

**Testimony of Jeffrey R. Holmstead  
before the  
  
Senate Committee on  
Environment And Public Works  
  
Hearing on  
S. 2662, the Growing American Innovation (GAIN) Act  
and the New Source Review (NSR) Program  
  
November 6, 2019**

Chairman Barrasso, Ranking Member Carper, and distinguished members of the Committee, thank you very much for inviting me to participate in today's hearing. My name is Jeff Holmstead. I am a partner in the law firm of Bracewell LLP.

For almost 30 years, my professional career has been focused on policy, regulatory, and legal issues arising under the Clean Air Act. From 1989 to 1993, I served in the White House Counsel's Office as Associate Counsel to President George H.W. Bush. In that capacity I was involved in many of the discussions and debates that led to the passage of the 1990 Amendments to the Clean Air Act – and was then deeply involved in the initial efforts to implement the 1990 Amendments. From 2001 to 2005, I was the Assistant Administrator of EPA for Air and Radiation and headed the EPA Office in charge of implementing the Clean Air Act. I am well acquainted with the legal, policy, and practical issues associated with the Clean Air Act and the many regulatory and permitting programs that have been designed to protect and improve air quality in the U.S.

When not in the federal government, I have been an attorney in private practice, representing a wide variety of clients on Clean Air Act (CAA) and other environmental issues. Since I joined Bracewell in 2006, I have worked primarily with companies and trade groups in the energy and manufacturing sectors.

Today, however, I am not appearing on behalf of any of my clients, and I have not shared my testimony with anyone else for their review or approval. Instead, I speak as someone who has worked on CAA issues for many years – as a policymaker, a regulator, and an attorney in private practice representing companies who are trying to manufacture products or develop energy resources in the U.S. in an environmentally responsible manner. Based on my experience in all these roles, I can say that the CAA's New Source Review (NSR) program is badly in need of reform.

Over the years, the NSR program has become a Kafkaesque tangle of convoluted, burdensome and completely unnecessary regulations, guidance documents, applicability determinations, and court decisions that make it more difficult for companies to do things that we should all want

them to do – like maintaining the reliability and safety of their facilities and making them more efficient. In some parts of the country, it effectively bans the construction of new facilities even if they use state-of-the-art pollution controls and would not have a meaningful impact on the environment – and even though the communities where they would be located desperately want them to be built.

It is certainly true that the NSR program does result in environmental benefits, especially as it applies to new facilities. But these benefits can be preserved by reforming NSR in a thoughtful way that would provide regulatory certainty and dramatically reduce the burden that it imposes on U.S. businesses, workers, and consumers. In my view, S. 2662 – the Growing American Innovation (GAIN) Act – would do just that.

### Background

The Clean Air Act has been a remarkable success. Since it was adopted in 1970 – and especially since the passage of the 1990 Amendments – air quality has dramatically improved in virtually every part of the country. Since 1970, emissions of the six common pollutants that EPA has targeted for reduction – particles (generally called particulate matter or PM), ozone, lead, carbon monoxide (CO), nitrogen dioxide (NO<sub>2</sub>) and sulfur dioxide (SO<sub>2</sub>) – have dropped by almost 75 percent while gross domestic product has grown more than 260 percent.

More importantly, these emissions reductions have dramatically improved the quality of the air that we breathe. According to EPA’s most recent Air Trends Report, since 1990 (when the current CAA was put in place), national concentrations of air pollutants improved 89 percent for SO<sub>2</sub>, 82 percent for lead, 74 percent for CO, 57 percent for NO<sub>2</sub>, and 21 percent for ozone. (Report available at <https://www.epa.gov/air-trends>.)

Most important of all have been the recent reductions in concentrations of fine particles, which are technically referred to as “PM<sub>2.5</sub>” because they consist of particulate matter with a diameter of less than 2.5 microns. EPA and many outside researchers have identified PM<sub>2.5</sub> as the greatest risk to public health of all pollutants. Just since 2000, shortly after EPA began to regulate PM<sub>2.5</sub>, daily average concentrations have improved by almost 40 percent nationwide. This represents a remarkable achievement in protecting public health.

However, these very substantial emission reductions and improvements in air quality do not mean that everything about the Clean Air Act is working well. The CAA created dozens of different regulatory programs, and, using the authority of the CAA, EPA has issued hundreds of different regulations. Since 1990, when Congress last amended the CAA in a meaningful way, we have learned a great deal about regulatory policy. We now understand that some CAA programs are very effective and others are not. Some programs actually create unforeseen problems that make them counterproductive.

Because the CAA and regulations issued under the CAA have been developed over many years, there are often a number of different regulations that regulate the same pollutants from the same facilities. Some of these programs have been very successful at reducing pollution and improving air quality cost-effectively. In general, the Act’s regulatory programs for “mobile sources” (cars, trucks, and non-road vehicles and engines) have been responsible for very

substantial improvements in air quality (especially in urban areas) and have been very cost-effective.

The regulatory programs for “stationary sources” (industrial and manufacturing facilities and power plants) have been more of a mixed bag. Some – especially the acid rain program and the various cap-and-trade programs around the country that have been modeled on it – have been enormously successful in achieving cost-effective pollution reductions and improvements in air quality. Other CAA programs impose significant costs with little benefit. Because there are so many overlapping programs that regulate the same pollutants from the same facilities, we, as a society, are paying much more than we should for preserving and improving air quality. If we take advantage of the lessons that have been learned over the last 30 years and use the most effective and efficient approaches for reducing air pollution, we can achieve our air quality goals at a much lower cost.

This is important because the costs of these programs are borne by all of us – not just the businesses and industries that pay the costs directly. These costs are, of necessity, passed along to anyone who uses electricity or heats a house or fuels a vehicle or purchases any products that are produced in the U.S. or transported anywhere in the U.S.—*i.e.*, to all of us.

As noted above, I have spent almost 30 years working on and studying the various regulatory programs created under the Clean Air Act. I can say with confidence that the NSR program, as it applies to existing facilities, is the most problematic of all Clean Air Act programs. In many cases, it is actually counterproductive. It creates perverse incentives and makes it difficult for industrial facilities to improve their efficiency and maintain the reliability of their operations. To the extent that the NSR program provides environmental benefits, those same benefits can be preserved by reforming the program in a thoughtful way and by relying on other, much more effective CAA programs that regulate the same pollutants from the same facilities.

### The NSR Program

#### *NSR for New Sources*

As the name implies, the New Source Review or NSR program was designed primarily for “new sources” of emissions (new manufacturing facilities and power plants). Before any new major source can be constructed, it must first go through a permitting process that identifies the “best available control technology” (BACT) to minimize emissions from the new facility. The permit applicant must then obtain an NSR permit that requires the new facility to meet emission limits that can be achieved with that technology. The basic theory of the program is that modern pollution controls should be part of the design and construction of any new major source of emissions.

The NSR program is probably the most important CAA program for controlling pollution from new sources, but it does include certain requirements that now make it difficult or impossible to build new industrial or manufacturing facilities in certain parts of the country, even if those facilities would be built with the best pollution control equipment in the world – and even if the communities where they would be located desperately want them to be built.

In a recent paper published in the Environmental Law Reporter (ELR), Art Fraas (a Visiting Fellow at Resources for the Future), John Graham (the Dean of the School for Public and Environmental Affairs at Indiana University), and I discuss the NSR Program at some length and outline a number of reforms that would make it easier to build new manufacturing facilities in the U.S. as long as they use the best available technology to control their emissions. That paper, entitled “EPA’s New Source Review Program: Time for Reform?” is focused primarily on the ways in which the NSR Program applies to new facilities. Rather than summarize that paper here, I have asked that it be included in the record for this hearing. That said, I would be happy to answer questions that any members of the Subcommittee might have about it.

### *NSR for Existing Sources*

The NSR program also applies to existing sources, but only if they make “major modifications” as defined under EPA regulations. Again, the theory is that, when there will be a modification to an existing plant that will significantly increase emissions, modern pollution controls should be designed into the modification. Thus, before the owner of an existing facility can make a major modification to it, the owner must obtain a permit to ensure that BACT will be used to control emissions from the facility once it is modified.

The concepts behind the NSR program are sensible and appear to be simple and straightforward. In practice, however, the program has long been the cause of great uncertainty and controversy. In general, industry officials believe that a project at an existing facility should trigger NSR only if it would increase the facility’s capacity. Thus, companies understand that, when they are expanding a facility, they need to obtain an NSR permit before doing so. Since the late 1990s, however, EPA has taken the position that replacing virtually any type of equipment or component at an existing facility – even if it involves replacing a worn-out piece of equipment with a new but identical piece of equipment – is a major modification that triggers NSR.

Although the NSR program is the primary regulatory tool for controlling emissions from new plants, it was *not* intended to be a key program for controlling emissions from existing facilities. As EPA stated in a 2002 Report on the NSR program:

The NSR program is by no means the primary regulatory tool to address air pollution from existing sources. The Clean Air Act provides for several other public health-driven and visibility-related control efforts: for example, the National Ambient Air Quality Standards Program implemented through enforceable State Implementation Plans, the NOX SIP Call, the Acid Rain Program, the Regional Haze Program, etc. Thus, while NSR was designed by Congress to focus particularly on sources that are newly constructed or that make major modifications, Congress provided numerous other tools for assuring that emissions from existing sources are adequately controlled.

*New Source Review: A Report to the President* (2002) at pp. 3-4.

The question of what is a “major modification” that triggers NSR at an existing source has been the source of much controversy and is discussed in several EPA regulations, more than a thousand pages of Federal Register notices and guidance documents, and many dozens of court

cases – and there is still much uncertainty about how to determine whether something is a major modification.

This is important to industry because, if a company makes a “major modification” to a facility, the cost of going through NSR, and the delays it can cause, are very substantial. In a number of cases, EPA has taken the position that relatively small projects – projects that cost less than five hundred thousand dollars – were “major modifications” that triggered the need for the facility to spend hundreds of millions of dollars in new control equipment. Even without the cost of new equipment, the time it takes to go through the NSR permitting process can be very long – perhaps a year on average but, in some cases, it can take several years. Because of the cost and delays, companies are very reluctant to do anything that might trigger NSR.

Over the last 20 years, EPA enforcement officials have tried to expand the definition of major modification in an effort to capture more facilities into the NSR program. At the same time, companies have spent much more time and effort figuring out how they can maintain their facilities without triggering NSR. I know of companies that actually employ teams of employees and outside lawyers to make sure that the investments they make to maintain their facilities do not trigger NSR, and companies often make suboptimal decisions about investing in their facilities because of the current NSR program. As a result, the NSR program makes it more difficult for companies to do things that we should all want them to do – like maintaining the reliability and safety of their facilities and making them more efficient.

#### *The Emissions Increase Test*

Under the statute and EPA’s regulations, a major modification is a “physical change or change in the method of operations” at an existing source that will cause a “significant emission increase,” which is defined as an increase in annual emissions that is greater than certain thresholds (which are different for different pollutants). As EPA has noted, this definition essentially creates a two-step test that a plant operator must use in order to determine the applicability of NSR requirements to any particular project at an existing source: “first, you will determine whether a physical or operational change will occur. If so, then you will proceed to determine whether the physical or operational change will result in an emissions increase over baseline levels.” 67 Fed. Reg. 80186, 80187 (Dec. 31, 2002).

Under EPA regulations, “routine maintenance, repair, and replacement” projects are exempted from the definition of a physical change, so there has been much litigation over whether certain specific projects are “routine.” But, perhaps surprisingly, there has also been much controversy over the question of how to determine if a physical or operational change will result in an emissions increase.

Another CAA program, referred to as the New Source Performance Standards or NSPS program, employs the exact same definition of the term “modification.” In fact, when Congress added the NSR program to the CAA in 1977, it simply adopted the existing statutory definition of “modification” that had been used since 1970 for the NSPS program. Under the NSPS program, EPA determines whether a project at a plant will cause an emissions increase (and will thus be a modification) by looking at the maximum hourly emission rate of the plant before the project and comparing it to the maximum hourly emission rate of the plant after it. If a project does not

increase this rate – that is, if the plant has not been changed in a way that would increase its maximum hourly emissions rate – then the project is not a modification. There is rarely any controversy about this issue because the maximum hourly emission rate is a readily available number that is based on the design of the facility. It is simply a question for engineers.

Under the NSR program, however, EPA has adopted a very different approach for determining if a physical or operational change will cause an emissions increase – not based on plant design but on projections of future annual emissions that depend on many other factors besides the physical design of a facility. First, a company must determine its “baseline” emissions. For power plants, this is their annual average emissions of the highest 2-year period of operation over the last 5 years. For other facilities, it is the highest yearly emissions during the last 10 years.

Then, a company must make a projection of what its future annual emissions will be during the 5- or 10-year period after the change (depending on the type of project being undertaken). If projected future emissions are higher than baseline emissions by more than the “significance thresholds,” then the company is allowed to subtract the amount of its projected future emissions that are unrelated to the physical change at the facility (such as increased demand for the product being produced). If projected future emissions are still higher than the “significance threshold,” then the physical change is a “major modification” that triggers NSR.

This is complicated enough, but there has been substantial controversy as to how future annual emissions should be projected. Some power companies have projected future emissions using sophisticated computer modeling techniques that they use to plan future investments – only to have EPA enforcement officials insist that they should have used another method that would have predicted higher emissions and thus that the project triggered NSR. Like virtually every other NSR issue, this has been the subject of protracted litigation.

## S. 2662 – the Growing American Innovation (GAIN) Act

### *Clarifying the Emissions Increase Test*

Because of all the uncertainty and controversy caused by the “emission increase test,” it would be helpful for Congress to clarify this issue. That’s what the GAIN Act would do. It would make clear that there is not a “major modification” under NSR if there is not a “modification” as defined under NSPS. Thus, companies (and EPA) would evaluate a project to determine whether it would increase the maximum hourly emission rate at the plant. If not, then the project does not trigger NSR. If so, then the project would be a modification and would then be evaluated under the current NSR test to determine whether it would be a “major modification” that would trigger NSR.

There are at least two important reasons for Congress to consider such an approach. First, it would provide much more certainty to EPA, states, and the regulated industry. As opposed to the current NSR approach, the maximum hourly emission rate is an objective measure based on the design of the facility and is easily ascertainable. As recent experience has shown, there is much subjectivity under the current approach and many different ways to project future annual emissions and then determine the amount of those emissions that are unrelated to the project being evaluated.

Second, from an environmental perspective, a one-hour test is much more meaningful than an annual test because the most stringent EPA standards are based on maximum concentrations of a pollutant averaged over one hour (for SO<sub>2</sub> and NO<sub>2</sub>), eight hours (for ozone and CO), and 24 hours (for PM<sub>2.5</sub>). The only pollutant for which a longer “averaging time” is meaningful is lead, for which the air-quality standard is based on a 3-month average (and which has rarely, if ever, been addressed by NSR.) Simply put, in terms of protecting human health, the maximum amount of a pollutant that a facility emits in one hour is generally more important than the amount it emits in a year. (This is obviously not the case when it comes to emissions of carbon dioxide (CO<sub>2</sub>), but the Supreme Court has held that increases in CO<sub>2</sub> emissions do not trigger NSR, meaning that CO<sub>2</sub> emissions are not subject to the emissions increase test.)

### *Energy Efficiency Projects*

Importantly, the GAIN Act would also ensure that NSR is not an impediment to improving energy efficiency. To address climate change, we must focus on reducing CO<sub>2</sub> emissions. There is no question that the most cost-effective way to reduce CO<sub>2</sub> from existing facilities is to improve their efficiency – that is, to make physical or operational changes that would enable them burn less fossil fuel (coal, oil, or natural gas) to produce a given amount of product (whether it be electricity or gasoline or widgets).

However, the current NSR program is a significant impediment to energy efficiency projects because EPA, in a number of NSR enforcement cases, has argued that energy efficiency projects trigger NSR – i.e., that an existing facility must go through the cumbersome and costly NSR permitting process before it can do such a project. I am aware that, for this reason, a number of companies have identified energy efficiency projects that they would like to undertake but have decided *not* to do them for fear of triggering NSR.

It may seem strange that EPA would take a position that actively discourages energy efficiency, but here is the theory espoused in several NSR enforcement cases: When a facility owner makes a physical or operational change at a facility to make it more energy efficient, this reduces the cost of operating the facility, because it uses less fuel per unit of production. For this reason, the more energy efficient facility would have a competitive advantage over other facilities that make the same product. As a result, the more energy efficient facility will take away business from less efficient facilities and operate longer hours. Because it operates longer hours, it will increase emissions and, as a result, the energy efficiency project triggers NSR.

If you have followed this reasoning, I hope you will be troubled by it. Because of a desire to bring NSR enforcement actions, EPA has implemented the NSR program in a way that clearly makes it more difficult and costly to make energy efficiency improvements to existing plants. If Congress wants to encourage energy efficiency, it should adopt legislation to make it clear that any physical or operational change at an existing facility that makes it more energy efficient – that enables it to reduce its CO<sub>2</sub> emissions per unit of production – does not trigger NSR.

### Power Plants: A Case Study

Much of the controversy around the NSR program has focused on coal-fired power plants, which have been the largest single source of two pollutants that historically have been of greatest

concern to EPA and other policymakers – SO<sub>2</sub> and NO<sub>x</sub>. Environmental groups often claim that the NSR program, as it currently operates, is essential for reducing SO<sub>2</sub> and NO<sub>x</sub> emissions from power plants. They argue that all such plants must go through NSR and be required to install BACT whenever they replace a component such as boiler tubes or a preheater, even if the replacement component is identical to the old one. They claim that any reform like the GAIN Act would allow power plants to dramatically increase their emissions.

This claim, however, is demonstrably untrue. Even if Congress eliminated the NSR program entirely, SO<sub>2</sub> and NO<sub>x</sub> emissions from existing U.S. coal-fired power plants would continue to decrease, as they have over the last 30 years, because of a host of other CAA programs.

According to EPA data, since the enactment of the 1990 CAA Amendments, there has been:

- **A 92 percent reduction in SO<sub>2</sub> emissions from coal-fired power plant; and**
- **An 84 percent reduction in NO<sub>x</sub> emissions from coal-fired power plants.**

Again, this is a remarkable achievement – and it has nothing to do with the NSR program. Coal-fired power plants have not reduced their emissions because they have triggered NSR and been forced to install BACT. According to EPA itself, these emission reductions are attributable to a number of other programs (summarized below) that have imposed explicit emission reduction requirements on such plants, regardless of whether they have undertaken any “major modifications.”

Emissions of SO<sub>2</sub> and NO<sub>x</sub> from coal-fired power plants are covered by multiple different CAA regulatory programs – as many as 14, depending on where the plants are located. For any *new* coal-fired plant that might be built in the future, the NSR program is important and will ensure that it will be built with the best available technology to control its emissions. But when it comes to the fleet of *existing* coal-fired plants, any policy analyst who has seriously studied the CAA will tell you that it has not been a meaningful regulatory tool for reducing emissions and that there are other CAA programs that have been responsible for the dramatic emission reductions that have been achieved over the last two decades. They will also tell you that these same programs will also ensure that emission continue to decrease, regardless of the NSR program.

To start, SO<sub>2</sub> and NO<sub>x</sub> emissions are regulated under 4 different “national ambient air quality standards” or NAAQS:

- the **NAAQS for PM<sub>2.5</sub>** (because both SO<sub>2</sub> and NO<sub>x</sub> emissions contribute to the formation of PM<sub>2.5</sub>);
- the **NAAQS for ozone** (because NO<sub>x</sub> emissions are the most important contributor to ozone formation in most parts of the country);
- the **NAAQS for NO<sub>2</sub>** (because NO<sub>2</sub> is a subset of NO<sub>x</sub>);
- the **NAAQS for SO<sub>2</sub>** itself.

In recent years, as EPA has set more stringent NAAQS (especially for PM2.5 and ozone), many states have been required to develop more stringent “state implementation plans (SIPs) under the CAA to reduce SO2 and NOx emissions from coal-fired power plants (and other industrial sources) within their borders.

In addition, because of the CAA’s “good neighbor” provision, EPA itself has issued increasingly stringent regulations to ensure that SO2 and NOx emissions from coal-fired power plants do not “significantly contribute” to air quality problems in downwind states. These regulations, well known to anyone involved in CAA law or policy, are known as:

- the “**NOx SIP call**” (which was finalized in 1997 and regulates NOx only);
- the “**Clean Air Interstate Rule**” (CAIR) (which was finalized in 2004 and regulated both NOx and SO2) until it was replaced by
- the “**Cross-State Air Pollution Rule**” (CSAPR) (finalized in 2011 and covering both pollutants);
- and the “**CSAPR Update**” (finalized in 2016 and covering both pollutants).

In terms of public health and cost, these rules are collectively the most significant stationary source rules that EPA has ever issued and have achieved dramatic reductions in emissions of both NOx and SO2 from coal-fired power plants.

**The Acid Rain Program** was the centerpiece of the 1990 Clean Air Act Amendments and the first cap-and-trade program in the world. Its success has been well documented. Designed to reduce acidification in lakes and streams in the eastern U.S., it was largely responsible for the substantial reductions in power plant SO2 emissions that occurred between 1990 and 2004, when the CAIR rule was issued. It also reduced emissions of NOx, but to a lesser extent, because NOx emissions were not covered under the cap-and-trade program.

In addition, the following regulations or regulatory programs have also reduced emissions of SO2 or NOx (or both) from coal fired power plants. Some of them will continue to require further reductions in the future.

**The Regional Haze Program.** In addition to programs designed to protect public health, the CAA also includes a separate program, known as the Regional Haze Program, to improve visibility in national parks and other areas designated for special protection. Because SO2 and NOx emissions contribute to the formation of fine particles that can obscure visibility, they are both regulated under this program. Under this program, EPA and states have required coal-fired power plants to substantially reduce their SO2 and NOx emissions.

**Best Available Retrofit Technology (BART).** As part of the Regional Haze Program, all coal-fired power plants that were constructed between 1962 and 1977, were required to install the “Best Available Retrofit Technology” (BART). Plants that were covered by CAIR, CSAPR, or the CSAPR Update rule were deemed to have complied with this requirement, but the BART mandate substantially reduced SO2 and NOx emissions from coal fired power plants in western states.

**The Mercury and Air Toxics Standards (MATS).** EPA issued the MATS rule in 2011 to regulate power plants emissions of certain pollutants that are listed as “hazardous air pollutants” (HAPS) under the Act. Although SO<sub>2</sub> and NO<sub>x</sub> are not listed as HAPS, SO<sub>2</sub> is a surrogate for “acid gases,” which are listed as HAPS. In fact, certain plants were given the option of meeting an emission standard for SO<sub>2</sub> instead of meeting the MATS standard for acid gases. As a practical matter, MATS has significantly reduced emissions of SO<sub>2</sub> because of the control technology installed to meet the acid gas requirements of the rule – and because a number of power plants shut down because it was not economically feasible for them to comply with MATS. The plant shutdowns also reduced NO<sub>x</sub> emissions from such plants.

**The NSPS Program.** This program is very similar to the NSR program in that it regulates SO<sub>2</sub> and NO<sub>x</sub> emissions from new or modified coal-fired plants.

### Claims Made by NSR Proponents

Proponents of the current NSR program like to point to settlements (usually in the form of consent decrees) that have been reached over the years in a number of NSR enforcement cases. They argue that the current program should remain unchanged so that EPA enforcement officials can bring more NSR cases.

If you take the claims made in government press releases at face value, you might think that these NSR settlements have achieved large reductions in air pollution – especially from coal-fired power plants. But if you look carefully at the terms of the settlement agreements, you’ll find that most of the things that a company has agreed to do in terms of reducing pollution from its plants are things that the company is already required to do under other Clean Air Act regulations. In some cases, you’ll see that companies are simply agreeing to do things *that they have already done*. This means that government enforcement officials, in their press releases, are claiming credit for things that have already been done or pollution reductions that would be achieved anyway – *i.e.*, even without the settlement. And if you’re familiar with the other CAA programs that regulate the same emissions from the same facilities, you would see that all the pollution reductions that have been claimed for these NSR enforcement could be achieved by other, more cost-effective CAA programs.

Again, it is instructive to look at the NSR program as it has been imposed on the power sector. The NSR settlements that have required companies to reduce emissions from their coal-fired power plants apply almost exclusively to plants located in areas that, under other CAA programs, have “caps” on the total amount of pollution that can be emitted by the coal-fired plants in these areas. Because of the area-wide cap, a settlement requiring emission reductions from certain plants does nothing to reduce total emissions in that area. It simply ensures that they are achieved at some plants rather than others – and not necessarily where the emission reductions are most needed or where they can be achieved most cost-effectively.

## Conclusion

I hope that the Committee will give serious consideration to S. 2662. This bill would simply re-introduce some common sense into the NSR program and make sure that it does what it was intended to do:

1. Ensure that, when a new industrial facility is built or an existing facility is significantly expanded, modern pollution controls will be used to minimize its emissions; and
2. Ensure that the NSR program does not make it hard for companies to keep their facilities in good working order and, where possible, reduce the operating cost of these facilities by making them more efficient.

Again, I very much appreciate the opportunity to appear before the Committee and hope my testimony will be helpful to you as you review the New Source Review program and decide whether Congress should take action to reform it.