



August 21, 2026

**Administrator Lee Zeldin
Environmental Protection Agency
Mail Code 28221T
1200 Pennsylvania Avenue NW
Washington, DC 20460**
Submitted via www.regulations.gov

**RE: Minor New Source Review Program Air Permitting Public Participation
Requirements for State Implementation Plans, Docket ID No. EPA-HQ-
OAR-2025-1212**

Dear Administrator Zeldin:

Western Energy Alliance (the Alliance) is the leader and champion for independent oil and natural gas companies in the western United States. Working with a vibrant membership base for over 50 years, the Alliance stands as a credible leader, advocate, and champion of industry. Alliance members engage in all aspects of environmentally responsible exploration and development of oil and natural gas. Our expert staff, active member committees, and committed board members form a collaborative and welcoming community of professionals dedicated to abundant, affordable energy and a high quality of life for all.

The Alliance appreciates the opportunity to comment on the U.S. Environmental Protection Agency's (EPA) proposal to revise the public participation regulatory requirements for sources subject to Clean Air Act (CAA) New Source Review (NSR) programs approved into State Implementation Plans (SIPs). The Alliance supports the proposal and the intent to provide State and local air agencies with greater discretion to identify the requisite level of public participation that is appropriate in their minor NSR programs.

EPA's proposed rule appropriately allows state agencies to tailor their public participation requirements in order to "balance environmental concerns with economic and administrative concerns"¹ in meeting the CAA's statutory requirements. EPA notes, correctly, that the CAA "does not prescribe the use of permits or any other specific mechanism for authorizing the construction of minor sources and minor modifications. Air agencies are free to use permits in their minor NSR programs and frequently do so, but air agencies can also include other preconstruction authorization mechanisms in their minor NSR programs, such as general permits (GPs) and permits-by-rule (PBRs)."

¹ *New York v. EPA*, 413 F.3d 3, 23 (D.C. Cir. 2005) (per curiam).

Minor NSR Program Public Participation Requirements

August 21, 2026

Page 2 of 3

As EPA also notes in the proposal, minor source public participation is not necessary to meet the CAA's requirement that "the National Ambient Air Quality Standards (NAAQS) are achieved" in the context of developing a program for the "regulation of" minor source construction and modification, "as compared to substantive regulatory requirements." This is the correct interpretation of the CAA because the public comment process, in and of itself, does not impact whether or not NAAQS are achieved; rather, it is simply a procedural step along the way to the actual actions that achieve NAAQS, whether those are done through individual permits, GPs, or PBRs.

Taken together, the CAA's delegation to state and local agencies of how they choose to authorize minor source construction and modifications, as well as the CAA's lack of a clear mandate for public participation for those minor sources authorizations, makes clear that Congress intended to give state and local air agencies flexibility in how they administer their SIP and not impose one-size-fits-all public participation requirements.

We note that the proposed changes in this draft regulation would not in any way foreclose public participation across the NSR permitting program. First, EPA rightly notes that it "is not proposing to revise the public participation requirements applicable to the initial development, revision, and approval of State and local minor NSR program elements in SIPs through the SIP process." Even if the draft rule is finalized, EPA would maintain public participation requirements at the SIP level, rather than at the individual permit level.

Furthermore, nothing in the draft rule *requires* State and local air agencies to change their public participation process. Rather, "State and local air agencies may determine that public participation requirements are among these features or otherwise desirable" and maintain comment opportunities for some or all components of their existing programs.

Finally, as noted in the proposal:

Many air agencies were surprised to hear the EPA express the view that the existing regulations at 40 CFR 51.161 require minor NSR programs to provide a 30-day opportunity for public comment on all proposed new minor sources and minor modifications regulated under such programs...These air agencies further argued that subjecting all such activities to public participation requirements risked overwhelming the public with inconsequential information about minimal-impact minor sources and modifications, which could discourage public participation in the overall NSR decision-making process instead of promoting it.

The fact that some state agencies do not view public participation as required by the CAA and believe it is, in fact, overly burdensome with little or no benefit, weighs strongly in favor of removing the federal requirement.

Minor NSR Program Public Participation Requirements

August 21, 2026

Page 3 of 3

We appreciate that EPA also requested comments on whether it should pursue a separate rulemaking regarding public participation requirements for authorizing new minor sources and minor modifications locating within Indian country. The Alliance strongly supports such a rulemaking, which should mirror and be consistent with this proposal and the CAA requirements.

EPA's proposed action and the relevant statutory background is succinctly and appropriately summarized from this quote in the draft:

There is no explicit requirement for public participation in preconstruction review of minor sources in CAA section 110(a)(2)(C). Thus, the best reading of this provision of the CAA is that it does not require a Federal minimum standard for public participation in minor NSR programs. Consistent with statutory requirements, the EPA therefore leaves it to State and local air agencies to determine whether and to what extent public participation should be required in their respective minor NSR programs.

EPA should move forward with finalizing this proposed rule, which properly balances statutory intent, environmental protection, and a streamlined permitting process. It should also initiate a similar rulemaking for minor NSR in Indian country. Thank you for your time and consideration of these comments. Please do not hesitate to contact me if you have any questions or would like additional information.

Sincerely,



Melissa Simpson
President, Western Energy Alliance