

Statement of Chairman John Shimkus
Subcommittee on Environment
Hearing on
“Legislation Addressing New Source Review Permitting Reform”
May 16, 2018

(As prepared for delivery)

At today’s hearing we are examining a discussion draft lead by Mr. Griffith, which reforms the New Source Review (NSR) program. The goal of this discussion draft is to add greater certainty to the NSR permitting process, making it easier for industry to modernize existing facilities and to carry out environmentally beneficial projects.

At a February hearing in this Subcommittee, we learned that the uncertainty, complexity, and burdens associated with the NSR permitting program are deterring companies from properly maintaining and upgrading existing manufacturing plants, power plants, refineries, and industrial facilities. This is disappointing because it means we are missing out on opportunities to increase the nation’s industrial capacity, to create more American jobs, and to improve our environment.

The discussion draft before us today reforms the NSR program by clarifying which types of facility upgrades require an owner to obtain an NSR permit. Historically, there has been a great deal of controversy and uncertainty surrounding this very issue. The main reason for this controversy is due to the fact that the NSR program uses a complicated *annual emissions projection approach* to determine whether a project triggers NSR.

Projecting future annual emissions is a difficult and confusing process, requiring the consideration of many complex factors, such as the future demand of the product being produced and a facility’s future hours of operation. Because of this complexity, it is difficult for companies to know whether they are correctly projecting a facility’s future annual emissions, and in many instances, companies are being targeted by EPA enforcement actions for having carried out these emissions projections incorrectly. The end result of this regulatory confusion and enforcement risk is that many companies are choosing to not modernize and upgrade their existing facilities because they fear that these types of activities could trigger the NSR permitting process.

In contrast, the New Source Performance Standards (NSPS) program under the Clean Air Act uses a much better test to determine if an emissions increase has occurred known as the *hourly emissions rate test*. This hourly rate test has proven to be much less controversial, much easier to carry out, and only relies upon engineering design factors, not complicated future emissions projections. The *hourly rate test* simply

looks at whether a project at an existing facility will increase that facility's ability to release emissions at a higher hourly rate.

In order to provide more certainty to the NSR program, the discussion draft takes the *hourly rate test* used by the NSPS program and applies that same test to the NSR program. This targeted reform to the NSR program would provide much needed regulatory clarity and would make it easier for companies to properly maintain and modernize their facilities.

Lastly, the discussion draft before us today includes provisions making it easier for owners to carry out pollution control projects, energy efficiency upgrades, and projects that keep facilities in good working order. The fact that the NSR program can be a barrier to projects that would result in better air quality is unacceptable. We have to remove the red tape that is discouraging companies from doing things like installing carbon capture technology or making manufacturing equipment more fuel efficient; this discussion draft does exactly that.

At our hearing this morning, we will first hear from EPA Assistant Administrator Wehrum who will explain the Agency's views on this discussion draft, and then we will hear from a second panel of witnesses consisting of State Air regulators, industry witnesses, and Clean Air Act experts, who will provide important perspectives on how this bill addresses NSR reform.

With that, I'd like to thank Mr. Griffith for the good work he has done on this bill, and I'd like to thank our witnesses for joining us this morning.