

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