E&C PRIMER:

EPA: Clean Air Act Hearings, Legislation, and Oversight

(112TH-114TH Congresses)

December 2016
Overview

Since 2011, the Committee on Energy and Commerce has conducted oversight and hearings and advanced legislation to develop a substantial record on matters relating to the Clean Air Act (CAA). This body of work is reflected in more than 50 hearings and the 18 legislative proposals considered and favorably reported to the full House, as well as in the related oversight and investigations. The Committee’s extensive record has identified a wide range of legal and practical questions and concerns that have been raised by states, stakeholders, and the public relating to many of the agency’s most controversial CAA rulemakings.

The Committee’s CAA work largely focused on the agency’s expanding suite of rules relating to carbon dioxide (CO2) and other greenhouse gases (GHGs), including the “Clean Power Plan” as well as over 100 GHG related rules; “National Ambient Air Quality Standards” (NAAQS); “New Source Performance Standards” (NSPS) and “Maximum Achievable Control Technology” (MACT) standards; as well as CAA rules for fuels and mobile sources, including the “Renewable Fuel Standard” (RFS). Hearings have developed information concerning the cumulative impacts of regulation on the energy, manufacturing, and other critical sectors of the economy.

In the course of this work, the Committee specifically highlighted questions and concerns relating to whether certain of these rulemakings exceed the scope of the agency’s statutory authority under the Act. The hearings, legislation and oversight have also examined the complexity of the regulations and the regulatory burdens and costs, as well as technical, and other implementation challenges, associated with specific rulemakings.

The following appendices provide links to the Committee’s CAA related hearings, legislation, and oversight materials during the 112th – 114th Congresses:

Appendix 1: GHG Regulations
Appendix 2: Hearings and Forums
Appendix 3: Legislation
Appendix 4: Amicus Briefs
Appendix 5: Staff Reports
Appendix 6: Correspondence
APPENDIX 1
E&C CLEAN AIR ACT RELATED HEARINGS AND FORUMS
(112th – 114th Congresses)
By Topic

COMMITTEE HEARINGS

For links to the hearings, transcripts, memoranda, testimony and hearing records for the Committee on Energy and Commerce’s Subcommittee on Energy and Power, Subcommittee on Oversight & Investigations, and Subcommittee on Commerce, Manufacturing and Trade, examining various EPA regulations affecting the energy, manufacturing and industrial sectors, see below:

**Budget Hearings:**


**Hearings Relating to Greenhouse Gas Rules**

8. “EPA’s GHG Regulations and Their Effect on American Jobs,” March 1, 2011, Serial No. 112-12

16. “American Energy Security and Innovation: The Role of a Diverse Electricity Generation Portfolio, March 5, 2013, (see also related press release), Serial No. 113-12


**Hearings Relating to Renewable Fuel Standard**


Hearings Relating to National Ambient Air Quality Standards (NAAQS) Rules


34. “Promoting New Manufacturing Act,” May 21, 2014; Serial No. 113-147

35. “EPA’s Proposed Ozone Rule,” June 12, 2015; Serial No. 114-53


Hearings Relating to Maximum Achievable Control Technology (MACT) Rules


Hearings Relating to Cumulative Impacts of Regulation


47. “EPA’s Regulatory Threat to Affordable, Reliable Energy: The Perspective of Coal Communities,” Oct. 29, 2013, Serial No. 113-89


Hearings Relating to EPA Enforcement


Hearings Relating to Montreal Protocol (Substances that Deplete the Ozone Layer)


Note: Hearing records for the hearings listed above that have not yet been published by the GPO will be made available at https://www.gpo.gov/fdsys/.  

CLEAN AIR ACT FORUMS

For links to the forums, agendas, participant questions, and participant responses, see below:

1. Clean Air Act Forum (Part I), July 31, 2012
2. Clean Air Act Forum (Part II), August 2, 2012
3. Clean Air Act Forum (Part III), Nov. 29, 2012
For CAA related legislation advanced by the Committee on Energy and Commerce’s Subcommittee on Energy and Power during the 112th, 113th and 114th Congresses, and related links, see below:

GREENHOUSE GAS RULES

1. H.R. 910, Energy Tax Prevention Act (112th Congress): “To amend the Clean Air Act to prohibit the Administrator of the Environmental Protection Agency from promulgating any regulation concerning, taking action relating to, or taking into consideration the emission of a greenhouse gas to address climate change, and for other purposes.”

   • House Committee Report: 112-50
   • Related E&C Materials: Fact Sheet
   • Floor Action: Passed by House on 4/7/11 by recorded vote: 255-172

2. H.R. 3826, Electricity Security and Affordability Act (113th Congress): “To provide direction to the Administrator of the Environmental Protection Agency regarding the establishment of standards for emissions of any greenhouse gas from fossil fuel-fired electric utility generating units, and for other purposes.”

   • House Committee Report: 113-365
   • Related Materials: Fact Sheet
   • Floor Action: Passed by House on 3/6/14 by recorded vote: 229-183
3. **H.R. 724, Amending the Clean Air Act to Remove the Requirement for Dealer Certification of New Light-Duty Motor Vehicles** (113th Congress): “To amend the Clean Air Act to remove the requirement for dealer certification of new light-duty motor vehicles”

- Legislative Hearing: N/A
- Floor Action: Passed House on Motion to Suspend the Rules and Pass on 1/8/2014, and passed Senate by unanimous consent and signed by the President on 6/09/2014, Public Law 113-109

4. **H.R. 2042, Ratepayer Protection Act** (114th Congress): “To allow for judicial review of any final rule addressing carbon dioxide emissions from existing fossil fuel-fired electric utility generating units before requiring compliance with such rule, and to allow States to protect households and businesses from significant adverse effects on electricity ratepayers or reliability.”

- House Committee Report: 114-171
- Related Materials: Fact Sheet
- Floor Action: Passed by House on 6/24/15 by recorded vote: 247-180

5. **H.J. Res. 71, Congressional Review Act Joint Resolution Relating to EPA’s “Carbon Pollution Standards” for New Power Plants (a/k/a “111(b) Rule”))** (114th Congress): “Providing for congressional disapproval under chapter 8 of title 5, United States Code, of a rule submitted by the Environmental Protection Agency relating to ‘Standards of Performance for Greenhouse Gas Emissions from New, Modified, and Reconstructed Stationary Sources: Electricity Utility Generating Units.’”

- House Committee Report: 114-348
- Related Materials: Fact Sheet; Nov. 18, 2015 Press Release
- Floor Action: S.J. Res. 23 (identical to H.J. Res. 71) was passed by the House on 11/19/15 by a recorded vote of 235-188. This joint resolution was transmitted to President on Dec. 18, 2015 and was vetoed.
6. H.J. Res. 72, Congressional Review Act Resolution Relating to EPA’s “Clean Power Plan” for Existing Power Plants ((a/k/a “111(d) Rule”)) (114th Congress): “Providing for congressional disapproval under chapter 8 of title 5, United States Code, of a rule submitted by the Environmental Protection Agency relating to ‘Carbon Pollution Emissions Guidelines for Existing Stationary Sources: Electric Utility Generating Units.”

- House Committee Report: 114-349
- Related Materials: Fact Sheet; Nov. 18, 2015 Press Release; Sept. 23, 2016 E&C Primer; The Obama Administration’s Clean Power Plan
- Floor Action: S.J. Res. 24 (which was identical to H.J. Res. 72) was passed by the House on 11/19/15 by a recorded vote of 242-180. This joint resolution transmitted to the President on Dec. 18, 2015 and was vetoed

NATIONAL AMBIENT AIR QUALITY STANDARDS (NAAQS) RULES

7. H.R. 1633, Farm Dust Regulation Prevention Act of 2011 (112th Congress): “To establish a temporary prohibition against revising any national ambient air quality standard applicable to coarse particulate matter, to limit Federal regulation of nuisance dust in areas in which such dust is regulated under State, tribal, or local law, and for other purposes.”

- House Committee Report: 112-316
- Related Materials: Fact Sheet
- Floor Action: Passed by House on 12/8/11 by recorded vote: 268-150

8. H.R. 4795, Promoting New Manufacturing Act (113th Congress): “To promote new manufacturing in the United States by providing for greater transparency and timeliness in obtaining necessary permits, and for other purposes.”

- Legislative Hearing: “Promoting New Manufacturing Act,” May 21, 2014; Serial No. 113-147
- House Committee Report: 113-488
- Related Materials: Fact Sheet
- Floor Action: Passed by House on 11/20/14 by recorded vote: 238-172

9. H.R. 4775, Ozone Standards Implementation Act of 2016 (114th Congress): “To facilitate efficient State implementation of ground-level ozone standards, and for other purposes.”

- Additional Related Hearings, Forums: “EPA’s Proposed Ozone Rule,” June 12, 2015; Serial No. 114-53; “EPA’s Proposed Ozone Rule: Potential Impacts on Manufacturing,” June 16, 2015; Serial No. 114-56; see also Clean Air Act Forum (Part I), July 31, 2012; Clean Air Act Forum (Part II), August 2, 2012; Clean Air Act Forum (Part III), Nov. 29,
10. H.R. 2681, Cement Sector Regulatory Relief Act (112th Congress): “To provide additional time for the Administrator of the Environmental Protection Agency to issue achievable standards for cement manufacturing facilities, and for other purposes.”

- House Committee Report: 112-227
- Related Materials: Fact Sheet; January 10, 2012 Press Release
- Floor Action: Passed by House on 10/6/11 by recorded vote: 262-161

11. H.R. 2250, EPA Regulatory Relief Act (112th Congress): “To provide additional time for the Administrator of the Environmental Protection Agency to issue achievable standards for industrial, commercial, and institutional boilers, process heaters, and incinerators, and for other purposes.”

- House Committee Report: 112-225
- Related Materials: Fact Sheet; Jobs-at-Risk State Summary
- Floor Action: Passed by House on 10/13/11 by recorded vote: 275-142

12. H.R. 4557, BRICK Act (114th Congress): “To allow for judicial review of any final rule addressing national emission standards for hazardous air pollutants for brick and structural clay products or for clay ceramics manufacturing before requiring compliance with such rule.”

- House Committee Report: 114-439
- Related Materials: Fact Sheet
- Floor Action: Passed by House on 3/1/16 by recorded vote: 238-163
13. **H.R. 3797, SENSE Act** (114th Congress): “To establish the bases by which the Administrator of the Environmental Protection Agency shall issue, implement, and enforce certain emission limitations and allocations for existing electric utility steam generating units that convert coal refuse into energy.”

- House Committee Report: 114-445
- Related Materials: Fact Sheet
- Floor Action: Passed by House on 3/15/16 by recorded vote: 231-183

**CUMULATIVE IMPACTS OF REGULATIONS**

14. **H.R. 2401, TRAIN Act** (112th Congress): “To require analyses of the cumulative and incremental impacts of certain rules and actions of the Environmental Protection Agency, and for other purposes.”

- House Committee Report: 112-208
- Related Materials: Fact Sheet
- Floor Action: Passed by House on 9/23/11 by recorded vote: 249-169

**NOTE:** H.R. 2401 and H.R. 910 were also included in H.R. 3409, Stop the War on Coal Act (a/k/a “Coal Miner Employment and Domestic Energy Infrastructure Protection Act) (112th Congress):

- Legislative Hearing: See hearings for Energy Tax Prevention Act, TRAIN Act
- House Committee Report: 112-670
- Related Materials: Fact Sheet
- Floor Action: On 9/21/2012 passed by House by recorded vote: 233-175

15. **H.R. 4471, Gasoline Regulations Act of 2012** (112th Congress): “To require analyses of the cumulative impacts of certain rules and actions of the Environmental Protection Agency that impact gasoline, diesel fuel, and natural gas prices, jobs, and the economy, and for other purposes.”

- House Committee Report: 112-519
- Floor Action: HR 4471 was included in H.R. 4480, the Domestic Energy and Jobs Act (see Fact Sheet), passed by House on 6/21/12 by recorded vote: 248-163

16. **H.R. 1582, Energy Consumers Relief Act** (113th Congress): “To protect consumers by prohibiting the Administrator of the Environmental Protection Agency from promulgating as
final certain energy-related rules that are estimated to cost more than $1 billion and will cause significant adverse effects to the economy.”

- House Committee Report: 113-164
- Related Materials: Fact Sheet
- Floor Action: Passed by House on 8/1/13 by recorded vote: 232-181

Title VI of CAA (Montreal Protocol)

17. H.R. 6194, U.S. Agricultural Sector Relief Act (112th Congress): “To ensure the viability and competitiveness of the United States agricultural sector.”

- House Committee Report: 112-679
- Related Materials: Fact Sheet
- Floor Action: On 9/19/12, placed on the Union Calendar

18. H.R. 6190, Asthma Inhalers Relief Act (112th Congress): “To direct the Administrator of the Environmental Protection Agency to allow for the distribution, sale, and consumption in the United States of remaining inventories of over-the-counter CFC epinephrine inhalers.”

- House Committee Report: 112-673
- Floor Action: On motion to suspend the rules and pass on 12/12/12, failed by recorded vote: 229-182
APPENDIX 4
CONGRESSIONAL AMICUS BRIEFS RELATING TO CLEAN AIR ACT
(112th – 114th Congresses)

1. State of West Virginia et al v. Environmental Protection Agency, Case No. 15-1363 (and consolidated cases), U.S. Court of Appeals for the District of Columbia Circuit
   o Brief in Support of Petitioners (filed 2/23/2016)
   o Feb. 23, 2016 Related Press Release

   o Brief in Support of Petitioners (filed 2/7/2011)
   o Feb. 7, 2011 Related Press Release
APPENDIX 5
SELECTED STAFF REPORTS RELATING TO CLEAN AIR ACT
(112th – 114th Congresses)
By Topic

Clean Power Plan:

2. Clean Power Plan Background (October 2016)

Renewable Fuel Standard:

2. “Renewable Fuel Standard Assessment White Paper, Agricultural Sector Impacts,” April 18, 2013; see also related press release

Permitting Challenges:

APPENDIX 6
SELECTED CORRESPONDENCE RELATING TO CLEAN AIR ACT
(112th – 114th Congresses)
By Topic

1. Electricity Sector: GHG New Source Performance Standards for New Power Plants (a/k/a “111(b) Rule”):
   o Joint EPW/E&C March 2, 2011 Letter to EPA regarding Settlement and EPA March 10, 2011 Response
   o May 9, 2011 Letter to EPA and July 27, 2011 Response
   o July 14, 2011 Letter to EPA and EPA Sep. 21, 2011 Response
   o May 17, 2012 Letter to EPA and EPA June 28, 2012 Response
   o Feb. 1, 2012 Letter to OMB Director
   o Feb. 23, 2012 Letter from over 230 House Members of Congress to OMB

2. Electricity Sector: GHG Guidelines for Existing Power Plants (a/k/a “Clean Power Plan” or “111(d) Rule”):
   o Joint EPW/E&C March 2, 2011 Letter to EPA regarding Settlement and EPA March 10, 2011 Response
   o Nov. 2, 2015 Letter to EPA and EPA Nov. 18, 2015 Initial Response (Footnote 1, Footnote 2)
   o May 13, 2016 Letter to EPA regarding Stay and related Press Release and EPA Aug. 18, 2016 Response; see also Sept. 23, 2016 Press Release

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3. Oil & Gas Sector: 2012 New Source Performance Standards (VOC Regulations)


5. Electricity Sector: Utility MACT Rule (a/k/a “Mercury and Air Toxics” or “MATS”):
   - December 13, 2011 Letter to OMB.
   - Feb. 22, 2012 Letter to White House Chief of Staff.
   - April 20, 2012 Letter to White House Chief of Staff.
   - June 8, 2012 Letter to EPA.

6. NAAQS: Particulate Matter Standards:
   - June 6, 2012 Letter to EPA.

7. NAAQS: Ozone Standards:
   - July 29, 2015 Letter to White House Chief of Staff (including list of national, state and local organizations and stakeholders supporting retention of existing ozone standard).

8. Significant New Alternatives Policy Program (SNAP) Rules:
   - Sept. 13, 2016 Letter.

9. Risk Management Plan Rule:
10. Cost and Benefits Calculations:


11. Notices of Intent to Sue and Rulemaking Petitions:


12. Fuel Sector and Refinery Rulemakings:

- December 19, 2011 Letter to EPA and February 27, 2012 Response

13. Primatene Mist –CFCs:


14. Methyl Bromide:

- July 6, 2012 Letter to EPA and Aug. 23, 2012 Response

15. Renewable Fuel Standard:

- May 24, 2012 Letter to EPA and June 28, 2012 Response

16. Climate Related Expenditures:

- December 9, 2016 Letter to OMB