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U.S. House of Representatives Subcommittee on Environment Hearing/New Source Review Permitting – Challenges for Manufacturing Infrastructure: Stuart Spencer (Arkansas Department of Environmental Quality) Testimony

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The Subcommittee on Environment of the United States House of Representatives Energy and Commerce Committee held a hearing on February 14th entitled:

New Source Review Permitting Challenges for Manufacturing of Infrastructure (“Hearing”)

Arkansas Department of Environmental Quality Associate Director (Office of Air Quality) Stuart Spencer testified on behalf of the Association of Air Pollution Control Agencies (“AAPCA”).

Mr. Spencer serves as President of AAPCA.

Besides Mr. Spencer, witnesses testifying included:

- Ms. Emily Hammond, Glen Earl Weston Research Professor of Law, The George Washington University Law School
- Mr. Jeffrey R. Holmstead, Partner, Bracewell LLP
- Mr. Paul Noe, Vice President Public Policy, American Forest and Paper Association and American Wood Council
- Mr. Kevin Sunday, Director of Government Affairs, Pennsylvania Chamber of Business and Industry
- Mr. John D. Walke, Clean Air Director, Natural Resources Defense Council

The Hearing focused on Clean Air Act preconstruction permits which are issued under either the Prevention of Significant Deterioration (“PSD”) program or the Nonattainment programs. Various issues associated with these New Source Review programs were addressed which included:

- The role that New Source Review permitting plays in approving air quality
- New Source Review permitting shortcomings or burdens that are negatively affecting American industry and infrastructure

- How the New Source Review program impacts investment and project decisions for the manufacturing, industrial and power sectors
- The role that EPA and State regulators play in administering the New Source Review program
- Potential legislative or regulatory reforms to reduce the burden and improve the effectiveness of the New Source Review program

Mr. Spencer's testimony discussed issues associated with potential reforms of New Source Review such as:

- Practical applications (encouraging necessary repair and replacement projects and incentivizing improvement of safety of operations, energy efficiency increase, or reduction of emissions)
- Clarity (clarifying terms such as routine maintenance, etc.)

The testimony also addressed "protective permitting," which is described as:

- Protecting the environment by establishing emission limits, operating requirements for pollution control devices or air pollution prevention activities, and monitoring and recordkeeping requirements
- Protecting the regulatory community by driving compliance through the certainty of permit conditions
- Protecting the investments made in infrastructure and "job-creating" businesses which rely on permits written by ADEQ to be defensible

Reference was made in Mr. Spencer's testimony to recent United States Environmental Protection Agency/Department of Justice guidance documents regarding New Source Review-related enforcement issues, along with AACPA's comments on Clean Air Act issues.

A copy of [Mr. Spencer's written testimony](#) and a link to the [Committee hearing](#) documents can be found here.

