

TESTIMONY OF JAY TIMMONS, PRESIDENT AND CEO, NATIONAL ASSOCIATION OF MANUFACTURERS

BEFORE THE U.S. SENATE COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Hearing on

“Opportunities to Improve Project Reviews for a Cleaner and Stronger Economy”

APRIL 26, 2023

Good morning, Chairman Carper, Ranking Member Capito and distinguished members of the committee. Thank you for the opportunity to appear before you and for holding this important hearing today on how permitting reform can build a cleaner and stronger economy.

A. Introduction

My name is Jay Timmons. I was raised in the manufacturing town of Chillicothe, Ohio, where my grandfather worked at the Mead plant for nearly four decades. I have seen firsthand, through my own experience, how manufacturing raises the quality of life for families and communities. Today, I serve as the president and CEO of the National Association of Manufacturers. The NAM is the largest manufacturing association in the United States, representing small and large manufacturers in every industrial sector. At the NAM, we advocate for policies that help grow manufacturing in the United States and improve the lives of the families of the 13 million men and women who make things in America.

Manufacturers in the U.S. are committed to upholding our country’s shared values of free enterprise and democracy. When manufacturing is strong, America is strong. It contributes \$2.9 trillion in economic activity annually, according to the most recent available data. The

industry provides financial security to working families, paying an average of \$95,990, including pay and benefits—nearly 18% higher than the average pay and benefits in all nonfarm industries.

I am joining you today because our out-of-date permitting laws and procedures are holding back progress and restricting our country's ability to compete globally. We are at a pivotal moment in our nation in which we all agree that we need to make more things in America, an imperative which was amplified by the supply chain crisis during the pandemic. The bipartisan CHIPS and Science Act is just one example of how Congress has worked together successfully to bolster manufacturing in America. However, some of the biggest obstacles preventing manufacturers—and therefore the entire American economy—from reaching our full potential are the permitting delays, red tape and complicated bureaucracy that have plagued us for decades. Today, though, as we work to modernize our infrastructure and shore up our supply chains, the need for reform is more urgent than ever. While manufacturing accounts for roughly 11% of our GDP, the industry can do even more if the permitting process is run more efficiently. Permitting reform is truly at the heart of U.S. manufacturing competitiveness. That is why manufacturers are grateful that this committee is making it a priority to modernize the broken process that stands in the way of manufacturing projects and job-creating investments.

As you proceed with this critical work, we want to help identify some of the most pressing areas that need attention.

Energy Infrastructure

Permitting hurdles are delaying projects across the energy landscape, including oil and gas pipelines, electric transmission lines, rail facilities for energy transport, coal, nuclear and liquefied natural gas exports. Renewable and other emerging energy technologies face similar,

steep permitting challenges. The Brookings Institution has observed, “If the U.S. is to achieve its climate ambitions and fully implement transformative legislation like the Inflation Reduction Act, Congress will also have to enable a massively accelerated build-out of clean energy infrastructure.”¹ The permitting timeline to build that infrastructure can be shortened dramatically without removing environmental protections. We all want cleaner air and cleaner water and a healthier environment, but we also need a strong economy. These goals are not mutually exclusive.

For example, the siting of and infrastructure for zero emissions sources such as hydrogen power generation and transportation and for advanced, small modular and micro-nuclear reactors have progressed far too slowly. The IRA included nearly \$400 billion for clean energy priorities; however, under our current permitting system, it could be years before those funds can be spent—in particular, the hydrogen tax credits that Chairman Carper fought hard to include. The IRA, CHIPS Act and Infrastructure Investment and Jobs Act will never reach their full potential without significant permitting reform.

Recently, the White House Council on Environmental Quality issued a report stating that, on average, environmental impact statements, which are mandated under the National Environmental Policy Act of 1969 to outline the potential impact of a proposed project on its surrounding environment, now take on average four and a half years.² That means more time is spent studying potential environmental impacts than it takes to construct and operate a clean hydrogen power generation facility. The NEPA process is not just time consuming; it is also rife with litigation, as the Congressional Research Service states that NEPA is the most frequently litigated federal environmental statute.³ Furthermore, a 2014 Government Accountability Office

¹ <https://www.brookings.edu/research/how-to-reform-federal-permitting-to-accelerate-clean-energy-infrastructure-a-nonpartisan-way-forward/>

² https://ceq.doe.gov/docs/nepa-practice/CEQ_EIS_Timeline_Report_2020-6-12.pdf

³ <https://crsreports.congress.gov/product/pdf/IF/IF11932>

study on NEPA analysis found that “little information exists on the costs and benefits of completing NEPA analyses” and that “agencies do not routinely track the costs of completing NEPA analyses.”⁴ Any process that often delays projects for four and a half years or more with little information on costs and benefits of completing the analysis and a heavy track record of litigation can surely be amended to reduce the time and costs needed for compliance without reducing environmental protections.

One NAM member reported that they needed to obtain a construction permit, but before the permit could be granted, the company needed survey permission to review the landscape and natural resources in the area. It took more than six months to simply obtain permission to conduct the survey. The delay in obtaining survey permission cascaded into a more than 12-month delay in the permitting process itself. It is important to note that this was listed as a “priority project” in the “Fast-41” Federal Infrastructure Dashboard, which is supposed to increase permitting efficiency.

But delays in starting projects are not just caused by NEPA or the Clean Water Act. One NAM member company reported lengthy delays of up to an entire year for the issuance of permits by the U.S. Army Corps of Engineers due to the failure of the U.S. Fish and Wildlife Service to complete the informal consultation required for confirming no adverse project impacts under the Endangered Species Act. So, for an entire year, potential workers sat on the sidelines and a community lost out on economic opportunity waiting on informal paperwork that should not have taken longer than 90 days to complete. Another member reported that a Section 7 Endangered Species Act consultation was stalled for more than two years as the National Marine Fisheries Service waited on a biologist to be assigned to the project.

⁴ <https://www.gao.gov/assets/gao-14-369.pdf>

Manufacturers depend on access to reliable and affordable energy to expand, which is why we support reforms that would foster transparent, streamlined and timely federal regulatory processes for the siting, permitting and licensing of energy delivery infrastructure of all types.

Transportation Infrastructure

Manufacturers also rely on roads, rails, airports and ports for everything from employees' access to facilities to getting raw materials to shop floors and finished products to customers. Basic infrastructure must be developed before ground can ever be broken on a major facility. Yet, obtaining permit approvals for these projects often takes years, especially when reviews are piecemeal and duplicative. We appreciate lawmakers' focus to have more products manufactured in America, but too many companies are waiting on the sidelines because transportation infrastructure construction moves too slowly—or not at all. For instance, multiple NAM members have reported that National Historic Preservation Act Section 106 consultation processes spanned more than five years each for separate key rail infrastructure projects.

According to the Department of Energy's draft National Transmission Needs Study released Feb. 24, the national electric transmission system would need to grow 57% by 2035 to meet the infrastructure needed to reach the administration's clean energy goals as it relates to the growing light-, medium- and heavy-duty vehicle industries.⁵ One of our electric heavy-duty truck manufacturers reported that some customers have refused deliveries of battery-electric trucks due to the lack and uncertainty surrounding the necessary utility infrastructure upgrades to power the chargers. Removing inefficiencies and streamlining permitting for charging infrastructure projects is a high priority for manufacturers, especially those facing state medium-

⁵ <https://www.energy.gov/gdo/national-transmission-needs-study>

and-heavy-duty zero-emission-vehicle sales mandates like those in California, Washington and Massachusetts.

Passage of the bipartisan IIJA in 2021 heralded a new era in much needed improvements to nationwide infrastructure systems. These upgrades, updates and new projects represent the generational investment needed to keep manufacturers in America competitive in a global marketplace. To ensure the broad and beneficial impact of these investments—and achieve the congressionally intended effects—it is critical to clear permit backlogs and ease processing timelines. Today, the Federal Highway Administration averages more than seven years and four months to get approvals for a road that connects manufacturing facilities with their customers or employees with their workplaces.⁶ Every day that we wait, our nation's competitive edge—with countries like China in particular—shrinks.

The NAM was a strong supporter of this historic legislation and remains committed to successful implementation to grow the economy.

Resource Development

Manufacturers strongly believe that permitting, leasing, exploration and development of the nation's resources must be done in an environmentally sound and responsible manner. But unnecessarily restricting access to America's abundant natural resources hinders our ability to strengthen domestic supply chains. It also makes manufacturers more reliant on raw material imports. The inconsistent administration of critical mineral policies, for example, has limited our ability to use a wide range of resources that exist on and beneath federal lands—resources that are critical to producing everything from cars to medical devices.

⁶ Source: Executive Office of the President, Council on Environmental Quality. [Environmental Impact Statement Timelines \(2010–2018\)](#). Washington, D.C. June 12, 2020.

Most mining of critical minerals on federal public lands is governed by the Mining Law of 1872. It is astounding that the law that governs how we can remove minerals that are critical to electric vehicles, wind turbines and solar panels was passed seven years after the Civil War ended and before the invention of telephones, automobiles or even the lightbulb. Modernizing and streamlining resource permitting and leasing policies will help stabilize manufacturing supply chains, control costs for consumers, reduce our reliance on foreign countries and create jobs in the U.S.

This committee shares a broad commitment to increasing semiconductor production in the United States so that our manufacturers—virtually all of which rely on chips for their products or processes—have strong, domestic supply chains for these critical inputs. With 88% of chips produced outside of the U.S.⁷ right now, this is a crucial goal for not only our economic security but also our national security. Yet, the raw materials for those chips, such as lithium and cobalt, are still mined largely outside of the U.S. as well.⁸ Our nation has reserves of both lithium and cobalt.⁹ To access them, though, as Congress clearly envisions we will, also requires congressional action to speed up permissions for developing those resources in a responsible way.

Environmental Standards

We are proud that manufacturing in the U.S. is among the cleanest in the world. It is important to protect these achievements by avoiding measures that give a competitive economic advantage to countries with less regard for our environment. Unfortunately, when federal agencies continually revise standards before current standards are met and before

⁷ www.semiconductors.org/wp-content/uploads/2021/09/2021-SIA-State-of-the-Industry-Report.pdf

⁸ https://www.gao.gov/products/gao-22-104824#summary_recommend

⁹ <https://pubs.er.usgs.gov/publication/pp1802>

states have implemented prior mandates, those revised standards create unpredictability. That has led to the U.S. losing out on new projects and facilities to other countries, undermining the very goals of our environmental standards. Right now, the Environmental Protection Agency is taking an aggressive approach toward tightening regulations in several environmental statutes. Unfortunately, these proposed regulatory changes are not based on the best available science and many times set standards at or below limits of detection, making compliance not technically feasible. One such regulation is the EPA's proposed air quality regulations for particulate matter (PM2.5). The regulation as proposed would mean that 40% of the U.S. population lives in an area that is out of "attainment," which would make it extraordinarily difficult to create new manufacturing jobs, protect existing manufacturing jobs and could prevent much needed infrastructure improvements in these areas.

Staffing shortages at agencies are also becoming a significant obstacle in the permitting process. In one case, a member company reported that a permit renewal was delayed by more than six months simply due to lack of staff. Individually, each regulation is restrictive enough, but when added together, they place a significant economic and operational impact on manufacturers.

Overly burdensome, shifting regulatory policies inherently affect permitting, licensing and siting applications because they move the goalposts of compliance with federal regulations. If instead we make the process more predictable and consolidate the many complex layers of review, the U.S. can continue to build on its strong record of environmental stewardship by boosting domestic manufacturing, which is environmentally cleaner than our international competitors.

Congressional Intent

The success of any legislative permitting reforms depends on proper implementation. Ensuring the administration follows congressional intent on recent and future statutory streamlining efforts such as One Federal Decision is key. Establishing strict permit review timelines and eliminating duplicative efforts across various federal agencies help in reducing unnecessary delays. Moreover, key permitting authorities are rife with ambiguity and inconsistent terminology and warrant congressional intervention.

Permitting affects every aspect of our lives—from our economic security to our national security. If we fail to modernize existing processes, the U.S. is at risk of falling behind international competitors that are taking every possible step to incentivize manufacturing development. For instance, the EU released a new plan known as the Net-Zero Industry Act, which looks to regain manufacturing from lower-cost manufacturing centers in Asia and elsewhere. European Commission President Ursula von der Leyen said of the plan, “To grow, our net-zero industries need the right framework. It has to be simpler, it has to be faster, and it has to be more predictable.”¹⁰ If the United States does not act quickly, we could lose much needed manufacturing investment to the EU and elsewhere in the world. On the other hand, if we seize this opportunity to lead, there is no limit to what manufacturers in the United States can accomplish—for the good of our people and the good of the world.

Permitting reform is not about cutting corners. It is about keeping up with the world around us. It is about ensuring that this country—a democracy rooted in free enterprise—is not

¹⁰ <https://www.spglobal.com/marketintelligence/en/news-insights/latest-news-headlines/we-are-competitive-eu-unveils-clean-tech-incentive-plan-to-match-us-74089653>

outpaced or outflanked or overtaken by nations that do not share our values, that do not respect the environment or that do not recognize the dignity of human rights.

Thank you for inviting me to testify today. I look forward to continued engagement with members of this committee as we work to create jobs and grow investment in manufacturing while continuing to keep our promises to protect our air and water and set the standard for environmental stewardship.