

**Congress of the United States**  
**Washington, DC 20515**

December 9, 2019

The Honorable Andrew Wheeler  
Administrator  
U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue NW  
Washington, D.C. 20004

Dear Administrator Wheeler,

Thank you for implementing key parts of the Trump Administration's regulatory reform agenda at the U.S. Environmental Protection Agency (EPA), actions which have contributed to our country's strong economic performance. Unfortunately, continued challenges from existing regulations, like the New Source Review (NSR) program, are hurting our industrial base and our environment. We request that you take immediate action to address issues with the NSR program that are preventing industry from improving unit efficiencies and from adopting technologies that could help cut carbon and other emissions.

The NSR program, also known as the "preconstruction air permitting program," was established under the 1977 Clean Air Act Amendments to require industrial facilities to update their air pollution controls when installing new emission units or modifying existing units to expand capacity. The NSR program requires industry to obtain a permit for any "major modifications" projected to significantly increase emissions.

EPA's NSR regulations expressly exclude several different types of projects, including "routine maintenance, repair, and replacement" and "increase[s] in the hours of operation." But the EPA has frequently changed its interpretations of those exclusions via guidance or its litigating positions within individual enforcement cases. For instance, EPA has significantly narrowed its view of what qualifies as "routine" and argued that efficiency or reliability projects may trigger permitting because the project could marginally increase the number of hours a unit can operate in a year.

The EPA's shifts in interpretation exacerbate a burdensome permitting process that delay operations, maintenance, and improvements of businesses nationwide. In addition, EPA's regulations unnecessarily focus on annual emission rates, which adds significant uncertainty for a wide variety of beneficial projects, including those that improve efficiency or reliability, and even those designed to reduce emissions.

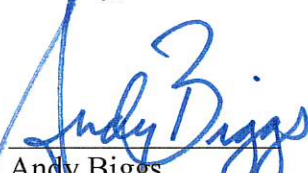
A National Association of Manufacturers representative offered testimony before the House Energy and Commerce Committee last year about the challenges of NSR, stating:

A NAM member company manufactures gas turbine upgrade technology that could improve the vast majority of in-service gas turbines by 2.6 percent and reduce their total carbon dioxide (CO2) emissions per megawatt-hour (MWh) by 6.5 percent. This company reports that its customers are choosing not to install this equipment simply because it triggers NSR. The company is facing the same impediments for large and small fossil steam turbines, such as steam path redesign technologies, rotor replacement, and steam turbine warming systems.

In the same hearing, a National Rural Electric Cooperative Association representative testified that "federal regulatory policies such as New Source Review 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."

We urge you to continue making progress on targeted reforms to the NSR program, including the finalization of changes that would require an hourly emissions rate increase as requisite to trigger NSR applicability for all industry. Such reforms will ensure that many energy efficiency, reliability, pollution control projects and site preparation activities could be undertaken without NSR concerns. Without these changes, America's manufacturers and power providers will continue to face hurdles in undertaking these types of projects that otherwise would enable them to better serve our communities in a cost-effective manner. Time is of the essence.


Sincerely,




Andy Biggs  
Member of Congress




H. Morgan Griffith  
Member of Congress




Paul Gosar, D.D.S.  
Member of Congress




Liz Cheney  
Member of Congress




Ralph Norman  
Member of Congress



Doug Lamborn  
Member of Congress



Matt Gaetz  
Member of Congress



David McKinley  
Member of Congress



Tom McClintock  
Member of Congress



Scott DesJarlais  
Member of Congress



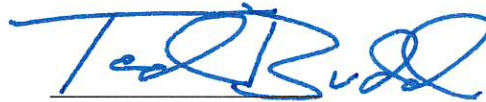
Greg Gianforte  
Member of Congress



James Comer  
Member of Congress



Hal Rogers  
Member of Congress



Ted Budd  
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Debbie Lesko  
Member of Congress



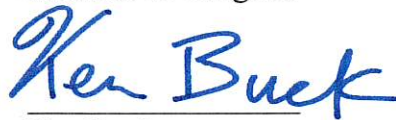
Scott Tipton  
Member of Congress



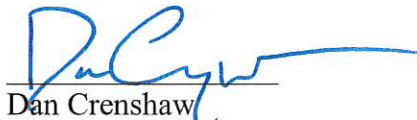
David Schweikert  
Member of Congress



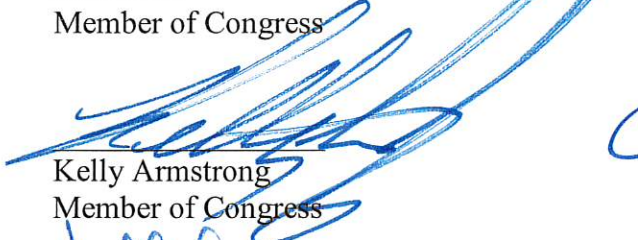
Alex Mooney  
Member of Congress



Ken Buck  
Member of Congress



Dan Crenshaw  
Member of Congress



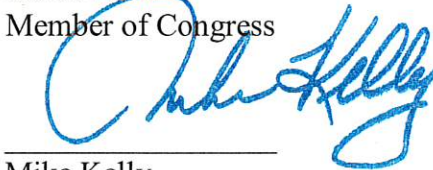
Kelly Armstrong  
Member of Congress



Kevin Hern  
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Jeff Duncan  
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Mike Kelly  
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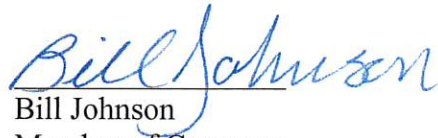
Adrian Smith  
Member of Congress



Michael Cloud  
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Dan Meuser  
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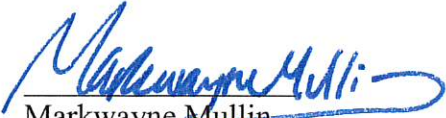
Bill Johnson  
Member of Congress



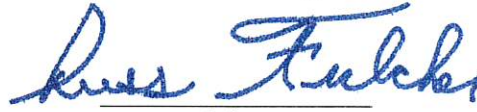
Mark Meadows  
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Doug LaMalfa  
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Markwayne Mullin  
Member of Congress



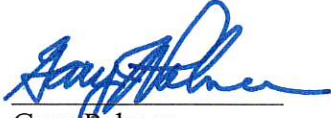
Russ Fulcher  
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John Ratcliffe  
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Rick Crawford  
Member of Congress



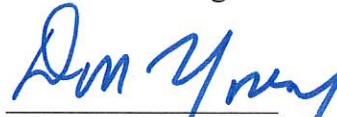
Gary Palmer  
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Fred Keller  
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Pete Stauber  
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Don Young  
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