels per day of crude oil from Alberta, Canada, is still being produced and being shipped via rail or other pipelines. Canada's oil sands producers were able to export a record amount of crude in 2022 to overseas markets, including China and India. So instead of providing well-paying jobs for Americans, the Biden administration prefers those jobs to go elsewhere.

The cancellation of the pipeline also did little to stop emissions. CO_2 emissions will increase, since much of the oil is now transported by the railroads, a much dirtier method of transit, instead of the pipeline. Rail transport also increases the risk of derailment and ensuring environmental damage of spilled oil.

Mr. Menezes, thank you for pointing out in your written testimony another shortcoming of President Biden canceling the Keystone pipeline: the fact that the U.S. and its allies would have had access to Canadian oil to lessen the import and use of Russian oil. Canceling the pipeline was a horrible financial decision, in my opinion. Developers of Keystone XL are seeking to recoup more than $15 billion in damages connected to President Biden's decision.

Mr. Menezes, what other financial losses can you comment on, due to the cancellation of the XL Pipeline?

Mr. MENEZES. Well, I was going to add that, you know, we import about 700,000 barrels per day from Russia. So the Keystone Pipeline could have also been used to offset that amount as we, along with all other NATO countries and our allies, have said no to Russia resources. So it is very significant, as we have been talking about all morning.

The fact is that, if you can increase supply, you are going to have downward pressure on prices, you know, for our—you know, for your constituents and for the American people. And I know, you know, people want to have it both ways, right? They would like to stop—to have refineries operate, but they want their constituents to have cheap gas. You can't have it both ways.

Mrs. LESKO. Thank you.

Mr. MENEZES. We can have environmentally compliant refineries in operation and making rational decisions to remove the bottlenecks. But that's just commonsense approaches, really, is everything we are considering today.

Mrs. LESKO. Thank you. My next question is for Ms. Sweeney.

Ms. Sweeney, copper is not listed as a critical mineral, although it is—I think it uses four times as much copper in an electrical vehicle as in a standard vehicle and other things. Why do you think that copper isn't listed as a critical mineral, and do you think it should be?

Ms. SWEENEY. I definitely think that it should be. I think that it actually does meet the U.S. Geological Survey criteria. But when they were doing the latest list, they didn't have the most recent data in front of them. I think, using the data today, that copper would definitely make that list.

However, you know, in National Mining Association's viewpoint, anything that you need and can't get really should be critical. So maybe those kinds of criticality lists don't just make the most sense because, as technologies change, something that is critical today may not be critical tomorrow.

You know, people were talking about substitutions. Well, then you are creating a new critical mineral, because something that maybe we use now to substitute becomes the next big thing that everybody is going to need. So if we just had efficient permitting, criticality doesn't matter so much.

Mrs. LESKO. Well, good. And I hope that copper is added to the critical mineral list, because I am from Arizona, we produce lots of copper, and it is unfortunate that the Resolution Copper Mine has been put on hold. The final impact—environmental impact statement was approved under the former administration and now has been put on hold, plus a lawsuit.

So I yield back. Thank you.

Mr. DUNCAN. I thank the gentlelady. The Chair will now go to Dr. Ruiz for 5 minutes.

Mr. RUIZ. I would like to inform the gentlewoman from Arizona that I am very familiar with the copper mines in Arizona. My family actually worked in those copper mines in years past. I believe it is the Bisbee Queen's Copper Mines, is one of those big, big areas.

But thank you, Chairman. I would like to address a recurring theme that I have seen in multiple pieces of legislation before this committee today. In these pieces of legislation I see bills that are sacrificing key provisions of landmark legislation that help protect people's health, like the Clean Air Act, to—in order to increase critical mineral extraction. And that is the wrong approach.

Frontline communities already bear too much of the burden of the environmental injustice. To name an example, people living

near fossil-fuel-drilling sites are at greater risk for preterm birth, cancer, asthma, and other respiratory diseases. I mean, it is a direct link to real people's health, childhood asthma, COPD, all these other things.

As a doctor, the health of my constituents is my top concern, and I have seen firsthand that we must do more to protect vulnerable communities from pollution and other environmental dangers.

I do want to be clear that I am not against critical mineral production. I have been unequivocal that we need to build our domestic supply chains. And as a prime example of this is right in my own district, in the Imperial Valley, or the Imperial County.

In the Imperial Valley, the Salton Sea has a massive supply of lithium. In fact, it is the fifth largest lithium deposit in the whole world. It has the potential to supply the lithium needed for electrical vehicle batteries and our clean energy future. We import the vast majority of our batteries and our lithium from other countries that are not aligned with our world views. We call the area Lithium Valley back home to emphasize the potential that this lithium has to transform the region.

And beyond powering our country towards its clean energy future, I believe that Lithium Valley can also provide a model for how we can both protect our community's health and get the critical minerals we need. And how do we do that?

So instead of hardrock mining or salt flat evaporation, breaking up the earth, putting more dust in the air, et cetera, in Imperial County the lithium is extracted from geothermal production. So it is in a closed loop cycle, and the brine that goes through this closed loop as they naturally produce geothermal energy—which is a good thing—they filter that brine out to extract the lithium. And so it is better for the environment and better for our communities. This shows that we don't have to sacrifice health and the environment. We can have a win-win for the environment, for our public health, and for places like the Imperial Valley.

Mr. Raul Garcia—I like your first name, by the way. We share that. In Spanish we would call each other tocayos. In your testimony you note that our country doesn't have to make this false choice between energy creation and protecting the health and safety of our vulnerable communities.

Tell me more about that, and as it applies to the critical mineral production, as well.

Mr. GARCIA. Well, I think that when we are talking about critical mineral production, we want to make sure that we are using the resources that are available to us that are the safest ways to use the critical minerals. And that, when that requires mining, it has to follow the law. It shouldn't—we shouldn't be seeking exceptions to the law in order to make sure that this happens safely. We actually need to make sure that it applies.

We also need to make sure that we, as you mentioned, have a circular economy on critical minerals. So making sure that they are being recycled, and that when they are being recycled they are being—the recycling is being done responsibly and in a clean way, the—whether it is extraction or recycling of it. And again, those laws, those bedrock laws are in place.

Now, we have talked a lot about permitting in some places and how long it takes. But I like to point out that a lot of the delays that happen on permitting are actually not done because of the requirements of the permitting structures themselves. They are done because the agencies are being starved from actual funding in order to carry out the permitting.

And so, if we want to speed up permitting, when we are talking about—whether it is a mine or whether it is something else, you actually need to fund the agency in order to make sure that the experts are going to do so, are going to get out the permits in a way that is going to protect communities on the ground.

Mr. RUIZ. Catch-22, right? Chipping away government in order to make it as ineffective as possible, and then complaining that they can't do their job and it is too slow. So the only result is going to be to eliminate government at all and eliminate these rules that protect the health. And that is not necessarily feasible or the right thing to do for the American people.

But with that my time is over, and I yield back.

Mr. DUNCAN. I appreciate the gentleman. The Chair will now go to another gentleman from the crossroads of America, Mr. Pence, for 5 minutes.

Mr. PENCE. I thank you, Chairmen Duncan and Johnson, and Ranking Members DeGette and Tonko for holding this hearing. And thank you to the witnesses for appearing today.

The bills before us begin to shore up our national energy strategy, lower energy prices for Hoosiers, and put our Nation back on track towards energy dominance.

The Biden administration's electrification-or-nothing approach is only deepening our reliance on China and leaving our country vulnerable in the event of a national emergency. Despite what the Biden administration is telling us, demand for oil and natural gas will only increase around the world.

Petroleum products are the lifeblood of the American economy, fueling businesses to bring good-paying jobs and lowering energy costs for families.

Over the past 2 years, the Biden administration has failed to put forth a coherent energy strategy. Hoosiers in southern Indiana deserve answers on why this administration has made it more expensive for families to heat their homes and for business and families to keep their lights on at the old prices. And I hope we hear a little bit of that tonight.

My legislation being considered today would provide waivers for critical energy resources in the event of a national security emergency. And I quote, "If the Administrator of the Environmental Protection Agency, in consultation with the Secretary of Energy, determines that the processing and refining of a critical energy resource at a critical energy resource facility is important to the national security or energy security of the United States, then the Administrator may waive application of any requirement, sanction, or fee under the Clean Air Act."

And by the way, I am one of the few—I am old enough, I actually read the Clean Air Act when it came back—came out many, many years ago.

This bill would ensure that the Federal Government can act swiftly to preserve access to energy supplies. And I look forward to hearing constructive feedback on how to improve this legislation and provide the Federal Government with tools to respond in the event of a crisis.

Mr. Menezes, I am going to direct my question and my comments to you at this point. Back in 2005 I went in with then-Governor Mitch Daniels when he became Governor in the State of Indiana, and I was the chief deputy commissioner of the Indiana Department of Environmental Management. And the biggest problem in the State of Indiana was overregulation by the EPA and IDEM. It was inhibiting business growth. It was holding farmers down. It was costing too much money. The regulations were just crushing the State of Indiana.

And that got changed. At that point the State of Indiana was $2 billion in the hole, and today they are $6 billion to the good.

My question to you: In the event of a national security emergency that threatens access to critical energy resources, what sort of emergency authority tools exist to address severe supply disruptions for different types of energy?

Mr. MENEZES. Right. Well, there—that is where the confusion lies here, because we face emergencies regularly. You go into the executive branch, you know, as a public official. So the President and his team typically says, "What do—what can we do at this point?" And it's "Can—does the Constitution prohibit it? Has Congress prohibited such action? Has Congress authorized?"

And with respect to waivers, Clean Air Act, Jones Act waivers, these kinds of things, Stafford Act, declarations of emergencies, what waiver authority is there, we have a body of law that kind of—the executive branch runs fairly well. Where it gets diffused and confused is anything there after that.

And so, you can look at all of these different laws, and you don't see anything with respect to, really, energy, critical energy resources, in there. And so, as a consequence, being at the Department, you are kind of brought in at the last minute. In fact, the Department of Defense has a lot of clear, you know, emergency—they weigh in, they can do things. Commerce, even Transportation. MARAD under the Jones Act. The Department of Energy is just like sort of forgotten about. So you are in there, trying to focus on the importance of energy.

Puerto Rico. I mean, the Governor would tell us—they would come to Energy and say, "We can't do anything without energy. Our water doesn't work, our hospitals can't run. We can't do anything without energy. What are you doing for energy?" You don't have those authorities, those clear authorities on the books to be able to have Energy play a key role in solving crises during these emergencies.

Mr. PENCE. So would you agree, as a former Deputy Secretary, that this bill would add a little clarity to that?

Mr. MENEZES. Add clarity——

Mr. PENCE. And help everybody out, both——

Mr. MENEZES. Office of Legal Counsel, believe me, it would——

Mr. PENCE. All right.

Mr. MENEZES [continuing]. Help tremendously.

Mr. PENCE. Thank you. I yield back.

Mr. DUNCAN. OK, the Chair now goes to Ms. Blunt Rochester for 5 minutes.

Ms. BLUNT ROCHESTER. Thank you, Mr. Chairman, and thank you to all of our witnesses today.

Across the country we are already seeing the impacts of the Infrastructure Investment and Jobs Act and the Inflation Reduction Act. We are seeing a commitment to a cleaner economy and cleaner planet, and a commitment to our American manufacturers and workers.

Just in the 6 months since the Inflation Reduction Act became law, companies have announced over 100,000 new domestic clean energy jobs, and billions of dollars in new manufacturing investments. This historic law—or both of these laws have actually created a path to a stronger, more resilient domestic energy system, all while combating the ongoing climate crisis.

But, unfortunately, the bills and resolutions that we see before us today would force us off that path. They neglect to address the global shift toward clean, renewable energy and focus instead on expanding the fossil fuel industry by creating loopholes for important environmental and public health protections. We need legislation that not only protects our domestic energy interests but also protects the environment and health of all Americans.

My questions are for Mr. Garcia. One of the bills being heard today relates to EPA's risk management program rule, also known as the Chemical Disaster Prevention Rule. The proposed legislation would amend the Clean Air Act to exempt refineries that use extremely dangerous hydrofluoric acid from assessing whether they could potentially use safer technologies. I am concerned about any legislation that weakens the Clean Air Act, but I am particularly concerned about a bill that guts a commonsense practice that would save lives and prevent disasters.

Mr. Garcia, can you speak to how clients that your organization represents use foundational laws like the Clean Air Act to protect themselves from dangerous polluters in courts and how creating exemptions for them using the vaguely defined "critical energy resource" would gut those legal protections?

Mr. GARCIA. Yes, absolutely. So what we see is that the way that permitting should work, and the way that—whether it is the Clean Air Act or anything else—it should work in a way that industry along with the communities are equal partners in a way that identifies the best science in order to follow through on whatever the permit would allow, with the health and safety of the communities most impacted. And that is exactly what the what the RNP does, right? It is, in fact, a study. And why would we ever want to stymie innovation in this process?

I believe that, from a lot of folks here today, we keep talking—we keep hearing about the next chemical and the next metal and the next thing that we are going to see. Why aren't we applying the same level of innovation to the standards that would protect our communities in the process?

And so that—I think that is a question that has to be answered. But that is what the process is. And the fact that the bill seeks to

exempt it from exploring that innovation is very problematic in all sorts of ways.

Ms. BLUNT ROCHESTER. Another bill that we heard about today authorizes the use of flexible air permitting with respect to certain critical energy resource facilities. In your written testimony, you stated that using flexible air permitting in this manner would take the science out of air permitting decisions. Can you elaborate on that statement and discuss the risks associated with this use of flexible air permitting?

Mr. GARCIA. Yes, absolutely. We have—when we are talking about permitting, there are certain standards that industry or whoever wants the permit needs to comply with. In flexible air permitting, as we have it in the bill, essentially, the administration gets to pick winners or losers, never mind the actual standards.

And so, when you have an administration that is really not looking after the health and safety of the people on the ground, that is really looking for corporate profits and things like that, it really just allows them to pick favorites. And, unfortunately, there is a long history of which industries they pick to be favorites in that process.

Ms. BLUNT ROCHESTER. And just as a followup, can you talk about the public health and environmental implications of that?

Mr. GARCIA. Yes, absolutely. I mean, the idea is that you are leaving out the science, and at the same time you are ramming the most dangerous alternatives out there down communities' throats, right?

And so they are the ones that would have to live with, God forbid, any explosion that happens, the workers themselves. They are the ones who have to deal with the consequences.

Ms. BLUNT ROCHESTER. Thank you so much, and I yield back.

Mr. DUNCAN. The Chair will go now to Dr. Joyce for 5 minutes.

Mr. JOYCE. I want to thank the chairman for holding this critical hearing today.

As we begin the 118th Congress, we continue to hear from our constituents at home that the high costs at the pump and in their electric bills are kitchen-table issues that they deal with every day.

The fact is, the only way to bring down prices is to increase supply. We have been blessed in this country to have plentiful reserves of natural resources. In my home State of Pennsylvania, we have significant deposits of coal and natural gas. In the last 20 years alone, new drilling techniques have led to the shale gas revolution, and Pennsylvania is now the second-largest net supplier of energy to all other States. In my conversations with energy producers, they make it clear that the Commonwealth of Pennsylvania has much more that it can give.

What is standing in the way of unleashing the resources under the feet of my constituents? It is the Biden administration's war on American energy.

At every step, this administration has held up and hindered the production of American coal, oil, and natural gas. From creating restrictive and burdensome regulations to attempts to scare away capital investment from fossil fuels, the Biden administration has stifled supply and caused prices to rise.

Mr. Chairman, I ask unanimous consent to submit for the record a report by the National Fire Protection Association, published in July of 2020, which I will submit at the end of my questioning.

Just last month, an administration official raised the possibility of banning gas stoves due to safety concerns. Well, let's look at the science, a report by the NFPA. These claims of unsafe natural gas stoves are incorrect. Gas stoves are incredibly safe to use. In fact, electric ranges are over 200 percent more likely to cause a fire, and over 300 percent more likely to cause a deadly fire, and close to 500 percent more likely to cause fire-related injury than gas ranges.

This misguided attempt to ban gas stoves shows yet another step that the Biden administration is attempting to move the market away from American energy products like natural gas. It is time to stop playing political games and do what is best for our constituents.

No producer single-handedly affects the price, but by giving businesses regulatory certainty and providing confidence to capital markets assures that the domestic production of energy is here to stay. We can lower prices and reclaim American energy dominance.

My first question is for Mr. Eshelman.

How do aggressive and targeted attempts to discourage investment in natural gas affect production?

Mr. ESHELMAN. Well, first off, to hit on your point about the natural gas stoves, I think this is a real personal intrusion, that the Government is trying to tell consumers what kind of choices they can make. So it is what kind of—how you can cook, what kind of cars you can drive, how you can heat your home. So that is a very important point to bring up. I think consumer choice is at risk here with this administration.

Second, business thrives where there is a predictable landscape. So we need State and local governments and the Federal Government all work together to streamline their processes so we can get some permitting done, as well as exploration and production, and particularly in Pennsylvania.

Mr. JOYCE. Thank you. My next question is for Mr. Menezes.

I mentioned the need for regulatory certainty in my earlier remarks. I have a draft bill that would enable critical mineral facilities to work with the EPA in advance of the permitting process so that they can react to surges in the market without needing to restart the permitting process.

Currently, how do regulated critical materials entities deal with large increases in market demand, and what relief would this bill give them?

Mr. MENEZES. You know, currently I believe there are some 300 backlogged applications pending at EPA for the permits that you have requested, and that number is only growing, really, to take advantage of a lot of the provisions that were in the IRA. Capital wants to be expended. This new investment will involve new chemicals, et cetera. They want to get their permits.

A lot of the funding is based on you have to have the permits first. And so frustration is mounting that we can't seem to figure out how to get EPA to really just follow the law, implement the law, get the permits out, and let's try to embrace the new future with these new chemicals and our energy——

Mr. JOYCE. Thank you for addressing this critical issue.

My time is expiring. Thank you, and I yield.

Mr. DUNCAN. OK. The Chair is going to go to Ms. Schrier next. And when she finishes her 5 minutes, we are going to take a recess for Members to go vote.

Members are reminded we are going to meet again right after the second vote opens. Vote, come on back. We are going to go to Kelly Armstrong first up when we come back.

So Ms. Schrier is recognized for 5 minutes.

Ms. SCHRIER. Thank you very much, Mr. Chairman. And thank you to our witnesses. This has been a really interesting discussion.

You know, last week one of my Republican colleagues acknowledged that there is actually a lot of common ground, that there is bipartisan agreement that we all want to be good stewards of the Earth, that careful use of resources is important, and decreasing greenhouse gas emissions is one element of how we can be good stewards of this earth.

So I was so inspired by these prospects of bipartisanship that the very next day I met with Democratic and Republican House and Senate members at a breakfast discussion about the real practicalities. Like, let's just get down to nuts and bolts about how we are really going to get the changes we need made with clean energy in a timely fashion to actually make the difference that we need to make.

And one important practicality had to do with how delays in permitting and years of litigation could thwart our very best efforts to make the changes that we need to achieve our clean energy goals. And just to be clear on where I stand, I am not suggesting in any way that we gut our bedrock environmental protection laws. But we need to make some pragmatic, necessary reforms, like faster timelines, in order to have a realistic shot of meeting these clean energy and emissions goals.

So I am looking for areas where bipartisanship is possible, and I think we have some opportunity for common ground here.

I also believe and know that our production of renewable energy is only as good as the electric grid that we have. And the broader system and our Federal permitting laws were primarily written for the fossil fuel era. And so it is time to kind of rethink how we can streamline, and it requires some very practical conversations, not trying to speed every answer to yes, but at least getting to a yes or a no quickly so we can move on.

So, Mr. McNamee, I appreciated your testimony. You noted that Congress should consider reforming NEPA and the APA to limit how legal challenges can be made against agency actions. Of course, this is a, as you refer to it, a two-edged sword, and that we want agencies to be accountable, we need public input. And so Congress has to do this balancing act. I was wondering if you could talk a little bit about this.

And I am confining the way I think about this to the speeding of clean energy projects.

Mr. MCNAMEE. Thank you for the question. The—one of the key problems is that the way NEPA litigation—when Congress passed NEPA, there was no cause of action. They thought they just want-

ed agencies to look at the environmental impacts and make sure they consider it.

The Administrative Procedure Act allows parties to challenge an agency action for being arbitrary and capricious. And so then they say, well, if the agency didn't make the decision properly on NEPA, that is arbitrary and capricious, and so that can be pulled back. An example: FERC in the last few months had a—I think it was the DC Circuit sent back an approval that they made because, even though they addressed the issue, they forgot to cite—make a citation to a reg. And so they had to send it back. That just seems to me to be things that don't need to happen. So there can be ways to streamline that.

In terms of the clean energy, the thing that I find somewhat kind of amusing is that the—that often the same people who didn't like underground natural pipelines suddenly say, "We need to fix permitting for, you know, 400 miles of lattice towers for transmission lines to get wind from the Midwest to the coasts," going through, you know, farms, ranches, et cetera.

And what I think it is, we have to look at what are the real problems. Because I think what the renewable developers have realized is, there is a NEPA problem. There is a problem. And so we need to come up with a solution that fits one size for fitting all, not just picking——

Ms. SCHRIER. And I will give you just some feedback on that. One of those things pollutes, one doesn't. One, in many cases, lines are already there. But we—that is a discussion for another day.

I wanted to just turn at the end to just a really pragmatic example: hydropower. I come from Washington State. Hydropower makes up a third of the renewable energy in the United States. It makes up about half of the electricity we use in Washington State. And with the looming climate crisis, hydropower is going to be critical. You know, it provides baseload, just like nuclear and like natural gas, that wind and solar just can't provide. And so hydropower is critical.

And right now it turns out that just about 3 percent of dams in this country generate hydropower. And this is an area where the chairwoman of this committee and I really agree, that this is exactly the kind of project where, if you consider the net environmental benefit, you consider the economics, you consider the energy benefits, that this sort of project might be ideal for having a speedier pathway to a yes or a no.

So I want to thank you, and I yield back my time.

Mr. DUNCAN. The gentlelady yields back.

So Members are reminded that we are going to come back right after the second vote opens. So vote and come back, and I am going to take them in order. Kelly Armstrong is up next.

Witnesses are asked to remain. If you need to get up, stretch your legs, bathrooms are down the hall. Apparently, there is a lot of people in the lobby out here, so you may not want to go that way.

And we will stand in recess until we get back.

[Recess.]

Mr. DUNCAN. All right. We are going to go ahead and get started. So I will call the subcommittee back in order.

And I will now go to Mr. Armstrong from North Dakota for 5 minutes.

Mr. ARMSTRONG. Thank you, Mr. Chairman. In 2017, when this committee held a hearing on the Promoting Cross-border Energy Infrastructure Act, Ranking Member Pallone remarked at the time, "With President Trump already approving the Keystone XL pipeline, it is unclear to me why Republicans feel it is necessary to strip the President of his authority. Do my colleagues on the other side of the aisle honestly not have confidence in President Trump?"

It is not that Republicans didn't have confidence in President Trump, it is that Republicans didn't have confidence in future administrations to make rational decisions regarding energy's infrastructure. We only had to wait a matter of hours after President Trump left office and President Biden—for President Biden to revoke the cross-border permit for the Keystone XL pipeline and prove the exact reason why we need this bill.

Well, it is clear that the FERC and DOE processes are not immune from political influence, which I will get to in a second. They must follow statutory and regulatory guidelines, as opposed to the impulsive decision-making process used by one President. Opponents of carbon energy have routinely exploited the uncertainty of the cross-border process to starve projects of capital investment because they understand that these projects can take decades to complete and are not a short-term investment.

We know that those who are antagonistic to carbon energy oppose every pipeline project. It has nothing to do with the merits or the environmental analysis surrounding a particular piece of infrastructure. To quote a leader of the Keep It In the Ground campaign, the Keystone XL pipeline was never about any single pipeline. It was about establishing a litmus test. Well, the opponents of carbon energy have established that test, and they know that they can rely on domestic—Democratic administrations to undermine our energy infrastructure.

Deputy Secretary Menezes, before we go any further, it is important, I think, to talk about what the Promoting Cross-border Energy Infrastructure Act does not—what it does not do, and we need to be perfectly clear. This bill will have zero effect on NEPA or shortcut environmental reviews. Is that your understanding?

Mr. MENEZES. That is my understanding.

Mr. ARMSTRONG. Thanks. And I am going to switch over to domestic pipelines for a second.

Mr. McNamee, are political considerations playing an outsized role in FERC's permitting decisions?

Mr. MCNAMEE. I am concerned that FERC has not always been focused on the limits of the Natural Gas Act in making its determinations.

Mr. ARMSTRONG. Have there been any policy changes in the last 2 years, or is it simply that the regime has changed?

Mr. MCNAMEE. Two things have happened. One, the regime had changed from majority Republican to majority Democrat Members. And second, there were proposals for new policy statements that would have allowed the Commission to deny natural gas pipelines based on the upstream and downstream natural gas combustion,

which, in my opinion, when I was on FERC, FERC did not have the authority to make those decisions under the Natural Gas Act.

Mr. ARMSTRONG. Well, what do you think the practical impact of that would be if they—if prior to putting a pipeline in the ground, a company had to mitigate both the oil well and the SUV?

Mr. MCNAMEE. Well, they may not even have an opportunity to mitigate it. The FERC—if those policies were enacted, the pipeline might not be approved at all because it would be declared too harmful. And so, even though it is in the public interest, it would provide service to customers, and it could lower prices for customers, that may not be approved at all.

Mr. ARMSTRONG. As somebody who grew up in western North Dakota, I would say an oil well is like a five-star steak restaurant and a pipelines is like McDonald's. They both make money, but they make it in very different ways.

Back to Mr. Menezes. In addition to raising costs and limiting growth, roadblocks that delay or prevent the development of energy infrastructure, particularly oil and gas, threaten the overall resilience of our electric grid, as well. Can you touch on why that is important, to support efficient deployment of midstream infrastructure?

Mr. MENEZES. As we have been talking about today, we need to increase supply, but we also need to increase infrastructure to make sure that supply gets delivered to the American people. That will bring downward prices onto the commodity that they are purchasing.

Mr. ARMSTRONG. And there is also global ramifications to an efficient cross-border process in North America. I mean, we import a ton of oil from Canada. They are our closest ally and our neighbor. Maybe I am a little biased, because they are my neighbor directly to the north.

Mr. MENEZES. Well, I don't——

Mr. ARMSTRONG. What are the ramifications——

Mr. MENEZES. I mean, we have about eight refineries that are designed and built to take heavy crude, heavy crude from Canada. It was also for heavy crude from Venezuela until the shale revolution. So we have refineries that are designed to take that oil. It is from Canada, you know, our largest trading partner. So it only makes sense.

Plus, we talked about earlier that would have been—we import about 700,000 barrels per day from Russia. That 830,000 from Keystone would have certainly offset that.

Mr. ARMSTRONG. I always used to say anybody who has ever looked at the process to drill a well in Canada would understand it is significantly more stringent than potentially even drilling on our Federal land. When I would talk to my friends and allies on this issue, I would say, "What can we do to make—change people's minds?"

They would say, "Call it something other than tar sands oil, because it just sounds dirty." It doesn't matter that it is sour crude that we need for marine diesel. I love my Bakken sweet crude, but it doesn't work for everything.

So thank you, Mr. Chairman, and I yield back.

Mr. DUNCAN. I thank the gentleman. So I am assuming I am going to Ms. Kuster for 5 minutes.

Ms. KUSTER. Great. Thank you, Mr. Chairman. Let me get straight to the point. Most of the legislation before us in committee today is merely a handout to the fossil fuel industry, poorly described as an attempt to strengthen our Nation's energy security.

So let me be clear. Furthering our Nation's independence—dependance on fossil fuels instead of diversifying our energy sources not only weakens our energy security, but it also harms American families by leaving them vulnerable to global energy price shocks.

In the first legislative hearing of this subcommittee, the Republican majority has put forward partisan legislation which stands no chance of being enacted into law rather than focus our time on meaningful bipartisan efforts to further American energy independence. These bills simply miss the mark. While I disapprove of these misguided proposals, I remain committed to working with my Republican colleagues to find opportunities to actually deliver affordable, reliable, and domestically produced energy to the American people.

One of those opportunities is bolstering our baseload energy resources, such as hydropower and nuclear. In New Hampshire, the Seabrook Nuclear Power Plant provides low-cost baseload energy by operating at full capacity nearly year-round. This past weekend you may have heard about record-breaking cold on top of Mount Washington in my district. Under some of this winter's coldest temperatures, Seabrook continued to deliver reliable baseload energy to the grid.

To protect nuclear energy as a baseload energy resource nationwide, we must also secure the uranium these plants rely upon to operate.

Mr. Menees—Menezes? Thank you.

One of these legislative items before us today would prohibit the import of low-grade uranium produced in Russia. At a time when Putin's regime is using profits from energy exports to fund a gruesome war in Ukraine, I would say cutting off Russian imports is a sound policy. Can you speak to the importance of reducing our dependance on Russian uranium, from an energy security perspective?

Mr. MENEZES. Well, your question touched on the key points. Russia simply is no longer a reliable partner for any critical energy infrastructure resources at all, including the enriched uranium which our civilian nuclear fleet has become dependent on, because it can be cheaply produced in Russia and they export it at cheap prices to ensure that our civilian nuclear fleet that competes in these RTO markets that we talked about, they can't bear any cost increase on the cost of fuel.

The bill not only prohibits it, but it phases it out, and it does provide for some waivers. So it is not as though we are going to be without the fuel. That should give us enough time, because there have been some other provisions of the bill to develop our own abilities for fuel fabrication and, you know, enrichment.

It is not the easiest thing to do, but we need to reclaim our leadership and our own ability, frankly, to not only mine and mill, con-

vert, but also for fuel fabrication. And it is important because, remember, nuclear is our cleanest emission-free source of energy in the United States.

Ms. KUSTER. Thank you. Like many Americans, I remain concerned by the record profits that oil companies continue to rake in while households across the country are struggling to pay their energy bills.

Mr. Slocum, in your testimony you suggested that Congress should press FERC, which is responsible for regulating natural gas markets, to protect American consumers from price manipulation that could increase natural gas prices and America's energy bills. What steps can FERC take to improve price transparency in natural gas markets?

Mr. SLOCUM. Yes. So FERC has jurisdiction over spot natural gas markets if there is evidence of market manipulation. But in the 2005 Energy Policy Act, because of widespread manipulation of the price indices, FERC requested and Congress inserted into the Natural Gas Act a provision that allows FERC to establish its own price transparency natural gas reporting system.

And so, in comments in a rulemaking last year at FERC, I urged the Commission to undertake this never-used statutory authority, and what it would do would shine some badly needed transparency into pricing in natural gas spot markets.

Ms. KUSTER. Thank you. Many of my constituents in New Hampshire rely on natural gas for electricity and home heating, and I am committed to ensuring that Congress and the administration evaluate all available tools to ensure the prices consumers pay are just and reasonable.

To my Republican colleagues across the aisle, please take seriously my offer to work together on commonsense energy legislation and put people over politics.

Thank you, and I yield back.

Mr. DUNCAN. The gentlelady yields back, and the Chair will now go to the gentleman from an energy-producing area—well, actually, nuclear energy—that would be Mr. Allen from Georgia.

Mr. ALLEN. Thank you, Chairman Duncan and Chairman Johnson, for holding this joint subcommittee hearing today to discuss the importance of unleashing our domestic energy production, securing our electric infrastructure and domestic supply chains. This is critical in delivering lower energy costs to Americans and becoming energy dominant.

I can't stress enough the importance of having an all-of-the-above energy strategy, which we have talked about over and over again here today, and ensuring our supply chains here are secure.

Yesterday I hosted my first telephone town hall with thousands of constituents on the line for the 118th Congress. The most questions I got were about, "What are you going to do about energy and the cost of energy? How can we become energy dominant again? I remember those days when we actually set the price of a barrel of oil. That was real power, Mr. Congressman."

My constituents and Americans across the Nation are spending money they don't have on energy, should it be at the pump or trying to heat and cool their homes. The key to affordability and reliability is a diverse energy portfolio and removing regulatory bar-

riers that hinder access to our natural resources right here in the United States. The free market is key in setting the price for energy.

Mr. McNamee, you mentioned in your testimony how subsidized renewables are distorting price formation and regional transmission organizations, which is having a negative impact on important energy sectors like nuclear and coal, and, in turn, the reliability of the grid. Commercial nuclear energy is critical to my district, as it is home to Plant Vogtle, and currently under construction are units 3 and 4, which are scheduled to come online later this year. Nuclear energy is reliable and affordable and emission-free.

Are there ways we can ensure subsidized renewables are not undermining the market so that the coal and nuclear business do not become obsolete?

And how does this degrade reliability?

Mr. MCNAMEE. Thank you, Congressman. The primary challenge in the so-called RTOs, which are in seven parts of the country, is that they tried to use market forces in order to achieve the cheapest energy resource for electricity.

The problem is, once you have subsidized resources like renewables that have no fuel costs, that show up intermittently, they have tax credits, they undermine the way price formation works. And the price formation is for every, basically, 5 minutes of the day during the load curve, generators bid in to see if they can meet the load. And the last generator that is picked sets the price that everybody is paid. So that means if you are wind or solar, you are paid the same price as the natural gas producer or the nuclear producer.

And what has happened is, when you have these intermittent resources coming on and off, they are taking up market share, they are driving a little bit of the marginal price of energy down, but they are undermining the ability of baseload, like nuclear, to be able to make the money to stay operating. And this has become a big crisis in a lot of parts of the country, where you see electricity prices spiking but reliability going down.

In Georgia, one of the things is it still has the traditional vertically regulated, and you mentioned that—planning the resources. That is exactly what utilities do. They do integrated resource plannings, they decide what units are needed to meet the power 24/7, 365 days a year, whether it is cold or whether it is hot.

And they also—the price of energy is averaged. So customers are getting the economic benefits of all the resources.

Mr. ALLEN. Right. And that might explain why we are—have two battery plants that are scheduled to come online, as well in Georgia, one just announced and one is under construction for batteries for the electric vehicles that are going to power the future, because we have the most efficient, most abundant supply of electricity in the country. Thank you for the answer to that question.

Nuclear energy, as I said, is critical to our national security. So I would like to now enter into the record two letters, one from the Nuclear Energy Institute and another from the United States Nuclear Industry Council, which both expressed support for the com-

mittee's work to establish a secure nuclear energy fuel supply chain.

Mr. DUNCAN. Without objection, so ordered.

[The information appears at the conclusion of the hearing.]

Mr. ALLEN. And now, Ms. Sweeney—and we are not—we are going to run out of time, but we have talked about the permitting problem in the mineral supply chains. Can you submit in writing to me?

What I am hearing is workforce problems. And maybe you can comment on another question later about the workforce problems we are having throughout the energy sector.

Thank you, and I yield back.

Mr. DUNCAN. The gentleman yields back. The Chair will now go to Ms. Castor for 5 minutes.

Ms. CASTOR. Thank you, Mr. Chairman.

Fossil fuel prices and energy costs were the primary drivers of inflation last year and higher gas prices after Putin's unprovoked invasion of Ukraine. And we had the Big Oil CEOs here at the committee to talk to them about price gouging. And we asked each one of them, were they interested in lowering costs, lowering prices at the pump? We are going through a crisis of a war with an ally. Inflation was hitting consumers hard. And they all said no.

Now, just last week the profits became clear. Mr. Slocum, did you see the profits reported by the Big Oil companies?

Mr. SLOCUM. Yes, ma'am.

Ms. CASTOR. How would you characterize them?

Mr. SLOCUM. Extremely large. And that doesn't even reflect all of their profitability, because they have been plowing billions into share buybacks. Chevron, for example, committing to $75 billion.

Ms. CASTOR. But wait, they could have used that to lower the price at the pump, right?

Mr. SLOCUM. Correct.

Ms. CASTOR. Shell Oil made more in profit than they ever have before. Exxon and Chevron, their $90 billion in profit was called "epic." So this is what profiteering looks like, doesn't it?

Mr. SLOCUM. The proof is in the numbers. Yes, ma'am.

Ms. CASTOR. So I think they have everything they need. Why would we be bending over backwards to provide a wish list for the Big Oil companies when they are making—they are banking the biggest profits ever, and then they are not passing along these savings, they are doing stock buybacks?

Is there anything in this wish list that is on this agenda today that lowers the cost for consumers?

Mr. SLOCUM. I don't see anything in these various bills that are going to reduce cost to consumers or protect consumers from the kind of price gouging that is going on.

Ms. CASTOR. Mr. Garcia, do you see anything?

You have helped shine the light on the litany of this wish list for polluters in Big Oil today. Is there anything in this package that would lower costs for consumers?

Mr. GARCIA. I can't identify a single thing.

Ms. CASTOR. In fact, you have helped us go through some of these bills today. It is like the 1970s have called, and they want their energy policies back. This is 2023, and clean energy is cheap-

er energy. We, with the help of the Inflation Reduction Act and the Infrastructure Investment and Jobs Act and the CHIPS and Science Act, we are unleashing American innovation to lower costs for consumers, to create jobs, to build healthier, more resilient communities.

Mr. Garcia, is there any reason that you think we should go backwards to the costly policies of the past, and—rather than go forward?

Mr. GARCIA. None. I mean, quite the opposite, right?

I mean, if we do that, there is going to be a lot of damage done, both at a climate level for everything that we are going to face as a country, as a planet, but also in small frontline communities next to these facilities that, unfortunately, bear the burdens of these—largely would bear the burdens of these largely unregulated practices if these loopholes go through.

Ms. CASTOR. I mean, that is one thing that we never really talk about when we have this wish list for polluters in Big Oil, the cost of the climate crisis.

Back home in Florida, because our monopoly electric utilities have kept us—we are the so-called Sunshine State, right? But we are reliant about 75 percent on fracked gas for our electricity. So people are paying higher electric bills as we have warmer days. That is not smart. That is not consumer friendly. We are paying higher property insurance.

There was another story out this morning about displacement because of extreme events. There is a huge pull on the Federal budget because we are outlaying more and more to tackle droughts and floods and these extreme events. And then there is the long-lasting burden of pollution that you highlight.

Again, isn't the future in clean energy? It is cheaper energy. It will help us lower costs across the board.

Mr. GARCIA. Absolutely. I mean, what we are seeing is the attempt by dirty fuels and dirty industries to circumvent laws in order to stay afloat longer, when what we really need to do is make sure that our investments are going to—as you said, the future, making sure that those investments are happening quickly and directly into renewable industries that are also clean industries for our communities.

Ms. CASTOR. Thank you very much. I yield back.

Mr. DUNCAN. I thank gentlelady. The Chair will now go to Mr. Balderson from Ohio.

Mr. BALDERSON. Thank you, Mr. Chairman. Thank you all for being here today. My first question is for Mr. Eshelman.

Thank you for being here, Mr. Eshelman. In your testimony you note that IPAA's member companies are the innovative leaders that broke the code to usher in the shale oil and natural gas revolution in the United States. Chairman Johnson and I can certainly attest to this massive impact the shale revolution had in the Appalachia Ohio region and the economic benefits we have seen in our communities.

As you know, the shale revolution and fracking turned the U.S. into an energy superpower and greatly enhanced our national security. But we must look forward. Natural gas and oil will continue to be essential to our energy portfolio for the foreseeable future.

In addition to prohibiting the President from unilaterally banning fracking, Chairman Duncan's Protecting American Energy Production Act also expresses the sense of Congress that States should maintain primacy for the regulation of fracking for oil and natural gas production on State and private lands.

Mr. Eshelman, why was this aspect of energy policy key to the shale revolution?

Mr. ESHELMAN. Well, hydraulic fracturing is a technology that has been around for a long time but perfected over the past 10 years, which unleashed the shale revolution in the Utica, the Marcellus, and the Permian all around the country and provided jobs and oil and gas to consumers. So it is a very important technology that, if we didn't use it, we would probably lose half of our oil and gas supply tomorrow.

One of the other things I would mention is that there have been efforts in Congress to ban hydraulic fracturing or have it regulated at the Federal level. That doesn't work. A one-size-fits-all regulation does not work for different parts of the country. So the States are doing it well. They are working with communities, and it should remain that way.

Mr. BALDERSON. Thank you. I will follow up with you, sir. You said it best. The IRA's methane tax will jeopardize the operations of many oil and natural gas producers and divert their attention from what they do best: producing the cleanest and safest oil and natural gas in the world.

As you noted, this tax was included in the Inflation Reduction Act despite not being considered at a hearing, not receiving expert testimony, and without an economic analysis. If this isn't repealed, producers will start paying this tax next year.

How will the natural gas tax impact rural producers, rural communities, and, ultimately, how will the tax impact our constituents who rely on natural gas each and every day?

Mr. ESHELMAN. Well, I think you hit on it. There was no congressional hearing on this tax. There was no testimony taken on it, no analysis done on it. So we really don't know the answer to that question. That is the problem with this tax.

Mr. BALDERSON. A followup for Mr. Menezes and Mr. McNamee: Do you think this tax will ultimately hurt rural communities?

Mr. MCNAMEE. Yes.

Mr. MENEZES. We have to keep in mind that those that are benefiting from fracking, they are the small producers. The majors do not frack, OK? They are mom-and-pop operators here. These are the true patriots. These are the true Americans. They have produced the oil to where, for the first time in history, OPEC is forced to negotiate with the United States. That has never before happened since OPEC was in existence.

And so, when you are looking at those provisions, the methane regs, those fees, it is going to be the small producers. The majors, they are not going to be impacted, again, but they don't have the small producing that the IPAA folks have on the methane.

And remember, the methane we talk about is a pollutant. It certainly, in great concentrations, can do great harm. However, it is a product. And so, with the improvement in all the detection devices, what we have seen already is the industry moving to detect,

take action, and it is a product. And so, by making the investments, it is more product to actually sell. And so, talk about a circular economy, that is one, and they are taking advantage of it now.

Also, EPA has a supplemental pending rule open for public comment now on methane regulations, which essentially does the same thing without the fee, but you have the full backing of all the penalties in the Clean Air Act if you violate those regulations once they become final.

Mr. BALDERSON. OK. Thank you very much. We are down to 30 seconds. I want to ask one last question. Please be conscious of the time.

Mr. McNamee and Mr. Menezes again, Chairman Johnson's Unlocking Our Domestic LNG Potential Act would streamline the approval process for American companies to export liquefied natural gas.

Do you think—during last week's hearing Under Secretary Paul Dabarr regarding the global environment benefits of the exporting U.S. natural gas to developing nations, many of which are reliant on coal from China.

If you all would respond with just written answers, I would appreciate it.

I yield back, Mr. Chairman.

Mr. MCNAMEE. Exporting natural gas helps both people in foreign countries and domestically.

Mr. BALDERSON. Thank you.

Mr. DUNCAN. All right. I thank the gentleman. The Chair will now go to Ms. Miller-Meeks for 5 minutes.

Mrs. MILLER-MEEKS. Thank you very much, Mr. Chairman. I thank all of our witnesses for having stamina to last through this hearing.

Iowa is a little-known energy State. We have 50 percent of our energy from renewables. Over 50 percent of our electricity is from wind. And we are an exporter, a net exporter of energy that both reduces greenhouse gas emissions and cleaner burning engines as part of our liquid fuel portfolio. And it should be part of a liquid fuel portfolio in all of our energy needs. It offers, you know, affordable energy to allow us, as a country, to compete globally on an affordable level.

Imagine when I went to COP 26 and COP 27 that I found out that energy demand is increasing. It is not decreasing. And I agree with the witness that we need increased electrification, but energy efficiency is only going to be able to give us so much, and it is a very small amount. And to increase electrification we need electricity, which means we need more energy sources and to build new energy sources and resources, not less.

In Europe, as we have seen over the past year—and I saw when I went to both COP 26 and COP 27—demand is going up. Energy efficiency, as tried in Germany and UK, has been reliant upon wind and solar as renewables and have much higher electricity prices than we have in the United States. So it is not bringing down electricity prices.

In Iowa, not only are we a source of energy, we also have the Ames National Laboratory located at Iowa State University just

outside of my district, and it currently leads the Critical Materials Institute. CMI is an energy innovation hub of the U.S. Department of Energy. Its focus is innovation to assure supply chains for materials critical to clean energy technologies. CMI carries out scientific and engineering research that facilitates more diverse primary supply chains in addition to mining, which we wholeheartedly agree we need in this country, more efficient manufacturing, re-use and recycling, and development of new materials.

Mr. Menezes, can you speak to the national significance of diversifying supply, developing substitutes, and driving re-use and recovery of critical minerals with respect to securing our Nation's global competitiveness?

Mr. MENEZES. Well, we have talked about the critical minerals, you know, throughout the day. It is important that we figure out a way for us to have our own access to our critical minerals, you know, as we are dependent on 31 of 35, we import 14. So I think that is a—that is one of the lessons learned.

And it was really emphasized after COVID. So Congress in 2020 did take action, you know, to do R&D for critical minerals. And so they were doing it. But after COVID we realized we really cannot depend even on other countries. While we have been talking about China, you know, other countries provide us other critical minerals. So the focus now is really to do this.

And the Biden administration likewise, you know, underscored that. And—but we need to do more. And so that is why today's bill is so important, that we really need to make sure that the Department of Energy has the expertise to do it.

You mentioned Ames. It is great. Ames is the place where you go, where you get to see the actual elements that are on the elemental chart, except for the radioactive ones, of course. But you can just see, and they are all there in these little vials. And it is just an absolute great place to go and visit.

Mrs. MILLER-MEEKS. I wholeheartedly agree. And as you know, in December of 2022 the U.S. Department of Commerce found Chinese solar panel makers had circumvented the U.S. tariffs by doing minor processing in Southeast Asia—and I think that was mentioned earlier—including Cambodia, Malaysia, Thailand, and Vietnam before exporting to the U.S. New tariffs on U.S. imports from these countries, which account for about 80 percent of U.S. panel supplies, do not take effect until June of 2024 because of a 2-year waiver from President Biden.

I have concerns about China taking advantage of the waivers for renewable technologies meant for other countries, especially when the alternative is American-made products. There is a similar issue with Chinese companies operating production facilities for the EV batteries, which we had talked about through the credits with the Inflation Reduction Act.

Can you please speak to the risk that the waivers for critical minerals and renewable technologies in other countries pose to the U.S. national and economic security?

Mr. MENEZES. Right. For the first time, then, if this bill is enacted, the Energy Department will actually have a role in advising the President and other agencies as to what emergency actions can

take place to ensure that we can protect those vital sources. And that is why this is needed.

Otherwise, the Department of Energy and its expertise will lose out to other agencies, who will have other equities to argue about and for. And so you want the Energy Department to be at that table to inform the President as to why certain actions need to be taken to protect our critical minerals and resources.

Mrs. MILLER-MEEKS. Thank you so much. I wish I could go through all of the witnesses, but I don't have time. I have some other questions which I will submit to the committee, and then ask you to respond in writing. Thank you very much.

I yield back.

Mr. DUNCAN. I thank the gentlelady, and the Chair will now go to the gentleman from the Republic of Texas, Mr. Pfluger, for 5 minutes.

Mr. PFLUGER. Thank you, Mr. Chair, and I appreciate the opportunity in this hearing. I would like to thank all the witnesses.

You know, I would hope that what has been said by my colleagues on the other side of the aisle is actually true, that we can work together. I am worried about not having electricity.

There is a narrative here that Big Oil is making big profits. Does—Mr. Slocum, I don't know if you know the price of oil on April 20th, 2020. I don't know if anybody on this panel can tell me what that was. I bet there is one or two. Negative 37.63. Do we remember that? And do we have hearings about the profits that we were not making at that time?

Energy security is so important. It is important to our economy. It is important to our livelihoods. It is important to our military. You know, when we look at the concept of making sure we have affordable, reliable energy—Mr. Garcia, can you tell me what the reduction in methane emissions has been over the last 10 to 15 years here in the United States?

Mr. GARCIA. I don't have that data in front of me, but I am happy to provide——

Mr. PFLUGER. Yes, it is 14 percent, 14 percent.

Mr. Slocum, any idea where that ranks in the world?

Mr. SLOCUM. I don't know, but I don't know about that figure. There is——

Mr. PFLUGER. That is from——

Mr. SLOCUM. It depends upon how it is being measured.

Mr. PFLUGER. That is from DOE.

Mr. SLOCUM. Right. Because there has been discrepancies between actual emissions and recorded——

Mr. PFLUGER. OK.

Mr. SLOCUM [continuing]. Methane emissions.

Mr. PFLUGER. The point that I would like to get to here is we lead the world in reduction of emissions, harmful emissions. We have producers that are doing this because it is not only efficient, but it makes sense in a market-based place. And we do leave this Earth better.

And I would invite you to come to my district to see the wind and the solar and the problems that they actually have for the environment, since you have spoken so eloquently on environment, and see the ranchers and the farmers who operate this land for

generations—seven in my case, my family—who leave the land better, and use the resources, and put back into it.

Mr. Eshelman, you mentioned—what percentage, can you remind us? What percentage of energy comes from small producers, from independent producers, not from quote/unquote "Big Oil"?

Mr. ESHELMAN. That is 91 percent of the wells.

Mr. PFLUGER. Ninety-one percent. And disproportionately, how is the methane, the natural gas tax, how does it affect those people that don't have economies of scale, that are independent producers, that—one or two people in their businesses?

Mr. ESHELMAN. That is what we are trying to understand. As I mentioned before, there has never been a hearing on this. There has never been a study on this. There has never been testimony on this tax. So we really don't know.

But we are concerned with giving EPA more authority. And once you give an agency authority, they kind of grow with it. So that is——

Mr. PFLUGER. You know, I figured out very quickly when the wind energy folks came to see me and they said, "Mr. Pfluger, we have a problem with the EPA. We can't get a permit to build a windmill in your district."

I said, "Oh, well, welcome to the club."

We have more wind energy, by the way, Mr. Garcia, in my district than the entire State of California. But they can't get a permit to do that.

Mr. Slocum, is wind and solar—do they provide baseload capacity?

Mr. SLOCUM. They do not. But the question is whether or not baseload capacity is always a requirement.

Mr. PFLUGER. Yes.

Mr. SLOCUM. Especially—you can balance off intermittence with——

Mr. PFLUGER. That is fine, thank you. I think the fact is it doesn't, and it is not required in States like California, where they have intermittent electricity, which is unreliable. However, in most of the United States we want reliable electricity.

We have these balls in the air. One of them is cost, one of them is reliability, one of them is geopolitical security. And the climate is certainly always going to be right there. We do it cheaper, more efficiently, and also more environmentally friendly.

Mr. Garcia, you mentioned that—I don't have the exact note, but that there is no boundary on air pollution. Is that—does that summarize a previous comment?

Mr. GARCIA. For the specific provisions that these—and loopholes that these bills would bring about, yes, there would be no——

Mr. PFLUGER. No, you said air knows no borders. I found my note. "Air knows no borders." I just quoted you on——

Mr. GARCIA. Air, yes, the air——

Mr. PFLUGER. Is that true?

Mr. GARCIA. Absolutely, air doesn't know borders.

Mr. PFLUGER. OK, so what are the Chinese doing to curb? Do they have taxes on natural gas in China?

Mr. GARCIA. My understanding is that the jurisdiction of this committee is about what the United States can do.

Mr. PFLUGER. So my understanding of what you said is that air knows no borders. And I want to make the point that, if that is true, then the people in my district are being affected by Chinese air, just like they are in your home, just like they are everywhere throughout the United States or throughout the rest of the world.

So the competitive advantage that we are giving them, giving away, the most important resource we have at our fingertips, is also causing the actual harming of our climate. And it is coming from China. And we have to take actions here to compete and to continue to do it better.

I have 15 more minutes of comments. However, the Chair will not let me use that time, and I yield back.

Mr. DUNCAN. I thank the gentleman, and now we will go to Mr. Obernolte from California.

[Pause.]

Mr. DUNCAN. Is your mic not on? Can you slide over one?

Mr. OBERNOLTE. There we go. I swear I pushed the button.

Mr. McNamee, in your testimony you were discussing the need to enhance cybersecurity in our natural gas pipelines. And that really resonated with me because we all lived through the cybersecurity hack of the Colonial Oil pipeline a year and a half ago, which, as I am sure everyone in this room knows, disrupted the supply of gasoline to the entire southeast United States.

So what can be done? What needs to be done to put those protections in place for natural gas pipelines?

Mr. MCNAMEE. Well, the industry has generally been working to try and—to harden their systems, including their electronic systems, but also there is the challenge of physical attacks.

So I think the primary thing that needs to be done is to—like the reporting issues that want to be done for the bulk power system, but also for natural gas. And I think that, you know, we need to encourage natural gas pipelines, oil pipelines, the electric grid to all be focused on trying to find out what is the next thing that is going to happen and harden it.

Because one of the problems with regulations is it tends to look backward at what has happened, and, of course, you need to harden for that. But the bad guys are way ahead, and so they—kind of constantly be working for what is the next thing. And being aware of what the next thing is is going to be helpful, and that is part of what I think that bill will help do.

Mr. OBERNOLTE. Sure. Well, you know, I think that we are having to transition from seeing cybersecurity of privately held companies as a business issue to seeing it as a national security issue, whereas traditionally we just thought of national security being applicable to the Department of Defense and agencies of the Government.

Mr. Slocum, first of all, let me thank you very much for not reading your statement. You know, I think that hearings—we communicate with each other a lot better when we are not just reading at each other. And I just want you to know that we noticed, that we appreciate it, and, you know, I think that is something we should do some more of.

So you were talking in your testimony about objecting to removing the required finding of being in the national interest before liq-

uid natural gas can be exported. And, you know, just—we heard some other testimony from various witnesses, including Mr. McNamee, about the way that government action can create distortions in the markets for energy.

And I am wondering why that wouldn't be the case here, because every time the Government tries to put their finger on the scale to try and protect energy markets and manipulate energy prices, it seems like things can go awry, and particularly in this case, when you are creating, you know, by the restriction of natural gas, of liquefied natural gas exports, you are creating an economic island that then can be vulnerable to things like arbitrage by people with just a profit incentive, and the consumer ends up losing anyway.

So what—why would that not create economic distortions that we need to avoid?

Mr. SLOCUM. Well, I think because natural gas has historically been a regulated commodity.

So when it was enacted in 1938, this provision, it was recognized that natural gas was providing essential services to homes and businesses. And so, as a result, if you were going to export it or import it, there had to be public interest determinations on it because of its essential utility——

Mr. OBERNOLTE. But should it be, is the question. I mean, I think that is the question that the bill that we are we are debating is asking, is should it be? Does that actually have the intended effect?

Because many times, as you know, governmental action does not.

Mr. SLOCUM. Well, I mean, right now, as I pointed out in my written testimony, the Department of Energy is not really performing a meaningful public interest determination. There has never been a rejected application to export natural gas by the Department of Energy, right? So that—so it seems like the legislation is proposing a solution in search of a problem, right, that the Department of Energy is not—there is no backlog of applications. It takes sometimes just months between the submission of the application of the Department of Energy and its approval.

Mr. OBERNOLTE. OK, that is an interesting different kind of line of argument than the one in your testimony. I think both are interesting. I would love to continue this discussion. I only have a few seconds left here.

Mr. Garcia, I was going to ask you about this. Unfortunately, it is going to be a statement, and not an opportunity for you to respond, and I apologize for that.

But, you know, we have been talking about this economic valuation between trying to value human prosperity and ranking that against protecting the environment. And I think everyone here on the dais would agree that we need to do both. But, you know, the problem is that we all represent constituents who are suffering.

In California we pay twice as much for residential electricity than neighboring States, three times for industrial, four times as much for commercial. My constituents pay twice as much for a gallon of gas to put in their car to commute to work. They don't have a choice to do that. And this is the problem. You know, we have to make those economic judgments. And I think that there is a way to effect a win-win.

But I want to thank you all for your testimony. I found it a very interesting hearing.

I yield back, Mr. Chair.

Mr. DUNCAN. I thank the gentleman. The Chair will now go to Mr. Weber from Texas.

Mr. WEBER. Thank you, Mr. Chairman. I am going to make a couple of comments.

First, the—one of the comments on the panel was earlier, before we went to vote—was that bang for energy efficiency—you get more bang for your buck than you do more power plants.

And I would submit this for the record and for the panel that, you know, power plants, I don't know, 100 years ago there was X number. But American population has doubled, tripled, increased. And so we are getting more and more people, and especially with an open border—thank you, President Biden—we are going to have a lot more people, and we are going to need a lot more power.

Now, some of you all know I am from Texas, and we talked about Winter Storm Uri, where we went through that two Februaries ago, and Texas saw record cold. I am born and raised on the Gulf Coast of Texas, 20-mile radius, 69 years. I have never seen it be 18 degrees on the Galveston Island.

So we lost some power. It was a perfect storm. Some of the industries that normally—plants that normally shut down in the wintertime weren't necessarily ready for that kind of cold. The waterlines freeze. South Texas nuclear plant down in Matagorda County was one of them. I represented them as a Texas State rep. And so we lost—wind energy failed us. Wind turbines, they froze up, blades got iced up.

So we are number 1 in wind energy. We are number 2 in solar panels. And you find out very quickly that, in an incident like that, you get a lot of cloudy skies. You don't have as much sun. Solar panels ice up. They got snow on them. And here is the bad news about solar panels: You know the sun goes down at night, and so they are not constantly producing electricity.

We actually met with ERCoT and PUC—the ERCoT, Electric Reliability Council of Texas, and the PUC there in Texas—and they talked about their plan. There is a website called PowertoChoose.org, where you can choose your provider. A lot of the providers—some of the providers advertise 100 percent green energy. And what that was saying is only solar and wind power. They were able to provide—because of the subsidies and whatnot—cheaper rates from those who used natural gas, and some coal, and even nuclear.

And so the PUC told us—four of us Members of Congress met in Austin with them—that they were going to put a rule into place that, if you are a power provider on that website, a retail electric provider—we call them REPs, R–E–Ps—they had to increase—they had to include, rather, a part of a base load that included some reliable, dependable, affordable—and as your discussion with Mr. Pfluger was—that is natural gas.

We have a lot of wind energy in Texas. I didn't know it was—most of it was in his district, but I am mighty proud for that. A lot of gas pipelines, oil pipelines in his district too.

So I want to go back to Obernolte's discussion about the Colonial Pipeline system. The Keystone Pipeline comes into my district in Texas. It is the safest way to move product, period. Not truck, not rail or barge. It is the safest way. The President shut it down.

Colonial Pipeline system, about 2 or 3 months after Winter Storm Uri, was hacked into and was shut down 4 or 5 days. The Colonial Pipeline system feeds the southeastern part of the United States. It carries 3.1 million barrels of product today: gasoline, diesel, and jet fuel. The Keystone pipeline carries 830,000 barrels of product a day. It is literally one-fourth—more than one-fourth the output of the entire—the Colonial Pipeline system that feeds the entire southeastern part of the United States with a leg that goes north.

So it is extremely important that we have a solid baseline—baseload system that is going to be fossil fuels. Renewables are great. We like renewables. Make no mistake about that. I am tired of our friends across the aisle saying somehow we are in the oil companies' back pockets. That is just a mischaracterization. But what else do you expect? Did I say that out loud?

At any rate, renewables can—they can—it can be the supporting actor in this movie. It cannot be the leading actor in this movie. And what we are trying to do today is to make sure that we are building that up.

Mr. Menezes, in your written testimony you outline H.R. 150, Protecting American Energy Production Act, which I am an original cosponsor of, which would prohibit the President from declaring a moratorium on fracking, which has started in my district. You got 29 seconds. Tell us how good it is, fracking.

Mr. MENEZES. What are we talking about, the virtues of hydraulic fracturing?

I mean, certainly for domestic supply, for export to help our friends and allies all over the world get off of Russia, natural gas—they have come to us asking.

You will look at what is going on in the private sector. This is without government interaction. In fact, it is beyond the reach of the Federal Government. Contracts are being entered into by European off-takers and Asian off-takers, our friends and allies, for good old U.S. LNG. If the President thinks that he can declare an emergency and somehow put a moratorium on fracking, he is going to upset the entire geopolitical energy markets.

Mr. WEBER. I will say thank you for that.

And Mr. Chairman, I yield back.

Mr. JOHNSON [presiding]. Thank you. The gentleman yields back. The Chair now recognizes the gentleman from Alabama, Mr. Palmer, for 5 minutes.

Mr. PALMER. Thank you, Mr. Chairman. I want to talk a little bit about where some of your funding comes from, where—how it is used, and particularly about the $27 billion slush fund that was put into the Inflation Reduction Act. You stuck in $27 billion that basically is going to go to Wall Street firms to set up a climate bank. But it doesn't help the American people with their utility bills.

It is about 20 million households that are behind on their utility bills. That is about one in six households. It is forcing people in

some places to literally choose between keeping their homes adequately warmed and still be able to afford their groceries and their medicine. I think, if Europe is any indication, we are going to find out that there are several thousand people that will be classified as excess winter deaths. We have seen this in the United Kingdom, we have seen it in Europe. It has basically become a conduit for seed money for this new climate bank. And because there was no clarity in it, you have got climate groups fighting over the money.

I am just—Secretary Menezes, will this $27 billion slush fund lower the cost of heating for these American families?

Mr. MENEZES. No, the provision is clear. It is to go to develop zero-emission technologies for States and municipalities——

Mr. PALMER. Will this slush fund provide natural gas for a town like Pembroke Township in Illinois that—85 percent African American? They don't have any means to grow their economy, they are heating their homes with propane and wood. Will it help them?

Mr. MENEZES. Zero-emission technologies, nonprofits, municipalities, and States.

Mr. PALMER. Will it do anything for the people in the northeastern part of the United States that are not using natural gas, they are using heating oil, and the cost has almost doubled in the last couple of years—$5 and something a gallon. Will it help them?

Mr. MENEZES. Not that I am aware of.

Mr. PALMER. Yes, and it has nothing to do with natural gas in that area. It is all about heating oil.

Will it help people who have been—who bought into this stuff like Dharnai, India, where in 2014 Greenpeace went in and convinced them that they could supply power for the village through 100 percent renewables, and 6 years later it is basically an animal shed because they couldn't afford it, they couldn't—it wouldn't power appliances like a refrigerator that most of us take for granted. They couldn't maintain the batteries. So now they are getting their power from fossil fuel. It wouldn't help in a situation like that, would it?

Mr. MENEZES. I was not aware of that, but I would hope that is not the consequence of this fund.

Mr. PALMER. Yes, there is a really good paper on this from the Institute for Energy Research.

My concern is, looking at China's influence and funding various groups that are pushing renewables, that in many respects—and I mean this seriously—it undermines our national security, this mad dash to renewables.

I keep hearing some of my colleagues across the aisle talk about we don't need to be dependent on foreign sources for oil and natural gas. Well, I got news for them. We don't have to be. The only reason that we might be is because we refuse to access what we have.

I hear them basically ignore the fact that natural gas is largely responsible for the tremendous reduction in greenhouse emissions that we have already enjoyed. They ignore the technological advances, yet they want us to be dependent on China for the—for wind turbines and for solar panels. Does that make sense?

Mr. MENEZES. Not to me.

Mr. PALMER. It doesn't to me, either. It does concern me, though, because it becomes a national security issue at that point. China is already, in some critical minerals, holding back on shipping those, and some of those are critical for our national defense, not just our national energy grid.

But having worked for two international companies, having a little bit of an understanding about this—and there is another report from the Electric Power Research Institute—we are not going to be at net zero by 2050. We don't—the engineering doesn't support it. The technology doesn't support it.

We could be a lot more on the renewable side, but if we were really smart about it, we would go to next-gen nuclear and power the world. We would be working in sub-Saharan Africa, South America, Latin America, and the Caribbean, building natural gas facilities so that those people could enjoy the same economic benefits that we do, rather than sitting back and watching China. They have already built 14 coal-fired power plants outside of China, and they built, what, maybe one every two weeks now in China.

So I just—Mr. Chairman, I appreciate the opportunity to raise these issues about the slush fund that I think was put in that Inflation Reduction Act, and I yield back.

Mr. JOHNSON. The gentleman yields back. The Chair now recognizes the gentleman from Idaho, Mr. Fulcher, for 5 minutes.

Mr. FULCHER. Thank you, Mr. Chairman. And coming up on the tail end of this, a lot of the subject has been covered already, so I am going to go—I think I will address this to Mr. Menezes. It has to do with hydro.

In our State, hydropower, 51 percent of our total in-State electricity usage, and it is great, at least for us. It is baseload, it is cheap, it is renewable. Comment on hydro as a source, and if you agree that it is effective and efficient. How do we ensure that that is an ongoing predominant baseload source?

Mr. MENEZES. Excellent question. Well, we should be allowed to continue to use the dams that are in operation to provide the hydropower, first of all. There is a big movement, of course, of dam removal, right? So a lot of communities are facing that. And so that is a real threat to the hydropower that we have today.

The other thing is, it is going to be impossible to build any sizable—a new dam. So you are looking at incremental gain, incremental hydro. And so that is to make improvements in the existing hydro, perhaps some expansion. And on existing dams, perhaps you can put some electricity generating turbines there. But that is really the future on hydro that way.

We do have other potential great technologies. I mean, we have tidal, we have run of river, we have a variety of other technologies in the using of hydropower. So I think the future is still bright on that, but it is going to be very difficult to maintain, the base load that we have now.

The other thing, of course, is pump storage hydro.

Mr. FULCHER. OK.

Mr. MENEZES. That is another good use of hydro power, that——

Mr. FULCHER. I have heard it said that the greatest battery in the world is water behind a dam, storage.

Mr. MENEZES. Yes.

Mr. FULCHER. I am going to shift to Mr. McNamee, if I may, please.

Another asset we have in my State of Idaho is Idaho National Lab. And a lot of research is being done, a lot of work with small modular reactors is being done there. Talk about that a little bit. I hear various experts talk about the benefit of—the greatest benefit being able to decentralize the grid, for example. Of course, the no-carbon emission is another factor. Others say it is great for redundant backup.

What is—in your view, what is the most appropriate use, the most appropriate role for small modular reactors as those come online?

Mr. MCNAMEE. Well, the ones that you have mentioned are absolutely important.

And another one is reliability. SMRs are really, I think, going to transform the way we do the electric grid. And what is interesting is, because, you know, they are between 5 to 300 megawatts, you can build them in a manufacturing facility, you can put them on a rail or on a truck, and put them to where they need to be. The price is going to come down for nuclear. They can run 24/7. They are designed to be much safer than—not that current nuclear isn't, but they are going to be safer, the way they operate.

But what is really going to be amazing is, where we were talking earlier about having to build long transmission lines to get wind, let's say, from the Midwest to the coast, whatever, you can put SMRs on old coal plants and use the transmission. You are going to save billions of dollars in transmission. So SMR technology, it is—we are about to be able to embrace it, and it is going to be a big change.

Mr. FULCHER. Great, thank you. Very helpful for me.

Ms. Sweeney, you are not off the hook. I got a question for you. In your written testimony you talk about, I think, it is 80 percent, nearly 90 percent of global rare earth elements from China.

Ms. SWEENEY. Yes.

Mr. FULCHER. Is that mainly because that is where those earths are, or is that for other reasons?

Ms. SWEENEY. No, the U.S. was the leading rare earths producer throughout, I think, the early 1970s. It is really because China focused on rare earth development, and they started, you know, printing money and cornering the market, and then they were able to bring over anybody who wanted to be an end user of those products. They brought all the processing into China, and they were able to pretty much control that market, and still do.

Mr. FULCHER. And here we are. Right, thank you. That is what I suspected. But one last question for you, and I only have 40 seconds left, but—and you did touch on this, but I would like you to touch on it again, please.

Once again, in your written testimony you talked about the permitting process for mining projects. With the current administration that we have got, what are some of the things that that administration could do to make that permitting process better without going through the statutory process?

Ms. SWEENEY. There are a lot of commonsense solutions out there. I mean, really, it is looking at how to use NEPA the way it was intended to be used.

So essentially, there are—agencies are supposed to try to avoid duplication. They are supposed to tier off of each other's environmental assessments, use the same information. There are a lot of commonsense solutions that don't need any changes statutorily.

Mr. FULCHER. Thank you very much.

Mr. Chairman, I yield back.

Mr. JOHNSON. The gentleman yields back. The Chair is—now recognizes the gentlelady from Michigan, Mrs. Dingell, for—oh, I am sorry, Mrs. Dingell. Sorry about that. I got it out of order. I now recognize the gentleman from Texas, Mr. Crenshaw, for 5 minutes.

Mr. CRENSHAW. Thank you, Mr. Chairman. Thank you all for being here.

I want to quote the great Thomas Sowell that the first lesson of economics is scarcity. There is never enough of anything for all the people who want it. And the first lesson of politics is to ignore the first lesson of economics. And that seems to be the rule that I think radical environmentalism plays when it comes to understanding basic supply and demand, and how that affects prices.

Now, we can engage in wishful thinking, and we can wish for a reality that is different than the one we live in, where supply and demand aren't real forces, and that we can just make them up and demand the prices that we feel like having and expect the supply to then be there when we need it. Of course, that is not reality. We can we can go write fiction novels about it, I suppose, if we would like. That might be fun.

So I want to talk about supply and demand on something very specific, and that is our refineries, because this EPA rule has gotten a lot of attention, and our bill, in response to that EPA rule, has gotten a lot of attention today.

It is worth noting, first, that 8 refineries have shut down in the last 5 years. It is one of the great reasons for the bottlenecks in refinery production and, of course, the reason for prices going up and staying up. When demand post-COVID shot up and recovered, the supply could not recover accordingly. Just the basics here.

Now the EPA wants to make that supply harder. The EPA wants to target hydrofluoric acid using refineries. That would affect 41 of our 130 refineries. That is 50 percent of all the product refined.

Mr. Garcia, you talked about this today. I mean, what is really the intent behind this? And you have said it, so I am going to paraphrase you, which—the intent is to get them to change to a sulfuric acid-type refinery. Is that correct?

Mr. GARCIA. No, the intent is for them to actually take the time to explore alternatives that are going to make it safer.

Mr. CRENSHAW. Well, there is only one alternative. So you want them to change, though, right? I mean, you want them to use the different ingredient for the refineries, is that correct?

Mr. GARCIA. We have talked about innovation. And so the analysis actually leads to innovation. And so the idea is that, while there might be one today, there could be more in the future. But you have to do the analysis in order to discover what that innovation is going to look like.

Mr. CRENSHAW. Would a risk analysis discover innovation? I have never heard of an innovation, a new technology, discovered by a risk analysis.

Mr. GARCIA. If you are taking into account—if you are exploring what alternatives are out there, then yes, it will.

Mr. CRENSHAW. How?

Mr. GARCIA. Again, if you are exploring——

Mr. CRENSHAW. Like, you are a——

Mr. GARCIA. If you are looking at new science——

Mr. CRENSHAW. Is there any idea?

Mr. GARCIA. You are looking at new science. I mean, you are looking at new science, new developments in technology that come about. And so, as those new developments in technology come about——

Mr. CRENSHAW. OK, so we can write a fiction novel about it.

Mr. GARCIA [continuing]. Into which you can actually implement them, into the refinery——

Mr. CRENSHAW. I understand, I understand. There is no answer.

Mr. GARCIA [continuing]. That is how you get progress.

Mr. CRENSHAW. There is no answer. Again, we could write a fiction novel about it. That would be fun. But this is reality. So in reality, there is one other alternative, which is the sulfuric acid use of—type of refinery.

Now, if we shut down the 41 refineries to transition to that, which I suppose is deemed safer for some reason, that would take 50 percent of our refining capacity offline.

Mr. Menezes, what would that do to our economy and our gas prices?

Mr. MENEZES. Fifty percent of our refined products offline? Well, we have a demand of about 20 million, 17 million barrels per day, you know, for refined products. If we lost half of that, I can only imagine what it would do on all the economies that depend on trucks, on, you know, transportation, your constituents that need to drive.

I am not even sure our national energy modeling system at DOE can model a 50 percent reduction——

Mr. CRENSHAW. And we have gotten some numbers on this. It would take 2 to 3 years for each facility to change. It would take a minimum of $200 million, or potentially $800 million, depending on the size. So we are talking billions and tens of billions of dollars in costs. For what benefit? I don't even know.

And a guaranteed increase in prices. I mean, we are fighting for the disenfranchised here, for people who can't afford to fill up their tanks, and yet all but guaranteeing that they can't do so for almost no benefit. And that is the theme, that is the general theme of radical environmentalism: great cost for almost no benefit. That is a problem.

And so our bill that has been chastised quite a bit in this hearing is simply in response to that, and says, look, if the plant already exists, if the refining plant already exists or is in construction, it is exempt from this new rule. If it is being planned, then by all means, take into account this particular rule and risk assessment. That is just—that is commonsense environmentalism.

And I urge this committee—because we all want clean energy. Anybody who follows me knows that I am constantly battling for it. But we have to do so in a way that doesn't hurt people more than we want to help them.

And I yield back.

Mr. JOHNSON. The gentleman yields back. And now the Chair is honored to once again recognize the gentlelady from Michigan, Mrs. Dingell, for 5 minutes.

Mrs. DINGELL. Thank you, Mr. Chairman, and thank you to all the witnesses who have to be ready to end this.

And I do have to say I am worried about the number of pieces of this legislation, because I care deeply about making sure that we are taking care of everybody and that they can afford the energy of the future. And yet it is many of our children that are suffering from asthma and many other things, and that what we are talking about here is going to give handouts to oil and gas and undermine our Nation's environmental laws and actually rescind programs that are doing something about greenhouse gas.

But I want to get to two very specific issues today. I want to start with the draft legislation to repeal the Greenhouse Gas Reduction Fund and close by focusing on our critical minerals supply.

The Greenhouse Gas Reduction Fund, which was established in the Inflation Reduction Act and based on original legislation I authored—so yes, I care about it—will invest $27 billion to develop clean energy projects aimed at reducing greenhouse gas emissions. Over 40 percent of the funding will also target disadvantaged communities, communities that for far too long have carried the brunt of environmental pollution.

For years I have been a champion of a clean energy accelerator similar to this fund because of its potential to accelerate the clean energy transition. Therefore, I am disappointed to see my colleagues on the other side propose repealing this historic program, which the EPA has yet to even fully implement, and the benefits which have yet to be fulfilled.

I am going to start with Mr. Garcia. My first question is simple.

How will repealing the Greenhouse Gas Reduction Fund affect our ability to meet our climate goals?

Mr. GARCIA. Well, in a lot of the calculations that we are talking about in terms of economic investment across the country for energy production, no one is accounting the actual harm that is coming our way because we keep investing in dirty fuels.

And so that is one thing that I have noticed about the proponents of these bills, and it is a larger narrative, is that they want to sweep all of these consequences under the table.

You know, if you have hydrofluoric acid in a refinery, yes, it can blow up. I think that might hurt the economy, right?

So the same thing happens when we are talking about investment. It is making sure that we are making investments for the right long-term outcomes. And so that is what the Greenhouse Gas Reduction Fund really does.

Now, it is not a slush fund. People keep calling it a slush fund. It is really not. Fifty-five percent of the overall program funding will be dedicated to projects in low-income and disadvantaged communities. Eight billion of the 20 billion is earmarked for low-in-

come and disadvantaged communities, plus a separate 7 billion program. And so that is something that we have to keep in mind.

For—since the last industrial revolution, communities of color and low income have bore the burden that all of these industries put on their shoulders. And so this is the least that we could do at this point, and it is something that we need to see fulfilled, and we need—and it is something that won't cure the sins of the past but will certainly help get us to better consequences in the long term.

Mrs. DINGELL. Thank you. I had a couple more questions, but I am down to almost a minute.

So this fund is specifically designed to provide funding for projects where investment is lacking, effectively filling in a funding gap rather than duplicating Federal programs.

Mr. Chairman, I am going to ask if I can submit some further questions on this, because I think it is really going to hurt frontline communities.

And I would also like to request unanimous consent to submit a letter for the record from the environmental community expressing strong opposition to the legislation repealing the——

Mr. JOHNSON. Without objection, so ordered.

[The information appears at the conclusion of the hearing.]

Mrs. DINGELL. Thank you. My remaining time is on critical minerals.

Strengthening supply chains for electric vehicles and batteries is a top priority for me. We cannot and will not be dependent on China. And I want to keep my own State of Michigan as a leader in this sector.

The Bipartisan Infrastructure Law made historic investments in battery manufacturing and recycling facilities, battery reprocessing, and critical minerals mining and recycling research. These investments are a critical down payment, but we all know that more work needs to be done to meet the demand for these critical minerals.

Mr. Garcia, what policies should this committee be exploring to develop and strengthen our critical mineral supply chains in an equitable, sustainable way?

And you may need to provide more on that for the record.

Mr. GARCIA. Absolutely. I will say quickly that it has to look to strengthen and enforce the laws that are in the books right now in order to make sure that that extraction and that recycling happens in a way that protects communities first but still yields the adequate production that is needed in order to get new kinds of transportation methods, clean types of transportation methods on the roads.

Mrs. DINGELL. Thank you.

Mr. Chairman, I will yield back, and I do want to work with you in a bipartisan way, but I have some real concerns. Thank you.

Mr. JOHNSON. The gentlelady yields back. And now, seeing there are no further Members wishing to ask questions, I would like to thank all of our witnesses once again for being here with us today.

I ask unanimous consent to insert in the record the documents included on the staff hearing documents list.

Without objection, that will be the order.

[The information appears at the conclusion of the hearing.]

Mr. JOHNSON. And pursuant to committee rules, I remind Members that they have 10 business days to submit additional questions for the record, and I ask that witnesses submit their response within 10 business days upon receipt of those questions.

Without objection, the subcommittee stands adjourned.

[Whereupon, at 3:21 p.m., the subcommittees were adjourned.]

[Material submitted for inclusion in the record follows:[1]]

[1] Legislation and some submitted material have been retained in committee files and are available at https://docs.house.gov/Committee/Calendar/ByEvent.aspx?EventID=115306.

American Petroleum Institute

Amanda Eversole
Executive Vice President &
Chief Advocacy Officer
API
202-682-8000
eversolea@api.org

February 6, 2023

The Honorable Cathy McMorris Rodgers
Chair
House Committee on Energy & Commerce
2322 Rayburn House Office Building
Washington, DC 20515

Dear Chair McMorris Rodgers:

The American Petroleum Institute (API) writes regarding the legislation to be considered during the upcoming *Joint Energy, Climate, & Grid Security Subcommittee and Environment, Manufacturing, & Critical Materials Subcommittee Legislative Hearing: "Unleashing American Energy, Lowering Energy Costs, and Strengthening Supply Chains"* on Tuesday, February 7, 2023.

API is committed to meeting the challenge of providing affordable and reliable energy while continuing to reduce emissions. As the leading trade association representing the entire value chain of the U.S. oil and natural gas industry, API supports policies that strengthen our nation's energy security and our economy and that protect our environment. The hearing on February 7th will consider legislative proposals that speak to these objectives, and we commend the Committee for holding this important hearing.

The Committee's renewed focus on restoring American energy leadership is critical to ensuring that American oil and natural gas reserves are prioritized as a long-term strategic asset that will serve as a foundation for economic growth and energy security. Members of the Energy and Commerce Committee have already vocalized how America's energy security directly correlates to our national security at the outset of the 118th Congress, and we support the efforts of the Committee, under your leadership, to address these energy challenges.

API remains focused on working in a bipartisan manner to find common-sense, economically-sound solutions to not only maintain our energy independence, but also to assist our allies around the world as they grapple with energy uncertainty resulting from Russia's war in Ukraine. Demand for oil and natural gas is increasing, and we can – and must – do more to avoid policies that stymie increased energy production such as development restrictions on federal lands and waters, onerous and duplicative regulations, insufficient infrastructure due to permitting delays and denials, inconsistent standards for environmental reviews, and significant supply chain bottlenecks.

The oil and natural gas industry urges Congress to pass legislation that will enable continued innovation, investment in long-term projects and cleaner energy technologies, and improved infrastructure development. Much of the legislation being offered in this joint legislative hearing is a strong step in this direction. Accordingly, API commends the Committee for considering proposals including:

- H.R. 150, the "Protecting American Energy Production Act."
- H.R. 484, the "Natural Gas Tax Repeal Act."
- H.Con.Res.__, Expressing disapproval of the revocation by President Biden of the Presidential permit for the Keystone XL pipeline.

- H.R. 647, the "Unlocking our Domestic LNG Potential Act of 2023."
- H.R. __, To require the Secretary of Energy to direct the National Petroleum Council to issue a report with respect to petrochemical refineries in the United States, and for other purposes.
- H.Con.Res. __, Expressing the sense of Congress that the Federal Government should not impose any restrictions on the export of crude oil or other petroleum products.
- H.R. __, To authorize the Administrator of the Environmental Protection Agency to waive application of certain requirements, sanctions, or fees, with respect to processing or refining of critical energy resources at a critical energy resource facility, and for other purposes.
- H.R. __, To amend the Toxic Substances Control Act with respect to critical energy resources, and for other purposes.
- H.R. __, To amend the Solid Waste Disposal Act to treat the owner or operator of a critical energy resource facility as having been issued an interim permit for the treatment, storage, or disposal of hazardous waste, and for other purposes.
- H.R. __, 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.

Further, other proposals being considered by the Committee that may, with additional modifications, also support our energy and national security objectives include:

- H.R.__, the "Promoting Cross-border Energy Infrastructure Act."
- H.R.__, the "Promoting Interagency Coordination for Review of Natural Gas Pipelines Act."
- H.R.__, To amend the Clean Air Act to prohibit the phase out of gasoline and prevent higher prices for consumers and for other purposes.

As Congress continues its work on these and other important energy legislation, API and our members stand ready to support policies that strengthen America's energy security and promote economic development and environmental stewardship. We look forward to continuing to work with Members of the Committee and their colleagues in the House and Senate to support legislation that will indeed, "pave the way to unleashing American energy sources and technologies of all kinds."

Sincerely,

Amanda E. Eversole

CC: The Honorable Frank Pallone, Ranking Member, House Energy and Commerce Committee
The Honorable Bill Johnson, Chair, House Subcommittee on Environment, Manufacturing, and Critical Minerals
The Honorable Jeff Duncan, Chair, House Subcommittee on Energy, Climate, and Grid Security

API/OMB Meeting – EPA's Risk Management Plan

June 23, 2022

HF – What Is It?

- Hydrogen Fluoride (HF) is a colorless gas or liquid chemical compound. HF is the principal industrial source of fluorine and, when dissolved in water, is known as hydrofluoric acid
  - HF acid is mainly used for industrial purposes (e.g. glass etching, metal cleaning, electronics manufacturing)
  - HF acid is used in refineries as a catalyst in the alkylation process to form alkylate, which is a blending component in high-octane gasoline, jet fuel, and marine diesel fuel

American Petroleum Institute

HF – A Brief History

- HF has been safely used in refineries since World War II, when alkylate was first required in aviation fuels
  - Only 2% of HF acid in U.S. is used in refinery alkylation
  - Of the 120+ operating refineries in U.S., nearly all have some form of alkylation unit – 42 of which use HF acid
- There have been few HF releases with off-site impacts; there has never been an off-site fatality in the U.S. due to an HF release
- Other types of commercially-proven refinery alkylation technologies include: modified HF (MHF), sulfuric acid alkylation, and ISOALKY

API American Petroleum Institute

HF – Why It Is Important

- Alkylate is the ideal blend stock for gasoline to meet clean fuel regulations
  - Alkylate has high-octane (92-97 RON) and low Reid Vapor Pressure
  - Alkylate helps reduce emissions from automobiles due to its low sulfur content and its very low benzene content
- HF alkylation is not interchangeable with other refinery alkylation process technologies
  - HF alkylation does not require refrigeration
  - Regeneration of HF does not produce SO_2/SO_3 emissions
  - Revamp to other commercially-proven technology is prohibitively expensive and would require at least a 2-6 month shutdown

API American Petroleum Institute

What Are API Members Doing?

- Refineries adhere to strict industry standards and undergo safety assessments to mitigate risk and assure safe operations
  - Refineries employ operational standards and mitigation systems, including those covered by API RP 751, *Safe Operation of Hydrofluoric Acid Alkylation Units*
  - The 5th edition of RP 751 was published in August 2021 and significantly expanded the Materials, Fabrication, and Inspection and Maintenance Practices section
  - PSSAP Program

API American Petroleum Institute

Representative Sampling

- Industry is highly-regulated and facilities have multiple RMP covered processes. Therefore, it is not necessary to audit each covered process if it includes a representative sample
  - Employing sampling as part of the audit process is a robust, scientifically proven, method of demonstrating that all covered process and all RMP elements are compliant
  - The refining industry is extraordinarily complex and highly involved. Auditing *all* covered processes and all RMP elements requires not only significant resources but is very disruptive to operations
  - Most facilities have only one process, but certain industries, such as chemical manufacturing and petroleum refining, often have more than one regulated process; about 100 facilities have more than 10 regulated processes with an average cost of $36,500 per process

API American Petroleum Institute

QUESTIONS OR COMMENTS?

American Petroleum Institute

Coalition for Chemical Innovations (CCI)

EXECUTIVE SUMMARY

COMMERCIALIZING INNOVATIVE CHEMICAL PRODUCTS

October 2022

Coalition for Chemical Innovations

Who We Are:

The Coalition for Chemical Innovations (CCI) is a group of diverse stakeholders within the chemical industry, including chemical manufacturers, processors, distributors, and users.

Our Mission:

The U.S. Environmental Protection Agency's (EPA) current interpretation and implementation of the Toxic Substances Control Act (TSCA) in the review of new chemicals under Section 5 is stifling chemical innovation at a considerable cost to sustainability, the economy, and improved human and environmental health.

CCI's mission is to educate decision makers, including Congress, EPA, other federal agencies, and related stakeholders on the true costs of these policies and to outline common-sense policy changes to prevent the further stifling of chemical innovation by EPA's implementation of TSCA Section 5.

The Problems We Seek to Fix

EPA's current practice under TSCA Section 5 is to assume that all chemicals for which it identifies a hazard, other than "low hazard" for health and "ecotoxicity," may be used in a way that leads to an exceedance of the hazard threshold. In other words, EPA assumes that any use is "reasonably foreseen," inevitably leading to the regulation of new chemicals and the application of risk mitigation measures even when submitters provide data disproving EPA's assumptions.

This hazard-based approach is inconsistent with TSCA's risk-based framework and reflects a misapplication of TSCA Section 5. It renders meaningless the TSCA statute's requirement to evaluate chemicals in the context of "reasonably foreseen" conditions of use, as every theorized condition of use then becomes foreseen.

In addition, because existing, incumbent substances, even those that pose *the same or higher* hazard, do not face the same requirements (now or potentially for decades into the future), the requirements on new chemicals pose a significant commercial disadvantage and discourage innovation.

CCI commissioned FTI Consulting, Inc. (FTI) to conduct an analysis of new chemical submissions to EPA, both Premanufacture Notice (PMN) and Low Volume Exemption (LVE) applications from 2011 to the present. FTI assessed the nationwide economic losses associated with implementation of TSCA since it was amended in 2016. The analysis accounts for the "upstream" losses to CCI members and their suppliers from lost sales opportunities and the "downstream" losses to CCI members' customers from lost sales and higher costs, along with indirect costs.

The results of the FTI analysis, obtained in August 2022, confirm:

■ **Final EPA determinations on PMNs submitted by CCI members have plummeted since the passage of the Act:**

2011	2019
Seventy (70) chemicals received a final determination from EPA	Six (6) chemicals received a final determination from EPA

■ **EPA's average review time for PMNs has increased by 260% since the passage of the Act:**

Prior to 2016	Since 2016
In the five years before TSCA was amended, average PMN review time was 158 days	Since 2016, the average review time of a PMN has increased to 413 days

Under TSCA, PMN reviews are intended to be complete within 90 days.

■ **EPA's average LVE review time has increased by 443% since passage of the Act:**

Prior to 2016	Since 2016
In the five years before the 2016 amendments, average LVE review time was 44 days	Since 2016, the average review time has been 87 days. In 2021, the average review time increased to 195 days

Under TSCA, LVE reviews are intended to be complete within 30 days.

More Results of the FTI Analysis

80% Drop in R&D

CCI members have historically spent billions on research and development (R&D) in the United States, providing employment for U.S. workers and helping expand U.S. productivity. Current implementation of TSCA Section 5 has stifled R&D:

- U.S. R&D expenditures by CCI members **peaked at $324 million in 2018**; and
- U.S. R&D expenditures began to decrease in 2019 -- dropping from $324 million in 2018 to $187 million in 2019 and then **falling to just $65 million in 2021** -- an 80 percent drop.

Upstream and Downstream Losses

For CCI members alone -- just a subset of affected industry -- forecasted upstream and downstream losses, both direct and indirect, and associated CCI member losses from 2022 to 2026 include:

- An average of **6,600 job losses** each year across the U.S. workforce;
- **$10 billion in lost economic output** and $4.2 billion in lost gross domestic product (GDP);
- Over **$500 million in reduced federal tax revenue**s and nearly **$300 million in reduced state and local tax revenues**; and
- Extrapolated **GDP loss** to the broader U.S. economy would be **$6.2 billion on average** from 2022 to 2026.

The Solution

EPA frequently reminds the regulated community that it "has inherent authority to reconsider previous decisions and to revise, replace, or repeal a decision to the extent permitted by law and supported by reasoned explanation." 87 Fed. Reg. 39511 at 39512 (July 1, 2022). EPA must use its inherent authority here to make three policy changes to avoid further stifling chemical innovation through its implementation of TSCA Section 5. EPA needs to:

- **Explicitly consider risk reduction in comparison to existing chemicals when assessing new chemicals;**
- **Rely on actual, not modeled, data in making TSCA Section 5 decisions; and**
- **Interpret "reasonably foreseen" as Congress intended in enacting the 2016 TSCA amendment.**

CCI has prepared the attached briefing documents on each of these policy changes.

CCI wishes to work with EPA to effectuate them.

For more information, e-mail info@chemicalinnovations.org

Scan QR code for explainer videos:

Chet Thompson
President and CEO

American
Fuel & Petrochemical
Manufacturers

1800 M Street, NW
Suite 900 North
Washington, DC
20036

202.844.5505 direct
202.457.0480 office
cthompson@afpm.org
afpm.org

February 7, 2023

The Honorable Bill Johnson
Committee on Energy & Commerce
Chairman
Subcommittee on Environment,
Manufacturing and Critical Materials
U.S. House of Representatives
Washington, D.C. 20515

The Honorable Paul Tonko
Committee on Energy & Commerce
Ranking Member
Subcommittee on Environment,
Manufacturing and Critical Materials
U.S. House of Representatives
Washington, D.C. 20515

The Honorable Jeff Duncan
Committee on Energy & Commerce
Chairman
Subcommittee on Energy,
Climate and Grid Security
U.S. House of Representatives
Washington, D.C. 20515

The Honorable Diana DeGette
Committee on Energy & Commerce
Ranking Member
Subcommittee on Energy,
Climate and Grid Security
U.S. House of Representatives
Washington, D.C. 20515

Dear Chairmen Johnson and Duncan and Ranking Members Tonko and DeGette:

The American Fuel & Petrochemical Manufacturers (AFPM) appreciates the opportunity to provide its perspectives on legislation under consideration at the Joint Energy, Climate, & Grid Security Subcommittee and Environment, Manufacturing, & Critical Materials Subcommittee Legislative Hearing, *Unleashing American Energy, Lowering Energy Costs, and Strengthening Supply Chains*.

AFPM is a national trade association representing the U.S. refining and petrochemical manufacturing industries. AFPM members support close to three million jobs, contribute to our economic and national security, and enable the production of thousands of vital products used by families and businesses throughout the U.S. Our members produce and deliver the gasoline, diesel, and jet fuel that keep us moving, as well as supplying the petrochemicals that are used as building blocks in thousands of products from cell phones to automobiles to medical devices, communications systems, and materials critical for producing renewable energy.

The past year was tremendously challenging for the global energy industry. Russia's invasion of Ukraine and the resulting sanctions and other restrictions have reshuffled global crude oil, natural gas, and trade of gasoline and diesel, made even more challenging by re-opening economies following COVID. U.S. refiners and petrochemical manufacturers demonstrated extraordinary resilience and adaptivity, running near maximum utilization for most of the year to meet U.S. and global demand for our products. At the same time, in the U.S., policymakers of both parties have called for increased refining capacity

and reversals of the ongoing rationalization of U.S. refining capacity, which contracted by more than 1 million barrels per day since the beginning of 2020. Some closures were due to market factors, others were policy driven. In fact, more than half of capacity reductions are the result of conversions to renewable diesel production, and AFPM's members are responsible for 80 percent of recent announcements in this drop-in renewable fuel.

AFPM appreciates the Committee's promotion of sound regulations, strong energy production, and enhanced process safety. As you consider legislation to meet these goals, AFPM offers several initial observations:

I. AFPM welcomes the Committee's legislative efforts to provide clear standards for when the Environmental Protection Agency (EPA) may require a safer technology and alternatives analysis (STAA).

Nothing is more important to refiners and petrochemical manufacturers than the safety of our employees, contractors, neighbors, and the communities in which they operate.[1] AFPM members invest significant resources to continually improve our safety programs and practices, both as individual companies and as an industry. As it relates to the bill under consideration, the refining industry uses hydrofluoric acid (HF) as a critical catalyst to produce alkylate. Alkylate is an irreplaceable blending component for today's cleaner-burning motor gasoline.

The refining industry takes management of HF very seriously. Since 1992, AFPM members have followed API Recommended Practice 751 (RP 751), the most rigorous and comprehensive document pertaining to the safe operation of HF alkylation units. RP 751 is the collaborative product of an industry working group that includes nearly 100 of the top global leaders in HF alkylation science and process safety. The most recent edition of RP 751—its 5th—was released in August 2021 and reflects the newest data, industry learnings, and technologies. Under RP 751, HF alkylation operations are getting safer every year.

A STAA is an engineering concept that companies utilize when evaluating technology and design alternative for new process units. Early in the technology selection process, a STAA can be a helpful tool and AFPM supports its use. Once a facility is up and running on technology selected, procured, and built, however, most alternative technologies are no longer feasible to implement, particularly where refinery fuel alkylation is concerned, without completely reconstructing individual process units and potentially reconfiguring entire facilities. Disrupting this one process would have impacts across an entire facility, potentially resulting in a range of other costly problems such as more expensive gasoline; gasoline and other fuel shortages; higher dependence of fuel imports; potential refinery shutdowns; and job losses.

By providing clear standards this legislation would promote both safety and regulatory certainty. AFPM recommends that the Committee consider providing the same certainty to all covered industries and processes and looks forward to engaging to further clarify legislative language.

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[1] *https://www.afpm.org/issues/safety-health*

II. AFPM agrees with the Committee that banning energy exports would harm U.S. consumers, the economy, and national security.

The U.S. is home to the largest and most complex refining industry in the world, made possible by our skilled workforce, the investments we have made, and our access to reliable and competitive feedstocks globally. In fact, U.S. refiners invested more than $100 billion in the last fifteen years to make our refining sector the most competitive in the world. We upgraded the complexity of our refining kit so that more of our facilities would be optimized to process the toughest-to-refine types of crude oil—feedstocks primarily available from the global market that most other countries' refineries cannot process. The ability to purchase and refine these types of crude oil has been a tremendous advantage to the United States and our standing as a global energy leader.

As a result, the U.S. is the largest global exporter of crude oil and refined petroleum products. Our largest export destinations for refined products include Latin America and Europe— important markets not only for U.S. economic security, but also for U.S. foreign policy and national security.

Banning exports would not only place U.S. interests at risk, but it would also likely place further upward pressure on consumer fuel prices as the U.S. retreats from participating in global markets. U.S. participation in the global market for energy is a strength.

III. The U.S. needs infrastructure and smart regulations if we are going to meet growing global energy demand while addressing climate change.

The U.S. is a global leader in refining and petrochemical production. With a growing global population and millions of people entering the middle class each year demand for more energy and mobility will increase, not to mention the need for infrastructure for clean water, healthcare, fresh food, and countless other aspects of modern life that AFPM's members enable.

To remain a global leader, U.S. regulatory policy needs to strike the right balance between environmental protection and business certainty. Too often, projects become uneconomic because of the length of permitting reviews or regulatory approvals. This is true for both conventional and renewable energy, but also applies to areas like the new chemicals program under the Toxic Substances Control Act and the ability to build and scale carbon capture, hydrogen, and other systems to reduce the carbon intensity of the energy sector. The Committee is considering multiple bills that would make targeted changes in areas such as cross-border pipeline approvals, flexible air permitting, and streamlining reviews under multiple statutes including NEPA, SWDA, the Clean Air Act, TSCA, and others.

Making regulations work better does not mean sacrificing protection for the environment or consumers. We look forward to working with the Committee to build on the legislation under consideration this week to better promote infrastructure development and regulatory certainty.

IV. AFPM supports legislation requiring the National Petroleum Council to produce a report on the role of petrochemical refineries in the United States and the significant contributions these refineries have made to our nation's energy security.

The U.S. petrochemical industry has a crucial and enduring role to play in meeting the needs of a growing world population while simultaneously fulfilling the imperative to produce petrochemicals in a sustainable and clean manner. Petrochemicals are the building blocks for products that improve health, safety, and quality of life for people around the world. The U.S. economy depends on petrochemicals and they are essential for improving and modernizing myriad other industries. Petrochemicals are critical in modern medicine, food safety, efficient construction, advanced electronics, mobility, and transportation as well as our energy infrastructure.

* * *

If policymakers wish to facilitate the long-term health of the refining and petrochemical sectors, we urge a continued focus on developing a regulatory environment that promotes investment and certainty. We are confident that given the opportunity to fairly compete in the market for both consumers and emissions reductions, our industries will continue to lead the world in both.

AFPM appreciates the Committee's attention to these issues of great importance to our members and American consumers.

Sincerely,

Chet Thompson
President and CEO
American Fuel & Petrochemical Manufacturers

center for LNG

900 17th Street, NW, Suite 500
Washington, D.C. 20006
(202) 289-2253

February 6, 2023

The Honorable Jeff Duncan
Chairman
Subcommittee on Energy, Climate & Grid Security
U.S. House of Representatives
Washington D.C. 20515

The Honorable Diana DeGette
Ranking Member
Subcommittee on Energy, Climate & Grid Security
U.S. House of Representatives
Washington D.C. 20515

Dear Chairman Duncan and Ranking Member DeGette:

On behalf of the Center for LNG (CLNG), I am writing to provide comments to the U.S. House of Representatives Subcommittee on Energy, Climate, & Grid Security's hearing "Unleashing American Energy, Lowering Energy Costs, and Strengthening Supply Chains."

Commodity prices have risen around the globe, but because the United States is the world's largest natural gas producer, U.S. natural gas prices have increased less than other countries. Due to this advantage, our consumers and businesses have been more sheltered from higher natural gas prices than the rest of the global economy.

Natural gas prices are driven by multiple factors that affect both supply and demand, including weather, natural gas storage levels, changes in industrial demand, and the impact of global events on LNG exports and the U.S. economy. While the European energy crisis has created high demand for U.S. LNG, keep in mind that LNG export volumes represent only about 10% of the total winter market demand for natural gas domestically. Not only are LNG exports one of the smallest natural gas customer sectors compared to residential, electric or industrial demand, the volume of LNG exports is a fairly predictable number that increases very gradually since there are just over a handful of U.S. LNG export facilities.

LNG export terminals take 6-10 years from start to in-service, which gives natural gas producers plenty of time to prepare for the increased demand. The future supply of natural gas is abundant, and estimates are brightened with successive assessments of the resource base. In fact, current LNG exports represent less than 1% of U.S. proven reserves of natural gas and about 0.001% of the total estimated U.S. natural gas resource base. Further, LNG exports provide multiple benefits to domestic consumers, such as their key

center for LNG

900 17th Street, NW, Suite 500
Washington, D.C. 20006
(202) 289-2253

role in incentivizing production across the country and increasing household purchasing power.

In response to domestic demand for natural gas, producers responded with record levels of natural gas production in November and December of 2022, a 4% increase winter-over-winter. These increases, along with a mild winter, have already helped to ease market conditions as more supply flows into the market. The Energy Information Administration (EIA) recently projected that 2023 natural gas prices will average 24% less than 2022. This is a classic example of supply and demand leveling the playing field without government intervention.

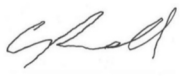
LNG exports will continue to stabilize the domestic market and incentivize U.S. natural gas production, which in turn generates billions of dollars in new investments that benefit local communities, produce tax revenues and support jobs, including those in manufacturing. These jobs number in the thousands during construction and in the tens of thousands throughout the supply chain during operations. Furthermore, our exports help to fund national and international efforts to reduce emissions, with members investing billions in low-carbon and no-carbon solutions.

Globally, these same exports support our allies' efforts to reach net-zero emissions, allowing them to generate electricity with natural gas, rather than higher-emitting energy sources. Most importantly, U.S. LNG is necessary for our allies in Europe to replace Russian natural gas, as well as to help all our trading partners get closer to their COP27 and Paris Accord climate goals.

We are world leaders in natural gas and LNG exports. They support our economy and emission-reductions goals, while enhancing the national security of the United States and that of our allies. Hyperbole and fear have no place in energy policy discussions and limiting future LNG exports will only have a negative impact on the United States and our trade partners.

CLNG appreciates your leadership as well as that of many of your colleagues who continue to recognize the role natural gas and LNG play in reducing emissions across the globe, while also realizing the economic benefits natural gas creates here at home. We particularly want to commend Representative Johnson for his continued leadership in promoting LNG exports and the many benefits they bring.

Sincerely,



900 17th Street, NW, Suite 500
Washington, D.C. 20006
(202) 289-2253

Charlie Riedl
Executive Director, Center for Liquefied Natural Gas
900 17th St., NW, Suite 500 Washington, DC 20006
charlie.riedl@ngsa.org

The Center for Liquefied Natural Gas (CLNG) advocates for public policies that advance the use of liquefied natural gas (LNG) in the United States, and its export internationally. A committee of the Natural Gas Supply Association (NGSA), CLNG represents the full LNG value chain, including LNG producers, shippers, terminal operators and developers, providing it with unique insight into the ways in which the vast potential of this abundant and versatile fuel can be fully realized. For more information, please visit www.lngfacts.org.

CLEARPATH ACTION

February 6, 2023

Chair Cathy McMorris Rodgers
Energy and Commerce Committee
The House of Representatives
Washington, DC 20515

Ranking Member Frank Pallone
Energy and Commerce Committee
The House or Representatives
Washington, DC 20515

Dear Chair McMorris Rodgers and Ranking Member Pallone

ClearPath Action would like to thank the Committee for its leadership on U.S. nuclear energy and for considering the draft bill, Prohibiting Russian Uranium Imports Act, during the joint legislative hearing on "Unleashing American Energy, Lowering Energy Costs, and Strengthening Supply Chains." A secure and robust nuclear fuel supply chain is critical to ensuring American families receive clean, affordable, and reliable energy from our nation's nuclear power plants.

Reducing reliance on Russian fuel provides the certainty required to incentivize domestic industry, build new capacity, and support our allies. This need for secure nuclear fuel supply chains extends beyond traditional, large light-water reactors. The two flagship advanced nuclear reactor demonstration projects underway through the Department of Energy require high-assay, low-enriched uranium fuel (HALEU), which today is only available from Russia. According to modeling by the International Energy Agency in 2021, to meet our global climate goals, around 500 gigawatts of new nuclear power must be brought online by 2050. The United States has the potential to supply both the technology and the fuel for this massive global market.

While the Prohibiting Russian Uranium Imports Act would create certainty for the low-enriched uranium (LEU) supply market, it could also address the HALEU supply market. This bill has the potential to enable the United States to lead globally across both the LEU and HALEU supply chains. The Committee could allow the Department of Energy to identify the remaining need for the Advanced Nuclear Fuel Availability program, established under section 2001 of the Energy Act of 2020, and reappropriate that amount in addition to the funds made available for the American Assured Fuel Supply program.

This comprehensive approach would complete the intent of this legislation by providing an American alternative to Russian nuclear fuel dominance that addresses both near-term and long-term supply chain security. Thank you again for your interest and leadership in furthering American clean energy leadership in the nuclear power industry.

Sincerely,

Rich Powell
Chief Executive Officer
ClearPath Action

NUCLEAR ENERGY INSTITUTE

NUCLEAR
CARBON-FREE ENERGY

Maria Korsnick
President and CEO

1201 F Street NW, Suite 1100
Washington, DC 20004

202.739.8187
mgk@nei.org
nei.org

February 3, 2023

The Honorable Cathy McMorris Rodgers
Chair
Committee on Energy and Commerce
U.S. House of Representatives
Washington, D.C. 20515

The Honorable Frank Pallone
Ranking Member
Committee on Energy and Commerce
U.S. House of Representatives
Washington, D.C. 20515

Dear Chair Rodgers and Ranking Member Pallone,

I write to commend the House Energy and Commerce Committee for taking steps to enhance the domestic nuclear fuel cycle and alleviate the national security issues associated with dependence on Russian nuclear fuel imports.

The U.S. commercial nuclear industry is committed to eliminating the import of uranium and related conversion and enrichment services from the Russian Federation. Our industry will continue to work with the U.S. government to establish a secure supply of nuclear fuel conversion and enrichment capabilities so we can move away from Russian fuel imports as expeditiously as possible without placing the U.S. nuclear fleet and new-reactor deployment at risk.

In addition to several proposals in the draft legislation, we encourage Congress and the Administration to explore the feasibility of redirecting a portion of the unexpended funds authorized through the Civil Nuclear Credit Program to support domestic conversion and enrichment expansion capabilities.

Nuclear energy is an essential element of U.S. infrastructure, providing nearly 20 percent of the U.S. electricity generation and half of our carbon-free generation. If U.S. operators are not able to acquire fuel, there will be significant negative impacts on affordability, reliability, and air quality for millions of Americans. It will also significantly impede our ability to reach our carbon-reduction goals.

Chair Rodgers and Ranking Member Pallone
February 3, 2023

Establishment of a secure fuel supply will allow the U.S. and our allies to make continued progress toward climate and energy security goals through the maintenance of existing reactors and the build-out of new reactors using U.S. technology.

We look forward to continuing to work with Congress on a workable solution to developing a competitive domestic fuel supply to strengthen our energy security.

Thank you very much.

Yours very sincerely,

Maria Korsnick

c: The Honorable Jeff Duncan, U.S. House of Representatives
The Honorable Bill Johnson, U.S. House of Representatives

GUEST COMMENT

GEOFF MOODY
SENIOR VICE PRESIDENT, GOVERNMENT AND POLICY, AMERICAN FUEL & PETROCHEMICAL MANUFACTURERS (AFPM)

For years, the US Environmental Protection Agency (EPA) has overseen a regulation known as the Risk Management Plan (RMP). The RMP is a safety performance standard that applies to fuel refineries and a litany of other US manufacturers that use high volumes of certain chemicals. RMP sites are expected to make continuous investments and improvements in safety performance, which is a good thing. Refiners fall under RMP jurisdiction for several chemicals, two of which are catalysts that facilities use to produce alkylate – an irreplaceable component in the cleanest US gasoline and high-octane aviation gas. It is because of alkylate and the EPA's upcoming proposal to change the RMP that the Biden administration might soon find itself making an unforced energy error.

The two primary and commercially-proven catalysts that refiners use to produce alkylate are hydrofluoric acid (HF) and sulfuric acid. Both are on the RMP list, but HF tends to draw more attention and is the focus of major refinery safety investments, training, and risk mitigation technology.

Refiners account for less than 2% of global HF consumption. HF is near ubiquitous in large-scale manufacturing. It is used in agriculture and also to produce computer chips, refrigerants, hydrogen fuel cells, pharmaceuticals, branded aluminium cans, and even drinking water. Even still, HF in fuel manufacturing draws a disproportionate share of regulatory interest.

The EPA's RMP proposal is expected to single out HF alkylation at fuel refineries, and saddle facilities with an expensive, unconstructive new paperwork burden. Regulators know full well that requiring alternative alkylation technology assessments at refineries that are already up and running will consume valuable man hours, impose significant costs, and yield nothing in terms of actionable results or safety improvements. The point is simply to put a barrier in the way of HF alkylation. This is precisely what some anti-refining groups are lobbying for.

A loss or major reduction in HF alkylation would have devastating consequences for US and global fuel supplies and for affordable energy advocates everywhere. Most policymakers have no idea that those are the stakes with the RMP.

Nearly half of the alkylate produced in the US is made with HF catalyst. Refineries with HF alkylation units account for nearly 40% of US fuel manufacturing. Facilities cannot seamlessly transition from one alkylation technology to another. It is a massive undertaking that could approach US$1 billion – a cost so extreme that it could push some refineries to close. Even if a transition was feasible, safety would not be better served. Alkylation risk would simply be shifted to other parts of the supply chain.

> EPA regulations must reflect how thoroughly HF is managed by US refiners. Policy that incorrectly presumes the opposite could put in jeopardy significant US fuel manufacturing.

Those who oppose HF alkylation wrongly believe that allowing use of this technology means compromising on safety. Refiners do not accept that. We have done more than any other industry to formalise and evolve HF safety guidelines, such as through API Recommended Practice 751. Our safety procedures are consistently reviewed and enhanced every few years as we gather intel from real-world experiences and capitalise on advancements made in risk-reducing technologies.

Because of all the steps that refiners take to keep employees and community neighbours safe, HF alkylation units pose less life-threatening risk to their local public than vehicle collisions, lightning strikes and sharp objects, just to name a few. When refiners say safety is our priority, we mean it.

EPA regulations must reflect how thoroughly HF is managed by US refiners. Policy that incorrectly presumes the opposite could put in jeopardy significant US fuel manufacturing, and our ability to produce the cleanest possible gasoline and aviation fuels in the US. The effect for consumers would be tighter fuel supplies and potentially higher prices. There is no way that could be considered a win by the Biden team.

Congress of the United States
Washington, DC 20515

April 6, 2022

The Honorable Michael Regan
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue N.W.
Washington, DC 20460

Dear Administrator Regan:

We are writing to you today to request the timely review of two Pre-Manufacturing Notice (PMN) applications (case numbers P-21-0216 and P-21-0217) submitted to the EPA under section 5 of the Toxic Substances Control Act (TSCA). These PMN applications are critical to addressing supply chain issues and impact our country's efforts to reduce our carbon footprint and increase job opportunities.

As you may be aware, General Motors and LG Energy Solution, one of the leading manufacturers of EV batteries, created a joint venture, Ultium Cells LLC, to manufacture battery cells for electric vehicles at three new facilities in the United States, including in Lansing, Michigan. The joint venture is expected to invest $2.6 billion and create approximately 1,700 jobs in Michigan alone.

The new EV battery cells that the Ultium facilities will manufacture use a material called carbon nanotubes (CNT), which is produced and supplied by LG Chem. Quality CNTs dramatically improve the batteries' performance, capacity, life span, and charging speed, all of which are central to making EVs a more attractive option for consumers. However, before the CNTs can be used for EV battery production, the EPA must review and approve the Pre-Manufacture Notice (PMN) that LG Chem submitted in September of 2021.

We understand that EPA has a significant backlog of more than 300 TSCA section 5 applications awaiting review and that the agency has taken a "first-in, first-out" approach to review these applications. As it now stands, the PMN applications have been pending for more than five months, although the TSCA statute mandates a 90-day review. Our concern is that if EPA does not complete its review of the PMNs by May then the launch of the three EV battery plants will be delayed.

Given the importance of this project to Michigan and to our country's EV supply chain, we ask EPA to complete the reviews of the PMNs so that these important EV battery projects are not delayed.

Please feel free to reach out to us if you have any questions. In the meantime, we look forward to your response and finding a way we can work together to move this very critical project forward.

Sincerely,

Elissa Slotkin
United States Representative

Debbie Stabenow
United States Senator

Gary Peters
United States Senator

Tim Walberg
United States Representative

URANIUM PRODUCERS OF AMERICA
1925 ASPEN DRIVE, 200A, SANTA FE, NEW MEXICO 87505
TELEPHONE (505) 216-3055; WWW.THEUPA.ORG

February 6, 2023

The Honorable Cathy McMorris Rodgers
Chair, House Energy and Commerce Committee
United States House of Representatives
Washington, DC 20515

The Honorable Frank Pallone
Ranking Member, House Energy and Commerce Committee
United States House of Representatives
Washington, DC 20515

Dear Chairwoman McMorris Rodgers and Ranking Member Pallone,

On behalf of the Uranium Producers of America (UPA), I write to express our support for the "Prohibiting Russian Uranium Imports Act," which your committee is set to consider during a legislative hearing on February 7. This legislation will help stop the funding of Russia's war in Ukraine with U.S. dollar purchases of nuclear fuel, protect our national and energy security, and take critical steps towards reestablishing American nuclear fuel cycle capabilities.

It is long past time to ban uranium imports from Russia, just as the United States has already done with Russian oil, gas, and coal. For too long we have been funding Ukraine's defense with one hand, and Russian aggression through our nuclear fuel purchases with the other. Russia's state nuclear power company, Rosatom, benefits from hundreds of millions of U.S. dollars in nuclear fuel purchases annually. By continuing to rely on Russian nuclear fuel, we are directly subsidizing the Putin regime and the continued devastation in eastern Europe.

In addition to cutting off another U.S. financial spigot for Russia, banning Russian uranium imports will help create the long-term market conditions necessary for U.S. uranium producers to make investments across the nuclear fuel cycle. The legislation's redirection of unspent and unneeded Civil Nuclear Credit Program dollars towards the nuclear fuel supply chain is a common-sense measure to start securing our nuclear power needs now and well into the future. U.S. policymakers must recognize and address the fact that our global competitors, namely China and Russia, treat their nuclear fuel cycle capabilities as strategic assets and deploy them to achieve geopolitical objectives. Restoring America's global nuclear energy leadership is crucial for U.S. security.

We urge the Committee to move with urgency in considering the "Prohibiting Russian Uranium Imports Act." Thank you for considering this important and timely legislation and we look forward to working with you as the bill makes its way through the legislative process.

Sincerely,

Jon Indall
Counsel, Uranium Producers of America

United States Nuclear Industry Council
1317 F Street NW Washington, DC 20004

Date: February 6, 2023

To:

The Honorable Cathy McMorris Rodgers
Chairwoman
U.S. House Committee on Energy & Commerce
2125 Rayburn House Office Building
Washington, DC 20515

The Honorable Frank Pallone, Jr.
Ranking Member
U.S. House Committee on Energy & Commerce
2125 Rayburn House Office Building
Washington, DC 20515

RE: USNIC Letter to House Energy & Commerce Committee on Russian Uranium Imports

Dear Chairwoman McMorris Rodgers & Ranking Member Pallone:

The U.S. Nuclear Industry Council (USNIC) and its members are grateful for the Committee's continued support for the U.S. nuclear industry. A robust U.S. nuclear fuels supply chain is crucial to our industry's health. As we progress steadily toward deployment of advanced reactors, the attention paid by the Committee to the importance of supporting nuclear as a clean energy solution is highly valued.

That is why USNIC welcomes this Committee's strong focus on resilient supply chains to support the Nation's critical infrastructures, including the vital importance to strengthen our domestic capability to enrich uranium to support our own energy infrastructure as well as that of partners and allies. In that connection, USNIC urges the Committee to ensure that there is adequate flexibility to apply funds already appropriated under the Infrastructure Investment and Jobs Act (IIJA) for High-Assay Low-Enriched Uranium (HALEU) and low-enriched uranium (LEU) in the event the Secretary of Energy determines it is necessary or appropriate.

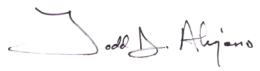
We are also appreciative of proposed legislation "To prohibit the importation into the United States of unirradiated low-enriched uranium that is produced in the Russian Federation, and for other purposes." USNIC and our members have reviewed the proposed legislation carefully and are convinced it can be an important element for continued successful development of our vital national industry. We support the Committee's intent with this legislation that clearly, we cannot, and should not, rely on Russia for the enriched uranium to meet current industry needs, and definitely not to meet the needs for HALEU that is vital to U.S. objectives for advanced reactors.

We also note that the proposed legislation provides for a thoughtful process that will allow for the domestic fuel supply chain to ramp up over the next six years, as well as the criteria provided for potential waiver of restrictions if the Secretary of Energy determines that there is no alternative viable source available, or it is otherwise in the national interest. Given the need to protect American interests as we build domestic capacity, we recommend that the Committee include language to ensure that existing contracts signed prior to the invasion are grandfathered during the transition period to ensure adequate supply and avoid rewarding Russia with an opportunity, to sell at high prices in third markets, enrichment that they are now committed to sell at pre-invasion prices. These provisions should alleviate

any issues for those who may be concerned that Russian enriched uranium might at some future time be needed to meet U.S. requirements.

Thank you very much for the support you consistently provide for our industry, an industry that is crucial for U.S. energy security, economic well-being, and national security.

Sincerely,



Todd Abrajano
President & CEO
U.S. Nuclear Industry Council (USNIC)
Mobile: 913-620-0700
Todd.abrajano@usnic.org

PAID ADVERTISEMENT

THE TORRANCE REFINERY HAS BEEN USING MHF SAFELY

AND WITHOUT OFFSITE IMPACT FOR MORE THAN 20 YEARS.

WE DON'T NEED TO CREATE NEW PROBLEMS BY BANNING IT.

According to a report by the California Energy Commission, if the South Coast Air Quality Management District (SCAQMD) bans the use of modified hydrofluoric acid, or MHF, two Southern California oil refineries will close, thousands will lose their jobs, and gas prices will skyrocket.

These refineries cannot continue to operate without alkylation, and the proposed ban does not allow sufficient time for an alternative process to be permitted or built.

PBF Energy's Torrance and Valero's Wilmington oil refineries together directly employ about 1,000 highly skilled workers. Closing the refineries could cost up to 9,000 more jobs regionally.

During a temporary outage at the Torrance refinery in 2015, gasoline prices averaged 26 cents per gallon higher than normal for 17 months.

Permanent loss of that capacity – plus Wilmington – would cost motorists and businesses billions of dollars.

Diesel and jet fuel prices would spike as well, and without existing capacity to replace that of the lost refineries, consumers throughout the State and the Southwest would feel the impact.

Refinery workers and our local first responders are already trained to handle MHF related incidents and any emergency situation.

IT'S TIME TO RETHINK THE MHF BAN.

WE CAN'T AFFORD TO LOSE THOUSANDS OF GOOD JOBS
OR SUSTAIN A DRAMATIC INCREASE IN GAS PRICES.

UNITED STEELWORKERS
USW
UNITY AND STRENGTH FOR WORKERS

Go to: **www.sustainableeconomy.energy/take-action**

February 5, 2023

The Honorable Cathy McMorris Rodgers
Chairman
Energy and Commerce Committee
United States House of Representatives
Washington, DC 20515

The Honorable Frank Pallone
Ranking Member
Energy and Commerce Committee
United States House of Representatives
Washington, DC 20515

The Honorable Jeff Duncan
Chairman
Energy, Climate, & Grid Security Subcommittee
Subcommittee
United States House of Representatives
Washington, DC 20515

The Honorable Diana DeGette
Ranking Member
Energy, Climate, & Grid Security

United States House of Representatives
Washington, DC 20515

The Honorable Bill Johnson
Chairman
Environment, Manufacturing, & Critical Minerals Subcommittee
United States House of Representatives
Washington, DC 20515

The Honorable Paul Tonko
Ranking Member
Environment, Manufacturing, & Critical Minerals Subcommittee
United States House of Representatives
Washington, DC 20515

Dear Chairman Rodgers and Ranking Member Pallone:

Our organizations write to offer our strong opposition to the proposed legislation that would amend the Clean Air Act to exempt refineries that use extremely dangerous hydrofluoric acid (HF) from assessing whether they could potentially use safer technologies. We are united to prevent chemical disasters,[1] and we urge committee members not to advance this legislation. This bill would undermine crucial protections for workers, environmental justice communities, nearby schools, hospitals, and the public, which are under consideration by the Environmental Protection Agency in their rulemaking on the Risk Management Program (RMP).

[1] Comment submitted by Coalition to Prevent Chemical Disasters, Accidental Release Prevention Requirements: Risk Management Programs Under the Clean Air Act; Safer Communities by Chemical Accident Prevention (Docket Number EPA-HQ-OLEM2022-0174). (2022, Nov 4). https://www.regulations.gov/comment/EPA-HQ-OLEM-2022-0174-0269

We stand opposed to this legislation as aligned with the Louisville Charter for Safer Chemicals (louisvillecharter.org), which calls for the prevention of disproportionate exposures and hazards, and reduction of cumulative impacts on Environmental Justice communities; requiring safer substitutes and solutions for a non-toxic economy; to act with foresight to protect health and prevent pollution, particularly when credible evidence shows that a substance or class of substances is potentially hazardous and/or harmful; and to ensure that the public and workers fully have the right-to-know, participate and decide in the decisions that impact their health because of the potential harm from toxic chemicals.

This legislation would exempt facilities that use HF in alkylation units (e.g. HF refineries) from modest requirements to assess whether they could possibly convert to safer chemicals or processes. Safer technologies alternatives assessments encourage innovation. Alternatives identified in such assessments can prevent chemical disasters, such as the one that occurred in 2019 at the HF alkylation unit at the Philadelphia Energy Solutions Refinery in Philadelphia, Pennsylvania.[2] This devastating series of explosions injured five workers and a first responder, led to the evacuation of 4,000 people, and culminated in over 1,000 workers being laid off with no severance and almost no notice when the plant shut down.[3] During the incident, over 5,000 pounds of highly toxic HF were released and the estimated property damage loss was $750 million.[2]

The U.S. Chemical Safety and Hazard Investigation Board (CSB), the U.S. Government's independent agency charged with investigating chemical disasters across the country, identifying their root causes, and making recommendations to government and industry on best practices to prevent future occurrences did not mince words in their recommendations to EPA following the PES disaster. CSB concluded in their final report on this disaster that EPA should:

> "require new and existing petroleum refineries with HF alkylation units to conduct a safer technology and alternatives analysis (STAA) and to evaluate the practicability of any inherently safer technology (IST) identified. "

As the climate changes the risk and severity of chemical disasters and releases can be exacerbated by extreme weather. When industrial facilities, including HF refineries located in these areas fail to adequately prepare for extreme storms, wildfires, earthquakes, heat waves, floods, rising sea levels, and other natural disasters this can lead to a cascading series of harms, including toxic chemical exposures, on top of the effects of the weather event itself.[4] The

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[2] CSB, Fire and Explosions at Philadelphia Energy Solutions Refinery Hydrofluoric Acid Alkylation Unit at 80 (June 21, 2019), No. 2019-04-I-PA (published Oct. 11, 2022) (CSB PES Report), https://www.csb.gov/philadelphia-energy-solutions-pes-refinery-fire-and-explosions-/.

[3] Maykuth, Andrew. (1 July, 2019.) Philadelphia refinery workers sue over abrupt closure, layoffs. The Philadelphia Inquirer. https://www.inquirer.com/business/energy/philadelphia-refinery-fire-workers-sue-pes-closure-job-layoffs-20190701.html

[4] Center for Progressive Reform, Earthjustice, and the Union of Concerned Scientists. (2021, July). Preventing "Double Disasters". https://www.ucsusa.org/sites/default/files/2021-07/preventing-double-disasters%20FINAL.pdf

Government Accountability Office (GAO) released a report in 2022 showing that approximately 31% of RMP facilities with at least one program 2 or 3 process, including some that are HF refineries, "are located in areas with one or more selected natural hazards that may be exacerbated by climate change".[5]

This bill would require regulators to defer to the American Petroleum Institute (API) rather than the Government's own data and the recommendations of the very federal agencies responsible for chemical safety and government accountability. The legislation refers to API Recommended Practice 751, Safe Operation of Hydrofluoric Acid Alkylation Units, a voluntary industry guideline. Regulators cannot enforce voluntary guidelines.[6,7] CSB reports of deadly incidents have shown the weaknesses of API guidelines, including the HF guideline.[8] Some refineries that use HF alkylation are not even members of API; they may be members of other trade associations, such as American Fuel and Petrochemical Manufacturers, and likely do not even follow API voluntary guidelines, increasing the potential for "natech" ("natural hazards triggering technological accidents" as defined by GAO) disasters .

Additionally, hazard assessments are crucial for determining if hazards are present, or are likely to be present, in the workplace, and to help determine whether such hazards require the use of additional personal equipment to protect workers. Exempting such requirements in this bill would put workers at risk of death or injury, and by extension, neighboring fenceline communities. Fully informed and protected workers are key to preventing disasters and keeping neighbors safe, as evidenced by a number of recent "near miss" incidents that could have been much more disastrous had it not been for the quick action of highly trained union workers, such as in the case of the PES incident.[9,10] Workers have a right to know the hazards in their workplace, and robust hazard assessments are essential to ensure their full knowledge and protection.

Hazard assessment are also important for determining whether and what hazards are present, or likely to be present, for the purpose of protecting and assisting first responders. In a number

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[5] U.S. GAO, Chemical Accident Prevention: EPA Should Ensure Regulated Facilities Consider Risks from Climate Change. (2022, March 2) https://www.gao.gov/products/gao-22-104494

[6] For example, BP Products North America, Inc., and BP-Husky Refining, LLC, v. Department of Labor, OSHRC Docket No. 10-0637, 2018.

[7] Comments of the United Steelworkers Union on the U.S. Department of Labor, Occupational Safety and Health Administration Process Safety Management Stakeholder Solicitation of Public Comments [Docket No. OSHA–2013–0020] (pp. 6-8 and p. 17).

[8] See among others CSB investigation reports: Tesoro Anacortes Refinery, Catastrophic Rupture of Exchanger, May 2014; Chevron Richmond Refinery Pipe Rupture and Fire, January 2015; Fire and Explosions at Philadelphia Energy Solutions Refinery Hydrofluoric Acid Alkylation Unit, October 2022.

[9] Bicameral Chemical Disaster Rule Letter to EPA April 2022. https://www.booker.senate.gov/imo/media/doc/final_bicameral_chemical_disaster_rule_letter_to_epa.pdf

[10] PES Workers' Response to Fire Saves Community From Disaster; Company Announces Shut Down. https://m.usw.org/news/media-center/articles/2019/pes-workers-response-to-fire-saves-community-from-disaster-company-announces-shut-down

of chemical disasters the quick and informed action of first responders prevented far greater catastrophe.[11] Exempting facilities storing and processing extremely hazardous chemicals like HF from commonsense hazard assessments can cause costly delays or miscalculations in emergency response due to the absence of full and clear understanding of the potential hazards.

The dangers of HF are well established and the proximity of several HF refineries to residents puts millions of Americans at risk. As the CSB explains in the report referenced above on the 2019 PES Refinery explosion:

> *Because HF vaporizes upon release to the air, a large release of HF has the potential to travel off site and expose people, animals, and vegetation to harmful concentrations of the chemical. A 2005 study by the U.S. Public Interest Research Group found that HF releases from refineries could have significant off-site consequences, stating "[s]even petroleum refineries using hydrofluoric acid reported toxic release 'worst-case' scenarios in which more than one million people could be affected." It also found that "15 refineries could place more than 500,000 people in harm's way, and 28 refineries could endanger more than 100,000 people in the event of a worst-case hydrofluoric acid release".*[12]

Not all refineries use HF alkylation. As of October 2022 of the 155 U.S. petroleum refineries currently in operation, 46 operated HF alkylation units.[2] Safer alternatives to HF in oil refining exist and are already being used in some refineries. For instance, in April 2021, Chevron and Honeywell announced the start up of an HF-free process for Chevron's Salt Lake City refinery. Big West Oil in Salt Lake City has announced plans to make the same conversion as Chevron SLC (from hydrofluoric acid to ionic liquid catalyst).[13] Honeywell is offering this process to existing and new refineries.[14] Additional facilities are in the process of considering or transitioning to other alternative processes, such as the CVR Wynnewood Refinery in Oklahoma, which has announced plans to convert from hydrofluoric acid catalyst to a solid acid catalyst.[15]

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[11] Yellin, D. (2022, January 24). Keeping Passaic fire from chlorine prevented 'one of the biggest disasters in the country'. North Jersey Media Group. https://www.northjersey.com/story/news/passaic/passaic-city/2022/01/16/passaic-chemical-fire-nj-qualco-majestic-industries/6548160001/

[12] U.S. PIRG Education Fund, "Needless Risk - Oil Refineries and Hazard Reduction," August 2005. [Online]. Available: https://uspirg.org/sites/pirg/files/reports/Needless_Risk_USPIRG.pdf. [Accessed 10 September 2019].

[13] Big Oil west Proceeds with Honeywell to Revamp Alklation Unit to ISOALKY™ Technology. (2021, November 11.) https://pmt.honeywell.com/us/en/about-pmt/newsroom/press-release/2021/11/big-west-oil-proceeds-with-honeywell-to-revamp-alkylation-unit-to-isoalky-technology

[14] chevron and honeywell announce start-up of world's first commercial isoalky™ ionic liquids alkylation unit. (2021, April 13.) https://www.chevron.com/newsroom/2021/q2/chevron-and-honeywell-announce-start-up-of-isoalky-ionic-liquids-alkylation-unit

[15] CVR Energy Proceeds with KBR on Second Phase Scope for Alkylation Revamp Project. (2021, February 4.) https://www.kbr.com/en/insights-news/press-release/cvr-energy-proceeds-kbr-second-phase-scope-alkylation-revamp-project

This bill could undermine such transitions and provide an unwarranted exemption from merely considering safer processes that will provide crucial protections for the communities that live around these facilities and the workers inside the facilities,[16] who are disproportionately burdened by chemical disasters. Decades of research and evidence,[17,18] including testimonies of the impacted people themselves have documented this historical burden on workers[19] and communities of color and low-income communities.[20, 21, 22, 23]

We strongly oppose this legislation. Protections proposed under EPA's RMP rule that would be undermined by this piece of legislation are long overdue for workers and communities disproportionately impacted by chemical disasters. We urge the Committee, and any other committees with jurisdiction over this legislation, to eliminate catastrophic hazards and injustices and address this legacy of harm, by promptly rejecting this bill.

Respectfully submitted by:

Coming Clean
Environmental Justice Health Alliance for Chemical Policy Reform
Earthjustice
Center for Environmental Health
Union of Concerned Scientists

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[16] A Risk Too Great: Hydrofluoric Acid in U.S. Refineries. (2013.) Tony Mazzocchi Center for Health, Safety and Environmental Education, and the United Steelworkers. https://www.usw.org/workplaces/oil/oil-reports/A-Risk-Too-Great.pdf

[17] Coming Clean and the Environmental Justice Health Alliance for Chemical Policy Reform, Who's in Danger: Race, Poverty and Chemical Disasters, (2014). https://comingcleaninc.org/assets/media/images/Reports/Who%27s%20in%20Danger%20Report%20FINAL.pdf

[18] Coming Clean and the Environmental Justice Health Alliance for Chemical Policy Reform. Life at the Fenceline: Understanding Cumulative Health Hazards in Environmental Justice Communities (2015). https://ej4all.org/life-at-the-fenceline

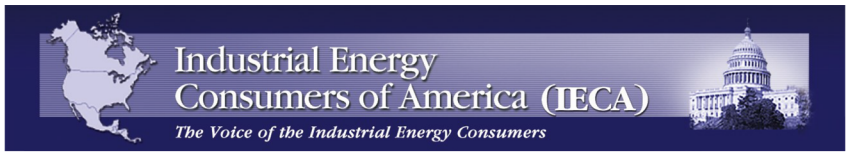
[19] Public comments submitted to the EPA docket EPA-HQ-OLEM-2022-0174 by the United Steelworkers, 2022 https://www.regulations.gov/comment/EPA-HQ-OLEM-2022-0174-0216

[20] Virtual Public Hearings on the Risk Management Program Safer Communities by Chemical Accident Prevention Proposed Rule, September 26, 2022. https://www.regulations.gov/document/EPA-HQ-OLEM-2022-0174-0157

[21] Virtual Public Hearings on the Risk Management Program Safer Communities by Chemical Accident Prevention Proposed Rule, September 27, 2022. https://www.regulations.gov/document/EPA-HQ-OLEM-2022-0174-0158

[22] Virtual Public Hearings on the Risk Management Program Safer Communities by Chemical Accident Prevention Proposed Rule, September 28, 2022. https://www.regulations.gov/document/EPA-HQ-OLEM-2022-0174-0160

[23] Accidental Release Prevention Requirements: Risk Management Programs Under the Clean Air Act, Section 112(r)(7); Rule Retrospection Under Executive Order 13990; Virtual Public Listening Sessions; Request for Public Comment.86 FR 28828. https://www.regulations.gov/document/EPA-HQ-OLEM-2021-0312-0001



1776 K Street, NW, Suite 720 • Washington, D.C. 20006
Telephone (202) 223-1420 • www.ieca-us.org

February 2, 2023

The Honorable Jeff Duncan
Chairman
Subcommittee on Energy, Climate & Grid Security
U.S. House of Representatives
Washington, DC 20515

The Honorable Diana DeGette
Ranking Member
Subcommittee on Energy, Climate & Grid Security
U.S. House of Representatives
Washington, DC 20515

Re: Manufacturers Strongly Oppose H.R. 647, the "Unlocking our Domestic LNG Potential Act of 2023"

Dear Chairman Duncan and Ranking Member DeGette:

On behalf of the Industrial Energy Consumers of America's (IECA) manufacturing companies, with over 12,000 locations nationwide, we strongly oppose this legislation which strips vital consumer protections from the Natural Gas Act (NGA). Excessive LNG exports can negatively impact U.S. natural gas and electricity reliability and costs. The removed NGA provisions are essential to allow the U.S. Department of Energy (DOE) to act to protect consumers in the event of unforeseen circumstances that impact reliability and price and these provisions have had no impact on slowing down approvals of LNG exports. In fact, approved LNG capacity is equal to 55 percent of U.S. 2021 natural gas demand.

The first responsibility of the U.S. Congress is to assure reliability and reasonable prices in the U.S. market, not to accelerate LNG exports. Increased LNG exports are inflationary. For example, in May 2022, national inventories fell 17 percent below five-year average levels, resulting in Henry Hub prices of over $9.00/MMBtu, a level that is three times higher than in recent history. Increased LNG exports have a direct impact according to both the Federal Energy Regulatory Commission (FERC) and the Energy Information Administration (EIA).[1]

U.S. 2021 natural gas consumption equaled 75.7 billion cubic feet per day (Bcf/d) and now a total of 41.9 Bcf/d of LNG export capacity is either operating, under construction, or approved and not under construction, this equals a volume of exports equal to 55 percent of U.S. demand. The pending applications and projects in pre-filing are equal to another 10.1 Bcf/d.[2] [3]

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[1] "FERC Says LNG Export Growth Key Factor in Higher Summer Natural Gas, Electric Prices," Natural Gas Intelligence, May 20, 2022, https://www.naturalgasintel.com/ferc-says-lng-export-growth-key-factor-in-higher-summer-natural-gas-electric-prices/

[2] Natural Gas, U.S. Energy Information Administration (EIA), https://www.eia.gov/naturalgas/

U.S. LNG EXPORT TERMINAL STATUS

Status	Terminal	Location	Capacity (Bcf/d)
Existing			
	Cheniere/Sabine Pass LNG: Trains 1-6	Sabine, LA	4.55
	Dominion-Cove Point LNG	Cove Point, MD	0.82
	Cheniere-Corpus Christi LNG: Trains 1-3	Corpus Christi, TX	2.40
	Sempra-Cameron LNG: Trains 1-3	Hackberry, LA	2.15
	Southern LNG Company: Units 1-10	Elba Island, GA	0.35
	Freeport LNG Dev/Freeport LNG Expansion/FLNG Liquefaction: Trains 1-3	Freeport, TX	2.38
	Venture Global Calcasieu Pass: Units 1-6	Cameron Parish, LA	1.11
Subtotal			*13.76*
Approved, Under Construction			
	Venture Global Calcasieu Pass: Units 7-9	Cameron Parish, LA	0.55
	ExxonMobil-Golden Pass	Sabine Pass, TX	2.57
	Venture Global Plaquemines	Plaquemines Parish, LA	3.40
	Driftwood LNG	Calcasieu Parish, LA	3.81
	Cheniere Corpus Christi: Stage III	Corpus Christi, TX	1.58
Subtotal			*11.91*
Approved, Not Under Construction			
	Lake Charles LNG	Lake Charles, LA	2.27
	Magnolia LNG	Lake Charles, LA	1.19
	Sempra-Cameron LNG: Trains 4 & 5	Hackberry, LA	1.41
	Sempra-Port Arthur LNG: Trains 1 & 2	Port Arthur, TX	1.86
	Freeport LNG Dev: Train 4	Freeport, TX	0.74
	Gulf LNG Liquefaction	Pascagoula, MS	1.50
	Eagle LNG Partners	Jacksonville, FL	0.13
	Texas LNG Brownsville	Brownsville, TX	0.55
	Rio Grande LNG-NextDecade	Brownsville, TX	3.60
	Commonwealth LNG	Cameron Parish, LA	1.21
	MARAD/USCG	Gulf of Mexico	1.80
Subtotal			*16.26*
Pending Applications			
	Sempra-Port Arthur LNG: Trains 3 & 4	Port Arthur, TX	1.86
	Venture Global CP2: Blocks 1-9	Cameron Parish, LA	3.96
	Venture Global Calcasieu Pass	Cameron Parish, LA	0.06
	Sempra-Cameron LNG Vacate T5 & modify T4	Hackberry, LA	-0.45
	Venture Global Plaquemines	Plaquemines Parish, LA	0.45
	Sempra – EnergíaCosta Azul: Phase 1	Baja California, MX	0.40
Subtotal			*6.28*
Projects in Pre-Filing			
	Port Fourchon LNG	LaFourche Parish, LA	0.65
	Delta LNG-Venture Global	Plaquemines Parish, LA	2.76
	Cheniere Corpus Christi Midscale: Trains 8-9	Corpus Christi, TX	0.45
Subtotal			*3.86*
Grand Total			**52.07 Bcf/d**

[3] North American LNG Export Terminals – Existing, Approved not Yet Built, and Proposed, Federal Energy Regulatory Commission, Last Updated on January 24, 2023, https://www.ferc.gov/natural-gas/lng

It is important to remember that global LNG customers, which include Chinese state-owned enterprises and utilities of foreign governments, have options to buy from multiple production markets globally, U.S. consumers do not. We are captive and that is why it is paramount to maintain the NGA protections for U.S. consumers. It is predictable that as LNG exports increase, U.S. natural gas reliability and costs could be negatively impacted. Increased demand puts upward pressure on prices.

Increased LNG exports accelerates the threat of price inflation. On October 5, 2022, the chairman of the LNG company Tellurian Inc, Charif Souki, stated that "Getting (U.S.) gas in the water for $4-$5 is something of the past; if you really want to justify an investment...you have to think of $10-$12."[4] On September 28, 2022, the Federal Reserve Bank of Dallas released the results of its Dallas Federal Energy Survey. Sixty-nine percent of the executives surveyed expect the age of inexpensive U.S. natural gas to end by year-end 2025.[5] The 2025 timing is aligned with the next tranche of LNG export capacity coming online.

We urge you to oppose this legislation. Thank you for your support.

Sincerely,

Paul N. Cicio
Paul N. Cicio
President & CEO

cc: House Committee on Energy and Commerce
The Honorable Jennifer Granholm
Federal Energy Regulatory Commission

The Industrial Energy Consumers of America is a nonpartisan association of leading manufacturing companies with $1.1 trillion in annual sales, over 12,000 facilities nationwide, and with more than 1.8 million employees worldwide. It is an organization created to promote the interests of manufacturing companies through advocacy and collaboration for which the availability, use and cost of energy, power or feedstock play a significant role in their ability to compete in domestic and world markets. IECA membership represents a diverse set of industries including: chemicals, plastics, steel, iron ore, aluminum, paper, food processing, fertilizer, insulation, glass, industrial gases, pharmaceutical, building products, automotive, independent oil refining, and cement.

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[4] U.S. gas at $4-$5 is a thing of the past, says Tellurian chairman; https://www.msn.com/en-us/money/markets/u-s-gas-at-4-5-is-a-thing-of-the-past-says-tellurian-chairman/ar-AA12Axho?ocid=msedgdhp&pc=U531&cvid=2984610aa1c84b43afc051f3c4a55e99

[5] Federal Reserve Bank of Dallas, https://www.dallasfed.org/research/surveys/des/2022/2203.aspx#tab-forecastcharts

Torrance Refinery Action Alliance,
4733 Torrance Blvd. #200, Torrance, Ca 90503

February 6, 2022

Attention: Members, House Energy and Commerce Committee

Chair Cathy McMorris Rodgers, House Energy and Commerce Committee

Representative Jeff Duncan, Chair of the Energy, Climate, & Grid Security Subcommittee

Representative Bill Johnson, Chair of the Environment, Manufacturing, & Critical Materials Subcommittee

Ranking Member Frank Pallone Jr.

Representative Diana DeGette, Ranking Member of the Energy, Climate, & Grid Security Subcommittee

Representative Paul Tonko, Ranking Member of the Environment, Manufacturing, & Critical Materials Subcommittee

I speak to you from a non-partisan community organization that is dedicated to protecting the community and refinery workers at Hydrogen Fluoride (HF/MHF) refineries by bringing about conversion to a vastly safer alternative technology in the alkylation process.

The Torrance Refinery Action Alliance (TRAA) was formed after a "near miss" for a mass release of HF/MHF in Torrance California Feb 18, 2015. A multi-ton piece of equipment flew through the air and landed about six feet away from a large tank of HF. A major release could have resulted in mass

casualties in numbers similar to what occurred in Bhopal India in 1984 (the release of a different chemical – but with similar properties resulted in 15,000 dead and over 100,000 people injured.) In all communications with the public and with members of the House of Representatives, TRAA endeavors to only use statements made or confirmed by industry or government.

A proposed bill under consideration by your committee Section 112(r)(7)(B) of the Clean Air Act (42 U.S.C. 7412(r)(7)(B)) states "... The owner or operator of a stationary source described in subclause (II) shall not be required by the regulations under this subparagraph to include in any hazard assessment under clause (ii) an assessment of safer technology and alternative risk management measures applicable to eliminating or reducing risks from the use of hydrofluoric acid in an alkylation unit. "

There are at least six commercially proven alternative technologies available for conversion. These alternatives are being actively marketed by Chevron/Honeywell, KBR, Well Resources, and Lummus Technologies.
HF is an exceptionally dangerous chemical used in massive quantities in refineries that inherently have the potential for explosions and are also vulnerable to natural disasters and terrorist attacks. Given the risk associated with its use, it is unfair to communities to allow refineries to continue its use when there are alternatives available. There are 40 such refineries with an estimated 14 million people living within the circles of risk.

It also seems unfair to the companies that have, at great expense, developed and installed alternatives that are vastly safer. Under this bill, the HF refineries would not even have to assess whether these products would save them money and save the community worry and perhaps death and economic ruin.

Vendors of the alternatives state:

1. Alternative methods are inherently safer
2. Alternative methods are more energy efficient

   They produce more alkylate than HF does with the same feedstock, and have greater feedstock flexibility.
3. Alkylation will be increasing in market demand in the coming decade,

4. Alternatives reduce cost by eliminating construction, maintaining safety mitigations, reporting on Risk Management Plan, and the cost of training staff in the danger and preventative processes.
5. Of course it saves the cost of liability (generally self-insured) from a corporate apocalypse resulting from the unlikely but extremely consequential result of a release.

(There have been at least six major near misses in US refineries and at least two foreign releases resulting in significant fatalities.)

Although the three Committee Chairs; Rodgers, Duncan, and Johnson do not have HF refineries in their District, there are about 10 members of the committee who do. The American Petroleum Institute states there are "Commercially Proven Alternatives" - API also says that converting would be prohibitively expensive. However since other refineries have converted, apparently it is not prohibitively expensive. Vendors of Alternatives say that down time for a conversion would be comparable to a normal turnaround. **It seems that this is a good business decision. It seems that upgrading is a good business plan by these refineries and would likely reduce gas prices and improve profitability. The committee should draft legislation that would drive conversion with maximum speed.**

For the 10 Congressmembers who have HF in one of the refineries in your district, your communities as well as the oil industry as a whole would be greatly served by assessing the alternatives and Incentivizing HF users to convert to one of the commercially proven alternatives with all possible haste. (You may have other refineries in your district, and it is very likely that they do not use HF but an alternative to HF for Alkylation),

As the Fukushima event resulted in the sudden closing of numerous nuclear plants, a major release of HF with mass casualties would likely disrupt the continued use of HF in many if not all of the HF refineries in the US. The risk of this disruption to the US Energy Supply is unacceptable and can only be removed by assessing and requiring conversion from HF to one of the major corporate alternative technologies.

To exclude hazard assessment would be to the detriment of the corporations who are marketing the alternatives. Of course, the public safety

and the benefits of transparency for concerned community members is served best by assessing dangers and alternatives but as well, the energy dominance sought by this amendment is also well served by an industry wide upgrade from this antiquated alkylation technology.

We urge your committees to correct this grave error, and not eliminate Hazard and Safer Technology Alternatives Assessment but add to the bill incentives that will result in HF refineries upgrading from this exceptionally hazardous and out of date technology.

We have attached material which supports this argument, we are available for further communication at info@traa.website, WWW.TRAA.Website

Sincerely,

Steven Goldsmith,
President, Torrance Refinery Action Alliance www.TRAA.website
(310) 542-6782 –office (preferred) (310) 227-3111 – cell _sgoldsmith84@gmail.com
San Pedro Rotary Club, PP Hawthorne 2006-07
HF release video at now closed Philly refinery [Link]

Attached or included

1. This letter as an attachment
2. A brief summary statement on HF/MHF by TRAA
HF is an exceptionally hazardous chemical capable of causing thousands of casualties, is used in large quantities in only 27% of US refineries. Refineries are vulnerable to accidents (many have occurred) natural disasters (near misses) and terrorist acts (unknown). There are multiple vastly safer commercially proven alternatives. Not only should HF not be exempt from Hazard Analysis but this bill should carry a bi-partisan amendment requiring a 3rd party assessment of alternatives and subsequent conversion be prioritized over a short period of time."
3. **Fact sheet summary** with links to key government/industry videos about the exceptional danger.
4. Additional Risks to **National Security Concerns** - from experts
5. Description of the **alternatives** - from industry vendors
6. Presentation **by API** to OMB (stating "commercially proven alternative" - but does have some misstatements)
7. A power point for a quick review of HF, its dangers and the cost savings alternatives
For a link to in depth review - Science Panel Blog WWW.TRAA.blog
- www.TRAA.website

chevron and honeywell announce start-up of world's first commercial isoalky™ ionic liquids alkylation unit

SAN RAMON, Calif. and DES PLAINES, III., April 13, 2021 – Chevron Corporation (**NYSE: CVX**) and Honeywell (**NYSE: HON**) today announced the commissioning and start-up of the world's first commercial-scale ISOALKY™ process unit that utilizes ionic liquids to produce alkylate. The ISOALKY™ technology represents a major innovation in alkylation technology.

First used in Chevron's Salt Lake City refinery, the ISOALKY™ technology is designed to meet the refining industry's needs for a cost-effective alternative to conventional liquid acid systems that offers process safety advantages. Using a non-aqueous liquid salt, or ionic liquid, the revolutionary new catalytic process is handled with standard personal protective equipment and produces a valuable high-octane blending component that helps lower the environmental impact of gasoline. Pioneered by Chevron U.S.A., Inc., a subsidiary of Chevron, and licensed to Honeywell UOP, the technology is offered to the entire industry under the ISOALKY™ brand name.

"The ISOALKY™ plant is an exciting achievement for Chevron and the Salt Lake Refinery, and it's poised to be a game changer for the refining industry," said Mike Coyle, president of Chevron Manufacturing. "We are proud of the talent and teamwork demonstrated by our people and Honeywell UOP to bring this project to fruition."

"ISOALKY™ is a groundbreaking new technology for refiners, and a lower-risk and economical solution compared to conventional liquid acid technologies that produce alkylate," said Bryan Glover, president and CEO of Honeywell UOP. "Ionic liquids have strong acid properties that enable them to produce alkylate without the volatility of conventional acids, allowing for simpler handling procedures. Together with Chevron, Honeywell UOP has commercialized a solution that meets the rising global demand for cleaner-burning fuels at a lower cost while simplifying complex handling requirements."

ISOALKY™ technology can be used in new refineries as well as in existing facilities undergoing capital expansion or retrofit applications. ISOALKY™ technology has wider and improved feed flexibility relative to conventional alkylation technologies. Ionic liquids are regenerated on-site, eliminating the need for road or marine transportation for offsite regeneration and polymer byproduct handling. More information about ISOALKY™ technology can be found here.

Honeywell UOP (www.uop.com) is a leading international supplier and licensor of process technology, catalysts, adsorbents, equipment, and consulting services to the petroleum refining, petrochemical, and gas processing industries. Honeywell UOP is part of Honeywell's Performance Materials and Technologies strategic business group, which also includes Honeywell Process Solutions (www.honeywellprocess.com), a pioneer in automation control, instrumentation and services for the oil and gas, refining, petrochemical, chemical and other industries.

About Chevron

Chevron U.S.A. Inc. is a subsidiary of Chevron Corporation, one of the world's leading integrated energy companies. Through its subsidiaries that conduct business worldwide, Chevron Corporation is involved in virtually every facet of the energy industry. Chevron explores for, produces and transports crude oil and natural gas; refines, markets and distributes transportation fuels and lubricants; manufactures and sells petrochemicals and additives; generates power; and develops and deploys technologies that enhance business value in every aspect of the company's operations. Chevron is based in San Ramon, CA. More information about Chevron is available at www.chevron.com.

About Honeywell

Honeywell (www.honeywell.com) is a Fortune 100 technology company that delivers industry specific solutions that include aerospace products and services; control technologies for buildings and industry; and performance materials globally. Our technologies help everything from aircraft, buildings, manufacturing plants, supply chains, and workers become more connected to make our world smarter, safer, and more sustainable. For more news and information on Honeywell, please visit www.honeywell.com/newsroom.

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Chevron media contact:
Tyler Kruzich
(925) 549-8686
tkruzich@chevron.com

Honeywell media contact:
Tehani Manochio
(973) 216-0684
tehani.manochio@honeywell.com

This release contains certain statements that may be deemed “forward-looking statements” within the meaning of Section 21E of the Securities Exchange Act of 1934. All statements, other than statements of historical fact, that address activities, events or developments that we or our management intends, expects, projects, believes or anticipates will or may occur in the future are forward-looking statements. Such statements are based upon certain assumptions and assessments made by our management in light of their experience and their perception of historical trends, current economic and industry conditions, expected future developments and other factors they believe to be appropriate. The forward-looking statements included in this release are also subject to a number of material risks and uncertainties, including but not limited to economic, competitive, governmental, and technological factors affecting our operations, markets, products, services and prices. Such forward-looking statements are not guarantees of future performance, and actual results, developments and business decisions may differ from those envisaged by such forward-looking statements. We identify the principal risks and uncertainties that affect our performance in our Form 10-K and other filings with the Securities and Exchange Commission.

OIL AND GAS

Natural gas plummets as Freeport delays facility restart following explosion

PUBLISHED TUE, JUN 14 2022•11:57 AM EDT UPDATED WED, JUN 15 2022•7:32 AM EDT

Pippa Stevens
@PIPPASTEVENS13

Natural gas prices plunged on Tuesday, after Freeport LNG said its facility that had a fire last week likely won't be back up and running soon.

"[C]ompletion of all necessary repairs and a return to full plant operations is not expected until late 2022," the company said Tuesday in a statement. The facility, located in Quintana Island, Texas, had an explosion last Wednesday.

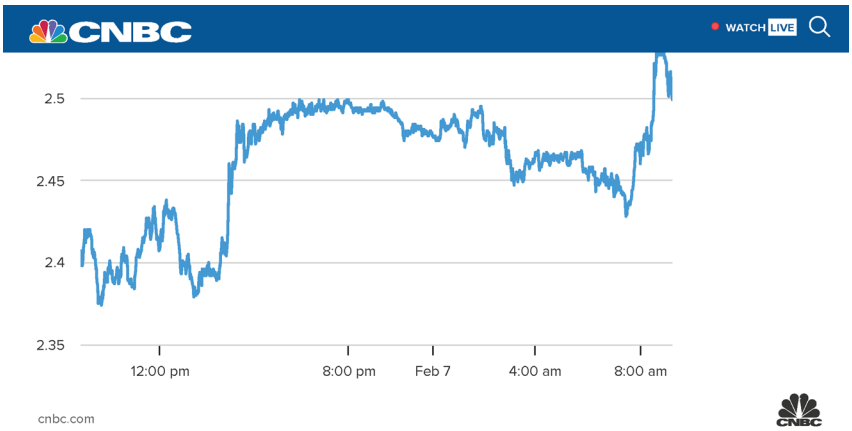
"Given the relatively contained area of the facility physically impacted by the incident, a resumption of partial operations is targeted to be achieved in approximately 90 days," Freeport LNG said.

"The U.S. natural gas market will now be temporarily oversupplied as 2 bcf/d or a little over 2% of demand for U.S. natural gas has been abruptly eliminated," said Rob Thummel, managing director at Tortoise Capital.

"U.S. natural gas supply will likely remain at current levels as producers won't reduce production by 2 bcf/d. The result is an oversupplied U.S. natural gas market," he added.

Freeport's operation is roughly 17% of the U.S.' LNG processing capacity.

Natural gas plummets



Despite Tuesday's drop, natural gas prices are still up 93% since the start of the year. Demand has rebounded as worldwide economies emerge from the pandemic, while supply has remained constrained.

Russia's invasion of Ukraine upended a market that was already tight. As Europe looks to move away from Russian energy, record amounts of U.S. LNG are now heading to the continent.

Surging prices are adding to inflationary pressures across the economy. Drivers are already grappling with record prices at the pump with the national average for a gallon of gas topping $5 over the weekend, and now utility bills are also set to rise.

Natural gas prices surged above $9 per MMBtu in May, hitting the highest level since August 2008.

After the explosion at Freeport's facility last week, the company initially said the plant would be shut for several weeks.

"The incident occurred in pipe racks that support the transfer of LNG from the facility's LNG storage tank area to the terminal's dock facilities," the company said Tuesday. "None of the liquefaction trains, LNG storage tanks, dock facilities, or LNG process areas were impacted," the company added.

February 7, 2023

The Honorable Cathy McMorris Rodgers
Chair
Committee on Energy and Commerce
2125 Rayburn House Office Building
Washington, D.C. 20515

The Honorable Frank Pallone, Jr.
Ranking Member
Committee on Energy and Commerce
2125 Rayburn House Office Building
Washington, D.C. 20515

The Honorable Bill Johnson
Chair
Subcommittee on Environment,
Manufacturing, and Critical Materials
2125 Rayburn House Office Building
Washington, D.C. 20515

The Honorable Paul Tonko
Ranking Member
Subcommittee on Environment,
Manufacturing, and Critical Materials
2125 Rayburn House Office Building
Washington, D.C. 20515

The Honorable Jeff Duncan
Chair
Subcommittee on Energy, Climate,
and Grid Security
2125 Rayburn House Office Building
Washington, D.C. 20515

The Honorable Diana DeGette
Ranking Member
Subcommittee on Energy, Climate,
and Grid Security
2125 Rayburn House Office Building
Washington, D.C. 20515

Dear Chairs Rodgers, Johnson, and Duncan, and Ranking Members Pallone, Tonko, and DeGette:

On behalf of our millions of members and supporters, the 71 undersigned organizations write to oppose the following pieces of legislation that will be considered in the upcoming Energy and Commerce Committee legislative hearing on Tuesday, February 7th. This proposed legislation would exacerbate the climate crisis, perpetuate environmental injustices, and undermine US economic and national security by prolonging reliance on risky and volatile energy sources.

These bills would encourage new fossil fuel production and infrastructure, despite the scientific consensus that there is no room for investment in new fossil fuel production if we are to reach net zero by 2050, keeping the world on a 1.5°C compatible pathway. The bills would also undermine bedrock environmental laws, including the National Environmental Policy Act (NEPA) by short-circuiting permitting processes and limiting public input. NEPA is a critical environmental law and an important tool for frontline and environmental justice communities to influence federal infrastructure projects that will impact them the most.

In addition, by promoting the expansion of fossil fuel production and exports, these bills would delay the transition to a clean, secure, and affordable energy grid that would bring true energy independence and security. The fossil fuel industry is already raking in record profits at the expense of consumers and future generations, yet their supporters in Congress are putting

forward these bills to lock us into increased extraction, high and volatile energy prices, and environmental degradation in exchange for even higher profits for oil and gas companies.

We urge opposition to the following bills:

- **H.R. 150, the Protecting American Energy Production Act: OPPOSE**
  - Prohibits the President from issuing a moratorium on fracking unless authorized by Congress. Fracking releases massive amounts of methane, a potent greenhouse gas that has more than 80 times the power of carbon dioxide over a 20-year period, driving approximately one quarter of the warming our planet has experienced to date. Fracking also harms local communities and ecosystems by releasing air pollutants and contaminating water sources.

- **H.R. 484, the Natural Gas Tax Repeal Act: OPPOSE**
  - Repeals the Methane Emissions Reduction Program created by the Inflation Reduction Act (IRA). This critical program supports efforts to reduce methane emissions from the oil and gas sector, improve methane monitoring, fund environmental restoration, and help communities reduce the health impacts of pollution.

- **H.R.__, the Promoting Cross-border Energy Infrastructure Act: OPPOSE**
  - Requires FERC to approve gas pipelines to Canada or Mexico within 30 days, significantly limits requirement for certificates of crossing for modifications to existing pipelines, and limits environmental review and public input. Decreasing scrutiny for cross-border pipelines would lead to increased emissions and deny affected communities sufficient input opportunities.

- **H.Con.Res.__, Expressing disapproval of the revocation by President Biden of the Presidential permit for the Keystone XL pipeline: OPPOSE**
  - Resolution of disapproval of President Biden revoking the Presidential Permit for Keystone XL pipeline. If built, Keystone XL would have carried 830,000 gallons per day of the dirtiest oil on the planet, threatening our climate, farmland, critical water resources, and wildlife habitat along the pipeline's path.

- **H.R.__, the Promoting Interagency Coordination for Review of Natural Gas Pipelines Act: OPPOSE**
  - This bill would undercut public transparency and input from communities by limiting the time for environmental reviews. The bill alters the approval process for gas pipelines by requiring all other federal and state agencies to defer to FERC.

- **H.R. 647, the Unlocking our Domestic LNG Potential Act of 2023: OPPOSE**
  - This bill would strip away the federal government's responsibility to examine the full impacts of LNG expansion on US energy markets, the environment, and local communities. It would make it easier to approve LNG exports by removing the first 3 sections of the Natural Gas Act, which require a public interest

determination for LNG exports to non-FTA countries. LNG exports negatively impact Americans by exacerbating climate change, raising domestic energy prices, and perpetuating environmental injustices, and these factors need to be taken into account when deciding whether to approve additional LNG export terminals.

- **H.Con.Res. __, Expressing the sense of Congress that the Federal Government should not impose any restrictions on the export of crude oil or other petroleum products: OPPOSE**
    - This resolution expresses the sense of Congress that the Federal Government should not restrict the export of crude oil or other petroleum products. Increased oil drilling and exports have enormous climate repercussions and pollute communities and ecosystems. The Federal Government must ensure that these exports do not compromise US climate and environmental justice goals or undermine our global climate leadership.

Sincerely,

350 New Orleans	Littleton Business Alliance
A Community Voice	Louisiana Bucket Brigade
Accelerate Neighborhood Climate Action	Louisiana Environmental Action Network (LEAN)
Businesses for a Livable Climate	Louisiana League of Conscious Voters
Call to Action Colorado	Mayfair Park Neighborhood Association Board
Carrizo Comecrudo Tribe of Texas	Mental Health & Inclusion Ministries
CatholicNetwork US	Moms Clean Air Force
Center for Biological Diversity	Montbello Neighborhood Improvement Association
Center for Oil and Gas Organizing	Natural Resources Defense Council
Chispa Texas	North Range Concerned Citizens
Citizen's Alliance for a Sustainable Englewood	Oil and Gas Action Network
Clean Air & Water Better Brazoria/Freeport Tx	Public Citizen
Climate Reality Project New Orleans	RapidShift Network
CO Businesses for a Livable Climate	RESTORE
Coalition Against Death Alley	Save EPA (former employees)
Community for Sustainable Energy	Save RGV

Concerned Citizens of St. John the Baptist Parish

Dayenu: A Jewish Call to Climate Action

Earthjustice

Earthworks

Endangered Species Coalition

Food and Water Watch

For a Better Bayou

Friends of the Earth

Greater New Orleans Housing Alliance

Greater New Orleans Interfaith Climate Coalition

GreenFaith

Greenpeace USA

Healthy Gulf

Hip Hop Caucus

Honor the Earth

I-70 Citizens Advisory Group

Inclusive Louisiana

Indivisible Ambassadors

Larimer Alliance for Health, Safety and Environment

League of Conservation Voters

Sierra Club

Southern Utah Wilderness Alliance

Southwest Organization for Sustainability

Spirit of the Sun, Inc.

Sunflower Alliance

System Change Not Climate Change

Texas Campaign for the Environment

The Climate Center

The Green House Connection Center

The Vessel Project of Louisiana

The Wilderness Society

Turtle Island Restoration Network

Unite North Metro Denver

Voices for Progress

Wall of Women

WE ACT for Environmental Justice

Western Slope Businesses for a Livable Climate

Womxn from the Mountain

Working for Racial Equity

RESOURCES *for the* FUTURE

Inflation Reduction Act's Proposed Methane Fee Would Have Negligible Impact on Natural Gas Prices

Brian C. Prest
August 5, 2022

In a 2021 RFF Issue Brief, **"Methane Fees' Effects on Natural Gas Prices and Methane Leakage"**, I modeled the potential effects of a proposed fee on methane emissions from oil and gas facilities, such as those recently considered in Congress (e.g., **S.645** and **H.R.4084**). That modeling found that the impacts of those fees at the proposed levels of up to $1,500 per ton of methane would increase natural gas prices by a very small amount, with a focal estimate of $0.15 per MMBtu in potential price increase. By comparison, as reported in that Issue Brief, residential consumer prices in May 2021 were about $13.50 per MMBtu, indicating a price impact of around 1%.

The **Inflation Reduction Act of 2022** (IRA) contains a new version of this fee with a number of modifications, including a one-year delay in implementation and a narrowing of the scope of oil and gas facilities that would be required to pay the fee. Importantly, the new version exempts from the fee facilities that are in compliance with forthcoming Environmental Protection Agency (EPA) regulations on methane. This provision is likely to dramatically reduce the number of companies required to pay the fee, implying that the impact of the methane fee as proposed in the IRA would result in a substantially smaller estimated price impact than the previous estimates of $0.15 per MMBtu and 1% of residential consumer prices.

While it is difficult to model this new provision in detail due to uncertainties around the timing and stringency of EPA's future regulations and compliance decisions by oil and gas operators, the previous estimates for the broader policy were already quite small, indicating **the impact on natural gas prices of the methane fee in the IRA would be negligible, and well under 1% of residential consumer prices**.

In broader context, Princeton University's REPEAT project recently drew on other work of mine to estimate that the IRA as a whole is likely to reduce natural gas prices by 10-20% in the medium term.[1] I have not independently evaluated those estimates, but that degree of price reduction would offset—many times over—the negligible price impacts of the methane fee.

[1] See page 10 of **https://repeatproject.org/docs/REPEAT_IRA_Preliminary_Report_2022-08-04.pdf**

CLEAN JOBS AMERICA

NEARLY 3.3 MILLION CLEAN ENERGY JOBS[1]

In every region and every state in America, clean energy is creating jobs and careers. Nationwide, more than 110,000 net new clean energy jobs were created in 2018, bringing the total number of Americans who work in clean energy to 3.26 million.

While jobs in solar declined in part because of tariffs on steel and solar panels, wind energy jobs grew by nearly 4 percent and now competes with fossil fuels in many markets.[2]

Energy efficiency continues to lead the clean energy sector in total number of jobs, growing 3.4 percent to 2.3 million jobs.

But the big story in 2018 was around clean vehicles and storage.

Driven by growing consumer demand, the number of jobs in clean vehicles manufacturing increased by 16 percent. About 254,000 Americans now work at companies building hybrid, electric and other clean vehicles, while another 486,000 Americans work in companies that manufacture parts that make vehicles more efficient.

Energy storage saw a 14 percent increase in jobs as utilities, businesses and consumers deployed more batteries in EVs and with solar and wind installations, while grid modernization jobs grew by 3.3 percent.

Smart state policies continue to drive much of the growth in clean energy and the jobs and investments that come with it. But with a new Congress comes new opportunities to pass meaningful legislation on a federal level to keep these jobs growing nationwide. See sidebar for more.

TOP 10 STATES FOR CLEAN ENERGY JOBS

RANK	STATE	TOTAL*	SOLAR	WIND	ENERGY EFFICIENCY	CLEAN VEHICLES
1	California	512,934	126,507	5,785	318,542	22,389
2	Texas	233,447	11,433	25,386	162,816	17,800
3	Florida	158,652	10,528	4,461	118,412	9,360
4	New York	156,059	11,603	3,491	123,292	8,624
5	Michigan	126,081	5,419	4,783	85,061	25,304
6	Illinois	123,247	5,341	8,706	89,469	10,417
7	Massachusetts	116,491	16,527	1,983	86,473	3,184
8	Ohio	112,486	8,108	1,080	81,676	16,646
9	North Carolina	110,913	8,912	908	86,559	7,280
10	Virginia	95,158	4,241	1,628	78,670	5,436

* Total includes renewable energy, energy efficiency, clean vehicles, battery storage, advanced biofuels, low-impact hydro and other sectors.

CLEAN ENERGY GROWTH IN PERSPECTIVE

110,000
Clean energy jobs grew 3.6 percent in 2018, adding jobs in nearly every state and combining to add over 110,000 net new clean energy jobs nationally.

12
Number of states that have or are considering policies that get 100 percent of their electricity from clean energy sources.

3X
Clean energy jobs outnumbered fossil fuel jobs nearly 3 to 1 in 2018.

10
The number of states that generate more than 20 percent of their electricity from wind and solar–Kansas, Iowa, Oklahoma, North Dakota, South Dakota, Vermont, California, Maine, Colorado, and Minnesota.[3]

156 GW
Combined capacity of installed solar and wind surpassed 150GW in 2018. Wind energy is the largest source of renewable generating capacity. A new solar project is installed in America every two minutes.[4,5]

WWW.E2.ORG
WWW.CLEANJOBSCOUNT.ORG
@E2ORG
#CLEANJOBSAMERICA
#CLEANJOBSCOUNT

CLEAN JOBS COUNT

MARCH 2019
E2FS: 19-03-D

CLEAN JOBS AMERICA

WANTED: FEDERAL ACTION ON CLEAN ENERGY

To continue creating tens of thousands of new jobs for Americans across the country, Congress should:

// Make sure any infrastructure bill includes policies to modernize the grid and expand electric vehicle charging infrastructure to keep grid and storage jobs growing.

// Stop rollbacks to fuel economy (CAFE) standards that are saving business and consumers money with every visit to the pump and also are driving jobs and American innovation in the clean vehicles sector.

// Upgrade and extend expired energy efficiency tax credits for commercial and residential buildings; clarify the Investment Tax Credit (ITC) to apply to energy storage and offshore wind and lift the cap on the electric vehicle tax credit to create more jobs in these sectors.

// Properly fund R&D investments in clean energy innovation and efficiency at the U.S DOE's Office of Energy Efficiency and Renewable Energy, the Loan Programs Office, and programs such as ARPA-E, and the Advanced Technology Vehicles Manufacturing (ATVM) program.

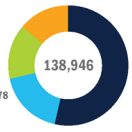
INDUSTRY BREAKDOWN: JOBS

ENERGY EFFICIENCY:

- ENERGY STAR appliances, including High-Efficiency HVAC: **595,331**
- Traditional HVAC: **582,108**
- Advanced Building Materials: **440,188**
- LED, CFL, and Efficient Lighting: **370,562**
- Other: **207,780**
- Renewable H&C: **128,896**

RENEWABLE ENERGY:

- Solar: **334,992**
- Wind: **111,166**
- Geothermal: **8,526**
- Bioenergy/CHP: **42,222**
- Low-Impact Hydro: **11,578**



GRID & STORAGE:

- Clean Storage: **74,569***
- Smart Grid: **25,000**
- Micro-Grid: **20,125**
- Other Grid Modernization: **19,252**

* Clean storage includes pumped hydro storage, battery storage, thermal storage, and mechanical storage detailed technologies.

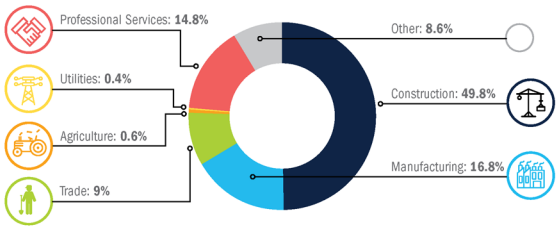
CLEAN VEHICLES:

- Hybrid Electric Vehicles: **110,340**
- Plug-In Hybrid Vehicles: **52,931**
- Electric Vehicles: **67,973**
- Natural Gas Vehicles: **12,545**
- Hydrogen & Fuel Cell: **9,809**

FUELS:

- Other Ethanol/ Non-Woody Biomass: **20,074**
- Other Biofuels: **18,414**

CLEAN JOBS BREAKDOWN BY VALUE CHAIN



CLEAN JOBS AMERICA

CLEAN VEHICLES 255,000 JOBS

// Clean vehicles now account for about **13 percent** of all the jobs in the motor vehicles industry
// **15.4 percent** nationwide job growth in 2018
// **42 states** saw double-digit job growth in 2018, with 15 seeing above 20 percent growth
// **486,000** additional employees in the motor vehicle industry work with parts making vehicles more fuel efficient

GRID & CLEAN STORAGE 139,000 JOBS

// **9 percent** job growth in 2018, with employers projecting growth of 4.4 percent in 2019.
// **Grid modernization** industries added over 2,000 jobs, a 3.3 percent growth rate.
// California and Texas lead the U.S. in Grid & Clean Storage jobs again, but Nevada saw biggest rise in rankings—jumping from 25th to 4th thanks to a **380 percent job surge** in 2018.

SOLAR + WIND 446,000 JOBS

335k SOLAR JOBS

// Solar provides the largest share of electric power generation in the U.S., **100,000** more than the next two sectors combined.
// Solar jobs fell 4.2 percent in 2018—after nearly a decade of growth—but employers are projecting job growth of **over 8 percent** in 2019.
// 89 percent of solar job losses were in maturing in states of MA and CA. In 18, solar jobs increased.
// **66 percent** of solar jobs (224k) are involved in manufacturing and construction.

111k WIND JOBS

// Wind provides the **3rd largest** share of electric power generation jobs, about 1,500 fewer employees than natural gas.
// Jobs grew **3.5 percent** last year, with employers projecting job growth of nearly 5 percent for 2018
// All but **five states** (and D.C.) saw job growth in wind energy in 2018
// **56 percent** of wind jobs (63k) are involved in manufacturing and construction.

ENERGY EFFICIENCY 2.3 MILLION JOBS

76,000
The number of new jobs added by energy efficiency companies in 2018—accounting for over half of all new energy jobs

7.4%
Expected job growth in 2019 by employers, the highest across the entire energy sector

1.4 M
The number of energy-efficiency jobs in construction

321,000
The number of manufacturing jobs in energy efficiency, an increase of 2 percent

1 in 3
More than one out of every three employees working in the energy sector (from traditional energy to motor vehicles) is involved in energy efficiency

1 in 4
In 2018, ENERGY STAR appliances employed more than 1 out of every 4 energy efficiency workers, largest category of employment

CLEAN JOBS AMERICA

3.26 MILLION CLEAN ENERGY JOBS: HOW DO THEY STACK UP?

3.04 M
That's the number of teachers in elementary, middle & secondary schools[6]

2.25 M
That's how many waiters & waitresses work in America's bars and restaurants[7]

211,000
The number of jobs in coal mines, gas fields and oil patches combined[8]

1.15 M
The number of jobs in the entire U.S. fossil fuel industry

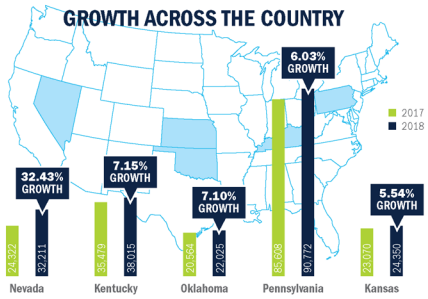
AMERICANS OVERWHELMINGLY WANT MORE CLEAN ENERGY

- More than **85 percent** of Americans–over two-thirds of Republicans (71%)–support requiring utilities in their state to produce 100 percent of electricity from clean energy sources by 2050.[9]
- Between 2013 and 2018, support for renewable energy research increased from 73 percent to **88 percent** among registered voters, including a 30 percent shift among conservative Republicans.
- A majority of Americans (58%) say they think policies to transition from fossil fuels to clean energy will improve economic growth and create new jobs.

WHY SUCH STRONG SUPPORT? CLEAN ENERGY = JOBS

- Wind technicians and solar installers are predicted to be the top two fastest-growing jobs over the next seven years.[10]
- The fastest-growing jobs in 12 states were in renewable energy in 2018.[11]
- 66 percent of new power capacity in 2019 is projected to come from solar, wind, other renewables, and battery storage.[12]

GROWTH ACROSS THE COUNTRY



CLOSER LOOK: CLEAN STORAGE[13]

Clean storage added almost 9,500 new jobs for a 14 percent growth rate in 2018.

Solar + storage broke records last year, in 2019…
- The record is projected to be broken yet again because of falling solar and battery prices and continuation of the federal ITC for solar.[14]

The U.S. is projected to regain its spot as the world's largest storage market…
- thanks to residential solar-storage, state incentives, and increased utility-scale storage due to increased market certainty.

Led by increase EV adoption and home installations, lithium-ion battery installations are projected to …
- increase by 800 percent from 2018-2022.[15]

HIGHWAYS
- More than 1 million EVs are on the road in America, with nearly 50,000 sold nationwide in December 2018 alone.[16]

HOMES
- 10x: Residential energy storage deployments led the way in 2018, growing tenfold from 2017 to 2018.[17]

MANUFACTURING JOBS
- Tesla's Gigafactory in Storey County near Reno, Nevada brought more than 7,000 jobs to the state in 2018 alone. That made Storey the top county in the nation for clean jobs per capita with more than 1,950 jobs per 1,000 residents, attracting workers and new residents from outside the county just to fill all the new jobs.[18]

CLEAN JOBS AMERICA

MORE CLEAN ENERGY = MORE CONSTRUCTION JOBS

More than 1 out of 6 of all U.S. construction jobs are in energy efficiency (17%)[19]

38.6%

Wind and solar account for nearly 2 out of every 5 construction jobs in the electric generation sector

Nearly 6 out of 10 of energy efficiency's 2.3 million employees work in construction (1.29 million)

2019 GROWTH

Expected construction of renewable energy projects accounts for the majority of the electric power generation sector's projected 7.1 percent job growth for 2019

CLEAN ENERGY INVESTING A TRILLION DOLLAR MARKET WAITING TO BE UNLEASHED

With the right support and policies, U.S. investors could turn clean energy into an economic powerhouse and unlock a market with near unlimited potential.

A TURNING POINT OPPORTUNITY:

FASTEST-GROWING

Renewable energy resources are now expected to be the fastest-growing source of U.S. electricity generation for at least the next two years, with growth forecasts of 10 percent in 2019 and 17 percent in 2020.[20]

18%

Roughly 18 percent of U.S. energy generation is now supplied by renewable sources, up from 11 percent in 2009.[21]

2035

By the year 2035, renewable energy is expected to become the world's ominant power source. And by 2050, renewables are expected to supply 75 percent of the world's energy.[22]

A GROWING MARKET:

$1 TRILLION

Financial institutions in the U.S. (including banks, asset managers, and private-equity firms) are expected to double planned investments in renewable energy, with the potential to mobilize $1 trillion in cumulative private capital by 2030.[23]

13.4 GW

Corporate contracts for clean energy technology more than doubled in 2018 to 13.4 GW (up from 6.1GW in 2017), totaling now more than 32 GW since 2008—the generation capacity of the Netherlands.[24]

60%

The U.S. is beginning to dominate a new global market, accounting for 60 percent of global corporate clean energy purchases in 2018.

GOOD JOBS FOR VETERANS:

Clean energy employs a greater percentage of veterans than most industries—including oil and gas. Percentage of veterans in the workforce of:

10%
WIND

9%
SOLAR PV

10%
ENERGY EFFICIENCY

8%
CONCENTRATED SOLAR POWER

6%
NATIONAL AVERAGE

6 to 9%
FOSSIL FUEL AND NUCLEAR

CLEAN JOBS AMERICA

ENDNOTES

1 Unless otherwise stated, the data and analyses presented in Clean Jobs America E2 (Environmental Entrepreneurs) are based on data collected for the 2019 U.S. Energy Employment Report (2019 USEER), produced by the Energy Futures Initiative (EFI) in partnership with the National Association of State Energy Officials (NASEO) and collected and analyzed by BW Research Partnership (BWRP). See Pages 9-13 for methodology questions. For more questions regarding methodology, visit https://www.e2.org/clean-jobs-america-faq.

2 https://www.energy.gov/eere/wind/downloads/2016-wind-technologies-market-report

3 https://www.eia.gov/todayinenergy/detail.php?id=37233

4 https://www.awea.org/wind-101/basics-of-wind-energy/wind-facts-at-a-glance

5 https://www.seia.org/solar-industry-research-data

6 https://www.bls.gov/iag/tgs/iag61.htm

7 https://www.bls.gov/iag/tgs/iag722.htm

8 By sector, fossil fuel jobs from electric power production are: coal (86,200), natural gas (43,500), advanced natural gas (69,100) and oil and petroleum (12,500).

9 http://climatecommunication.yale.edu/publications/energy-in-the-american-mind-december-2018/2/

10 https://www.bls.gov/emp/tables/fastest-growing-occupations.htm

11 http://www.projectionscentral.com/Projections/ShortTerm

12 https://www.eia.gov/todayinenergy/detail.php?id=37952

13 Clean Jobs America, 2017 USEER, 2018 USEER, 2019 USEER

14 https://www.greentechmedia.com/articles/read/five-predictions-for-the-global-energy-storage-market-in-2019#gs.FUHXYNmT

15 https://www.woodmac.com/reports/power-markets-the-future-of-lithium-ion-batteries-demand-technologies-and-investments-29646

16 http://www.edisonfoundation.net/iei/publications/Documents/IEI_EEI%20EV%20Forecast%20Report_Nov2018.pdf

17 https://www.woodmac.com/research/products/power-and-renewables/us-energy-storage-monitor

18 http://www.diversifynevada.com/wp-content/uploads/2018/12/2018-Tesla-Economic-Impact-Study.pdf

19 Share based on the Bureau of Labor Statistic's preliminary estimate for construction sector employment in December 2018 https://www.bls.gov/iag/tgs/iag23.htm

20 https://www.eia.gov/todayinenergy/detail.php?id=38053

21 http://www.bcse.org/factbook/#

22 https://www.mckinsey.com/industries/oil-and-gas/our-insights/global-energy-perspective-2019

23 https://www.greentechmedia.com/articles/read/global-renewable-energy-investment#gs.UtbXYdUa

24 https://about.bnef.com/blog/corporate-clean-energy-buying-surged-new-record-2018

PRESENTED BY:

E2 is a national, nonpartisan group of business leaders, investors and others who advocate for smart policies that are good for the environment and good for the economy.

Clean Jobs Count is a campaign to raise awareness of the economic importance of the clean economy. Visit www.cleanjobscount.org to join thousands of business leaders, workers and others to tell lawmakers and policymakers that clean jobs count.

THANKS TO SUPPORT FROM:

E2 wishes to express its appreciation to the **National Association of State Energy Officials** (NASEO), the **Energy Futures Initiative** (EFI) and **BW Research Partnership** ("BWRP") who made this report possible by producing the USEER and its underlying data.

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#CLEANJOBSCOUNT

Good for the Economy.
Good for the Environment.

February 6, 2023

Re: Legislative Hearing Titled: “Unleashing American Energy, Lowering Energy Costs, and Strengthening Supply Chains.”

Dear Representative:

The undersigned organizations write in opposition to five pieces of legislation. These draft bills are among other pieces of legislation being heard in the the Energy and Commerce Committee legislative hearing on Tuesday, February 7th. These bills are being labeled “critical minerals” bills, but the definition of the term “critical energy resources” means these bills could apply to virtually anything related to the energy sector, whether that is oil and gas, coal, petrochemicals or nuclear production, processing and refining.

H.R. __, To authorize the Administrator of the Environmental Protection Agency to waive application of certain requirements, sanctions, or fees, with respect to processing or refining of critical energy resources at a critical energy resource facility, and for other purposes: OPPOSE
The undersigned oppose the draft legislation authorizing the Environmental Protection Agency to waive the Clean Air Act (CAA) and Solid Waste Disposal Act (SWDA) requirements for waste produced by certain energy facilities. The CAA and SWDA protect human health and the environment from the hazards of industrial waste. The draft legislation would exempt certain energy facilities, potentially including everything from fracking wastewater to mine processing facilities and tailing sites to nuclear facilities, from provisions of the SWDA that are “necessary to protect human health and the environment” from hazardous waste. Exempting energy waste from these laws threatens the health of people in frontline communities, as well as our air and water. The waste from energy production are some of the most threatening products and sites, and often they exist for hundreds of years, even in perpetuity, which is part of the reason why the Superfund program is overwhelmed.

H.R. __, To amend the Toxic Substances Control Act with respect to critical energy resources, and for other purposes: OPPOSE
The undersigned oppose the draft legislation amending and undermining the Toxic Substances Control Act. Our organizations support clean energy that does not jeopardize human health and the environment. The draft legislation would short circuit the review and approval process for new chemicals used in the energy sector, whether that is for fracking, petrochemicals, mining or dozens of other products. This rushed and weak assessment, which would lead to default approvals, would result in the blind rubberstamping of chemicals for use in energy that have deleterious impacts on human health and the environment. Virtually any chemical that plays a role in the production, refining, distribution, and use of energy could be designated as “critical” by the Department of Energy.

H.R. __, To amend the Solid Waste Disposal Act to treat the owner or operator of a critical energy resource facility as having been issued an interim permit for the treatment, storage, or disposal of hazardous waste, and for other purposes: OPPOSE
The undersigned oppose the draft legislation regarding interim permitting for certain energy facilities. The draft legislation would exempt certain energy facilities from requirements to secure an interim permit before operating, instead allowing the facilities to operate before securing such a permit. The result could be the release of harmful pollutants into our air and water, threatening the environment and health of people in frontline communities. The facilities that could receive a permit without an accurate assessment of their impact include everything from radioactive waste to petrochemicals to fertilizer to mining waste, all extremely toxic industries.

H.R. __, 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: OPPOSE
The undersigned oppose the draft legislation regarding flexible permitting for certain energy facilities, allowing the Environmental Protection Agency (EPA) Administrator to circumvent the scientific process of approving or denying flexible air permitting at the agency. Doing so could potentially allow the EPA Administrator to increase air pollution from so-called "critical energy resource facilities," subsequently harming environmental and public health. As with the other pieces of legislation we oppose in this letter,a broad spectrum of facilities that emit toxic air pollution could evade scrutiny for health impacts, including processing and refining of oil and gas and coal products, minerals and fertilizers.

H.R. __, the "Securing America's Critical Minerals Supply Act.": OPPOSE
The undersigned oppose this draft legislation modifying the organization of the Department of Energy. The draft legislation is about far more than critical minerals, as it uses the definition of critical energy resource, which could apply to virtually anything pertaining to energy. It takes the authority on many issues and processes that are vital for the protection of communities, air, lands and water away from those who have the expertise in understanding the potential impacts of extraction and production, whether that is the Department of Interior (DOI) or Environmental Protection Agency (EPA). In doing so it makes the only metric for consideration economic, which would mean that communities, lands and waters would be sacrificed.

Sincerely,
Center for Biological Diversity
Earthjustice
Earthworks
Grand Canyon Trust
League of Conservation Voters
Oxfam America
Southern Utah Wilderness Alliance
The Wilderness Society

February 7, 2023

Statement for the Hearing "Unleashing American Energy, Lowering Energy Costs, and Strengthening Supply Chains" before the Subcommittee on Energy, Climate & Grid Security and Subcommittee on Environment, Manufacturing & Critical Materials

Dear Chairwoman McMorris Rogers and Ranking Member Pallone,

On behalf of the Natural Resources Defense Council, Toxic Free Future, Earthjustice, Environmental Defense Fund, League of Conservation Voters, Environmental Working Group, Center for Environmental Health, Breast Cancer Prevention Partners, Defend Our Health and Clean Water Action, we are writing to express our strong opposition to the draft bill, currently unnumbered and unsponsored, "To amend the Toxic Substances Control Act for critical energy resources, and for other purposes" which is one of the bills covered by today's legislative hearing. In just three short pages, the draft bill would reverse and eviscerate several of the core reforms to the Toxic Substances Control Act (TSCA) that passed the House and Senate with overwhelming bipartisan support just a few years ago.

The draft legislation would make it virtually impossible for EPA to meaningfully review the safety of new chemicals that are classified as "critical energy resources," regardless of their health risks. The bill promotes cursory assessments, followed by default approvals, of any new chemical that is deemed necessary for a "critical energy resource," no matter how toxic, how persistent, or how mobile in the environment.

The revisions would sacrifice the health and safety of the public – including children, workers, the elderly and fenceline communities – to expedite production of any potentially toxic chemical that the industry can persuade the Department of Energy, which is not charged with reviewing the health and safety of chemicals, to deem a 'critical energy resource.' We already know the limitless scope of what the chemical industry is likely to claim as "critical" based on their previous insistence that some of the most toxic chemicals in existence are "critical" for renewable energy or energy security, including PFAS,[1] asbestos,[2] and lead.[3]

Congress acknowledged TSCA's failure to address a host of dangerous chemicals including asbestos, TCE, methylene chloride and PFAS; and strengthened the law

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[1] ACC, *PFAS: Critical to Renewable Energy*, https://www.americanchemistry.com/chemistry-in-america/chemistries/fluorotechnology-per-and-polyfluoroalkyl-substances-pfas/pfas-critical-to-renewable-energy

[2] ACC, *ACC Urges EPA to Reconsider its Flawed Chlor-alkali Proposal*, https://www.americanchemistry.com/chemistry-in-america/news-trends/press-release/2022/acc-urges-epa-to-reconsider-its-flawed-chlor-alkali-proposal

[3] International Lead Association, *Using Lead Responsibly is Critical to Achieving a Sustainable and Low Carbon Future*, https://ila-lead.org/sustainability/)

seven years ago with near unanimous support; this draft bill would roll back those protections.

The draft bill would:

- Mandate that EPA's risk evaluation of chemicals, rather than continuing to focus on their potential health risks, must also include the consideration of all cost and other "non-risk factors" when evaluating whether the chemical substance poses an unreasonable risk (as opposed to basing safety determinations solely on risks to health or the environment). The prioritization of economic considerations over public health protection was the major flaw that stymied progress under the old TSCA, and Congress' deliberate shift to risk-based evaluations and decision-making was the fundamental reform that brought the law back to life after being rendered ineffective and badly in need of reform.

- Allow new chemicals to begin production before EPA has completed its determination whether they pose an unreasonable risk to human health or the environment. Because Congress wanted EPA to make an affirmative determination of safety for all new chemicals, TSCA explicitly provides that no new chemical can enter production until that determination has been made. The bill would completely reverse this policy.

- In addition to the newly added consideration of costs and any other non-risk factors to EPA's analysis, which will lengthen the time necessary for review, the bill simultaneously prevents EPA from extending the review period for chemicals designated "critical energy resources." The inevitable result will be rushed and superficial reviews that fail to identify risks to health and the environment or incomplete reviews that result in default approvals of unsafe chemicals. As we have seen over and over, when a toxic chemical begins manufacture without a thorough review by EPA, it is almost impossible to end its production, or retrospectively establish sufficient protections from the chemical to protect the public.

- Create a limitless loophole from TSCA's chemical assessment and health protection requirements. "Critical energy resource" is an open-ended and undefined concept that could apply to virtually any chemical that plays a role in the production, refining, distribution, and use of energy and is designated as "critical" by the Department of Energy. Once a substance is deemed to be a "critical energy resource" and therefore fast tracked through the PMN process, there is no limit on how the substance can then be used beyond its ostensible "critical energy resource" use and no constraint on non-energy applications that could be harmful to health and the environment.

The bill would establish a precedent for enacting further loopholes to gut the health protective provisions of the Act. If it is acceptable to gut health reviews of chemicals for "critical energy resources," what is the principle that will prevent other broad categories or uses of toxic chemicals from also getting special treatment under Section 5 of TSCA?

Notably missing from the draft bill are any findings demonstrating the need for the bill. In fact, there is no evidence that the public must sacrifice health protections from toxic chemicals in exchange for clean energy. We can develop and deploy new energy technologies without waiving chemical review requirements or placing the communities burdened by PFAS and other toxic chemicals at risk. The draft bill's rejection of that clean and health-protective energy future sells American innovation short.

Overwhelmingly, the public needs and wants more, not less, protection from toxic chemicals.[1] Yet the draft bill would roll back critical public health protections and weaken a core environmental law.

We look forward to speaking to all Members about the pernicious and dangerous nature of this legislation and working to prevent it from becoming law.

Daniel Rosenberg
Director of Federal Toxics Policy
Natural Resources Defense Council (NRDC)

Liz Hitchcock
Safer Chemicals Healthy Families Director
Toxic Free Future

Daniel Savery
Senior Legislative Representative
Earthjustice

Maria J. Doa, Ph.D
Senior Director, Chemicals Policy
Environmental Defense Fund

Madeleine Foote
Deputy Legislative Director
League of Conservation Voters

[1] University of California San Francisco Program on Reproductive Health and the Environment, *Public Opinion on Chemicals,* https://prhe.ucsf.edu/public-opinion-chemicals

Scott Faber
Senior VP, Government Affairs
Environmental Working Group

Arthur Bowman III, Ph.D
Policy Director
Center for Environmental Health

Nancy Buermeyer
Director of Program and Policy
Breast Cancer Prevention Partners

Sarah Woodbury
Director of Advocacy
Defend Our Health

Lynn Thorp
National Campaigns Director
Clean Water Action

Congress of the United States
Washington, DC 20510

January 25, 2023

The Honorable Michael S. Regan
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue NW
Washington, D.C. 20460

Dear Administrator Regan:

We write to express our appreciation and support for your agency's work to protect Americans from chemical disasters by issuing the Safer Communities by Chemical Accident Prevention proposed rule. As the Environmental Protection Agency (EPA) works to finalize the rule, we write to reiterate our earlier call for you to deliver the strongest possible protections for workers in Risk Management Program (RMP) facilities, first responders, and environmental justice communities who live near these facilities and are most vulnerable to the cumulative impacts of chemical exposure. As you know, the RMP, as conceived in Section 112 of the Clean Air Act, was intended as a tool to prevent chemical facility disasters but to date the program has been largely reactive. After the prior Administration rolled back safety measures that ignored both the statute's core prevention objectives and the facts showing a strong need for action to prevent chemical disasters, EPA is making the right decision to change course and follow the science and the law. With this new rulemaking, EPA has the opportunity to finally fulfill the promise of the Act by making the proposed improvements, and by further strengthening the rule to prevent chemical disasters from happening in the first place.

Recent chemical disasters have highlighted shortcomings in federal regulations that fail to sufficiently protect workers and communities living near hazardous chemical facilities. From 2004-2020, EPA found that industry reported a total of 3,425 incidents, and acknowledged both reporting delays and under-reporting.[1] This does not account for near-misses, and some of these events could have been much worse if not for highly trained workers acting to prevent a more disastrous outcome. For example, just earlier this year, a chemical fire at a facility in Passaic, New Jersey nearly reached a warehouse storing three million pounds of chemicals, including chlorine pellets.[2] Catastrophe was largely averted due to the efforts of roughly 200 firefighters who worked for three days to keep the fire contained while nearby residents sheltered in place.

As climate change continues to drive more frequent and intense severe weather, EPA must also do more to protect communities from the "double disasters" that result when chemical disasters

1 U.S. Environmental Protection Agency. (19 April, 2022). Technical Background Document for Notice of Proposed Rulemaking: Risk Management Programs Under the Clean Air Act, Section 112(r)(7) Safer Communities by Chemical Accident Prevention. Docket # EPA-HQ-OLEM-2022-0174.
https://www.regulations.gov/document/EPA-HQ-OLEM-2022-0174-0066

2 Coming Clean and Environmental Justice Health Alliance for Chemical Policy Reform. (2022.) Preventing Disaster: Three chemical incidents within two weeks show urgent need for stronger federal safety requirements.
https://comingcleaninc.org/assets/media/images/Reports/Preventing%20Disaster%20final.pdf

coincide with earthquakes and extreme weather events like hurricanes, floods, and wildfires. A February 2022 Government Accountability Office (GAO) report highlighted this need, finding that roughly a third of RMP facilities are at increased risk from climate impacts and that the current RMP rule does not adequately protect against these climate risks.[3]

We are encouraged by the steps that EPA has taken with this proposed rule toward protecting communities from the danger of chemical disasters, and we urge the agency to further strengthen the rule in several key ways. As many of us wrote to you in April of last year, the updated RMP rule should prioritize hazard reduction and prevention measures, including transitioning to inherently safer chemicals and processes and requiring third-party audits to verify compliance. However, the proposed rule excludes the vast majority (95%) of RMP facilities from the requirement to conduct a Safer Technologies and Alternatives Analysis (STAA), and in most cases only requires a third-party audit after two incidents have occurred. We encourage EPA to broadly require the transition to inherently safer chemicals and processes at RMP facilities, and to lower the threshold that prompts third-party compliance audits. In addition, given EPA's mandate to prioritize environmental justice established in E.O. 13990, "Protecting Public Health and the Environment and Restoring Science to Tackle the Climate Crisis," we urge the agency to require cumulative impact assessments as part of stationary source siting evaluations in the final rule.

To further ensure adequate protections for the millions of Americans that live near RMP facilities, the final rule should improve requirements for outreach to inform the public about RMP facility hazards and emergency response plans before and during incidental releases, and require that this information be made available in multiple languages. To foster information access and transparency, EPA should maintain a publicly accessible RMP database and commit to delivering that database on the fastest possible timeline.

To adequately recognize and protect chemical facility workers and their unions as key partners in incident prevention, the final rule should: expand the conditions in which workers and their representatives are granted stop work authority; ensure that authority extends to workers in all RMP facilities regardless of program level; clarify and require safety reporting that better protects workers' anonymity; allow workers and their representatives to be meaningfully involved in all elements of the rule; require employers to provide workers information and training about the rule and to develop a written program to ensure there is no retaliation against employees for using their rights to prevent a chemical disaster.

Lastly, we commend the EPA for taking steps to recognize climate change as a threat multiplier and proposing important requirements to assess and plan for natural hazards and power loss. We encourage EPA to strengthen these provisions by also requiring implementation of mitigation measures to prevent these climate-related "double disasters", as emphasized in the GAO's February 2022 report. Additionally, the proposed rule does not require real-time air fenceline monitoring, leak detection, nor full facility back-up power, and would be strengthened by each of these requirements. We also note concerns about air monitoring and control equipment being removed from service before extreme weather events, as occurred during Hurricane Harvey,

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3 United States Government Accountability Office. (2022, February). Chemical Accident Prevention: EPA Should Ensure Regulated Facilities Consider Risks from Climate Change. https://www.gao.gov/products/gao-22-104494.

which leaves community members and regulators in the dark as to the full extent of air pollution and chemical disasters that may be exacerbated by extreme weather and/or power loss. The final rule can be strengthened by requiring penalties for intentionally removing air monitoring and control equipment from service, including before extreme weather events.

Thank you for your ongoing work on this and other environmental justice issues. We look forward to continuing to work with you to ensure that the communities we represent, and those across the country, are protected from the danger of chemical disasters by a truly preventative Risk Management Program.

Sincerely,

Cory A. Booker
United States Senator

Nanette Diaz Barragán
Member of Congress

Thomas R. Carper
United States Senator

Lisa Blunt Rochester
Member of Congress

Tammy Baldwin
United States Senator

Suzanne Bonamici
Member of Congress

Benjamin L. Cardin
United States Senator

Tony Cárdenas
Member of Congress

Tammy Duckworth
United States Senator

André Carson
Member of Congress

Richard J. Durbin
United States Senator

Steve Cohen
Member of Congress

Dianne Feinstein
United States Senator

Mark DeSaulnier
Member of Congress

Edward J. Markey
United States Senator

Debbie Dingell
Member of Congress

Robert Menendez
United States Senator

Adriano Espaillat
Member of Congress

Jeffrey A. Merkley
United States Senator

John Garamendi
Member of Congress

Alex Padilla
United States Senator

Robert Garcia
Member of Congress

Bernard Sanders
United States Senator

Raúl M. Grijalva
Member of Congress

Chris Van Hollen
United States Senator

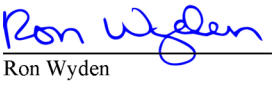
Val Hoyle
Member of Congress

Elizabeth Warren
United States Senator

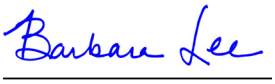
Jared Huffman
Member of Congress

Sheldon Whitehouse
United States Senator

Ro Khanna
Member of Congress

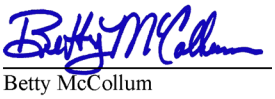


Ron Wyden
United States Senator

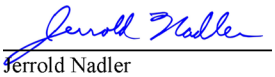


Barbara Lee
Member of Congress

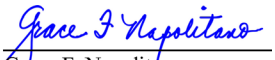
Doris Matsui
Member of Congress



Betty McCollum
Member of Congress

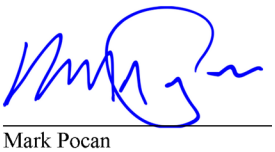


Jerrold Nadler
Member of Congress



Grace F. Napolitano
Member of Congress

Eleanor Holmes Norton
Member of Congress



Mark Pocan
Member of Congress

Jamie Raskin
Member of Congress

Mary Gay Scanlon
Member of Congress

Adam Smith
Member of Congress

Melanie Stansbury
Member of Congress

Haley M. Stevens
Member of Congress

Dina Titus
Member of Congress

Rashida Tlaib
Member of Congress

Jill Tokuda
Member of Congress

Paul D. Tonko
Member of Congress

Maxine Waters
Member of Congress

Bonnie Watson Coleman
Member of Congress

February 7, 2023

The Honorable Cathy McMorris Rodgers
Chair
Committee on Energy and Commerce
2125 Rayburn House Office Building
Washington, D.C. 20515

The Honorable Frank Pallone, Jr.
Ranking Member
Committee on Energy and Commerce
2125 Rayburn House Office Building
Washington, D.C. 20515

The Honorable Bill Johnson
Chair
Subcommittee on Environment,
Manufacturing, and Critical Materials
2125 Rayburn House Office Building
Washington, D.C. 20515

The Honorable Paul Tonko
Ranking Member
Subcommittee on Environment,
Manufacturing, and Critical Materials
2125 Rayburn House Office Building
Washington, D.C. 20515

The Honorable Jeff Duncan
Chair
Subcommittee on Energy, Climate,
and Grid Security
2125 Rayburn House Office Building
Washington, D.C. 20515

The Honorable Diana DeGette
Ranking Member
Subcommittee on Energy, Climate,
and Grid Security
2125 Rayburn House Office Building
Washington, D.C. 20515

Dear Chairs Rodgers, Johnson, and Duncan, and Ranking Members Pallone, Tonko, and DeGette:

We, the undersigned, write to express our strong opposition to legislation that would repeal Section 134 of the Clean Air Act, otherwise known as the Greenhouse Gas Reduction Fund (GHGRF), and to urge Members of the Committee on Energy and Commerce to join us in opposing such legislation.

The Inflation Reduction Act of 2022 amended the Clean Air Act to establish the GHGRF, a $27 billion first-of-its-kind program to support the rapid deployment of low- and zero-emission technologies. The program is split between a $20 billion green finance program, through which nonprofit entities will leverage private capital to fill gaps in access to green finance that have long persisted, and a $7 billion program to assist states, local governments, and Tribes in deploying zero-emission technologies in low-income and disadvantaged communities. Together,

these two funding streams will ensure that all communities – particularly the most underserved and marginalized communities – can benefit from the transition to a low-carbon economy.

The GHGRF is a critical tool for combatting the climate crisis, lowering energy costs, and advancing environmental justice. This program has unprecedented potential to improve lives by investing in high-impact, community-based projects that reduce climate pollution and improve public health. Importantly, at least $15 billion of GHGRF investments – more than 55 percent of overall program funding – will be dedicated to projects in low-income and disadvantaged communities that have long been overlooked by financial markets. These communities contribute the least to climate change, yet they are hit hardest by the economic and public health impacts of a warming world. The GHGRF will not only help these communities deploy clean energy technologies and enhance their resilience to climate change, but it will also spur local and regional job creation, as well as enable wealth-building and community ownership of clean energy projects.

The GHGRF promises to play a unique and vital role filling gaps in access to green capital. By statute, the GHGRF's $20 billion green finance program is required to support projects that otherwise lack access to capital. In other words, it will not duplicate investments currently being made elsewhere – by the public or private sector – but will instead be complementary and spur investment where it is needed most.

Moreover, the GHGRF does not seek to reinvent the wheel. Rather, its green finance program builds on the successful model and track record of green banks and community-based lenders like community development financial institutions (CDFIs) and credit unions that have expanded access to green capital in states, cities, and regions – and, in particular, in environmental justice communities. Similarly, the GHGRF's $7 billion program to deploy zero-emission technologies through states, local governments, and Tribes will ensure that clean energy solutions are tailored to a given jurisdiction's geographic, market, and regulatory needs.

With a one-time infusion of public dollars, the GHGRF will supercharge the deployment of green capital and accelerate the transition to an equitable clean energy future. All told, the GHGRF is expected to catalyze far more than $27 billion in pollution-reducing investments, making it a key part of our efforts to build a more inclusive and more affordable low-carbon economy. We urge Members of Congress and this Committee to recognize the GHGRF's vast potential to deliver benefits for everyone and to oppose efforts to undermine this program before it even has the chance to yield results. Thank you for your consideration.

Sincerely,

Earthjustice
Environmental Defense Fund
Evergreen Action
League of Conservation Voters
Natural Resources Defense Council
Sierra Club
WE ACT for Environmental Justice

House Committee on Energy and Commerce

February 7, 2023, Joint Hearing of the
Subcommittee on Energy, Climate, and Grid Security and the
Subcommittee on Environment, Manufacturing, and Critical Materials

"Unleashing American Energy, Lowering Energy Costs, and Strengthening Supply Chains"

Responses to Submitted Questions for the Record

Mark W. Menezes

Former Deputy Secretary, Department of Energy
Former Chief Counsel, Energy and Environment, House Committee on Energy and Commerce

Griffith question:

Is distributing grants to lending institutions a core purpose of the Clean Air Act?

Answer: The "core purpose" of the Clean Air Act is to protect our Nation's air quality through the development, implementation and enforcement of emission prevention and control standards, not distributing grants to lending institutions. In fact, in the Clean Air Act, Congress made clear that implementation of the Act is the primary responsibility of the States and local governments, not EPA. To help the States and local governments achieve the goal of air pollution prevention and control, Congress authorized the EPA to provide both technical and financial assistance to air pollution control agencies to develop and execute their air pollution prevention and control programs. To my knowledge, EPA has not made these financial grants available to lending institutions.

Allen question:

Can you give me a list of actions taken by the Biden Administration that has made the U.S. more reliant on foreign energy and has decreased U.S. domestic energy production?

Answer: The list of actions taken to curtail domestic energy production has been widely reported to include cancelling or placing moratoria on onshore and offshore leases, taking federal lands out of production, and the like. A few actions that might not be as obvious are delaying the issuance of permits on necessary energy infrastructure projects, issuing GHG guidance to federal agencies to use the social cost of carbon under NEPA, minimizing the use of categorical exceptions under NEPA, withdrawing federal support of interstate pipelines to move shale oil and gas to New England to replace foreign imports, and asking OPEC countries to increase production for America rather than ask American producers to fill the gap caused by Putin's invasion of Ukraine.

Miller-Meeks question:

As we think about global competitiveness in the context of critical materials, and as we discuss legislation related to this topic how can we continue to build off of exiting efforts to support our nation's energy supply, while also recycling and reusing minerals that have been discarded in technologies such as unused hard drives electronic devices, and others?

Answer: Today, the US finds itself dependent on other countries, especially China, for many critical minerals and materials necessary for the technologies necessary in the daily lives of all Americans and in the component parts of our energy infrastructure, particularly in electric vehicles and renewable energy. The US is not a global leader or even a global competitor in producing or supplying these critical minerals or materials. Since it will take some time to develop our own sources or discover or create replacements, recycling and reuse of discarded devices is an important component in our pathway to competitiveness. As you mentioned, the Ames Laboratory leads our nation's Critical Materials Institute, which I had the distinct honor to

visit when I was then Under Secretary of Energy. The CMI is doing innovative, groundbreaking work on recovering lithium, cobalt, platinum—a growing number of critical minerals and materials—through a growing number of processes.

Any legislation to address this need to recycle and reuse should consider enlarging the Department of Energy's role in ensuring and adequate and reliable supply of critical energy resources that are essential to the energy security of the US under the DOE Organization Act. That statutory priority will ensure the necessary resources and the continued leadership of the CMI's role to accelerate the discovery of new materials and more cost-effective and efficient ways to recycle and reuse discarded materials. Additionally, legislation could include inducements to encourage Americans to collect, transport, process and recycle, including rebates, tax incentives, and educational support.

Burgess question:

1. Can you speak to the beneficial environmental impact of pipelines as compared to other forms of energy transportation?

Answer: Pipelines are the most efficient transport of oil, refined products, natural gas, and industrial gases from production to processing to end-users. Unlike other forms of transportation with congestion and bottleneck logistics and being prone to frequent accidents, pipelines provide a safe, uninterrupted supply of gases and liquids necessary for our vibrant economy. The environmental impacts of pipelines are several including fewer spills or discharges, small above-ground footprint, and lower amounts of energy to transport large volumes of energy and supplies.

2. What role can Congress play in creating a resilient and diverse baseload generation ecosystem?

Answer: Congress can play an important role in creating such an ecosystem in several ways. Congress can pass your legislation to improve the permitting process for natural gas pipelines. Today, most new generation being placed in service is natural gas and renewables. Both complement one another as natural gas plants ramp up and down to accommodate the intermittency of wind and solar. However, NERC is warning that we need to have more access to natural gas in order to have natural gas generation available to provide replacement power.

In addition, in my view, Congress should mandate FERC to develop market rules that send adequate price signals for the development of fuel-secure, low-emitting generation sources like nuclear, natural gas, clean coal, and pumped storage hydro. Until we develop breakthrough technologies for reliable battery storage, we will continue to need all sources of generation to make our electric system reliable, affordable and resilient.

Congress should also provide parity incentives to natural gas, clean coal and other low-emitting energy sources as Congress provided to other fuel resources in the Inflation Reduction Act. The world needs to reduce emissions, not become vulnerable to energy outages due to an over dependency on few intermittent sources of generation.

House Committee on Energy and Commerce

February 7, 2023, Joint Hearing of the
Subcommittee on Energy, Climate, and Grid Security and the
Subcommittee on Environment, Manufacturing, and Critical Materials

"Unleashing American Energy, Lowering Energy Costs, and Strengthening Supply Chains"

Responses to Submitted Questions for the Record

Katie Sweeney

Executive Vice President and General Counsel, National Mining Association

The Honorable Rick W. Allen

1. **Permitting is a primary hindrance to securing our mineral supply chains. Can you describe another key hinderance – a qualified and robust mining workforce?**
    a. **How can we support our workforce to ensure we have the tools and the women and men necessary to achieve our energy and security objectives?**

Sweeney Response: A strong domestic mining workforce is critical to the success of American economic competitiveness, national security, and emissions reductions for our current and future generations. Unfortunately, nearly all mining company have highlighted worker shortages and trouble with recruiting enough qualified and skilled workers as an issue affecting their business. This is in both skilled trades and also professional occupations like engineers, geoscientists, and metallurgists. In addition, the industry is experiencing increasing labor shortages due to retirements, with increasing numbers of workers nearing retirement age.

Modern mining is a people first industry that supports the communities where we live and work. Mining depends on a 21st century workforce to drive innovation while continuing to prioritize health and safety and working to reduce environmental impacts. To do this, we must recruit, educate, train, and develop tomorrow's workforce today, giving them the tools they will need to meet the challenge head on.

Coordinated federal, state, local, and industry efforts are needed to address this issue and invest in the mining workforce. The National Mining Association strongly supports federal actions to support the recruitment and training of a robust domestic mining workforce, specifically:

- The bipartisan and bicameral Mining School Act, which directs the Department of Energy, in coordination with the Department of the Interior, to establish a competitive grant program for mining schools to support recruitment and education opportunities for engineers and other qualified professionals in the field of mining.

- The Consolidated Appropriations Act of 2021 authorized DOE under Section 7002(K) to promote a secure and robust critical minerals supply chain by requiring the Secretary of Labor and the Director of the National Science Foundation to develop curriculum and an interdisciplinary program for institutions of higher education to strengthen the workforce for exploration and development of critical minerals and critical minerals manufacturing. The program will be designed to support the critical mineral supply chain and improve the ability of the United States to increase domestic, critical mineral exploration, development, production, manufacturing, research, including fundamental research into alternatives, and recycling.
    - To date, no funding has been appropriated for these activities. NMA encourages Congress to support these activities and fully funding the authorized amount under Sec. 7002(K) at $50 million annually through FY 2029.

The Honorable Mariannette Miller-Meeks, M.D.

The draft bill "to prohibit the importation into the United States of unirradiated low-enriched uranium that is produced in the Russian Federation, and for other purposes" currently includes waiver authority until January 2028, meaning that

the Secretary of Energy can authorize imports to sustain U.S. nuclear reactors or operations, or if it is in the national interest. In January 2028, imports of low-enriched uranium from Russia will no longer be allowed under any circumstances. I agree that importing uranium from Russia even in select circumstances needs to be limited, but Mrs. Sweeney, I am interested to get your thoughts on 2028 as the cutoff point.

1. **Would you say waiver authority until January 2028 is reasonable, or does this timeline need to be adjusted?**

   Sweeney Response: Our uranium import dependence is a case study in how our vital domestic minerals supply chains have atrophied to levels that result in a dire national security risk. The U.S. is home to the world's largest fleet of nuclear power plants, significant uranium reserves, and yet we import virtually all of the uranium we use – half of which comes from Russia, Kazakhstan and Uzbekistan. Aggressive action must be taken to address this vulnerability and immediately reinvest in American-sourced, essential mined materials produced under world-leading environmental and labor standards.

   As we continue to rely on Russia's artificially low-priced uranium to supply U.S. commercial reactors, domestic uranium production and employment are at levels not seen since the dawn of the nuclear industry in the 1940s. The Prohibiting Russian Uranium Imports Act (H.R. 1042) is a lifeline providing needed certainty to supply chains in the future, however, given the precarious state of the front-end of America's nuclear fuel cycle, it is urgent that Congress and the Department of Energy take immediate action to support and fully fund the Strategic Uranium Reserve. This reserve will ensure the availability of nuclear fuel in the very likely event of a market disruption. Further, it will preserve our uranium production capabilities and provide a means to supply the U.S.-origin uranium required for defense programs, which currently rely on stockpiles that are finite and diminishing.

2. **What actions would Congress need to take to prepare for an end to all imports of Russian LEU by January 2028?**

   Sweeney Response: Congress must fully fund the Strategic Uranium Reserve, as recommended by the U.S. Nuclear Fuel Working Group and originally proposed by the Department of Energy's Office of Nuclear Energy to address our nation's overreliance on imported uranium that has undermined energy security and impacted fuel supply capabilities. The time to act is now while we still have the infrastructure and licensed capacity in place to begin supplying the uranium reserve, capabilities, and human resources that would take decades and enormous financial commitments to rebuild if lost.

3. **What means at the federal level would be needed for the U.S. to withstand a ban on all imports of Russian LEU *even earlier* than January 2028?**

   Sweeney Response: Continued funding of $150,000,000 annually to support the Strategic Uranium Reserve will support the uranium mining and conversion industries, further ensuring that energy and national security supply chains will not be impacted by the loss of Russian uranium imports.

Bernard L. McNamee
[redacted]

March 15, 2023

Kaitlyn Peterson
Legislative Clerk
Committee on Energy and Commerce,
2125 Rayburn House Office Building
Washington, D.C. 20515
Kaitlyn.Peterson@mail.house.gov.

Re: Responses of Bernard L. McNamee to Question for the Record made on March 2, 2023 in relation to appearance on February 7, 2023

Dear Ms. Peterson:

Thank you to Chair Rodgers and Ranking Member Pallone, Chair Duncan and Ranking member DeGette, Chair Johnson and Ranking Member Tonko, the Members of the Committee, and Committee Staff for providing me an opportunity to appear before the Subcommittee on Environment, Manufacturing, and Critical Materials and Subcommittee on Energy, Climate, and Grid Security on Tuesday, February 7, 2023, and to testify at the joint legislative hearing entitled "Unleashing American Energy, Lowering Energy Costs, and Strengthening Supply Chains."

Below are my responses to the QFRs posed by Representatives Griffith and Miller-Meeks.

The Honorable H. Morgan Griffith

1. **I am certainly supportive of energy infrastructure permitting efficiencies such as the interagency pipeline review bill this Committee is considering. It is my understanding that, under the National Environmental Policy Act, the Natural Gas Act, and specifically Title 18 of the Code of Federal Regulations Sec. 380.15, FERC should consider the siting of projects in existing right-of-way. In your experience as a FERC commissioner, does the Commission give due consideration to existing rights-of-way on these applications and in pre-filing discussions?**

McNamee Response Morgan Q1: It has been over two years since I served on the Federal Energy Regulatory Commission ("FERC" or "Commission") and I will not comment on any specific proceeding in which I participated. Furthermore, I cannot testify with personal knowledge as to how FERC reviews have taking place since my term ended. However, I am able to provide a general description of how applications for natural gas pipeline certificates are reviewed by FERC.

There are multiple steps and checks on the Commission when considering an application for a natural gas pipeline. The process for approving a natural gas pipeline under Section 7 of the Natural Gas Act usually begins with the pre-filing process in which an applicant will engage with Commission Staff (primarily the Office of Energy Projects) regarding the proposed pipeline. This provides an opportunity for the applicant and staff to discuss routing issues, including potential use of existing rights-of-way. With the development of either an Environmental Assessment or an Environmental Impact Statement impacts of the propose pipeline on the route are examined. The EA and EIS are initially published as drafts and subject to public comment and are often revised in consideration of those comments. Such comments can also raise issues of rights-of-way. When FERC considers whether to approve a pipeline under section 7 of the NGA, it considers the environmental impacts of the proposed pipeline. Parties can file comments on the proposed pipeline application, including about the rights-of-way. The Commission is supposed to address all of the comments filed in relation to the proposed application for the pipeline, including if rights-of-way issues are raised. The Commission's decisions are ultimately subject to rehearing by the Commission and review by the courts. A simple flow chart of the FERC process is presented on FERC's website.[1]

As a general matter, I believe there are there are likely times where the evidence supports and does not support using the existing rights of way. Those decisions should be driven by the particular facts of the case. But the process should promote the proper consideration of rights-of-way.

2. **How does FERC independently assess and verify multiple projects from different applicants, make use of single rights-of-way? Even if only for a short portion of the project route.**

McNamee Response Morgan Q2: As discussed above, it has been over two years since I served on the Federal Energy Regulatory Commission ("FERC" or "Commission") and I will not comment on any specific proceeding in which I participated. Furthermore, I cannot testify with personal knowledge as to how FERC reviews have taking place since my term ended. However, I surmise that the process described in McNamee Response Morgan Q1 would help ensure that such use of rights of way by multiple projects was utilized as appropriate.

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[1] FERC, Natural Gas Certificate Process, https://www ferc.gov/sites/default/files/2020-04/FERCNaturalGasCertificateProcess.pdf (accessed March 13, 2023)

The Honorable Mariannette Mill-Meeks, M.D.

While I do not represent a district on the east coast, I was struck last May by a top U.S. fuel pipeline operator, Colonial Pipeline, shutting its entire network after a cyber attack that involved ransomware. Colonial is the source of nearly half of the U.S. East Coast's fuel supply, and the incident is a prime example of how vulnerable U.S. energy infrastructure is to hackers. I am fully aware of the consequences of a cyberattack t energy infrastructure in my district.[citation omitted]

1. What sort of actions can Congress take to reduce the vulnerability of domestic pipelines and electric infrastructure to cyber-attacks?

McNamee Response Mill-Meeks Q1: The threats from foreign adversaries and non-state actors on American energy infrastructure are real and continue to grow.[2]

Background on current efforts to protect energy infrastructure from cyberattacks.

The federal government has multiple agencies and initiatives working on assisting the private sector protect energy infrastructure. These agencies include, the Department of Energy's Office of Cybersecurity, Energy Security, and Emergency Response (CESER) and the Department of Homeland Security.

As discussed on the Department of Energy's CESER website these initiatives include:

> Industry partners include the Electricity Subsector Coordinating Council (ESCC), the Electricity Information Sharing and Analysis Center (E-ISAC), the Oil and Natural Gas Subsector Coordinating Council, and industry-led research partnerships. Federal partners include DHS via the Industrial Control Systems Cyber Emergency Response Team (ICS-CERT), Science & Technology, and the National Cybersecurity and Communications Integration Center (NCCIC); NIST Smart Grid Interoperability Panel (SGIP); DARPA; DOD and others. In particular, CESER is a member of the Networking and Information Technology Research and Development (NITRD) program that provides a forum for inter-agency coordination of networking and information technology research activities.[3]

In addition, "[t]he Cybersecurity and Infrastructure Security Agency (CISA), through the National Risk Management Center (NRMC), is working with government and industry

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[2] U.S. Department of Energy, "Securing America's Energy Infrastructure from Cyber Threats", July 26, 2021 https://www.energy.gov/articles/securing-americas-energy-infrastructure-cyber-threats (accessed March 11, 2023);
[3] U.S. Department of Energy, Office of Cybersecurity, Energy Security, and Emergency Response, Cybersecurity, https://www.energy.gov/ceser/cybersecurity (accessed March 11, 2023)

partners to identify cybersecurity risks and develop strategies to strengthen the security and resilience of the Nation's pipeline infrastructure."[4]

DHS's Transportation Security Administration (TSA) revised and reissued its Security Directive regarding oil and natural gas pipeline cybersecurity in July 2022.[5]

Under the Energy Policy Act of 2005, FERC oversees the reliability of the bulk power system (a/k/a "the electric grid"). Under this authority FERC has approved mandatory cybersecurity reliability standards. These standards are developed with the assistance of the North American Electric Reliability Corporation (NERC). These standards are referred to as Critical Infrastructure Protection (CIP) cyber security reliability standards.[6]

My thoughts and recommendations:

The issue with protecting America's energy infrastructure from cybersecurity threats is not merely one of needing more government regulation or standards on the private sector (though such standards can help). Securing our energy infrastructure requires: 1) ongoing vigilance and investment by the private sector to protect assets; 2) government and the private sector sharing threat information with each other on a continual and timely basis; 3) not sourcing critical components (such as chips, switches, and transformers) from hostile nations, like China, and instead obtain such critical technology from American companies and our allies; and 4) establishing a new national security policy (with the resources and personnel to support it) that will make it clear to adversaries that the U.S. government/military will impose economic sanctions and military retaliation for cyber or physical attacks on American energy infrastructure as the situation merits.

Once again, thank you for allowing me to participate in the Committee's important work on behalf of the American people.

Sincerely,

/s/

Bernard L. McNamee

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[4] Cybersecurity and Infrastructure Security Agency, Pipeline Cybersecurity, https://www.cisa.gov/sites/default/files/publications/fact_sheet_pci_508.pdf (accessed March 11, 2023)
[5] Transportation Safety Administration, TSA revises and reissues cybersecurity requirements for pipeline owners and operators, July 21, 2022, https://www.tsa.gov/news/press/releases/2022/07/21/tsa-revises-and-reissues-cybersecurity-requirements-pipeline-owners (accessed March 11, 2023)
[6] FERC, Cyber and Grid Security, https://www.ferc.gov/industries-data/electric/industry-activities/cyber-and-grid-security (accessed March 11, 2023)

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