



**American
Forest & Paper
Association**



AMERICAN WOOD COUNCIL

May 15, 2018

The Honorable John Shimkus
House Energy and Commerce Committee
Chairman, Subcommittee on Environment
2123 Rayburn House Office Building
Washington, D.C. 20515

The Honorable Paul Tonko
House Energy and Commerce Committee
Ranking Member, Subcommittee on Environment
2322A Rayburn House Office Building
Washington, D.C. 20515

Dear Chairman Shimkus and Ranking Member Tonko,

I would like to thank you for holding the hearing entitled, “Legislation Addressing New Source Review Permitting Reform” on May 16, 2018. This hearing provides an important opportunity for the Subcommittee to examine the challenges posed by EPA’s New Source Review Program (NSR) and how it can be improved -- consistent with the twin purposes of the Clean Air Act to promote public health and welfare, as well the productive capacity of the nation.

The American Forest & Paper Association (AF&PA) serves to advance a sustainable U.S. pulp, paper, packaging, tissue and wood products manufacturing industry through fact-based public policy and marketplace advocacy. AF&PA member companies make products essential for everyday life from renewable and recyclable resources and are committed to continuous improvement through the industry’s sustainability initiative - [Better Practices, Better Planet 2020](#). The forest products industry accounts for approximately four percent of the total U.S. manufacturing GDP, manufactures over \$200 billion in products annually, and employs approximately 900,000 men and women. The industry meets a payroll of approximately \$50 billion annually and is among the top 10 manufacturing sector employers in 45 states.

The American Wood Council (AWC) is the voice of North American wood products manufacturing, an industry that provides approximately 400,000 men and women in the United States with family-wage jobs. AWC represents 86 percent of the structural wood

products industry, and members make products that are essential to everyday life from a renewable resource that absorbs and sequesters carbon. Staff experts develop state-of-the-art engineering data, technology, and standards for wood products to assure their safe and efficient design, as well as provide information on wood design, green building, and environmental regulations. AWC also advocates for balanced government policies that affect wood products.

EPA's complex NSR air permit program affects practically every major manufacturing facility in the United States, and unfortunately, it has become a significant impediment to the modernization and growth of the U.S. manufacturing sector. U.S. air permitting and regulatory requirements are out of date, overly conservative, rigid, and time-consuming. The air quality permitting process for new and modified facilities is slow and cumbersome and relies on unrealistic modeling and assumptions, resulting in unnecessary delays, costs and impediments for projects that would benefit both our economy and our environment.

Recently, this problem has become more acute with substantial tightening of EPA's National Ambient Air Quality Standards (NAAQS) closer to ambient background levels. Simply put, when stringent NAAQS are combined with unrealistic air quality modeling and assumptions, there is little or no "headroom" for new or modified facilities in many areas to show that their residual emissions will not contribute to a violation of the NAAQS, even after the installation of the best available pollution control technology.

It doesn't make sense to discourage upgrading plants already subject to myriad other regulatory requirements, or to block beneficial projects using best controls simply due to unrealistic air quality modeling and assumptions. The reality is that energy efficiency and modernization projects for existing sources are delayed, modified or thwarted by complex NSR interpretations that have accumulated and evolved over time. The program requires expensive but unrealistic air modeling that frequently delays projects many months or more and can cost \$100,000 or more to complete. Unreasonable permitting delays tie up investment capital and undermine the economic benefits from expansion projects.

AF&PA and AWC support the draft legislation under consideration by the Subcommittee as it makes important strides in reforms to the NSR program that can ultimately result in more efficient manufacturing while still achieving the goals of the NSR program. Among other things, the draft legislation overrides past adverse Court decisions including one invalidating a NSR exclusion for installing new pollution control equipment.

Specifically, the EPA 2002 Pollution Control Project (PCP) Exclusion would have allowed such environmentally beneficial projects to proceed quickly and efficiently. The exclusion was invalidated by the D.C. Circuit in 2005. Because PCPs are no longer excluded from NSR, facilities that want to install more efficient pollution controls, switch

to cleaner fuels, and make modifications to improve energy efficiency must go through the NSR permitting process. For example, a mill wants to upgrade its control system on a bark boiler from a wet scrubber to an electrostatic precipitator (ESP) to get greater particulate reductions. However, the pollution control project increases other emissions from the fuel used to operate the ESP so the project is subject to NSR. In many cases, the inflexible and overly conservative nature of the NSR process forces such beneficial projects to trigger PSD review. In this way, the current NSR permitting program creates a disincentive for companies to pursue PCP and/or energy efficiency improvement projects because the process results in delay and increased costs in implementing the project and could result in an environmentally beneficial project not moving forward at all. The bill's primary purpose test ensures that projects intended to reduce emissions such as installation of control devices avoid the burdens of NSR and get installed and working sooner.

Providing an exclusion for PCP projects from NSR would benefit the environment because it would encourage facilities to invest in environmentally beneficial projects. The exclusion will create incentives to reduce emissions. Overall, the bill provides NSR protection for any "efficiency," "reliability" or pollution control project that may be projected to increase hours of operation, but will not increase the maximum achievable hourly rate.

The NSR permitting program is broken and must be updated to allow for growth and innovation while promoting the best available technologies to protect our environment. The forest products industry is one of the largest manufacturing sectors in the nation, has invested billions of dollars on environmental stewardship and remains committed to innovative and sustainable business practices. Yet, an inflexible NSR permitting program impedes beneficial projects and job creation and undermines paper and wood product manufacturers' ability to effectively plan for our future. Thank you for examining this important issue and our industry looks forward to working with you and the Subcommittee as the legislative process moves forward.

Best regards,



Paul Noe
Vice President Public Policy
American Forest & Paper Association
American Wood Council



**American
Iron and Steel
Institute**

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Thomas J. Gibson, Jr.
President and Chief Executive Officer

June 22, 2018

The Honorable Morgan Griffith
2202 Rayburn House Office Building
Washington, DC 20515

Dear Representative Griffith:

On behalf of the U.S. producer members of the American Iron and Steel Institute (AISI), I am writing to express our support for your draft legislation to reform the permitting process for the EPA's New Source Review (NSR) program. Your legislation would assist in facilitating the permitting evaluation process that will help our industry and other manufacturing sectors in modernizing existing facilities and investing in environmentally beneficial projects.

AISI serves as the voice of the North American steel industry in the public policy arena and advances the case for steel in the marketplace as the preferred material of choice. AISI also plays a lead role in the development and application of new steels and steelmaking technology. AISI is comprised of 21 member companies, including integrated and electric furnace steelmakers, and approximately 120 associate members who are either suppliers or customers of the steel industry.

Our industry supports your legislation's provisions to streamline the emissions permitting evaluation practices for routine maintenance, repair and replacement (RMRR) rules, and to exclude pollution control projects from the modification definition. The lack of clarity posed by the current interpretations of RMRR has led to missed opportunities for growth and expansion at our member facilities in pollution reduction efforts. We also support your bill's exclusion of Pollution Control Projects (PCPs) that result in net overall reduction(s) of air pollutants, or involve upgraded or rebuilt pollution control equipment or devices from the existing definition of "major modifications." This would allow the industry to install environmentally beneficial technologies without the uncertainty that is present in the current NSR permitting process.

Again, thank you again for your leadership in drafting legislation to improve the EPA New Source Review (NSR) program. AISI and our member companies are pleased to support the legislation and look forward to working with you to advance the bill through the legislative process.

Sincerely,

A handwritten signature in blue ink that reads "Thomas J. Gibson".

Thomas J. Gibson

July 16, 2018

Chairman John Shimkus
2217 Rayburn House Office Building
Washington, DC 20515

Ranking Member Paul Tonko
2463 Rayburn HOB
Washington, DC 20515

Attn: Speaker Paul Ryan, Representative Greg Walden, Representative Frank Pallone

Dear Chairman Shimkus and Ranking Member Tonko,

On behalf of the American Energy Alliance, I write to strongly support Representative Morgan Griffith's proposed legislation to restore integrity to the New Source Review (NSR) program under the Clean Air Act. Passage of this clarifying legislation will restore the intent of Congress and result in cleaner air and more investments to improve energy efficiencies right here in the United States, which in turn will strengthen the nation's energy systems and expand job opportunities for Americans.

The NSR program as currently interpreted by the Environmental Protection Agency penalizes facilities planning investments for increased efficiency, decreased emissions, and increased reliability by treating them as "New Sources" and thus triggering new requirements that have led to many investments being abandoned. The abandonment of these investment opportunities means incremental improvements to air quality and improvements in efficiency and reliability are also abandoned. This is a classic example of regulatory overreach letting the "perfect be the enemy of the good."

Congressman Griffith's proposed legislation would return to the intent of the Energy & Commerce Committee when it created the NSR program in 1977. In sum, it ensures projects that reduce emissions, increase efficiency, or increase reliability and security are not treated as "New Sources" – because they are obviously, not. It is common-sense, pro-American, and environmentally positive.

We ask that the Committee act expeditiously on this long-overdue improvement to our nation's regulatory approach. We believe this is precisely the type of legislation most Americans expect of their government.

Thank you for your consideration of this request.

Sincerely,



Tom Pyle
President
American Energy Alliance



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www.PublicPower.org

July 16, 2018

The Honorable Morgan Griffith
2202 Rayburn House Office Building
Washington, D.C. 20515

Dear Representative Griffith:

On behalf of the American Public Power Association (APPA), I am writing in support of H.R. 3128, legislation to reform the New Source Review (NSR) program under the Clean Air Act (CAA). H.R. 3128 would bring increased certainty to the NSR program, and make it easier for electric utilities to modernize their existing facilities and reduce emission without the threat of future NSR enforcement.

APPA is the national service organization for the more than 2,000 not-for-profit, community owned utilities in the United States. APPA utility members provide customers in the communities they serve with reliable electric power and energy at the lowest reasonable cost, consistent with good environmental stewardship. Collectively, public power utilities deliver electricity to more than 49 million people in 49 states (all except Hawaii), or one of every seven U.S. electricity consumers.

Publicly owned utilities generate power using a host of sources, including coal, natural gas, nuclear, oil, hydro, wind, solar, and others. In total, these utilities generate ten percent of the power produced nationwide. As community-owned electric utilities, the costs associated with maintaining, operating, and improving these facilities are ultimately borne by ratepayers. As such, APPA members are committed to running their facilities as efficiently and cost-effective as possible.

Unfortunately, there is a great deal of uncertainty over what kind of activities are exempt from NSR permitting, and this ambiguity has caused some utilities to shy away from performing routine maintenance or pursuing improvements that would improve air quality and power plant efficiency. As a result, the NSR permitting process sometimes undermines the air quality improvement goals of the CAA.

H.R. 3128 would make commonsense improvements to the NSR process by amending section 111(a) of the CAA to clarify that a "modification" at an existing facility would only trigger NSR permitting if the project increases the facility's "maximum hourly emission rate," rather than the annual emission projections currently employed. In addition, the bill includes important provisions that would provide power generators with the certainty needed to move forward with pollution control, energy efficiency, and other beneficial projects without the looming threat of NSR enforcement.

Thank you for your leadership on this important issue affecting electric utilities. We look forward to continuing our work together on this legislation as it moves through the legislative process.

Sincerely,

A handwritten signature in black ink that reads "Susan N. Kelly". The signature is written in a cursive, flowing style.

Susan N. Kelly
President & CEO

cc: The Honorable Greg Walden
The Honorable Frank Pallone
The Honorable John Shimkus
The Honorable Paul Tonko



July 13, 2018

The Honorable John Shimkus
Chairman
House Energy and Commerce Committee
Subcommittee on the Environment
2125 Rayburn House Office Building
Washington, DC 201515

The Honorable Paul Tonko
Ranking Member
House Energy and Commerce Committee
Subcommittee on the Environment
2322A Rayburn House Office Building
Washington, DC 201515

Dear Chairman Shimkus and Ranking Member Tonko:

On behalf of Citizens for Responsible Energy Solutions, I am writing in support of Representative Morgan Griffith's legislation that seeks to modernize the New Source Review Program (NSR). We believe that this legislation will create an opportunity for better environmental protection, energy efficiency, and greater economic growth.

The NSR Program, established under the Clean Air Act (CAA) Amendments of 1977, was intended to ensure that modifications to facilities did not significantly increase emissions. While the NSR statutory provision contained a common-sense exemption for routine maintenance, in practice, NSR has been inconsistently applied. This has created uncertainty for businesses, which has resulted in delayed investments and process improvements. Clarification of the law is needed to assure predictable NSR implementation and legally defined exemptions for projects that increase efficiency and reduce overall air pollution.

Representative Griffith's NSR legislation will improve the program by clarifying key definitions and thereby will give the private sector certainty for planning investments in their businesses.

Thank you for your leadership on these critical issues, and we look forward to working with you on this legislation.

Sincerely,

A handwritten signature in black ink that reads "Heather Reams". The signature is written in a cursive, flowing style.

Heather Reams
Managing Director



The Honorable John Shimkus
Chairman
Energy & Commerce Committee
Subcommittee on the Environment
U.S. House of Representatives
Washington, DC 20515

The Honorable Paul Tonko
Ranking Member
Energy & Commerce Committee
Subcommittee on the Environment
U.S. House of Representatives
Washington, DC 20515

RE: NEW SOURCE REVIEW PROGRAM

Dear Chairman Shimkus and Ranking Member Tonko:

We are writing to express support for legislation designed to improve EPA's New Source Review (NSR) program. The NSR program was enacted some 40 years ago in the Clean Air Act Amendments of 1977, at a time when the nation faced the threat of rising air pollution levels in many areas. The Clean Air Act has since led to dramatic reductions of air pollutants and improvements in air quality across the country.

NSR generally has worked well to ensure that new industrial and utility sources are equipped with the best available control technology. However, its application to existing sources has led to a complex welter of EPA regulations and court rulings that have strangled investment in energy efficiency and other plant modernizations.

As enacted, the NSR program was intended to ensure that "modifications" to facilities did not "significantly increase" emissions. The statute contains a common-sense exemption for routine maintenance activities. Subsequent EPA regulations and court decisions have constrained the ability of facility owners to invest in needed plant modernization without triggering onerous NSR provisions, including elaborate air quality modeling and plantwide application of best available control technologies for all regulated pollutants.

The NSR program adversely impacts American workers by creating a strong disincentive to undertake projects that can improve the efficiency and productivity of existing utility and industrial plants, ranging from steel and chemicals to refineries. The disincentive to undertake such projects results from the burdensome regulatory consequences of triggering NSR review.

As EPA moves forward with a replacement to the Clean Power Plan, the nation needs strong incentives to undertake efficiency projects at fossil-fueled generating plants that can cost-effectively reduce CO₂ and other air emissions. Major efficiency improvement projects at existing power plants, such as boiler and generator upgrades, would greatly reduce CO₂ emissions because less coal would be used to produce each kilowatt-hour of electricity. Other types of efficiency improvement projects include the installation of more efficient auxiliary drive motors and replacement of degraded boiler components. These investments would create substantial new job opportunities while enhancing the overall reliability of the electric generation fleet.

Legislation also is needed to streamline the emissions permitting practices for routine maintenance, repair and replacement rules, and to exclude pollution control projects from the definition of "modification." We support the exclusion of pollution control projects that result in net overall reduction(s) of air pollutants from the existing definition of "major modifications."

We urge Congress to enact common-sense, simplifying reforms of NSR that can facilitate job-creating investments in our existing industrial infrastructure. These reforms will not jeopardize the air quality improvements made over the past decades, but will contribute to a modernized industrial base that will benefit American workers and the public.

DATED: JULY 12, 2018

INTERNATIONAL BROTHERHOOD OF BOILERMAKERS, IRON SHIP BUILDERS, ET AL.
INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS
INTERNATIONAL ASSOCIATION OF IRON WORKERS, ET AL.
SMART - TRANSPORTATION DIVISION
TRANSPORTATION • COMMUNICATIONS • UNION, IAM
UNITED ASSOCIATION OF PLUMBERS, PIPEFITTERS, ET AL.
UNITED MINE WORKERS OF AMERICA

CC: ALL COMMITTEE MEMBERS

Ross E. Eisenberg

Vice President

Energy and Resources Policy

July 17, 2018

The Honorable John Shimkus
Chairman
House Energy & Commerce Committee
Subcommittee on Environment
2125 Rayburn House Office Building
Washington, D.C. 20515

The Honorable Paul Tonko
Ranking Member
House Energy & Commerce Committee
Subcommittee on Environment
2322A Rayburn House Office Building
Washington, D.C. 20515

Dear Chairman Shimkus and Ranking Member Tonko:

The National Association of Manufacturers (NAM), the largest manufacturing association in the United States representing small and large manufacturers in every industrial sector and all 50 states, supports the New Source Review Permitting Improvement Act of 2018, a bill introduced by Morgan Griffith (R-VA) that would reform the New Source Review (NSR) program.

The NAM supports streamlining air quality control regulations that are focused on the manufacturing sector. United States industry and regulators continue to struggle with the complex requirements of the NSR program which is slowing economic growth, job creation, technological innovation, and the nation's ability to modernize infrastructure. Currently, NSR often deters technologies that lead to increased energy efficiency, thus potentially undermining the achievement of appropriate air quality and environmental policy goals. Such obstacles undercut improved air quality by delaying the installation of more efficient technology.

Manufacturers are committed to clean air, but we need policies that support a sustainable environment and economy. The legislation reforms how the NSR program works with existing sources by clarifying which types of facility modifications require an owner to obtain a NSR permit and will provide more certainty to companies seeking to invest in and improve existing facilities. The bill also includes provisions that make it easier for facility owners to carry out pollution control projects, and projects designed to improve, restore, or maintain the safety or reliability of a facility.

Manufacturers appreciate the Subcommittee's efforts to further streamline the NSR permitting process. The NAM supports the New Source Review Permitting Improvement Act of 2018 and strongly recommends that the Subcommittee approve the measure.

Sincerely,



Ross Eisenberg
Vice President
Energy and Resources Policy

cc: The Honorable Greg Walden, Chairman, House Energy & Commerce Committee
The Honorable Frank Pallone, Ranking Member, House Energy & Commerce Committee



HAL QUINN
President & CEO

July 13, 2018

The Honorable John Shimkus
Chairman
Environment Subcommittee
Energy and Commerce Committee
2125 Rayburn HOB
Washington, DC 20515

Dear Mr. Chairman:

The National Mining Association (NMA) urges passage of legislation introduced by Representative Morgan Griffith to address long-standing issues with the Environmental Protection Agency's New Source Review Program (NSR). Enactment of this legislation will remove the current impediments to investments to improve the efficiency and emissions profile of coal-fired electric generating units.

The need for NSR reform has been highlighted repeatedly, and most recently in the Department of Energy August 2017, *Staff Report to the Secretary on Electricity Market and Reliability*. The report found that "the uncertainty surrounding NSR requirements has led to a significant lack of investment in plant and efficiency upgrades, which would otherwise lead to more efficient power generation, benefits to grid management, and reduced environmental impacts." The report recommends that "EPA allow coal-fired power plants to improve efficiency and reliability without triggering new regulatory approvals and associated costs." The legislation under consideration by the Subcommittee would do exactly that by removing existing barriers to projects designed to improve the efficiency and environmental performance of power plants.

NMA urges favorable consideration of the legislation.

Thank you in advance for your support.

Sincerely,

Hal Quinn



July 16, 2018

The Honorable John Shimkus
Chairman, Subcommittee on Environment
House Energy and Commerce Committee
2123 Rayburn House Office Building
Washington, D.C. 20515

The Honorable Paul Tonko
Ranking Member, Subcommittee on Environment
House Energy and Commerce Committee
2322A Rayburn House Office Building
Washington, D.C. 20515

Chairman Shimkus and Ranking Member Tonko:

On behalf of the National Rural Electric Cooperative Association, I would like to express our support for the “New Source Review Permitting Improvement Act of 2018”. As NRECA testified before your Committee in May, this legislation would take a major step forward in simplifying the New Source Review (NSR) program and providing greater certainty for power generators.

NRECA is the national service organization that represents the nation’s more than 900 not-for-profit, consumer-owned electric cooperatives. This includes 62 generation and transmission cooperatives, which provide wholesale power to distribution cooperatives through their own electric generation facilities or by purchasing power produced by other generators. Electric co-ops provide power to 42 million people across 56 percent of the nation’s landmass and are economic engines in their communities, providing 71,000 jobs across America and investing \$12 billion annually in local economies.

Electric co-ops face very different economic challenges than others in the utility sector. Co-ops serve an average of 8 consumers per mile of electric line and collect annual revenue of only \$19,000 per mile; compared to all other utilities which average 32 customers per mile and collect \$79,000 in revenue per mile. And electric cooperatives serve more than 90 percent of the nation’s persistent poverty counties within low or sparsely populated geographic areas.

As not-for-profit utilities providing power at-cost to our member-consumers, electric cooperatives are ultimately responsible for consistent and reliable service while keeping costs down. Any and all costs incurred by our cooperative generators, including the construction and maintenance of generation sources, are ultimately passed on to the cooperative electric consumers. There are no equity investors that can share the burden of these costs. That is why our cooperative members are committed to running their plants as efficiently and cost-effectively as possible.

But federal regulatory policies such as NSR often get in the way of utilities adopting technologies that would actually improve power plant efficiency and reliability as well as reducing emissions. The NSR program is overly complicated and creates significant litigation uncertainty for regulated entities. One significant obstacle of the NSR permitting program is its inconsistent application to equipment repair and replacement as well as even routine maintenance activities at existing generating units. Another is the inherently flawed annual emissions rate test in use today, which has created many missed opportunities for power plants to operate to their most reliable and efficient levels. As a result of these concerns, innovative technologies and systems to improve facilities have often been “left on the shelf” and NSR in its current form can often undermine the goals and intent of the Clean Air Act.

Even as EPA takes steps to update guidance and address specific issues, legislation from Congress would provide an additional layer of certainty. The “New Source Review Permitting Improvement Act of 2018” would take a major step forward in simplifying the program and providing greater certainty for power generators. We appreciate the work done by this Committee and by Rep. Griffith to make common-sense, targeted improvements to the New Source Review program, and to assist electric cooperatives as they continue providing affordable and reliable electricity to the communities they serve.

Sincerely,

A handwritten signature in black ink, appearing to read "Jim Matheson". The signature is fluid and cursive, with a long horizontal stroke at the end.

Jim Matheson
CEO, NRECA



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July 16, 2018

The Honorable John Shimkus, Chairman
Committee on Energy and Commerce
Subcommittee on Environment
2125 Rayburn Office Building
Washington, DC 20515

The Honorable Paul Tonko, Ranking Member
Committee on Energy and Commerce
Subcommittee on Environment
2125 Rayburn Office Building
Washington, DC 20515

Dear Chairman Shimkus and Ranking Member Tonko,

On behalf of the Pennsylvania Chamber of Business and Industry, the largest, broad-based business advocacy organization in the Commonwealth of Pennsylvania, which represents nearly 10,000 member companies of all sizes and industries, I am writing in support of Rep. Morgan Griffith's legislation to modernize and clarify the Clean Air Act's New Source Review program. This legislation will provide much needed certainty and clarity to the regulated community, in addition to promoting continued environmental protection and economic development.

As our organization outlined in testimony presented to the committee this past February, the current NSR process disincentives improving the efficiency of manufacturing, industrial and certain power generation facilities in Pennsylvania and other states. Recently enacted tax reform is providing an opportunity for these facilities to expand to capture rising economic growth and to further improve environmental performance, provided the regulatory climate affords them the opportunity to do so. As discussed in the testimony, the current NSR process has resulted in our members reporting having shelved projects which would have resulted in reduced emissions.

Further, hundreds of thousands of workers in Pennsylvania rely on the continued vitality of these sites, as do hundreds of thousands of more in neighboring states where tens of billions of dollars of manufactured goods are sent for sale. In addition, Pennsylvania is the largest net exporter of electricity in the PJM grid, which provides power to more than 60 million Americans in 13 states and the District of Columbia.

Reform to the New Source Review program can and should be done in a manner that allows for continued economic growth and the furtherance of the significant progress made with respect to improving our country's air quality. As this legislation will help us achieve both these aims, we encourage members of the committee to vote in support of this bill.

Sincerely,

A handwritten signature in black ink that reads 'Kevin Sunday'.

Kevin Sunday
Director, Government Affairs
Pennsylvania Chamber of Business and Industry

Portland Cement Association

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202.408.9494 Fax 202.408.0877
www.cement.org

June 12, 2018

The Honorable John Shimkus
Chairman
Energy & Commerce
Subcommittee on the Environment
House of Representatives
Washington, DC 20515

The Honorable Paul Tonko
Ranking Member
Energy & Commerce
Subcommittee on the Environment
House of Representatives
Washington, DC 20515

Dear Chairman Shimkus and Ranking Member Tonko:

I am writing on behalf of the Portland Cement Association to share our support for Representative Morgan Griffith's legislation that seeks to modernize the New Source Review Program (NSR). We believe that this legislation is an integral part of the effort to ensure a balance between providing necessary environmental protections and encouraging economic growth.

PCA, founded in 1916, is the premier policy, research, education, and market intelligence organization serving America's cement manufacturers. PCA members represent 93 percent of the United States' cement production capacity and have facilities in all 50 states. Cement and concrete product manufacturing, directly and indirectly, employs approximately 600,000 people in our country, and our collective industries contribute over \$100 billion to our economy. Portland cement is the fundamental ingredient in concrete. The Association promotes safety, sustainability, and innovation in all aspects of construction, fosters continuous improvement in cement manufacturing and distribution, and promotes economic growth and sound infrastructure investment.

By way of brief background, understanding the cement production process is essential for understanding the extensive environmental regulations that the industry complies with and its role in the economy. Portland cement is the primary ingredient of concrete. Concrete is formed when portland cement is mixed with water, and aggregate (sand and rock), and allowed to harden. Cement is manufactured through a tightly controlled chemical combination of calcium, silica, aluminum, iron and other minor ingredients. These chemicals are commonly derived from limestone, chalk, or marl, combined with shale, clay, slate, blast furnace slag, silica sand, and iron ore. These materials are heated to high temperatures, 2700°F or more, until they liquefy and become clinker. Once cooled, gypsum is added to the clinker, and the product is ground into the fine powder that becomes portland cement. Cement manufacturing is an energy-intensive process that depends on carefully balanced chemistry and physics. Cement plants are large, complex systems stretching hundreds of feet, with carefully calibrated environmental controls. One change to one system, particularly for environmental compliance, affects the entire production

process. Cement plants can cost several hundred million dollars to build, with the largest plants exceeding \$1 billion, including millions of dollars of investment in emissions monitoring and control equipment and associated operational expenses.

PCA and the cement industry have supported appropriate and necessary regulatory measures aimed at reducing harmful air pollution. PCA's members comply with a variety of environmental regulations, including stringent air emissions requirements that are part of their permits, which can require tens of millions of dollars in emission control equipment and associated operating expenses. PCA members are committed to environmental stewardship and sustainable operations as responsible members of their communities. For example, PCA's members have been on the forefront of undertaking voluntary efforts to contribute to a cleaner environment through increased plant efficiency and the use of alternative fuels such as scrap tires, used motor oils, petroleum sludge, and other waste materials that would otherwise go to landfills or incinerators.

Such sustainability, efficiency, and operational improvements often requires PCA members to undertake, or at the very least consider, modifications to their facilities. Many current EPA policies governing New Source Review (NSR) can discourage, if not prevent, our members from making beneficial improvements to their facilities and operations.

The New Source Review Program (NSR), established under the Clean Air Act (CAA) Amendments of 1977, was intended to ensure that "modifications" to facilities did not "significantly increase" emissions. The NSR statutory provision was measured in scope, and contained a common-sense exemption for "routine maintenance." In practice, the well-intentioned law did not provide adequate specificity for keywords and phrases used to trigger or preclude review, resulting in inconsistent application of the program by the Environmental Protection Agency (EPA), delayed maintenance, investment, and process improvements by manufactures, and an unduly lengthy and burdensome permitting process. These statutory flaws have had real and negative consequences for both the industry and the environment.

In one instance, a member company sought a permit to combust alternative fuels, which often end up in landfills. The EPA Regional Office insisted that permitting to burn alternative fuels automatically triggered NSR permitting, despite the fact that it was only a change to the method of operation and likely would result in decreased emissions. After going through a costly, lengthy, and burdensome process to develop stack testing results with and without alternate fuels to prove what the Company had already determined, the EPA Regional Office concluded that the project was not required to go through NSR permitting. It took five years to go through the permitting process.

Representative Griffith's New Source Review legislation will improve the NSR program by clarifying the definitions for "modification" and "construction." This bill is an essential legislative step towards addressing the EPA's inconsistent approach to the program. Should this legislation become law, we encourage Congress to provide strict oversight of the EPA's implementation to ensure the agency does not use it to justify additional monitoring, recordkeeping, or emissions limits beyond what the CAA already requires.

Overall, this legislation will give manufacturers the certainty they need to plan investments in their businesses. Only now, the cement industry is beginning to recover from the harm of the recession, and this legislation is a step towards robust economic growth.

PCA appreciates the opportunity to share our member's perspectives on legislation reforming the New Source Review Program. We stand ready to assist you while changes are still permitted to the underlying legislation so that modernizing the program may move forward. If there are any questions regarding these comments or if you would like additional information, please contact Josh Reiner at (202) 719-1984 or jreiner@cement.org.

Sincerely,

A handwritten signature in black ink, appearing to read "Rachel Derby", with a long, sweeping underline that extends to the right.

Rachel Derby
Vice-President, Government Affairs
Portland Cement Association

CHAMBER OF COMMERCE
OF THE
UNITED STATES OF AMERICA

NEIL L. BRADLEY
EXECUTIVE VICE PRESIDENT &
CHIEF POLICY OFFICER

1615 H STREET, NW
WASHINGTON, DC 20062
(202) 463-5310

July 16, 2018

The Honorable Greg Walden
Chair
Committee on Energy and Commerce
U.S. House of Representatives
Washington, D.C. 20515

The Honorable Frank Pallone
Ranking Member
Committee on Energy and Commerce
U.S. House of Representatives
Washington, D.C. 20515

Dear Chairman Walden and Ranking Member Pallone:

The U.S. Chamber of Commerce appreciates the Committee's work on commonsense improvements to the Environmental Protection Agency's New Source Review (NSR) preconstruction permitting program, and we support the New Source Review Permitting Reform Discussion Draft that was the subject of your May 16, 2018 hearing.

The NSR's current program and its implementation processes often impose unnecessary costs, uncertainties, and delays on stakeholders that discourage the investment and modernization of industrial facilities. In some cases, NSR has resulted in perverse incentives wherein affected entities are inclined to continue operating older and less efficient facilities instead of investing in pollution-reducing upgrades and expansions that improve reliability, efficiency, and safety.

The draft NSR reform legislation pending before the Committee would clarify that projects at existing facilities only require NSR permits if they increase that facility's maximum hourly emissions rate. This commonsense proposal is consistent with EPA's longstanding approach under the related New Source Performance Standards program, and would help provide much-needed regulatory certainty to businesses seeking to make improvements to existing facilities.

We look forward to working with you as the bill moves through the legislative process.

Sincerely,



Neil L. Bradley

cc: Members of the House Committee on Energy and Commerce