



Fact Sheet: Special Interest Priorities in the House Energy Bill (Amendments to S. 2012)

On May 25, 2016, the House passed an amendment to the Senate passed energy bill, S. 2012 by a vote of 241 - 178. The House amendment to S. 2012 includes 37 energy and water related bills that have passed the House in the 114th Congress. Unfortunately, the House amendment to S. 2012 includes a number of highly objectionable provisions that would completely undermine the bipartisan nature of the Senate passed bill, which was passed by a vote of 85 - 12. The House amendment undermines energy efficiency efforts, drastically rolls back environmental protections during the energy permitting process, would lead to the destruction of thousands of acres of forests, and unduly open up public lands and wilderness to mining. This fact sheet highlights a number of the unacceptable provisions found in the House amendment, many of which are strongly opposed by the Administration and have drawn a veto threat.

Senate Democrats support the bipartisan, common-sense approach that passed the Senate overwhelmingly, which is focused on improving energy efficiency and boosting research into new energy technologies. The House bill is yet another giveaway to special interests at the expense of clean air and water.

Special Interest Legislation in the House Amendments

H.R. 8—North American Energy Security and Infrastructure Act of 2015

Administration Position: This bill is subject to a VETO THREAT.

Weakens energy efficiency in building code. As opposed to strengthening building codes, the House bill hampers the Department of Energy's ability to provide technical support for building code development and state implementation, and requires that any efficiency improvements have a payback period of ten years or less.

Rigs electricity regulations to force states to use coal and nuclear power. The House bill contains Public Utility Regulatory Policies Act (PURPA) amendments that require states to consider adopting regulatory standards favoring coal and nuclear power. In addition, it would require regional transmission organizations and independent system operators that operate a capacity market to ensure the availability of sufficient capacity from coal and nuclear power (without actually naming them).

Energy corridors on public lands that would exempt National Parks from environmental reviews during the siting of pipelines. The House bill requires the Secretary of the Interior to designate energy security corridors on public lands (including National Parks) for the siting of natural gas pipelines; and exempts the designation of such corridors from environmental review under the National Environmental Policy Act.

Limits judicial review of energy projects. The House bill limits judicial review of energy projects and bars payment of attorneys' fees in energy cases under the Equal Access to Justice Act.

Attempts to establish a new cross border permitting process. The House bill establishes a new statutory framework for authorizing cross-border electric transmission or oil or natural gas pipelines (like the Keystone pipeline).

Draconian hydro relicensing provisions. Relative to the Senate bill, the House bill contains draconian hydro relicensing provisions. It gives FERC the power to set *judicially enforceable* schedules by which other federal agencies must act on hydro license applications, and the power to approve license applications without the other agencies' approval if they fail to meet FERC's deadlines.

Restrict the public's ability to comment on natural gas pipeline siting that goes through their communities. While the Senate bill duplicates many of FERC's existing authorities—the House bill takes it further, by requiring all federal agencies responsible for granting any necessary approvals for natural gas pipelines to grant the approval in 90 days. This provision would limit the agencies' ability to review proposed pipeline projects and restrict the public's ability to comment on them regardless of the complexity of the proposed project.

Very aggressive timelines for review and approval of natural gas exports. The House bill requires the Secretary of Energy to approve natural gas exports within 30 days after FERC completes its environmental review—as opposed to the 45 days contained in the Senate bill, with which DOE has expressed confidence it can comply.

H.R. 1806—American COMPETES Reauthorization Act of 2015

Administration Position: This bill is subject to a VETO THREAT

Substantially cuts research and development investments for science. Rather than increasing U.S. investment in research and development, the House bill substantially undercuts funding for science-related agencies, including the Department of Energy, National Science Foundation, National Institute of Standards & Technology and the Office of Science and Technology Policy.

Guts DOE Clean Energy & Climate Programs. The House bill authorizes investment in ARPA-E, Energy Efficiency and Renewable Energy, Electricity and Energy Delivery, and Biological and Environmental Research at levels as much as 50 percent below recent Budget Requests. It would also gut ARPA-E's mission by excluding research on emissions reduction technologies.

Banning Science in Regulatory Decisions. The House bill would prohibit DOE research on fossil energy from being considered in the context of Federal regulations pertaining to public health.

H.R. 2898—Western Water and American Food Security Act of 2015

Administration Position: This bill is subject to a VETO THREAT

New Operational Standards for Water Project which are in direct conflict with current water laws. The House bill directs specific operations of federal projects pursuant to a new legal standard, which conflicts with current water laws.

Undermines the Endangered Species Act. The House bill directs specific operations of federal infrastructure that would be inconsistent with the Endangered Species Act, risking extinction of Bay Delta fish species.

Unrealistic Deadlines for Feasibility Studies that would limit DOI's ability to evaluate a full set of options. Deadlines included in the legislation for feasibility studies associated with certain water projects could prevent non-Federal participation, and limit DOI's ability to consider a full range of options.

Undermining Fisheries Management. The House bill would constrain the Administration's ability to protect commercial and tribal fisheries on the Trinity and Klamath Rivers.

Undoing San Joaquin River Settlement. The House bill repeals legislation that resolved 18-years of litigation, and threatens the resumption of a water war creating an uncertain future for restoration and water delivery on the San Joaquin River.

H.R. 2406—Sportsmen's Heritage and Recreational Enhancement (SHARE) Act

Administration Position: ADMINISTRATION STRONGLY OPPOSES

Rolls back environmental review and wilderness protections on public lands. The House bill would exempt from NEPA consideration public land management decisions, and undermine application of the Wilderness Act.

Disrupts decades of sound Fisheries Management policy. The House bill includes language that prohibits DOI or Commerce from restricting recreational or commercial fishing access to State, territorial marine or Great Lakes waters under the jurisdiction of the Park Service or Office of National Marine Sanctuaries without prior approval of the State.

Prevents the regulation of lead based ammunition and tackle, which poses a clear threat to bird populations and fish. The House bill would prohibit BLM and the Forest Service from limiting the use of lead shot or tackle, even where it threatens migratory bird populations and other wildlife.

Repeals the ban on firearms at Army Corps Projects. The House bill repeals existing regulations that ban individuals from carrying firearms at Army Corps water resources projects.

Undermines the Administration's efforts on Elephant Poaching & Ivory Trafficking. The House bill would undermine the Administration's current efforts to disrupt international elephant poaching and ivory trafficking activities.

Allows for the import Polar Bear carcasses. The House bill would enable the import of polar bear carcasses.

Undermines public safety by voiding existing restrictions on hunting and fishing within national forests. The House bill prohibits and voids existing Forest Service restrictions on hunting and fishing, within certain National Forests located in Louisiana, Mississippi, Missouri, Arkansas and Oklahoma.

Grand Canyon Beefalo. Similar to the Flake proposal separately reported by the Energy Committee, the House bill would disrupt current plans for management of beefalo herds within the Grand Canyon National Park.

H.R. 1937—National Strategic and Critical Minerals Production Act of 2015

Administration Position: ADMINISTRATION STRONGLY OPPOSES

Significantly curtails environmental review of mining activities on federal lands. The House bill significantly curtails NEPA review of mining and exploration permits on federal lands, for almost all types of hardrock minerals. Further curtails public involvement in lands management decisions.

Places extremely stringent limitations on Judicial Review for mining projects. Establishes a 60-day shot-clock on civil litigation related to agency siting decisions, creates standing for any mineral exploration permit holder to intervene in relevant civil action, limits the scope of potential relief and bars reimbursement for attorneys fees for successful plaintiffs associated with related litigation.

H.R. 2647—Resilient Federal Forests Act of 2015

Administration Position: ADMINISTRATION STRONGLY OPPOSES

Insufficient “Fire Borrowing” Fix. The House bill allows a continually escalating amount of funding for wildfire suppression and operations to be drawn from other Forest Service accounts, without providing an emergency adjustment mechanism for budget allocations. Further, it repurposes Stafford Act funding from FEMA’s Disaster Relief Fund, for purposes of covering firefighting costs. (As recently as this Spring, Republicans opposed using the DRF for covering Flint drinking water expenses.)

A Vast Array of New Categorical Exclusions for logging that put many forest ecosystems at risk. The House bill creates a vast array of new Categorical Exclusions from NEPA, for activities that may be only loosely tethered to improving the fire-resilience of forest ecosystems. The bill includes new CEs covering from 5,000 to 15,000 acres, for:

- insect disease/infestation;
- hazardous fuels reduction;
- protection of municipal water sources;
- maintenance, enhancement or modification of critical habitat for Endangered Species;
- increases in water yield or any combination of these purposes.

Categorical exclusions for salvage logging that would open up far too much acreage. The House bill creates a new Categorical Exclusion of up to 5,000 acres for salvage operations following a catastrophic event—20 times larger than the current 250 acre authority for salvage logging CEs. For salvage operations of 10,000 acres or more, the House bill puts a three-month shot clock on completion of NEPA assessments. It also bars restraining orders and preliminary injunctions for salvage operations.

Clear-Cutting and wiping out of forests. The House bill also creates a new Categorical Exclusion for creating “successional forests for wildlife habitat”—that is to say, clear-cuts—of up to 5,000 acres.

Wildfire Categorical Exclusion. The House bill also includes a Categorical Exclusion for a wide variety of activities intended to improve, restore and reduce the risk of wildfire—potentially including the use of pesticides and herbicides in forests. These activities are currently prohibited under the CE for hazardous fuels reduction created under the Healthy Forests Restoration Act of 2003.

Additional Judicial Review Provisions. The House bill requires litigants challenging certain forest projects to post a bond covering the government’s expenses; and prohibits successful litigants from recovering attorneys fees.

Repeal of Secure Rural Schools requirements. Repeals the existing Secure Rural Schools requirement that 50 percent of Title II funding be dedicated to stream, watershed restoration or road maintenance and removal. The House bill, instead, would direct those funds toward stewardship projects, timber sales and forest products.