

ONE HUNDRED FIFTEENTH CONGRESS  
**Congress of the United States**  
**House of Representatives**

COMMITTEE ON ENERGY AND COMMERCE

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March 9, 2018

Mr. Paul Noe  
Vice President Public Policy  
American Forest and Paper Association  
and American Wood Council  
1101 K Street, N.W.  
Washington, DC 20005

Dear Mr. Noe:

Thank you for appearing before the Subcommittee on Environment on February 14, 2018, to testify at the hearing entitled "New Source Review Permitting Challenges for Manufacturing and Infrastructure."

Pursuant to the Rules of the Committee on Energy and Commerce, the hearing record remains open for ten business days to permit Members to submit additional questions for the record, which are attached. To facilitate the printing of the hearing record, please respond to these questions with a transmittal letter by the close of business on Friday, March 23, 2018. Your responses should be mailed to Kelly Collins, Legislative Clerk, Committee on Energy and Commerce, 2125 Rayburn House Office Building, Washington, DC 20515 and e-mailed in Word format to [kelly.collins@mail.house.gov](mailto:kelly.collins@mail.house.gov).

Thank you again for your time and effort preparing and delivering testimony before the Subcommittee.

Sincerely,



John Shimkus  
Chairman  
Subcommittee on Environment

cc: The Honorable Paul Tonko, Ranking Member, Subcommittee on Environment

Attachment

## Attachment—Additional Questions for the Record

### The Honorable John Shimkus

1. Will you explain the various costs that an owner experiences when complying with the NSR program?
2. I am told that the complexity of the NSR program makes it difficult for facility owners to understand and comply with NSR requirements.
  - a. Can you provide a few examples of how the NSR program is unnecessarily complex or unclear?
3. Currently, pollution control projects are considered exempt from the New Source Performance Standards (NSPS) but are not exempt from the NSR program, meaning that an owner must receive an NSR permit to carry out a pollution control project.
  - a. Can you explain why it would be beneficial to exempt pollution control projects from having to obtain an NSR preconstruction permit?
4. Do current NSR program regulations make it more difficult for owners to carry out maintenance, repair, or replacement activities aimed at maintaining or improving safety or reliability? Please explain.
5. Would reforming the NSR program to use a maximum hourly emission rate test clear some of the confusion and uncertainty surrounding the NSR program? Please explain.

### The Honorable Richard Hudson

Thank you for coming to testify before the subcommittee today. From listening to the questions of other Members and the testimony of everyone here, it sounds like one thing we agree on is the goal of reducing emissions and outfitting new facilities with the technology to be responsible stewards of our environment. In fact, you've shared with us in your testimony how member companies have not only met but exceeded their goals to reduce emissions. It seems that these companies have taken seriously their obligation to reduce emissions. I don't think there is any question that some of this could be attributed to NSR. However, I do believe that NSR can at times discourage innovation because of the burdensome red tape associated with approving projects and the cost it takes to navigate that system.

1. Do you agree that NSR may actually hinder a company that wants to reduce emissions? What should be the federal response be to encourage investment in these new technologies while making sure they are adequately scrutinized?

**The Honorable Frank Pallone, Jr.**

1. Please identify all instances that you are aware of, during your tenure with the American Forest and Paper Association and American Wood Council, in which a member company's facility or facilities undertook a "modification" as defined under EPA's NSPS regulations, and triggered the obligation to comply with the applicable standards of an NSPS. Please be specific concerning the facility or facilities, locations and date ranges to allow the Committee to examine those instances.
2. Do you agree that under today's PSD and nonattainment NSR regulations, a non-exempt physical change at a stationary source could increase its actual annual emissions and be considered a "modification," and not increase its hourly potential to emit and therefore not be considered an NSPS modification?
  - a. Would you consider this to be an increase in air pollution?
3. Do you consider an increase in annual pollution emissions even, if hourly potential emissions do not increase, to be "an increase in air pollution"?
4. Do you consider an increase in annual pollution emissions, even if a maximum hourly emission rate does not increase, to be "an increase in air pollution"?