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"America Builds: Clean Water Act Permitting and Project Delivery"
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Chairman Collins, Ranking Member Wilson, and members of the Subcommittee, my name is Noah Hanners, and I am proud to serve as Executive Vice President at Nucor Corporation where I oversee our sheet products group, which is comprised of six steel mills that make flat-rolled steel products for automotive, appliance, construction, pipe and tube and many other industrial and consumer applications.

Nucor is the largest and most diversified steel producer in the United States and the largest recycler of any type of material anywhere in North America. And, among America's three largest steel producers, we are the only one that still makes 100 percent of its steel here in America. Each year, our company recycles more than 20 million tons of ferrous scrap to produce more than a quarter of all the raw steel made in the U.S. This steelmaking method makes us one of the cleanest and most sustainable producers in the world. Specifically, our method has a fraction of the carbon footprint and roughly 10 percent of the particulate emissions compared to an average integrated steel mill. In addition, we use 95 percent less water than an average steel mill, and we capture and reprocess 86 percent of our process water for reuse before discharging. Several of our 26 – soon to be 28 – steel mill facilities also have strategically constructed stormwater retention ponds to capture stormwater runoff. Nucor is not only one of the cleanest and most efficient steelmakers in the world, but we are also one of the safest, with a steelmaking injury

and illness rate that has consistently been at least 30 percent below the industry average year after year.

Manufacturers like Nucor create well-paying jobs, drive innovation and build our modern digital economy – all while developing and deploying technologies that make our environment cleaner. When manufacturing wins, America wins. But right now, cumbersome and overreaching permitting laws and regulations are holding back progress, delaying investments and making it harder to compete globally. Permitting delays, red tape and complicated bureaucracy make it difficult to complete projects that benefit communities across the country, especially for capital intensive industrial manufacturers like ours. It is no surprise that in a 2024 survey of manufacturers, 72 percent of respondents said that the length and complexity of the permitting process affected their investment decisions.[1] That's the real problem. If we want to grow America's economy, we need to fix this broken system.

Nucor can attest first-hand to the difficulties of navigating federal permit processes. In 2022 – we announced the selection of Apple Grove – West Virginia – as the location for a new state-of-the-art sheet steel mill. At $3.5 billion – it is the largest manufacturing investment in the state's history. Nucor's sheet mills create an average of 800 full-time, high-paying manufacturing jobs, and we are proud to have already hired 300 West Virginia teammates. In addition, we anticipate approximately 2,000 contracting teammates at peak construction.

[1] National Association of Manufacturers, NAM Manufacturers' Outlook Survey, First Quarter 2024 (March 5, 2024), *available at* https://nam.org/2024-first-quarter-manufacturers-outlook-survey/.

Our new steel mill is strategically situated on the Ohio River, which will provide logistical and transportation advantages and will better enable us to supply automotive, construction and industrial customers in the Midwest and Northeast regions, areas which consume half of the sheet steel in the U.S. Locating along a major navigable water of the U.S. precipitated the need for federal authorization under Section 404 of the Clean Water Act. While we worked diligently with our state and federal partners to secure the necessary permits to construct the facility's barge loading and unloading dock, the process became hindered by numerous requests from multiple parties for more information, additional studies or investigations and reformatting of previously submitted documents. These frustrating delays stemmed largely from consultation requirements under Section 7 of the Endangered Species Act and Section 106 of the National Historic Preservation Act, which are characterized by overly vague and subjective timelines and lack of agency coordination and guidance. Based on Nucor's nearly six decades of experience building industrial facilities across the country, these tasks were far beyond the original scope of work and unnecessarily delayed the final permit decision – and thus the project – by several months. And delays in today's economic environment cost money. What was first announced as a $2.7 billion project is now a $3.5 billion project. We are excited for our future and to bring this transformative project to the state of West Virginia, but without the hard work and persistence from our federal, state and local representatives, this project may have never broken ground.

Manufacturers have been building a case for commonsense reforms to our nation's permitting laws for years. I'll say it again: we need commonsense permitting reforms. The National Association of Manufacturers supported bipartisan efforts during the previous Congress to update processes under the National Environmental Policy Act and speed up construction of

critical energy projects. For example, manufacturers supported the permitting reforms made in the Fiscal Responsibility Act of 2023. The correct implementation of this statute is both important to the industry as well as germane to any conversation about CWA reforms, particularly regarding agencies evaluating "reasonably foreseeable" impacts and alternatives in the permitting process.

And while today's focus is on CWA reform, this is only the beginning. Working together, policymakers have a real opportunity to achieve lasting, comprehensive permitting reform and effect positive changes to our nation's environmental standards that support economic growth while protecting our communities. For example, while manufacturers support efforts to remove per- and polyfluoroalkyl substances (PFAS) and other potentially harmful chemicals from our water systems, overly-severe standards proposed by the Environmental Protection Agency make compliance impossible and directly threaten our ability to invest, innovate and create jobs in America. And while our air quality standards for particulate matter (PM2.5) are necessary for public health, the unreasonably tightened limits for emissions of fine particles or soot which took effect last year are placing an unnecessary regulatory burden on our manufacturers and making permitting harder – hindering onshoring and raising global emissions.

Our U.S. manufacturing sector is cleaner than at any other time in history and cleaner than foreign competitors. That is why we strongly believe that comprehensive permitting reform is critical, and such reform must include American manufacturers' priorities that provide regulatory certainty, streamline the permitting process and give the regulated community opportunity for input when establishing the rules under which they will operate. Policymakers may accomplish

these goals through changes to underlying statutes that expedite judicial review, create enforceable deadlines for agencies and increase the use of categorical exclusions.

Clean Water Act Reform Recommendations

As Nucor's experience with our West Virginia site illustrates, the CWA is a statute wherein thoughtful changes would benefit and advance economic development projects across the nation. Last Congress, this committee took steps toward reforming the CWA by reporting out and securing passage by the House of Representatives of the Creating Confidence in Clean Water Permitting Act. Among other changes, the legislation would have instituted reforms to permitting programs under Section 402 and Section 404 of the CWA to support the use of general permits under the programs, as well as to set guidelines on judicial review and enhance the National Pollutant Discharge Elimination System (Section 402) permit shield.

Manufacturers commend the committee for its attention to CWA reform and the advancement of critical infrastructure and economic development projects. As the committee pursues this important work in the 119th Congress, we respectfully request that members consider several areas for improvement.

I. Timelines

Clarified timelines for agency action and decisions for a Section 404 permit will assist applicants with project planning and execution. Currently, those seeking an individual permit are often caught in a winding process with multiple decision-makers and nebulous timelines. For example, the Army Corps of Engineers district office will delay action for the entire permit area while awaiting approval from the U.S. Fish and Wildlife Service for a specific portion of the project.

II. Scope

Similar to establishing timelines for agency decisions, clear and understood definitions as to the scope of project areas subject to Section 404 permitting requirements will help applicants with planning and execution. Over the past decade and more, manufacturers and others in the regulated community have been caught in a regulatory morass because of a prolonged disagreement over the definition of waters of the U.S. This has resulted in delays and confusion in the jurisdictional determination process by USACE. Furthermore, USACE recently proposed to update its regulations for implementing Section 106 of the NHPA, potentially expanding the scope of areas of a project where agencies will need to consult on effects on historic properties, elongating delays.

III. Permit certainty

Once a permit is granted or a particular activity is verified as authorized under a general permit, the permittee should have a high degree of certainty that the agency's action is determinative. Limiting the timeline for judicial review and supporting the permit as shield will cut down on unnecessary litigation that delays projects and adds costs. Reasonable restrictions to the EPA's authority under Section 404(c) of the CWA to prohibit areas as disposal sites – limiting retroactive vetoes of permits – will likewise increase confidence in the permitting process.

IV. General permits

The use of general permits should be promoted to the maximum extent practicable for those projects with limited impact on the environment. This may be accomplished through several means, such as extending the time between reissuance and limiting politically-charged reviews, as well as defining the scope of environmental effects during issuance or reissuance.

V. State assumption

State assumption of Section 404 permitting responsibilities should likewise be encouraged. States know best about their water resources and are better able to be responsive to applicants throughout the permitting process. Unfortunately, progress in this area has been hampered by subsequent litigation following approval of state assumption, with the State of Florida as a recent example.

VI. Water quality certification

Promoting federalism in the administration of the CWA should not be permission for states to go outside the bounds of statutory authority, however. It is important to focus state responsibility pursuant to Section 401 of the CWA on project impacts to water quality specifically. Unfortunately, some states have recently used this authority to block important interstate projects critical for dependable energy use.

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Nucor and America's manufacturing sector are the most advanced and sustainable manufacturers in the world. We are proof that we can both protect the environment, while also creating well-paying jobs and strengthening our local communities. Comprehensive permitting reform that increases certainty for the regulated community while removing unnecessary bureaucratic hurdles will both enhance America's economic competitiveness and protect our environment. When manufacturing wins, America wins.

Thank you for inviting me to testify today and share our story. I look forward to your questions.