

RESEARCHING EFFICIENT FEDERAL IMPROVEMENTS FOR
NECESSARY ENERGY REFINING ACT

MARCH 23, 2023.—Committed to the Committee of the Whole House on the State
of the Union and ordered to be printed

Mrs. RODGERS of Washington, from the Committee on Energy and
Commerce, submitted the following

R E P O R T

together with

MINORITY VIEWS

[To accompany H.R. 1085]

The Committee on Energy and Commerce, to whom was referred the bill (H.R. 1085) 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, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

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PURPOSE AND SUMMARY

The bill requires the Secretary of Energy to direct the National Petroleum Council to issue a report on petrochemical refineries in the United States.

BACKGROUND AND NEED FOR LEGISLATION

Refineries play a key role in United States energy security by converting crude oil into petroleum products. The International Energy Agency characterizes petrochemicals as “part of the fabric of our societies.” Our daily lives depend on petroleum products across the energy system from transportation fuels to electricity generation to chemical feedstocks.

The U.S. Energy Information Administration (EIA) reported that from 2020 to 2022, refining capacity in the United States decreased by more than one million barrels of fuel per day. Over the same time period, the American Fuel and Petrochemical Manufacturers referenced that the number of operable petroleum refineries dropped from 135 to 128 refineries. As of March 3, 2023, domestic refineries were running at 86.0% utilization of refinery operable capacity. EIA projects that United States refinery utilization will average 90.8% in 2023.

Several comments by members of the Biden Administration have sent mixed or negative messages about the future for the refining industry. For example, President Biden called on refineries to “take immediate actions to increase the supply of gasoline, diesel, and other refined products,” while simultaneously criticizing refineries that “refinery profit margins well above normal being passed directly onto American families are not acceptable.” Given that refineries are already operating at near maximum capacity, policy signals from the Biden Administration that adversely influence investment certainty are problematic.

Studying refining capacity would allow the federal government to better understand how to increase refining capacity in the United States, thereby unleashing American energy and lowering gasoline prices. The most recent report by the National Petroleum Council on refining was published in 2004, so it is well past time to analyze domestic refining capacity and corresponding challenges.

COMMITTEE ACTION

On February 7, 2023, the Subcommittees on Energy, Climate, and Grid Security and Environment, Manufacturing and Critical Materials held a joint hearing entitled, “Unleashing American Energy, Lowering Energy Costs, and Strengthening Supply Chains,” on 17 pieces of legislation, including H.R. 1085. The Subcommittees received testimony from:

- The Honorable Mark Menezes, Former United States Deputy Secretary of Energy, Department of Energy;
- The Honorable Bernard McNamee, Former Commissioner, Federal Energy Regulatory Commission;
- Jeffrey Eshelman, II, President and Chief Executive Officer, Independent Petroleum Association of America;
- Katie Sweeney, Executive Vice President and Chief Operating Officer, National Mining Association;

- Raul Garcia, Legislative Director for Healthy Communities, Earthjustice; and
- Tyson Slocum, Director of the Energy Program, Public Citizen.

On February 28, 2023, the Subcommittee on Energy, Climate, and Grid Security met in open markup session and forwarded H.R. 1085, without amendment, to the full Committee by a record vote of 17 yeas and 11 nays. On March 9, the full Committee on Energy and Commerce met in open markup session and ordered H.R. 1085 favorably reported to the House by a record vote of 31 yeas and 18 nays.

COMMITTEE VOTES

Clause 3(b) of rule XIII requires the Committee to list the record votes on the motion to report legislation and amendments thereto. The following reflects the record votes taken during the Committee consideration:

**COMMITTEE ON ENERGY AND COMMERCE
118TH CONGRESS
ROLL CALL VOTE # 8**

BILL: H.R. 1085, Researching Efficient Federal Improvements for Necessary Energy Refining (REFINER) Act

AMENDMENT: A motion by Mrs. Rodgers to order H.R. 1085 favorably reported to the House, without amendment (Final Passage).

DISPOSITION: **AGREED TO**, by a roll call vote of 30 yeas and 18 nays.

REPRESENTATIVE	YEAS	NAYS	PRESENT	REPRESENTATIVE	YEAS	NAYS	PRESENT
Rep. Rodgers	X			Rep. Pallone		X	
Rep. Burgess	X			Rep. Eshoo		X	
Rep. Latta	X			Rep. DeGette		X	
Rep. Guthrie	X			Rep. Schakowsky		X	
Rep. Griffith	X			Rep. Matsui		X	
Rep. Bilirakis	X			Rep. Castor		X	
Rep. Johnson	X			Rep. Sarbanes		X	
Rep. Bucshon	X			Rep. Tonko		X	
Rep. Hudson	X			Rep. Clarke		X	
Rep. Walberg	X			Rep. Cárdenas		X	
Rep. Carter	X			Rep. Ruiz		X	
Rep. Duncan	X			Rep. Peters		X	
Rep. Palmer	X			Rep. Dingell		X	
Rep. Dunn	X			Rep. Veasey	X		
Rep. Curtis	X			Rep. Kuster		X	
Rep. Lesko	X			Rep. Kelly		X	
Rep. Pence	X			Rep. Barragán		X	
Rep. Crenshaw	X			Rep. Blunt Rochester			
Rep. Joyce	X			Rep. Soto		X	
Rep. Armstrong	X			Rep. Craig		X	
Rep. Weber	X			Rep. Schrier			
Rep. Allen	X			Rep. Trahan			
Rep. Balderson	X			Rep. Fletcher	X		
Rep. Fulcher	X						
Rep. Pfluger	X						
Rep. Harshbarger	X						
Rep. Miller-Meeks	X						
Rep. Cammack							
Rep. Obernolte	X						

03/09/2023

OVERSIGHT FINDINGS AND RECOMMENDATIONS

Pursuant to clause 2(b)(1) of rule X and clause 3(c)(1) of rule XIII, the Committee held hearings and made findings that are reflected in this report.

NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY, AND TAX EXPENDITURES

Pursuant to clause 3(c)(2) of rule XIII, the Committee finds that H.R. 1085 would result in no new or increased budget authority, entitlement authority, or tax expenditures or revenues.

CONGRESSIONAL BUDGET OFFICE ESTIMATE

Pursuant to clause 3(c)(3) of rule XIII, at the time this report was filed, the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974 was not available.

FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act.

STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

Pursuant to clause 3(c)(4) of rule XIII, the general performance goal or objective of this legislation is to increase American energy production and restore energy leadership by requiring the Secretary of Energy to direct the National Petroleum Council to issue a report on petrochemical refineries in the United States.

DUPLICATION OF FEDERAL PROGRAMS

Pursuant to clause 3(c)(5) of rule XIII, no provision of H.R. 1085 is known to be duplicative of another Federal program, including any program that was included in a report to Congress pursuant to section 21 of Public Law 111–139 or the most recent Catalog of Federal Domestic Assistance.

RELATED COMMITTEE AND SUBCOMMITTEE HEARINGS

Pursuant to clause 3(c)(6) of rule XIII, (1) the following hearings were used to develop or consider H.R. 1085:

On January 31, 2023, the Committee on Energy and Commerce held a hearing entitled, “American Energy Expansion: Strengthening Economic, Environmental, and National Security.” The Committee received testimony from:

- The Honorable Mark Menezes, Former United States Deputy Secretary of Energy, Department of Energy;
- The Honorable Paul Dabbar, Former Under Secretary of Energy, Department of Energy;
- Robert McNalley, President, Rapidan Energy Group, LLC;
- Donna Jackson, Director of Membership Development—National Center for Public Policy Research, Project 21; and
- Ana Unruh Cohen, Former Majority Staff Director, U.S. House Select Committee on the Climate Crisis.

On February 16, 2023, the Subcommittee on Energy, Climate, and Grid Security held a field hearing in Midland, Texas, entitled, “American Energy Expansion: Improving Local Economies and Communities’ Way of Life.” The Committee received testimony from:

- The Honorable Lori Blong, Mayor of Midland, Texas, and President of Octane Energy;
- Adrian Carrasco, Chairman Midland Hispanic Chamber of Commerce, and President of Premier Energy Services;
- Steven Pruet, President and CEO, Elevation Resources, and Chairman of the Board for Independent Petroleum Association of America; and
- Dr. Michael Zavada, Professor of Biology and Geosciences, and Chair, Department of Geosciences at The University of Texas—Permian Basin.

(2) The following related hearing was held:

On February 7, 2023, the Subcommittees on Energy, Climate, and Grid Security and Environment, Manufacturing, and Critical Materials held a joint hearing entitled, “Unleashing American Energy, Lowering Energy Costs, and Strengthening Supply Chains,” on 17 pieces of legislation, including H.R. 1085. The Subcommittees received testimony from:

- The Honorable Mark Menezes, Former United States Deputy Secretary of Energy, Department of Energy;
- The Honorable Bernard McNamee, Former Commissioner, Federal Energy Regulatory Commission;
- Jeffrey Eshelman, II, President and Chief Executive Officer, Independent Petroleum Association of America;
- Katie Sweeney, Executive Vice President and Chief Operating Officer, National Mining Association;
- Raul Garcia, Legislative Director for Healthy Communities, Earthjustice; and
- Tyson Slocum, Director of the Energy Program, Public Citizen.

COMMITTEE COST ESTIMATE

Pursuant to clause 3(d)(1) of rule XIII, the Committee adopts as its own the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974. At the time this report was filed, the estimate was not available.

EARMARK, LIMITED TAX BENEFITS, AND LIMITED TARIFF BENEFITS

Pursuant to clause 9(e), 9(f), and 9(g) of rule XXI, the Committee finds that H.R. 1085 contains no earmarks, limited tax benefits, or limited tariff benefits.

ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or

accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

Section 1 provides a short title of “Researching Efficient Federal Improvements for Necessary Energy Refining (REFINER) Act.”

Section 2 requires the Secretary of Energy to direct the National Petroleum Council to submit a report on petrochemical refineries within 90 days of enactment. The report must include the contributions of petrochemical refineries to energy security in the United States, the current capacity of refineries, opportunities to expand existing refinery capacity, and risks to petrochemical refineries in the United States. The report must also assess Federal or State executive actions, regulations, or policies that contributed to a decline in refinery capacity.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

This legislation does not amend any existing Federal statute.

MINORITY VIEWS

H.R. 1085 would require the National Petroleum Council (NPC) to submit to Congress a report detailing certain analyses about the U.S. domestic petrochemical refining industry. By choosing to have the NPC carry out the report as opposed to a governmental agency, the authors of the bill put their thumbs on the scale to influence the output of the report before the process of writing it has even begun.

The NPC is a federal advisory committee comprised of members of the oil and gas industries. The NPC occasionally transmits reports to the Department of Energy (DOE) at the request of DOE. While the NPC serves as a useful tool to understand the oil and gas industry's expertise on a certain issue, its views by definition cannot be separated from those of the oil and gas industry. If the majority would like a government report free from institutional interests on the American petrochemical refining sector, they could have written to the Government Accountability Office, the Congressional Research Service, or passed a law requiring DOE to author a report with a requirement that DOE consult with the NPC. By requiring that the NPC author the report, the majority is elevating the fossil fuel industry's views over all others.

Furthermore, the bill is worded so as to exclude from the report's consideration a major factor in the decline of American petrochemical refining capacity: the lifting of the crude oil export ban in 2015. Since the ban was repealed at the end of 2015, the number of operating refineries in the U.S. has decreased by 10, and the crude oil throughput capacity of refineries on the East Coast has decreased by 36 percent.¹ But, H.R. 1085 only directs the report to include ". . . any Federal or State executive actions, regulations, or policies" that have impacted refining capacity—which excludes the statutory changes included in section 101 of division O of the Consolidated Appropriations Act, 2016 that lifted the crude oil export ban.² The majority has crafted the bill to work backward from their desired result to generate a set of instructions that will lead the NPC to craft a report with the conclusions they want.

For the reasons stated above, we dissent from the views contained in the Committee's report.

FRANK PALLONE, Jr.,

Ranking Member, Committee on Energy and Commerce.



¹ U.S. Energy Information Administration, *Refinery Capacity Report* (June 21, 2022).

² Consolidated Appropriations Act of 2016, Pub. L. No. 114–113, 129 U.S.C. § 2987.