

AMENDMENT TO H.R. 1
OFFERED BY MR. PAPPAS OF NEW HAMPSHIRE

At the end of division A, add the following:

1 **SEC. 10017. TRANSPORTATION FUEL MARKET TRANS-**
2 **PARENCY.**

3 (a) AMENDMENTS TO THE PROHIBITIONS ON MAR-
4 KET MANIPULATION AND FALSE INFORMATION PROVI-
5 SIONS OF THE ENERGY INDEPENDENCE AND SECURITY
6 ACT OF 2007.—

7 (1) APPLICATION TO TRANSPORTATION
8 FUEL.—Subtitle B of title VIII of the Energy Inde-
9 pendence and Security Act of 2007 (42 U.S.C.
10 17301 et seq.) is amended—

11 (A) in section 811, by striking “gasoline or
12 petroleum distillates” and inserting “or trans-
13 portation fuel”;

14 (B) in section 812—

15 (i) in the matter preceding paragraph
16 (1), by striking “gasoline or petroleum dis-
17 tillates” and inserting “or transportation
18 fuel”; and

1 (ii) in paragraph (3), by striking “,
2 gasoline, or petroleum distillates” and in-
3 serting “or transportation fuel”; and
4 (C) by adding at the end the following new
5 section:

6 **“SEC. 816. DEFINITION OF TRANSPORTATION FUEL.**

7 “In this subtitle, the term ‘transportation fuel’ in-
8 cludes gasoline, distillate fuels (including heating oil), jet
9 fuel, aviation gasoline, and biofuel (including ethanol, bio-
10 mass-based diesel and distillates, and renewable blending
11 components).”.

12 (2) PROHIBITION ON FALSE INFORMATION.—

13 Section 812 of the Energy Independence and Secu-
14 rity Act of 2007 (42 U.S.C. 17302) is amended—

15 (A) in the matter preceding paragraph

16 (1)—

17 (i) by striking “wholesale” and insert-
18 ing “supply of, operational actions related
19 to, output related to, or wholesale”; and

20 (ii) by striking “to a Federal depart-
21 ment or agency”;

22 (B) in paragraph (1), by adding “and” at
23 the end;

1 (C) by striking paragraph (2) and redesignig-
2 nating paragraph (3), as amended by para-
3 graph (1), as paragraph (2); and

4 (D) in paragraph (2), as so redesignated,
5 by striking “the person intended the false or
6 misleading data to affect data compiled by the
7 department or agency” and inserting “the false
8 or misleading information reported by the per-
9 son affected analyses or data compiled by a
10 Federal department or agency or a private sec-
11 tor price-reporting agency”.

12 (3) ENFORCEMENT.—Section 813(a) of the En-
13 ergy Independence and Security Act of 2007 (42
14 U.S.C. 17303(a)) is amended by striking “This sub-
15 title” and inserting “Except as otherwise provided in
16 section 814, this subtitle”.

17 (4) PENALTIES.—Section 814 of the Energy
18 Independence and Security Act of 2007 (42 U.S.C.
19 17304) is amended—

20 (A) in subsection (a), by striking
21 “\$1,000,000” and inserting “\$2,000,000”; and

22 (B) in subsection (b), by striking “section
23 5 of the Federal Trade Commission Act (15
24 U.S.C. 45)” and inserting “section 5(m)(1)(A)

1 of the Federal Trade Commission Act (15
2 U.S.C. 45(m)(1)(A))”.

3 (b) TRANSPORTATION FUEL MONITORING AND EN-
4 FORCEMENT WITHIN THE FEDERAL TRADE COMMIS-
5 SION.—

6 (1) ESTABLISHMENT OF THE TRANSPORTATION
7 FUEL MONITORING AND ENFORCEMENT UNIT.—

8 (A) IN GENERAL.—The Commission shall
9 establish within the Commission the Transpor-
10 tation Fuel Monitoring and Enforcement Unit
11 (in this subsection referred to as the “Unit”).

12 (B) DUTIES OF THE UNIT.—

13 (i) PRIMARY RESPONSIBILITY.—The
14 primary responsibility of the Unit shall be
15 to assist the Commission in protecting the
16 public interest by continuously and com-
17 prehensively collecting, monitoring, and
18 analyzing crude oil and transportation fuel
19 market data in order to—

20 (I) support transparent and com-
21 petitive market practices;

22 (II) identify any market manipu-
23 lation, reporting of false information,
24 use of market power to disadvantage

1 consumers, or other unfair method of
2 competition; and

3 (III) facilitate enforcement of
4 penalties against persons in violation
5 of relevant statutory prohibitions.

6 (ii) SPECIFIC DUTIES.—In order to
7 carry out the responsibility under clause
8 (i), the Unit shall assist the Commission in
9 carrying out the following duties:

10 (I) Receiving, compiling, and
11 analyzing relevant buying and selling
12 activity in order to identify and inves-
13 tigate anomalous market trends and
14 suspicious behavior.

15 (II) Determining whether exces-
16 sive concentration or exclusive control
17 of energy-related infrastructure may
18 allow or result in anti-competitive be-
19 haviors.

20 (III) Gathering evidence of
21 wrongdoing against any person in vio-
22 lation of the statutory prohibitions on
23 market manipulation and false infor-
24 mation established in, and consistent
25 with, subtitle B of title VIII of the

1 Energy Independence and Security
2 Act of 2007, as amended by sub-
3 section (a), or any other applicable
4 provisions of the Federal Trade Com-
5 mission Act (15 U.S.C. 45 et seq.).

6 (IV) Obtaining a data-sharing
7 agreement with the Energy Informa-
8 tion Administration that includes the
9 data collected in accordance with sec-
10 tion 205(n) of the Department of En-
11 ergy Organization Act (42 U.S.C.
12 7135), as amended by subsection (c).

13 (V) Obtaining data-sharing
14 agreements with the Commodities Fu-
15 tures Trading Commission, the Fed-
16 eral Energy Regulatory Commission,
17 and as necessary and practicable,
18 State energy offices or commissions,
19 and relevant public and private data
20 sources that will allow the Commis-
21 sion to receive and archive informa-
22 tion on—

23 (aa) crude oil and transpor-
24 tation fuel buying and selling ac-
25 tivity;

- 1 (bb) individual physical and
2 financial market positions of
3 market participants regarding
4 crude oil and transportation fuel;
- 5 (cc) refinery output, capac-
6 ity, and inventory levels of crude
7 oil and transportation fuel;
- 8 (dd) imports and exports of
9 crude oil and transportation fuel
10 within regions and at levels that
11 could impact prices faced by con-
12 sumers;
- 13 (ee) public announcements
14 by energy companies of planned
15 pricing or output decisions re-
16 garding crude oil and transpor-
17 tation fuel; and
- 18 (ff) other relevant market
19 information that will facilitate
20 the gathering of evidence de-
21 scribed in subclause (III), includ-
22 ing sufficient market information
23 necessary to monitor for cross-
24 market manipulations that may

1 include multiple financial and
2 physical market positions.

3 (VI) Any other information de-
4 termined appropriate by the Commis-
5 sion to carry out the responsibility
6 under clause (i).

7 (2) DEFINITIONS.—In this subsection:

8 (A) COMMISSION.—Other than in para-
9 graph (1)(B)(ii)(V), the term “Commission”
10 means the Federal Trade Commission.

11 (B) TRANSPORTATION FUEL.—The term
12 “transportation fuel” includes gasoline, dis-
13 tillate fuels (including heating oil), jet fuel,
14 aviation gasoline, and biofuel (including eth-
15 anol, biomass-based diesel and distillates, and
16 renewable blending components).

17 (3) REGULATIONS.—Not later than 90 days
18 after the date of enactment of this Act, the Commis-
19 sion shall promulgate regulations to carry out this
20 subsection.

21 (4) AUTHORIZATION OF APPROPRIATIONS.—
22 There is authorized to be appropriated to the Com-
23 mission such sums as may be necessary for each of
24 fiscal years 2023 through 2028 to carry out this
25 subsection.

1 (c) TRANSPORTATION FUEL MARKET TRANS-
2 PARENCY.—Section 205 of the Department of Energy Or-
3 ganization Act (42 U.S.C. 7135) is amended by adding
4 at the end the following:

5 “(n) TRANSPORTATION FUEL MARKET TRANS-
6 PARENCY.—

7 “(1) DEFINITIONS.—In this subsection:

8 “(A) ENERGY COMPANY.—The term ‘en-
9 ergy company’ means a person (as defined in
10 section 11(e) of the Energy Supply and Envi-
11 ronmental Coordination Act of 1974 (15 U.S.C.
12 796(e))) that—

13 “(i) owns or controls commercial
14 amounts of crude oil or transportation
15 fuel; or

16 “(ii) is engaged in—

17 “(I) exploration for, or develop-
18 ment of, crude oil;

19 “(II) extraction of crude oil;

20 “(III) refining or otherwise proc-
21 essing crude oil or transportation fuel;

22 “(IV) commercial storage of
23 crude oil or transportation fuel;

1 “(V) transportation by any
2 means of commercial amounts of
3 crude oil or transportation fuel; or

4 “(VI) wholesale or retail distribu-
5 tion of crude oil or transportation
6 fuel.

7 “(B) TRANSPORTATION FUEL.—The term
8 ‘transportation fuel’ means—

9 “(i) gasoline;

10 “(ii) distillate fuels, including heating
11 oil;

12 “(iii) jet fuel;

13 “(iv) aviation gasoline; and

14 “(v) biofuel, including ethanol, bio-
15 mass-based diesel and distillates, and re-
16 newable blending components.

17 “(2) PURPOSE.—The purpose of this subsection
18 is to collect data necessary to facilitate transparent
19 and competitive transportation fuel markets, deter-
20 mine adherence to relevant international sanctions,
21 and protect consumers.

22 “(3) SURVEYS.—

23 “(A) IN GENERAL.—The Administrator
24 shall conduct surveys of energy companies to
25 collect detailed and timely information on

1 United States crude oil and transportation fuel
2 markets.

3 “(B) EXEMPTION.—The Administrator
4 shall exempt an energy company from partici-
5 pating in the surveys conducted under subpara-
6 graph (A) if the energy company has a de mini-
7 mis market presence or impact, as determined
8 by the Administrator.

9 “(4) DATA COLLECTED.—

10 “(A) IN GENERAL.—The surveys con-
11 ducted under paragraph (3) shall collect infor-
12 mation on a national, regional, State, and en-
13 ergy company basis.

14 “(B) INFORMATION.—The surveys con-
15 ducted under paragraph (3) shall collect the fol-
16 lowing information with respect to crude oil and
17 transportation fuel, as applicable:

18 “(i) The quantity of crude oil and
19 transportation fuel imported and exported.

20 “(ii) The quantity of crude oil and
21 transportation fuel refined, stored, and
22 transported.

23 “(iii) The quantity of crude oil and
24 transportation fuel entering final retail and
25 commercial commerce.

1 “(iv) The quantity of crude oil and
2 transportation fuel purchased and sold at
3 any upstream point between energy compa-
4 nies, including off-exchange bilateral sales
5 and sales between subsidiaries of the same
6 energy company.

7 “(v) Market price data for the trans-
8 actions described in clauses (i) through
9 (iv).

10 “(vi) Submissions to relevant price re-
11 porting entities.

12 “(vii) Any other such data, analyses,
13 or evaluations that the Administrator de-
14 termines is necessary to achieve the pur-
15 pose described in paragraph (2).

16 “(C) ORIGIN OF FUEL.—In obtaining the
17 information described in subparagraph (B), the
18 Administrator shall, to the maximum extent
19 practicable, track and publish the country of
20 original production of crude oil and transpor-
21 tation fuel that may have been resold, refined,
22 blended, stored, or otherwise been exchanged or
23 sold before being imported or exported into the
24 United States.

1 “(D) OTHER SOURCES.—The Adminis-
2 trator may, when practicable and determined
3 reliable by the Administrator, obtain informa-
4 tion described in subparagraph (B) from pri-
5 vate price publishers and providers of trade
6 processing services.

7 “(5) MINIMIZING REPORTING BURDENS.—The
8 Administrator shall seek to minimize any burdens on
9 energy companies in reporting information to the
10 Administrator, including by automating data sub-
11 mission practices for data collected under the sur-
12 veys conducted under paragraph (3).

13 “(6) PUBLIC DISTRIBUTION.—

14 “(A) IN GENERAL.—To the maximum ex-
15 tent practicable, subject to this paragraph, the
16 Administrator shall consistently and promptly
17 make publicly available analyses of the results
18 of the data collected pursuant to this subsection
19 in a form and manner easily adaptable for pub-
20 lic use and machine analysis.

21 “(B) GEOGRAPHICAL SPECIFICITY.—Anal-
22 yses published under subparagraph (A)—

23 “(i) shall be geographically specific
24 enough to provide meaningful differentia-
25 tion between fuel markets; and

1 “(ii) shall not organize geographical
2 data in the form of Petroleum Administra-
3 tion for Defense Districts or other geo-
4 graphic aggregations lacking sufficient res-
5 olution to ascertain regionally specific mar-
6 ket trends or disparities.

7 “(C) NONDISCLOSURE.—Any analysis pub-
8 lished under subparagraph (A) shall not dis-
9 close matters exempted from mandatory disclo-
10 sure under section 552(b) of title 5, United
11 States Code.

12 “(7) DATA-SHARING AGREEMENTS.—

13 “(A) FEDERAL TRADE COMMISSION.—Not-
14 withstanding subchapter III of chapter 35 of
15 title 44, United States Code (commonly known
16 as the ‘Confidential Information Protection and
17 Statistical Efficiency Act of 2018’), not later
18 than 1 year after the date of enactment of this
19 subsection, the Administrator shall enter into a
20 data-sharing agreement with the Federal Trade
21 Commission that shall allow any information
22 collected pursuant to this subsection to be re-
23 quested by and transferred to the Federal
24 Trade Commission without limitation or delay.

1 “(B) OTHER FEDERAL AGENCIES.—The
2 Administrator may enter into data-sharing
3 agreements with other Federal agencies that
4 have energy-related policy decision-making re-
5 sponsibilities, including the Commodity Futures
6 Trading Commission, the Federal Energy Regu-
7 latory Commission, and the Securities and Ex-
8 change Commission.

9 “(8) AUTHORIZATION OF APPROPRIATIONS.—
10 There are authorized to be appropriated to the Ad-
11 ministrator to carry out this section such sums as
12 are necessary for each of fiscal years 2023 through
13 2028.”.

