

118TH CONGRESS <i>1st Session</i>	}	HOUSE OF REPRESENTATIVES	{	REPORT 118-
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KEEPING AMERICA'S REFINERIES ACT

MARCH --, 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

____ VIEWS

[To accompany H.R. 1155]

[Including cost estimate of the Congressional Budget Office]

The Committee on Energy and Commerce, to whom was referred the bill (H.R. 1155) to prohibit the phase out of gasoline and prevent higher prices for consumers, and for other purposes, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

H.R. 1155, KEEPING AMERICA’S REFINERIES ACT

COVER PAGE/AMENDMENT

[Attachment—Insert Cover Page/Amendment]

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PURPOSE AND SUMMARY

To prohibit the phase out of gasoline for use in vehicles with internal combustion engines and prevent higher prices for consumers.

BACKGROUND AND NEED FOR LEGISLATION

The United States transportation sector includes nearly 300 million internal combustion engine (ICE) vehicles and American consumers were on pace to purchase another 14 million in 2022,¹ according to an October 2022 report by the Fuels Institute. That report further stated that the vehicle sales market will continue to be dominated by ICE vehicles for decades to come.² To power these ICE vehicles a reliable, affordable, and available supply of liquid fuels, particularly gasoline, is essential.

¹ <https://www.fuelsinstitute.org/research/reports/future-capabilities-of-combustion-engines-and-liqu>

² Ibid.

The price of this fuel and consumer affordability for it have become serious issues for American consumers. In the summer of 2022, the spike in energy prices powered a 41-year inflation high for Americans and their wallets.³ Much of the reason prices skyrocketed after March 2022 was a lack of adequate refining capacity to process crude into gasoline and diesel to meet high global demand.⁴ Not only have refining costs and availability been increasing consumer prices but the refinery sector in the U.S. has seen facility shutdowns of the past few years outpace new domestic refinery capacity being built, forcing U.S. refineries to work at nearly full capacity to meet domestic demand.⁵ It can also not be discounted that, according to the American Fuel and Petrochemical Manufacturers (AFPM), rising costs are also driven by factors attributable to increasing policy, marketing, and distribution requirements.⁶

Globally, the total refinery capacity for crude oil is over 100 million barrels per day. While, despite recent capacity losses, the United States is the largest oil refining country in the world – refining 17.5 million barrels per day in 2021⁷ at between 125-130 operating refineries in the United States.^{8,9}

Petroleum refineries in the United States use the alkylation process to produce gasoline that meets Federal air emissions and engine performance requirements. According to a report for AFPM by Becht Engineering, two primary catalyst technologies exist for alkylation: hydrofluoric (HF) alkylation and sulfuric acid alkylation.¹⁰ Each technology currently accounts for about half of US alkylate production.¹¹ Refiners generally chose one technology over the other based on a variety of considerations, including location, plot space, and differences in the ability of these two

³ <https://www.businessinsider.com/why-is-inflation-high-causes-gas-price-outlook-forecast-2022-7>

⁴ <https://www.reuters.com/markets/commodities/why-is-there-worldwide-oil-refining-crunch-2022-06-22/>

⁵ Ibid.

⁶ <https://www.afpm.org/newsroom/blog/what-do-refineries-have-to-do-price-and-availability-gas>

⁷ <https://www.statista.com/statistics/273583/oil-refinery-throughput-worldwide-by-country/>

⁸ [https://www.eia.gov/dnav/pet/pet_pnp_cap1_a_\(na\)_800_Count_a.htm](https://www.eia.gov/dnav/pet/pet_pnp_cap1_a_(na)_800_Count_a.htm)

⁹ https://www.statista.com/topics/7286/global-oil-refinery-industry/#topicHeader__wrapper

¹⁰

https://www.afpm.org/sites/default/files/issue_resources/Becht%2031437%20H_F_Technology%20Position%20Short%20Paper.pdf

¹¹ Ibid.

technologies to process certain feedstocks.¹² Of important note, based upon an assessment of Energy Information Administration (EIA) data on refinery capacity, 6.6 million barrels of petroleum refining capacity or about 40 percent of all gasoline refined for use in the U.S. market is made using HF.¹³

HF and sulfuric acid are not without their risks when being handled or used. In fact, industries that use hydrofluoric acid are subject to requirements under the Environmental Protection Agency (EPA), U.S. Occupational Safety and Health Administration (OSHA), the U.S. Department of Transportation (DOT), the U.S. Department of Homeland Security (DHS), the U.S. Department of Defense (DOD) – and this omits state and local requirements. In addition, the American Petroleum Institute (API) issued its 5th edition of Recommended Practice 751 to provide requirements and recommendations for practices and procedures related to safety, operations, design, inspection, and maintenance to support the safe and reliable operation thereof.^{14,15} After the implementation of each edition, the number of release incidents typically trends downward demonstrating the effectiveness of Recommended Practice (RP).^{16,17}

Concerned about past accidents at refineries using HF alkylation and the potential impacts that could occur at those facilities, on August 18, 2022, EPA proposed a rule to modify the Risk Management Plan (RMP) program under Clean Air Act section 112(r)(7), entitled the RMP Safer Communities by Chemical Accident Prevention Proposed Rule.¹⁸ Clean Air Act Section 112(r) requires the EPA to publish regulations and guidance for chemical accident prevention at facilities using substances that posed the greatest risk of harm from accidental releases. RMP contains three (3) main elements, which include: (1) a hazard assessment that details the potential effects of an accidental release, an accident history of the last five years, and an evaluation of worst-case and alternative accidental releases scenarios; (2) a prevention program that includes safety precautions and maintenance, monitoring, and employee training measures; and (3) an emergency response program that spells out emergency health care, employee

¹² Ibid.

¹³ https://www.eia.gov/dnav/pet/pet_pnp_cap1_dcu_nus_a.htm

¹⁴ <https://www.api.org/oil-and-natural-gas/health-and-safety/refinery-and-plant-safety/process-safety/process-safety-standards/rp-751>

¹⁵ [API - RP 751 - Safe Operation of Hydrofluoric Acid Alkylation Units | GlobalSpec](#)

¹⁷ [Becht 31437 HF Technology Position Short Paper.pdf \(afpm.org\)](#)

¹⁸ <https://www.epa.gov/rmp/risk-management-program-safer-communities-chemical-accident-prevention-proposed-rule>

training measures and procedures for informing the public and response agencies (e.g., the fire department) should an accident occur.

The August 18, 2022, proposed rule added a new requirement for refineries that use an HF alkylation process. Specifically, EPA proposed that these facilities must also complete a Safer Technology and Alternatives Assessment (STAA) of their operations every five (5) years. This requirement – also considered the use of Inherently Safer Technology (IST) – was on top of all existing hazard assessments and planning activities. Moreover, the rule did not define what was inherently safer, making both compliance with and enforcement of the requirement subject to arbitrary standards. Moreover, Congress has consistently rejected the imposition of IST requirements on existing facilities both for its arbitrary nature and that design requirements should be imposed at the design phase – not long after that has passed. Another concern was echoed in the Committee’s hearing, one witness suggested that the purpose of the IST exercise was to move the refining sector out of the use of HF altogether.¹⁹

The Becht report for AFPM states that the cost of performing the required STAA would be \$362 million per facility²⁰ and the per unit cost of replacement of shuttered HF alkylation units with the alternate technology sulfuric acid is estimated to cost, per unit, over \$1 billion (all-inclusive of STAA, decontamination, spent acid regeneration, and total installed cost) and would not improving the public safety²¹ – assuming the facility wishes to continue in business rather than shutter its operations. Moreover, the Becht reports cites two alternatives to HF alkylation that are promoted by EPA – ionic liquids alkylation (ILA) technology and solid catalyst alkylation (SCA) technology – both are still undergoing commercial testing at one US refinery – ILA –²²and refineries in China – SCA – making these technologies a heavy and unproven risk for refiners to make a large transition to use. Finally, the duration between shutting down the existing HF alkylation unit and starting up an alkylation unit that uses different technology would be on the order of 3 years. Testimony at the Committee’s legislative hearing mentioned the

¹⁹ See exchange between Rep. Crenshaw and Mr. Garcia at <https://energycommerce.house.gov/events/joint-energy-climate-and-grid-security-subcommittee-and-environment-manufacturing-and-critical-materials-subcommittee-legislative-hearing-titled-unleashing-american-energy-lowering-energy-costs-and-strengthening-supply-chains>

²⁰ [Becht 31437 HF Technology Position Short Paper.pdf \(afpm.org\)](#)

²¹ Ibid.

profound national impact of having refining capacity off-line for an amount of time.²³

It should also be noted that driving a change from HF alkylation to sulfuric acid alkylation does not end risks from refining gasoline and may move them deeper into a community. Sulfuric acid is transported to the regeneration site via truck, about 500 trucks per month for moving fresh and spent acid would be required. Depending on the distance to and from the regeneration facility, this can be a significant community safety risk, especially for spent acid due to its sulfur dioxide (SO₂) content. SO₂ is a toxic chemical.²⁴

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. 1155. 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 Environment, Manufacturing and Critical Materials met in open markup session and forwarded H.R. 1155, without amendment, to the full Committee by a record vote of 10 yeas and 6 nays. On March 9, 2023, the full Committee on Energy and Commerce met in open markup session and ordered H.R. 1155, without amendment, favorably reported to the House by a record vote of 26 yeas and 19 nays.

²³ See discussion between Rep. Crenshaw and Mr. Menezes. Ibid.

²⁴ Op. Cit.

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:

[Attachments—Insert Votes]

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. 1155 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 prohibiting the phase out of gasoline for use in vehicles with internal combine engines and prevent higher prices for consumers.

DUPLICATION OF FEDERAL PROGRAMS

COMMITTEE ON ENERGY AND COMMERCE
118TH CONGRESS
ROLL CALL VOTE #38

BILL: H.R. 1155, Keeping America's Refineries Act

AMENDMENT: An amendment offered by Rep. Pallone, No. 1.

DISPOSITION: NOT AGREED TO, by a roll call vote of 19 yeas and 26 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			
Rep. Bilirakis		X		Rep. Castor	X		
Rep. Johnson		X		Rep. Sarbanes	X		
Rep. Bucshon		X		Rep. Tonko	X		
Rep. Hudson				Rep. Clarke	X		
Rep. Walberg		X		Rep. Cárdenas	X		
Rep. Carter		X		Rep. Ruiz	X		
Rep. Duncan		X		Rep. Peters	X		
Rep. Palmer				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			
Rep. Crenshaw		X		Rep. Blunt Rochester	X		
Rep. Joyce		X		Rep. Soto			
Rep. Armstrong		X		Rep. Craig	X		
Rep. Weber		X		Rep. Schrier			
Rep. Allen		X		Rep. Trahan	X		
Rep. Balderson		X		Rep. Fletcher	X		
Rep. Fulcher		X					
Rep. Pfluger		X					
Rep. Harshbarger		X					
Rep. Miller-Meeks							
Rep. Cammack		X					
Rep. Obernolte		X					

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**COMMITTEE ON ENERGY AND COMMERCE
118TH CONGRESS
ROLL CALL VOTE #39**

BILL: H.R. 1155, Keeping America's Refineries Act

AMENDMENT: An amendment offered by Rep. Clarke, No. 2.

DISPOSITION: **NOT AGREED TO**, by a roll call vote of 18 yeas to 26 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			
Rep. Bilirakis		X		Rep. Castor	X		
Rep. Johnson		X		Rep. Sarbanes			
Rep. Bucshon		X		Rep. Tonko	X		
Rep. Hudson				Rep. Clarke	X		
Rep. Walberg		X		Rep. Cárdenas	X		
Rep. Carter		X		Rep. Ruiz	X		
Rep. Duncan		X		Rep. Peters	X		
Rep. Palmer				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			
Rep. Crenshaw		X		Rep. Blunt Rochester	X		
Rep. Joyce		X		Rep. Soto			
Rep. Armstrong		X		Rep. Craig	X		
Rep. Weber		X		Rep. Schrier			
Rep. Allen		X		Rep. Trahan	X		
Rep. Balderson		X		Rep. Fletcher	X		
Rep. Fulcher		X					
Rep. Pfluger		X					
Rep. Harshbarger		X					
Rep. Miller-Meeks							
Rep. Cammack		X					
Rep. Obernolte		X					

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**COMMITTEE ON ENERGY AND COMMERCE
118TH CONGRESS
ROLL CALL VOTE #40**

BILL: H.R. 1155, Keeping America's Refineries Act

AMENDMENT: A motion by Mrs. Rodgers to order H.R. 1155 favorably reported to the House, without amendment.

DISPOSITION: **AGREED TO**, by a roll call vote of 26 yeas to 19 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			
Rep. Bilirakis	X			Rep. Castor		X	
Rep. Johnson	X			Rep. Sarbanes		X	
Rep. Bucshon	X			Rep. Tonko		X	
Rep. Hudson				Rep. Clarke		X	
Rep. Walberg	X			Rep. Cárdenas		X	
Rep. Carter	X			Rep. Ruiz		X	
Rep. Duncan	X			Rep. Peters		X	
Rep. Palmer				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			
Rep. Crenshaw	X			Rep. Blunt Rochester		X	
Rep. Joyce	X			Rep. Soto			
Rep. Armstrong	X			Rep. Craig		X	
Rep. Weber	X			Rep. Schrier			
Rep. Allen	X			Rep. Trahan		X	
Rep. Balderson	X			Rep. Fletcher		X	
Rep. Fulcher	X						
Rep. Pfluger	X						
Rep. Harshbarger	X						
Rep. Miller-Meeks							
Rep. Cammack	X						
Rep. Obernolte	X						

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Pursuant to clause 3(c)(5) of rule XIII, no provision of H.R. 1155 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, the following hearings were used to develop or consider H.R. 1155:

(1) the following hearings were used to develop or consider H.R. 1155:

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

- 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 Pruett, 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 also held:

On February 7, 2023, the Subcommittees on Environment, Manufacturing, and Critical Materials and Energy, Climate, and Grid Security jointly held a hearing on 17 separate pieces of legislation, including a pre-introduced “Discussion Draft” version of H.R. 1155. The Subcommittee received testimony from:

- The Honorable Mark Menezes, Former U.S. 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 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. 1155 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

H.R. 1155 is a stand-alone piece of legislation that refers to the implementation of a particular aspect of the Risk Management Program under Clean Air Act section 112(r)(7). The legislation makes no amendments to the Clean Air Act. H.R. 1155 relies upon the meanings of certain terms as they are defined in the Clean Air Act.

Section 1 contains the Short Title of the legislation: “Keeping America’s Refineries Act”.

Section 2 has one overarching focus and two subparts to it. First, section 2 only applies to requirements issued by the Administrator of the Environmental Protection Agency -- under Clean Air Act section 112(r)(7) -- on an owner or operator of a stationary source identified in NAICS code 324 and that uses a hydrofluoric acid alkylation unit. Next, section 2 precludes the Administrator from requiring that owner or operator, whose stationary source has a Clean Air Act construction or operating permit, to conduct an assessment of safer technology or alternative risk management measures as part of the that source’s required hazard assessment under the RMP. Last, if that owner or operator does not have Clean Air Act construction or operating permits, that source can avoid being required to conduct an assessment of safer technology or alternative risk management measures if they can demonstrate conformance with or future conformance with API Recommended Practice 751.

To clarify the Committee’s intent with this legislation, a few things should be noted. First, the Committee seeks to create a reliable, available, and affordable liquid fuel supply in the United States. The Committee observes that there are two main ways to address a hazard – eliminate it or manage it – and forcing procedures designed to frustrate operations of such a large amount of gasoline production capacity will have immediate and deleterious impacts to Americans. To this end, the Committee seeks to eliminate regulatory exercises that may not result in any safety benefit but will add costs and could cause major economic disruptions. Since the most appropriate time to assess the type of refinery one wants to build is in the design phase, this legislation is specifically intended to nullify the recurring proposal at EPA to require operating or constructed gasoline refineries to conduct an assessment of safer technology or alternative risk management measures. This legislation does not and should not be interpreted to eliminate RMP

hazard assessments for these types of facilities – just the requirement of this exercise on top of the current hazard assessment. Finally, for preconstructed refineries that may use hydrofluoric acid alkylation units, the Committee believes those facilities can either comply with EPA’s requirements for assessments of safer technology and alternatives risk management methods or demonstrate to EPA that the facility will or plans to conform with the industry’s most stringent safe management protocols, API Recommended Practice 751.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

This legislation does not amend any existing Federal statute.

MINORITY VIEWS

[Attachment--Views]

Committee on Energy and Commerce

MINORITY VIEWS

H.R. 1155, Keeping America's Refineries Act

We oppose H.R.1155, the “Keeping America’s Refineries Act,” which exempts refineries that use dangerous hydrofluoric acid from doing a safer technology alternatives assessment under the Clean Air Act (CAA) Section 112(r). The bill gives refineries a free pass from considering safer alternatives to hydrofluoric acid (HF) in their refining operations – a highly toxic chemical linked to recent catastrophic chemical disasters.¹ This brazen loophole would jeopardize the health and safety of workers, first responders, and frontline communities.

BACKGROUND

The bill seeks to block portions of Environmental Protection Agency’s (EPA) proposed Safer Communities by Chemical Accident Prevention rule, to strengthen the Risk Management Program (RMP).² The rule proposes to mitigate and decrease the incidents and impacts of chemical disasters on communities, first responders and workers at chemical facilities.

Some refineries use HF alkylation units - process units used in petroleum refining - to convert isobutane and alkenes (primarily propylene or butylene) into alkylate, which is used to make gasoline. HF is particularly hazardous in the event of a major release because it is highly toxic and is a vapor at atmospheric conditions.³

One key component of the proposed RMP rule requires facilities with chemicals that pose a high risk to workers and communities to undertake a safer technology alternatives assessment (STAA). This provision was included in the proposed rule in direct response to incidents at refineries with HF, such as the 2019 PES refinery explosion in Philadelphia and the 2015 Torrance refinery explosion in California. Despite evidence of the dangers, H.R. 1155 would exempt refineries that use HF from the STAA requirements of the RMP proposed rule.

SUMMARY OF H.R. 1155

The bill exempts gasoline refineries that use HF from a requirement in a proposed rule pursuant to section 112(r)(7)(B) of the Clean Air Act, to include in any hazard assessment an assessment of safer technology and alternative risk management measures with respect to the use

¹ See U.S. Chemical Safety and Hazard Investigation Board, *Husky Energy Superior Refinery Explosion and Fire* (www.csb.gov/husky-energy-superior-refinery-explosion-and-fire/) (accessed Mar. 21, 2023); *Refinery Explosions Raise New Warnings About Deadly Chemical*, National Public Radio (July 19, 2019) (www.npr.org/2019/07/19/742367382/refinery-explosions-raise-new-warnings-about-deadly-chemical); *PFAS Refinery Explosion Investigation Says EPA Should Scrutinize Deadly Chemical Hydrofluoric Acid*, WHYY (Oct. 11, 2022) (whyy.org/articles/pes-refinery-explosion-investigation-epa-chemical-safety-board-hydrofluoric-acid).

² Environmental Protection Agency, *Accidental Release Prevention Requirements: Risk Management Programs Under the Clean Air Act; Safer Communities by Chemical Accident Prevention*, 87 Fed. Reg. 53556 (Aug. 31, 2022) (proposed rule).

³ U.S. Chemical Safety and Hazard Investigation Board, *Philadelphia Energy Solutions (PES) Refinery Fire and Explosions* (www.csb.gov/philadelphia-energy-solutions-pes-refinery-fire-and-explosions-/) (accessed Mar. 21, 2023).

of HF in an alkylation unit. This exemption is unnecessary and misleading. It is good business practice to look for safer alternatives to highly toxic and dangerous chemicals being used at facilities. EPA's proposal is just an extension of that good business practice for facilities that are already regulated under the Risk Management Plan Program.

H.R. 1155 is a solution in search of a problem. EPA's proposed RMP rule does not require adoption of alternatives, so no refineries currently using HF will be forced to shutter their doors as a result of assessing safer alternatives to HF. In fact, there are already other commercialized alternatives that are proven safer such as ionic alkylation and sulfuric acid alkylation.⁴ Along similar lines, the short title of the bill is woefully misleading. The proponents of H.R. 1155 insinuate that requiring a refinery to assess and consider safer alternatives to HF amounts to a phase out of gasoline and would raise gas prices for consumers. Yet, as confirmed by the majority counsel during the Environment Subcommittee markup, nothing in the bill "addresses EPA authority with regard to retail gasoline prices."⁵

Democratic Committee Members offered amendments during Full Committee markup to ensure communities, workers, and first responders are protected from the worst potential harms of the bill. First, every Republican Committee Member voted against an amendment to ensure that any facility that had a near miss event, chemical incident, or explosion under EPA's Risk Management Program, would not be eligible for the bill's exemption. Second, every Republican Committee Member voted against an amendment to ensure the act would not go into effect until EPA, in consultation with necessary agencies, certifies that this act would not jeopardize the national security of these facilities.

CONCLUSION

H.R. 1155 is nothing more than a deregulatory gift to petroleum refiners, letting them off the hook for examining any safer alternatives to HF. This brazen loophole endangers the health and safety of refinery workers,⁶ surrounding communities, and the first responders that will unfortunately have to rush into a facility when an incident occurs.

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

⁴ See e.g. Honeywell, *Chevron and Honeywell Announce Start-Up of World's First Commercial ISOALKY Ionic Liquids Alkylation Unit* (Apr. 13, 2021) (press release); ExxonMobil, *Sulfuric Acid Alkylation (ALKEMAX)* (www.exxonmobilchemical.com/en/catalysts-and-technology-licensing/fuel-production/sulfuric-acid-alkylation) (accessed Mar. 21, 2023).

⁵ House Committee on Energy and Commerce, *Markup of Seven Bills*, 118th Cong. (Feb. 28, 2023).

⁶ Letter from the United Steelworkers, to Rep. Cathy McMorris Rodgers, Chair, House Committee on Energy and Commerce and Rep. Frank Pallone, Jr., Ranking Member, House Committee on Energy and Commerce (Mar. 9, 2023).