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Subcommittee on Environment
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Chairman Palmer, Ranking Member Tonko, and Members of the Subcommittee, thank you for the opportunity to testify on the need and opportunities for reforms to the Clean Air Act's New Source Review (NSR) program. My name is Mark Gebbia, and I am the Vice President of Environmental, Regulatory, and Permitting at The Williams Companies (Williams).

Williams is a trusted energy industry leader committed to safely, reliably, and responsibly meeting growing energy demand. We serve 12 key supply areas and handle about one-third of the nation's natural gas. We operate Transco, the country's largest interstate natural gas network, with more than 40 percent more volume than the next largest natural gas pipeline.

There are about 175 data centers planned or under construction within 50 miles of our transmission pipeline footprint. While Williams does not expect to capture every data center opportunity we are well-positioned to provide energy and ensure reliability for this growing source of demand.

Electricity demand increased 5 percent between 2010 and 2024 and is forecasted to increase 32 percent between 2025 and 2040, driven by the emergence of large-load data centers and electrification of transport and heating, along with industrial reshoring. China dominates the U.S. in scaling electricity generation, as their electricity generation increased seven times since the year 2000, while U.S. growth stayed flat.

This is an ideal time to modernize the NSR program and to ensure it is adapted to the Nation's increasing demand for electricity, the strategic imperative of sustaining and enhancing America's position in the global competition for artificial intelligence (AI) dominance, and our continued prioritization of environmental protection.

I hold a Bachelor of Science Degree in Chemical Engineering from University of Florida. I joined Williams in 2012 and currently oversee 45 professionals who ensure our company receives all permits in compliance with federal, state, and local environmental laws across all of our operations. These operations are extensive, as Williams is responsible for handling approximately 33,000 miles of transmission and gas gathering pipelines across the United States. We have facilities in 24 states and the Gulf of America, each of which must obtain and stay in compliance with permits issued under a host of environmental laws, including the Clean Air Act.[i]

At Williams, we also go beyond compliance with existing laws. We have several initiatives aimed at meeting the world's need for clean, affordable, and reliable energy using next-generation

technologies and practices. For example, in 2024, we replaced 92 compression engines with modern turbines, leading to substantial reductions in emissions. In addition, we were the first major U.S. midstream natural gas company to join OGMP 2.0, an international initiative for transparent methane emissions reporting.[ii] As part of our participation in OGMP 2.0, we set a target to reduce the methane intensity—defined as methane emissions per unit of gas throughput, expressed as percentage—of our operated assets to 0.0375% by 2028. Further, we continue to invest in alternative low-carbon technologies, such as independently verified and certified NextGen Gas, carbon capture and sequestration, solar energy, and battery storage.

Additionally, Williams was recognized across several key rankings for sustainability leadership – including the Dow Jones Sustainability Index (DJSI), S&P Global Corporate Sustainability Assessment (CSA) and MSCI.

Williams is also doing its part to help the United States win the global race for AI and support data center needs for large amounts of 24/7 power, while managing emissions and mitigating the risk of grid destabilization. One way we are doing this is by constructing new interstate natural gas pipelines to help meet the increased demand for more dispatchable, gas-fired electricity generation to power data centers.

The other way that Williams is contributing to winning the AI race is by building electricity generation resources directly for, and on site at, data centers, leveraging our long-standing experience and expertise with gas-fired generation. This "behind-the-meter" approach allows the data center to minimize or avoid reliance on the utility grid to get its electricity.

In many places around the country, it can take multiple years for a major new electricity "load" to interconnect with the grid. With Williams providing behind-the-meter generation, data centers can come online much faster. Additionally, by using behind-the-meter generation, data centers do not impose strain on already congested grids, nor increase electricity prices for other consumers.

However, our work on developing these behind-the-meter resources has illuminated several problems with implementation of the Clean Air Act.

Williams has long-standing experience with the Clean Air Act and its regulations—and with the NSR program in particular. The Clean Air Act has achieved many successes. It has made significant contributions to cleaning up the Nation's air. The Clean Air Act has also led to the development of innovative and effective emission control technologies used throughout our industry and in other industrial sectors.

However, it has been 35 years since Congress made comprehensive amendments to the Clean Air Act. The statute is showing its age. Persistent flaws that might have been tolerable in the past are now real impediments to progress in addressing the national energy emergency and the race for AI infrastructure along modern construction and implementation timelines. In many instances, the Clean Air Act, or the way the Environmental Protection Agency (EPA) has implemented the

statute, elevates form over substance. Many of the most costly and time-consuming procedures currently required do not contribute meaningfully to environmental protection.

Accordingly, we have developed several recommendations for reform, which are discussed below. Section I summarizes the key elements of the NSR Program. Second II recommends reforms that EPA can implement to the NSR program and other Clean Air Act programs under its existing authorities, subject to Congressional oversight. Second III identifies reforms that would require Congressional action to change the law.

I. Summary of the NSR Program

Under the Clean Air Act, EPA has established National Ambient Air Quality Standards (NAAQS) for a set of "criteria" air pollutants.[iii] Each state is responsible for attaining these NAAQS in all regions across the state. The NSR program supplements state attainment efforts by imposing preconstruction permitting requirements on "major stationary sources" that have the "potential to emit" specific levels of regulated pollutants.[iv]

NSR permitting requirements apply before a new "major stationary source" can be constructed or before an existing "major stationary source" undergoes a "major modification," as these terms are defined in the statute and regulations.

The NSR program has two pathways, which depend on the NAAQS attainment status of the location of the "major stationary source." One set of requirements applies in an area in which the applicable NAAQS has not been exceeded, i.e., where air quality complies with the federal standards. This set of requirements is referred to as the Prevention of Significant Deterioration (PSD) permitting requirements.[v] Another set of requirements applies for an area in which the applicable NAAQS has been exceeded. This set of requirements is referred to as the Nonattainment NSR (NNSR) permitting requirements.[vi] The determination of which pathway applies is specific to each regulated pollutant emitted by the source; therefore, a source that triggers NSR requirements might be subject to PSD permitting requirements for some pollutants and NNSR requirements for others.

In general, the NSR program requires the permit applicant to go through an extensive, case-specific process with the permitting authority to identify a limit on emissions from its source. The permitting authority can be EPA or a state or tribal regulatory agency acting under a delegation of authority from EPA. The stringency of the emissions limit for a new or modified source depends on whether the source is obtaining a PSD permit or an NNSR permit. The PSD regulations require the source to adopt an emissions limit corresponding to its Best Available Control Technology (BACT), which is identified for the source through a 5-step process carried out by the permitting authority.[vii] Under the NNSR regulations, the permitting process must arrive at the Lowest Available Emission Rate (LAER) for the facility, which is typically more stringent than BACT.[viii] In addition, the NNSR regulations require the applicant to obtain "offset" emission reductions from another source in the same airshed.[ix] Both the PSD and NNSR regulations require the permit

applicant to undertake extensive modeling to determine the impact of the source on the attainment status of the area.

The NSR permitting process generally takes more than a year. During this period, the applicant may not commence construction of the facility or the modification; typically, only minor site preparation activities are allowed. After a permit is finally issued, litigation by project opponents is quite common, and such litigation often holds up projects for even longer.

The NSR permitting timeline does not align with the urgency of installing and operating gas-fired generation for AI data centers. Fortunately, much of the NSR program is implemented through guidance and facility-specific "applicability determinations."[x] Therefore, EPA has a degree of discretion to interpret requirements of the NSR program in ways that could achieve better outcomes.

II. Recommendations for Actions by EPA Subject to Congressional Oversight

1. *EPA should clarify that a combined cycle natural gas-fired turbine that uses waste heat to expand a liquid other than water to drive a turbine that generates additional electricity is not a "fossil fuel-fired steam electric plant" under the NSR program.*

One of the ways that EPA could minimize unnecessary exposure of gas-fired electric generation projects to PSD permitting would be to revisit what constitutes a new "major stationary source." The PSD regulations provide that the default threshold for a "major stationary source" subject permitting requirements is that it has the potential to emit 250 tons per year of a regulated pollutant.[xi] However, the regulations also set a lower triggering threshold (100 tons per year) for sources in a specified list of categories.[xii] One of the categories of sources on this easy-trigger list is "fossil fuel-fired steam electric plants" of a certain size.

The regulatory term "fossil fuel-fired steam electric plants" was intended to cover generating units that burn coal to create high pressure steam that turns a turbine attached to a generator that produces electricity. Over time, EPA has decided that combined cycle natural gas-fired turbines should also be considered "steam electric plants" and thus trigger NSR permitting at the lower 100 ton-per-year threshold. The basis for this interpretation was that, in most gas-fired combined cycle units, the "waste heat" (i.e., the hot exhaust gas) from the turbine is used to heat water and turn it into steam, which is then used to generate additional electricity. However, there is now a class of gas-fired combined cycle turbines that do *not* use steam as a medium for using waste heat to generate electricity, including the types of turbines Williams is considering installing to power data centers. These turbines rely on the organic Rankine cycle, which utilizes an organic medium that does not produce steam from water. Because steam is not involved, these gas-fired units should *not* be considered "fossil fuel-fired steam electric plants."

Further, the PSD regulations' definition of "electric utility steam generation unit" is a unit constructed "for the purpose of supplying more than one-third of its potential electric output

capacity and more than 25 [megawatts (MW)] electrical output *to any utility power distribution system for sale*."[xiii] A turbine constructed to operate behind the meter does not meet this definition because it is not supplying any electricity to the utility grid.

Clarifying that these gas-fired units are not subject to extensive PSD analysis and permitting does not mean that these units will be without emission controls. Indeed, the BACT emission limit for gas-fired turbines is already well understood and widely applied by Williams and others. Therefore, in the case of gas-fired turbines used at AI data centers, the costly and cumbersome permitting process provides no meaningful incremental environmental benefit.

For these reasons, Williams is urging EPA to clarify that gas-fired turbines using the Rankine cycle or other methods that do not use steam as a medium are not "fossil fuel-fired steam electric plants" in the meaning of the PSD regulations and therefore are not subject to the lower 100 tons-per-year trigger. Williams also is asking EPA to clarify that a behind-the-meter generation unit is not an "electric utility steam generation unit." Williams respectfully requests that Congress provide oversight to ensure that EPA follows through on these changes.

2. *EPA should clarify that behind-the-meter gas-fired units are not subject to the Acid Rain Program.*

EPA should clarify that behind-the-meter gas-fired generators are not subject to the Acid Rain Program.

The Acid Rain Program was established under Title IV of the Clean Air Act.[xiv] The Program and its regulations impose a nationwide cap-and-trade program for sulfur dioxide (SO_2) emissions from certain types of electric power plants. The Program primarily applies to coal-fired electric utility plants, but also applies to some gas-fired units, even though gas-fired units have extremely low SO_2 emissions.

The owner or operator of a newly constructed unit that is subject to the Acid Rain program must submit a permit application to EPA at least 24 months prior to commencing operation.[xv] The unit may not commence operation until the issuance of its Acid Rain Program permit. This timeline is not feasible given the urgent need to install and operate gas-fired generation for AI data centers.

Importantly, the relevant statutory and regulatory provisions indicate that the Acid Rain Program only applies to electric generating units that sell electricity to the grid. The regulations include a list of units that are ***not*** "affected units subject to the requirements of the Acid Rain Program." The list of excluded units includes "a non-utility unit."[xvi] The list also includes a cogeneration facility that sells equal to or less than one-third its potential electrical output capacity or equal to or less than 219,000 megawatt hours of electric output annually "to any utility power distribution system."[xvii] In other words, the Acid Rain Program regulations should not apply to units that are not designed to sell their output to the utility grid. EPA should clarify that behind-the-meter electric generating units are not Acid Rain Program "affected units." Williams respectfully requests that Congress provide oversight to ensure that EPA follows through on this change.

3. *EPA should clarify that behind-the-meter gas-fired units are not subject to the Cross State Air Pollution Rule.*

EPA should clarify that behind-the-meter gas-fired electric generators are not subject to Cross State Air Pollution Rule.[xviii]

The Cross State Air Pollution Rule is another Clean Air Act cap-and-trade program. It caps emissions of nitrogen oxides (NOx) from certain defined "NOx Budget Units" in a subset of states. A "NOx Budget Unit" must meet certain monitoring requirements and must purchase allowances to cover its NOx emissions.

4. *EPA should revise its NSR regulations to clarify that a permit applicant may engage in a broader range of construction activities on an emissions unit prior to issuance of an NSR permit.*

EPA should revise its regulations to clarify that an applicant for an NSR permit may engage in construction activities up to—but not including—the point of connecting the emissions unit to its fuel supply (i.e., before the unit is operational) prior to issuance of the permit. Alternatively, EPA should allow construction activities to occur up to the point of placement and installation of the emissions unit onto building supports and foundations.

As discussed above, the Clean Air Act provides that a NSR permit is required prior to construction of a new or modified major stationary source. In its NSR regulations, EPA has implemented this requirement by providing that an affected source may not "begin actual construction" prior to obtaining the applicable permit.[xix] In a 1980 rulemaking, EPA established the following regulatory definition of "begin actual construction,":

> "Begin actual construction" means, in general, initiation of physical on-site construction activities on an emissions unit which are of a permanent nature. Such activities include, but are not limited to, installation of building supports and foundations, laying underground pipework and construction of permanent storage structures. With respect to a change in method of operations, this term refers to those on-site activities other than preparatory activities which mark the initiation of the change.[xx]

From time to time, EPA has published guidance on how to interpret this regulatory definition. This guidance typically authorizes a permit applicant to engage in only minimal site clearing and preparation in advance of receiving its NSR permit. EPA has recently affirmed that more significant construction can occur at a facility, provided that construction does not reach the emissions unit.[xxi]

This legacy regulatory construct creates significant delays for applicants by prohibiting any meaningful construction activities on the emissions unit prior to permit issuance. This restriction

not only affects project timelines but also introduces uncertainty and inefficiency into the development process.

EPA should reconsider and revise its regulatory definition of "begin actual construction" to expand authorized construction activities up to the point of connecting the emissions unit to its fuel supply prior to issuance of the permit. Alternatively, EPA should allow construction activities to occur up to the point of placement and installation of the emissions unit onto building supports and foundations. Allowing an applicant to engage in such construction would not be inconsistent with the Clean Air Act's NSR statutory provisions; if the permit ultimately is not granted, there would not have been emissions because *operations* have not commenced. Thus, there would be no risk to the public from this approach. Rather, it is only the applicant who would bear the risk that its construction investment was for naught. Given the urgency of constructing power generation for data centers, this is a risk that we should allow willing project developers to take.

We are pleased that the EPA has committed to undertaking a rulemaking in 2026 to revisit this regulatory definition.[xxii] Additionally, we are encouraged that this issue has already been identified by Administrator Zeldin as a needed area of reform to support the data center buildout needed to win the AI race.[xxiii] We respectfully urge Congress to provide oversight of this rulemaking.

5. *In its final rule on repeal of the greenhouse gas emission standards and guidelines for power plants, EPA should clarify that behind-the-meter gas-fired units are not subject to the standards and guidelines, include its "alternative proposal," and expand the "alternative proposal" to cover the Phase 1 standards for gas-fired units.*

In June, EPA proposed a rule to repeal greenhouse gas (GHG) emission standards and guidelines that the agency previously promulgated for fossil fuel-fired power plants using its authority under Section 111 of the CAA.[xxiv] In the proposal, EPA outlined two approaches:

- A "primary proposal," which would repeal all of the GHG standards and guidelines based on a rationale that GHG emissions from power plants do not "endanger public health or welfare" in the meaning of Section 111; and
- An "alternative proposal," which would repeal a subset of the GHG standards and guidelines based on a rationale that the specified standards and guidelines do not meet the statutory tests under Section 111 because they are not based on the "best system of emission reduction" that is "adequately demonstrated," or are not achievable.

In its public comments to EPA's proposed rule, Williams urged EPA to do the following in its final rule:

- Include the "alternative proposal" in any final rule, possibly as an alternative rationale for its "primary proposal." That way, if a reviewing court does not uphold the "primary proposal" repealing all of the GHG standards and guidelines, it could still uphold the "alternative proposal" with respect to the identified subset of standards and guidelines. This would remove another substantial source of regulatory uncertainty.

- Expand the subset of standards included in the "alternative proposal" to include the Phase 1 standards for new gas-fired units. These standards are unreasonably stringent. They are not consistently achievable by new gas turbines operating under real-world conditions across the country.

Additionally, EPA should also clarify that behind-the-meter gas-fired units are not subject to the GHG standards in the final rule. The current GHG regulations for the power sector define "affected facilities" as electric generating units "capable of selling greater than 25 megawatts (MW) of electricity to a utility power distribution system."[xxv] In the final rule, or in a guidance document, EPA should recognize that a unit is not "capable of selling" electricity to a utility power distribution system without an authorization by the public utility commission or other regulator. Merely having a physical connection to a grid is not sufficient absent such an authorization to make sales. This clarification would allow behind-the-meter projects to move forward without purchasing currently scarce turbines capable of meeting the stringent requirements of the GHG emission standards and guidelines, thereby removing a substantial source of regulatory uncertainty hanging over electricity generators and data center development projects.

We respectfully request that Congress provide oversight of these requested actions by EPA.

6. *EPA should expedite reclassification of Utah County, Utah for the $PM_{2.5}$ NAAQS.*

For some time, all local air monitors in Utah County, Utah, have shown that the region has attained the 2006 $PM_{2.5}$ NAAQS. EPA has said it intends to reclassify the region from "serious nonattainment" to "maintenance" by December. Such reclassification would ease the path for data center development in this area by allowing power generation facilities to increase design capacity to make more power available.

Williams respectfully requests that Congress provide oversight to ensure EPA completes this reclassification as expeditiously as possible.

7. *EPA should clarify to state regulatory agencies that, for purposes of NSR and Title V permitting, two entities with co-located facilities are not part of the same "stationary source" if neither can dictate the other's decisions with respect to compliance with air regulatory requirements.*

EPA should clarify to state regulatory agencies and permitting authorities that, for purposes of NSR and Title V permitting, two entities with co-located facilities are not part of a single "stationary source" under their "common control" if neither can dictate the other's decisions with respect to compliance with air regulatory requirements.

Under the federal rules governing these permitting programs, entities may be considered part of the same "stationary source" or "major source" if they (1) belong to the same industrial grouping: (2) are located on one or more contiguous or adjacent properties: and (3) are under the control of the same person (or persons under common control).[xxvi]

A central part of the value proposition of behind-the-meter generation for data center developers is that the data center has a dedicated source of power but is not responsible for the generation resources. Permitting, operation, and ongoing compliance with environmental regulations remain the sole responsibility of the generation owner. If this responsibility and regulatory status is uncertain, it will be an impediment to these approaches.

However, state NSR permitting authorities have been adopting inconsistent approaches to "source" determination. Some authorities are suggesting that a data center with behind-the-meter generation should be considered under the "common control" of both the data center owner and the generation owner. This approach demonstrates that issuing a guidance document alone is insufficient for driving consistency and predictability across the country. Both consistency and predictability are vital to securing private investment in AI infrastructure.

EPA could rectify this situation by clearly communicating to state regulatory agencies that "control" for Title V and NSR permitting purposes should focus on "the power or authority of one entity to dictate decisions of the other that could affect the applicability of, or compliance with, relevant air pollution regulatory requirements."

This was the conclusion of EPA's 2018 "Meadowbrook Energy and Keystone Landfill Common Control Analysis."[xxvii] The Meadowbrook Letter analyzed the circumstances under which co-located facilities owned by different entities should be considered a single "stationary source."

The Meadowbrook Letter made clear that for an entity to "control" another co-located entity it must have something greater than a mere "degree of influence over the operations of the other." Rather, "control" consists of "the power or authority of one entity to dictate decisions of the other than could affect the applicability of, or compliance with, relevant air pollution regulatory requirements."

Under this interpretation, a data center with behind-the-meter generation on site, that is separately owned and operated, should not be considered an aggregated single stationary source for purposes of NSR or Title V permitting. Rather, it should be analyzed separately.

For these reasons, EPA should provide clearer and firmer guidance to state regulators on this issue, and we respectfully urge Congress to provide oversight.

III. Recommendations for Congressional Analysis and Inquiry

As explained in Section II, EPA can use its existing authorities under the Clean Air Act to make several implementation reforms that would help accelerate the timeline for bringing new data centers on-line while still preserving core air quality protections. However, there are limits to what EPA can do without amendments to the statute.

Given that the last comprehensive changes to the Clean Air Act occurred in 1990, it is an ideal time for Congress to consider amendments to modernize the statute and make it more responsive to new conditions. These new conditions include a substantial decrease in air pollution throughout

the country[xxviii], innovations in emission control technologies[xxix], and advances in air modeling capabilities.[xxx]

Another trend seen since the enactment of the Clean Air Act is a shift in the distribution of sources of emissions in the economy. As overall emissions of criteria air pollutants have declined, the relative share of those emissions from smaller mobile and smaller stationary sources has increased relative to the share from industrial sources.[xxxi] In other words, industrial sources are no longer the major contributors to air quality issues that they were in the early years of federal air pollution regulations.

This trend calls into question the ongoing need for NSR, or at least NSR in its current form. It is fundamentally the responsibility of states to achieve the NAAQS within their borders. And the Clean Air Act generally affords states substantial discretion in determining which sources of emissions to control and how to control them to meet their NAAQS obligations.[xxxii] Yet, the Clean Air Act also imposes the NSR program, which prescribes permitting, emission control, and air modeling requirements on "major stationary sources" irrespective of state preferences. It is worth asking whether the paternalistic NSR program continues to serve useful environmental protection functions or whether it is time to grant states more fulsome discretion with respect to control of their emission sources.

Some states, after all, might elect to obtain the economic benefits of allowing important large facilities to come on-line faster, including data centers supported by behind-the-meter power generation. These states might choose to attain the NAAQS by increasing the stringency of emission controls for *other* sources—including the mobile and smaller stationary sources that now comprise a larger proportion of the overall emissions inventory.

For these reasons, Williams urges Congress to consider the following questions about the NSR program:

1. *Do the NSR program's air modeling requirements yield significant incremental benefits given general advances in air modeling?*

One potential benefit of the NSR program is that it requires the permit applicant to undertake significant air modeling so that EPA and the state understand the impact of the proposed new or modified source on NAAQS attainment. However, is it still necessary to make the applicant undertake such modeling and make it subject to the contentions of the permitting process?

To be sure, a few decades ago, it might have been efficient to make the applicant pay for this modeling. Now, however, EPA itself has models of air quality for airsheds throughout the country.[xxxiii] And advances in AI will make it possible for modeling to be done quickly, accurately, and at low cost. With these improvements, EPA and state regulatory agencies need not rely on the applicant's modeling to analyze potential impacts of a new or modified facility; they can use their own models and allow the applicant to raise objections as it sees fit. This approach to modeling would save time, resources, and avoid another source of extended permit-related litigation.

2. *Does the NSR program's facility-specific analysis of emission controls yield significant incremental benefits over New Source Performance Standards?*

Another possible benefit of the NSR program is its facility-specific analysis of emission controls. According to this argument, the NSR program helps identify the most advanced emission control technologies that is feasible for a particular new or modified source to adopt, especially through the PSD program's five-step process.

However, it is important to note that the Clean Air Act has a separate set of provisions that already requires EPA to set technology-based emission limits for categories of new, modified, or reconstructed large stationary sources of emissions: the New Source Performance Standards (NSPS) provisions.[xxxiv] For each covered category of sources[xxxv], the Clean Air Act requires EPA to set NSPS reflecting the "best system of emission reduction" that has been "adequately demonstrated" for that category. [xxxvi] EPA must review, and as appropriate, update the NSPS every eight years.[xxxvii] Over time, the EPA has established NSPS for over 90 categories of industrial sources of emissions, including for utility boilers and stationary combustion turbines.[xxxviii]

The current PSD regulations prescribe a specific relationship between PSD and NSPS. These regulations provide that the five-step analysis for a new or modified source should use the applicable NSPS as the "floor" or minimum for determining BACT.[xxxix] In other words, the NSPS currently serves the role of a kind of national baseline for emission controls, forming a basis for source-specific analyses that can yield more stringent controls.

However, it is worth asking how often the BACT analysis results in a different outcome than what the applicable NSPS prescribes—and, even when it does, whether the BACT will result in an increment of additional emission reductions that is meaningful for the state's attainment efforts. If not, we should question whether the time-intensive, resource-intensive, and litigious source-specific process is worth sustaining—or whether reliance on a source's compliance with the applicable NSPS suffices.[xl]

3. *Is there still a rational scientific basis for using 100 tons and 250 tons as thresholds for a "major stationary source" for NSR permitting?*

Another question to ask about the NSR program is whether 100 tons and 250 tons are rational thresholds for identifying sources of emissions that are such significant contributors to attainment issues that the extra process of NSR preconstruction permitting is warranted. These thresholds were added to the Clean Air Act as part of amendments in 1977, i.e., nearly 50 years ago.[xli] Given the advances in the scientific understanding of air pollution and the changes in the relative contribution of different types of sources within emission inventories, it is a good time to revisit these thresholds.

4. *What are potential amendments to the NSR provisions?*

Based on analysis of the foregoing questions, Congress should consider a range of possible amendments to the NSR provisions in the statute. Such amendments could include eliminating the NSR provisions and relying instead on a combination of the NSPS regulations and state regulatory discretion.

If Congress decided to keep the NSR provisions in some form, potential amendments could include one or more of the following:

- Giving states the discretion to opt out of NSR and attain the NAAQS through a different collection of measures
- Increasing the 100-ton and 250-ton thresholds to ensure that the burdens of NSR permitting fall on sources that would be more significant proportional additions to a state's emissions inventory
- Requiring NSR only in nonattainment areas, i.e., eliminating PSD but maintaining nonattainment NSR
- Allowing permit applicants to invest in offsetting emission reductions within the same airshed in lieu of adopting the BACT or LAER emission limit

This is by no means a complete list of all the options available to Congress, but we believe it provides an illustrative list of potential approaches to modernize the statute and make it more responsive to new conditions.

IV. Conclusion

Chairman Palmer, Ranking Member Tonko, and Members of the Subcommittee, the stakes could not be higher. America's ability to supply abundant, affordable, and clean power is now inextricably linked to our ability to lead the world in AI, advanced manufacturing, and next-generation technologies. Yet, the NSR program—designed nearly half a century ago for a very different industrial landscape—now stands as a principal obstacle to the timely deployment of the natural-gas infrastructure and behind-the-meter generation that data centers and other critical facilities require.

Williams does not advocate rolling back environmental protection. We seek a commonsense modernization that preserves the Clean Air Act's core health protections, while eliminating procedures that no longer add environmental value. The reforms outlined in my testimony would:

- clarify that innovative gas-fired technologies and behind-the-meter facilities are not swept into outdated "steam-electric" or "utility" categories that trigger lower NSR thresholds;
- remove these same units from legacy trading programs—such as the Acid Rain and Cross-State Air Pollution programs—that were never intended to apply to sources that do not sell power to the grid;

- expand the pre-construction activities a developer may perform "at risk," shortening project timelines without compromising air quality;
- end uncertainty over whether co-located, but separately owned and operated, facilities are combined for permitting purposes; and
- ensure that the Section 111 GHG standards, now proposed for repeal, cannot be misapplied to behind-the-meter units.

Each of these actions is available today under EPA's existing authority, and each would materially accelerate the construction of the low-emitting gas generation that supports both grid reliability and the nation's AI ambitions. Where statutory change is required—whether to update the 100- and 250-ton thresholds or align NSR with the robust NSPS—Congress has a historic opportunity to finish the work begun in 1990 and bring the Clean Air Act into the twenty-first century.

Williams continues to demonstrate that industry can, and will, reduce emissions well beyond regulatory baselines when the permitting pathway is clear and predictable. With thoughtful reform, the Committee can unleash private capital to deploy modern, efficient generation at the pace demanded by today's digital economy.

Thank you for the opportunity to present our views. I look forward to answering your questions and working with the Committee, EPA, and all stakeholders to deliver the balanced, forward-looking reforms that America's energy future requires.

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[i] 42 U.S.C. § 7401 *et seq*.
[ii] Oil and Gas Methane Partnership 2.0, https://www.ogmpartnership.org/.
[iii] 42 U.S.C. 7409 (the six criteria air pollutants are ground-level ozone, particulate matter, sulfur dioxide, nitrogen oxide carbon monoxide and lead).
[iv] 42 U.S.C. §§ 7475 (Prevention of Significant Deterioration), 7503 (Nonattainment New Source Review).
[v] 42 U.S.C. § 7475.
[vi] 42 U.S.C. § 7503.
[vii] 42 U.S.C. § 7475(a)(4); EPA, New Source Review Workshop Manual (Draft) (1990), available at https://www.epa.gov/sites/default/files/2015-07/documents/1990wman.pdf, at p. I.2.
[viii] 42 U.S.C. § 7501(3) (defining LAER as "for any source, that rate of emissions which reflects— (A) the most stringent emission limitation which is contained in the implementation plan of any State for such class or category of source, unless the owner or operator of the proposed source demonstrates that such limitations are not achievable, or (B) the most stringent emission limitation which is achieved in practice by such class or category of source, whichever is more stringent.")
[ix] 40 C.F.R. § 51.165(a)(3).
[x] Bernard Hawkins & Mary Ellen Ternes, *The New Source Review Program, in* The Clean Air Handbook, 137, 154 (Julie R. Domike & Alec Zacaroli, eds., 4th ed. 2016).
[xi] 40 C.F.R. § 51.166(b)(1)(i)(B).
[xii] 40 C.F.R. § 51.166(b)(1)(i)(A).
[xiii] 40 C.F.R. § 52.21(b)(31) (emphasis added).
[xiv] 42 U.S.C. § 7561 *et seq*.
[xv] 42 U.S.C. § 7651g(e).
[xvi] 40 C.F.R. § 72.6(b)(8).
[xvii] 40 C.F.R. § 72.6(b)(4).
[xviii] 40 C.F.R. Part 97.
[xix] *See,* 40 CFR § 52.21(a)(iii) (PSD) and
[xx] 40 C.F.R. § 52.21(b)(11). 45 Fed. Reg. 52,676, 52,736 (Aug. 7, 1980)

[xxi] *See* https://www.epa.gov/nsr/begin-actual-construction-0
[xxii] https://www.epa.gov/newsreleases/epa-announces-permitting-reform-provide-clarity-expedite-construction-essential-power.
[xxiii] https://www.foxnews.com/opinion/lee-zeldin-trumps-epa-clearing-regulatory-path-america-dominate-global-ai-revolution.
[xxiv] Repeal of Greenhouse Gas Emission Standards for Fossil Fuel-Fired Electric Generating Units, Proposed Rule, 90 Fed. Reg. 25,752 (June 17, 2025). References herein to "Section 111" are references to 42 U.S.C. § 7411.
[xxv] 40 CFR 60.5509(a) and 40 CFR 5509a(a).
[xxvi] *See* 42 U.S.C. § 7661(2) (Title V statutory definition): 40 CFR. §§ 70.2 & 71.2 (Title V regulations): 40 CFR §§ 52.21 (b)(5) & (6); 51.165(a)(1)(i) & (ii), and 51.166(b)(5) & (6) (NSR regulations).
[xxvii] https://www.epa.gov/nsr/meadowbrook-energy-and-keystone-landfill-common-control-analysis ("Meadowbrook Letter").
[xxviii] EPA, Our Nation's ERA: Trends Through 2023 (2024), available at https://gispub.epa.gov/air/trendsreport/2024/#air_pollution and https://gispub.epa.gov/air/trendsreport/2024/documentation/AirTrends_Flyer.pdf ("Between 1970 and 2023, the combined emissions of the six common pollutants ($PM_{2.5}$ and PM_{10}, SO_2, NOx, VOCs, CO and Pb) dropped by 78 percent. This progress occurred while the U.S. economy continued to grow, Americans drove more miles, and population and energy use increased.")
[xxix] *See* EPA, Progress Cleaning the Air and Improving People's Health, https://www.epa.gov/clean-air-act-overview/progress-cleaning-air-and-improving-peoples-health (describing technological advances prompted by the Clean Air Act).
[xxx] EPA, Clean Air Act Permit Modeling Guidance, https://www.epa.gov/scram/clean-air-act-permit-modeling-guidance (providing regular updates on best practices and innovations in air quality modeling).
[xxxi] U.S. EPA, *Air Pollutant Emissions Trends Data: National Tier 1 Criteria Air Pollutants (1970–2024)* and *National EIS Sector CAPS Trends (2002–2024)*, updated April 28, 2025.
[xxxii] Train v. Natural Resources Defense Council, 421 U.S. 60, 79 (1975) ("So long as the ultimate effect of a State's choice of emission limitations is compliance with the national standards for ambient air, the State is at liberty to adopt whatever mix of emission limitations it deems best suited to its particular situation.")
[xxxiii] *See supra* EPA, Clean Air Act Permit Modeling Guidance.
[xxxiv] 42 U.S.C. § 7411 *et seq.* The regulations implementing the NSPS provisions define "modification" somewhat differently than the NSR regulations. The former define modification with respect to an increase in the rate of emissions of an existing source while the latter defines modification in terms of a significant absolute increase in emissions. *Compare* 40 C.F.R. § 60.14 (NSPS "modification") and § 51.165(a)(1)(v) (PSD "major modification"). In addition, NSPS applies to "reconstruction" of an existing source, which is defined to cover the replacement of component parts of an existing facility where the capital cost of the new components exceeds 50 percent of the fixed capital cost that would be required to construct a comparable entirely new facility. 40 C.F.R. § 60.15 (NSPS "reconstruction").
[xxxv] The NSPS provisions in the Clean Air Act direct EPA to set NSPS for categories of sources that "cause[ ], or contribute[ ] significantly to, air pollution which may reasonably be anticipated to endanger public health or welfare." 42 U.S.C. § 7411(b)(1)(B). In practice, sources in NSPS correlate with the types of stationary sources that would also be "major stationary sources" for purposes of NSR permitting.
[xxxvi] 42 U.S.C. §§ 7411(b)(1)(B) and 7411(a) (definition of "standard of performance).
[xxxvii] 42 U.S.C. § 7411(b)(1)(B).
[xxxviii] *See* 40 C.F.R. Part 60 and Subpart Da (utility boilers) and KKKK (stationary combustion turbines).
[xxxix] 40 CFR § 52.21(b)(12) (definition of BACT) ("In no event shall application of best available control technology result in emissions of any pollutant which would exceed the emissions allowed by any applicable standard under 40 CFR part 60.")
[xl] Note that EPA also maintains a clearinghouse of recent BACT and LAER determinations for various categories of sources. EPA, RACT/BACT/LAER Clearinghouse, available at https://www.epa.gov/catc/ractbactlaer-clearinghouse-rblc-basic-information. This clearinghouse could also substitute for source-specific BACT analyses.
[xli] *See* P.L. 95-95 (Aug. 7, 1977).