



Legislative Bulletin.....November 20, 2014

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H.R. 4795— Promoting New Manufacturing Act

**H. R. 4795 – Promoting New Manufacturing Act
(Rep. Scalise, R-LA)**

Order of Business: The bill is scheduled to be considered on November 20, 2014, under a structured [rule \(H. Res. 756\)](#) which provides one hour of general debate equally divided and controlled by the chair and ranking minority member of the Committee on Energy and Commerce.

Summary: [H.R. 4795](#) would impose restrictions and requirements on the Environmental Protection Agency (EPA) to increase transparency of its decisions and to reduce delays associated with the permitting process under the [Clean Air Act](#)'s [New Source Review](#) (NSR) preconstruction program.

- **Permitting Dashboard:**

The Administrator of the EPA is mandated, with respect to fiscal year 2008 and each subsequent fiscal year, to publish annually in a readily accessible location on the Environmental Protection Agency's public website the Agency's estimate, or permitting dashboard of the following:

- The total number of preconstruction permits issued during the fiscal year;
- The percentage of such preconstruction permits issued within one year after the date of filing of a completed application; and
- The average length of time for the Agency's Environmental Appeals Board to issue a final decision on petitions appealing decisions to grant or deny a preconstruction permit application.

The EPA's estimates shall be based on information that is in the Agency's possession as of the bill's enactment, including information in the [RACT/BACT/LAER Clearinghouse](#) database. Nothing in the bill compels the EPA to seek or collect any information in addition to the information that is voluntarily provided by States and local air agencies for the database.

- **Timely Rules and Guidance:**

The Administrator of the EPA shall publish regulations and provide timely guidance for implementing any final rule establishing or revising a national ambient air quality standard in order to assist States, permitting authorities, and permit applicants. The EPA shall provide this information relating to the submission and consideration of a preconstruction permit application under the new or revised standard.

If the Administrator fails to publish final regulations and guidance on implementing a new or revised national ambient air quality standard, then such standard shall not apply to the review and disposition of a preconstruction permit application until the EPA has done so. Nothing in the bill shall preclude the EPA from issuing subsequent regulations or guidance to assist States and facilities in implementing such standards once guidance has been published. Nothing in the bill shall be construed to eliminate the obligation of a preconstruction permit applicant to install best available control technology and lowest achievable emissions rate technology, as applicable.

- **Report to Congress:**

The EPA is also required to provide Congress, not later than 180 days after the bill's enactment, a report:

- Identifying the activities being undertaken by the Environmental Protection Agency to increase the efficiency of the preconstruction permitting process;
- Identifying the specific reasons for delays in issuing preconstruction permits required under the Clean Air Act beyond the one-year statutory deadline, and beyond the one-year period beginning on the date on which the permit application is determined to be complete;
- Describing how the Agency is resolving delays in making completeness determinations for preconstruction permit applications;
- Describing how the Agency is resolving processing delays for preconstruction permits, including any increases in communication with State and local permitting authorities; and

Before submitting each report, the Administrator of the EPA shall publish a draft report on the Website of the Environmental Protection Agency and provide the public with a period of at least 30 days to submit comments.

Additional Information: According to H.R. 4795's sponsor, the "legislation seeks to promote new manufacturing and job creation by increasing transparency and reducing permitting delays for air permits required under the Clean Air Act's New Source Review preconstruction permitting program. These permits may be subject to significant delays and regulatory uncertainty, as well as administrative appeals." A press release from the bill's sponsor in response to the threat of a Presidential veto can be found [here](#). A fact sheet from the House Committee on Energy and Commerce on H.R. 4795 can be found [here](#). A list of groups in

support of H.R. 4795 can be found [here](#), including the [U.S. Chamber of Commerce](#), [Americans for Tax Reform](#), the [American Chemistry Council](#), [American Fuel & Petrochemical Manufacturers](#) and the [National Association of Manufacturers](#). The report (H. Rept. 113-488) accompanying H.R. 4795 can be found [here](#).

Committee Action: The bill was introduced on May 30, 2014, and was referred to the House Committee on Energy and Commerce. On June 9, 2014, the Committee held a mark-up of the bill. On June 10, 2014, the Committee ordered the H.R. 4795 to be reported by a vote of Yeas and Nays: 30 - 19.

Administration Position: The Obama Administration released a [Statement of Administration Policy](#) on November 17, 2014, strongly in opposition to the bill and indicated that if the President were presented with H.R. 4795, his senior advisors would recommend that he veto the bill.

Cost to Taxpayers: The Congressional Budget Office (CBO) estimates that implementing this legislation would cost about \$2 million over the 2015-2019 period, subject to the availability of appropriated funds. Enacting H.R. 4795 would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply. The CBO estimate can be found [here](#).

Does the Bill Expand the Size and Scope of the Federal Government?: No.

Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?: H.R. 4795 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would not affect the budgets of state, local, or tribal governments.

Constitutional Authority: Congress has the power to enact this legislation pursuant to the following: Article I, Section 8, Clause 3 of the United States Constitution.

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AMENDMENTS MADE IN ORDER

1. **Whitfield (R-KY)**. This amendment would clarify that Section 3(b) of the bill, (the Applicability of Standard to Preconstruction Permitting) would not prohibit States from imposing new or revised federal air quality standards under state or local law.
2. **McNerney (D-CA)**. This amendment states that air quality standards do not apply with respect to the review and disposition of a preconstruction permit application by a federal, State, local, or tribal permitting authority if such authority determines an increase in air pollution, slow permitting, or an increase in regulatory uncertainty.