

June 29, 2026

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

RE: Begin Actual Construction in the New Source Review Preconstruction Permitting Program, Docket ID No. EPA-HQ-OAR-2025-0618

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) proposed revisions to its New Source Review (NSR) air permitting regulations. The Alliance strongly supports the proposal and the broader intent to streamline the federal permitting process while maintaining environmental protections.

The proposed rule would create commonsense definitions for "pollutant-emitting activities" and "begin actual construction" that align with statutory intent and reflect on-the-ground conditions, rather than imposing overly burdensome permitting requirements that do not actually impact emissions from stationary sources regulated by EPA.

EPA's 1978 regulations implementing the 1977 Clean Air Act (CAA) Amendments created broad definitions for "construction," "source," and "commence," leading to the 1980 regulatory definition of "begin actual construction" that is expansive and resulting in the existing regulations capturing facilities that do not, in fact, contribute to the emissions that the CAA is designed to regulate.

We support and agree with EPA's statement in the draft rule that the proposed definition for "begin actual construction" will:

"mitigate uncertainties, reduce regulatory burdens, and balance economic growth and environmental protection by allowing owners and operators the

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opportunity, when appropriate, to begin construction on non-emitting components before obtaining an NSR permit without increasing air pollutant emissions resulting from the subsequent construction of a stationary source after such a permit is issued.”

As appropriately explained in Section III. Legal Authority of the proposed rule, EPA is required under the CAA to regulate construction of stationary sources of air pollution and not allow construction of regulated facilities to commence without a permit. It is crucially important, therefore, that EPA properly define each section of that statement: “sources,” “commence,” and “construction.” In short, as noted in the same section, EPA must appropriately define “what” the CAA requires a permit to construct, and “when” construction of that “what” begins. The Alliance believes the proposed rule strikes the proper balance in creating the definitions for “begin actual construction” and “pollutant-emitting activities.”

In answering the “what” question, EPA notes “it is clear that, under the NSR program for major sources, the ‘what’ that the CAA requires a permit to construct is a stationary source that emits air pollutions in amounts greater than specified thresholds.” This is the correct interpretation of the CAA, and at a facial level it makes clear that preconstruction activities authorized under the proposed rule will not result in air pollution emissions that exceed the statutory threshold for regulation by EPA.

Regarding “when” construction begins that requires an NSR permit, EPA states that “physical construction on a site begins on equipment or components that have characteristics that identify them as something that will emit air pollution, as distinguished from equipment or components that will not.” Once again, EPA is correct in its interpretation of the CAA’s threshold for when construction commences on facilities subject to regulation under the law. Similarly, this statement on its face makes clear that no air pollution emissions will result from these preconstruction activities in a manner that rises to the level of CAA regulation.

In Section IV. Proposed Changes, EPA notes that the “goal is to more clearly allow entities that plan to build or modify stationary sources of air pollution to engage in construction of non-emitting components...at their own risk...” If a permit application for the emitting facility is ultimately denied or subject to additional construction, the operator may not recover its investment costs on the preconstruction activities. This is appropriate, and makes clear that EPA’s preconstruction authorization in no way provides a guarantee to the applicant that their pollutant-emitting facility will ultimately be approved and constructed.

As a result, at each step of the new definitions in the proposed rule, EPA has made clear that it is authorizing activities, and *only those activities*, that *do not result* in air pollution emissions that trigger permit requirements under the CAA.

Finally, the Alliance appreciates the flexibility provided in the definitions of “begin actual construction” and “pollutant-emitting activities.” EPA provides examples of activities that are

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excluded under the definitions, and states for each definition that the “list is not intended to be exhaustive.” EPA should maintain this flexibility in the final rule, rather than attempting to provide an all-encompassing and exclusive list of those activities, although the Alliance is supportive of EPA adding additional examples of non-emitting activities.

EPA should move forward with finalizing the proposed rule, which properly balances statutory intent, regulatory certainty, environmental protection, and a streamlined permitting process. 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,

A handwritten signature in black ink, appearing to read 'MS', with a long horizontal flourish extending to the right.

Melissa Simpson
President, Western Energy Alliance