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August 21, 2026

Richard Bowen
U.S. EPA Office of State Air Partnerships
Permitting & Program Support Division, C504-03
Research Triangle Park, NC 27711

**Re: Minor New Source Review Program Air Permitting Public
Participation Requirements for State Implementation Plans;
Docket EPA-HQ-OAR-2025-1212**

Dear Mr Bowen:

On July 7, 2026, the U.S. Environmental Protection Agency (EPA) proposed (91 Fed. Reg. 41591) 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). Comments on the proposed rule must be received on or before August 21, 2026. The Midwest Ozone Group ("MOG")¹ is pleased to provide comments² in support of the proposed revisions.

¹ The members of the Midwest Ozone Group include: Ameren, American Electric Power, American Forest & Paper Association, American Iron and Steel Institute, American Wood Council, Appalachian Region Independent Power Producers Association, Associated Electric Cooperative, Berkshire Hathaway Energy, Big Rivers Electric Corp., Citizens Energy Group, City Water, Light & Power (Springfield IL), Cleveland Cliffs Inc., Council of Industrial Boiler Owners, East Kentucky Power Cooperative, ExxonMobil, Hoosier Energy REC, Inc., Indiana Energy Association, Indiana-Kentucky Electric Corporation, Indiana Municipal Power Agency, LGE/ KU, Marathon Petroleum Company, Monongahela Power Company, National Lime Association, North American Stainless, Nucor Corporation, Ohio Utility Group, Ohio Valley Electric Corporation, Olympus Power, Steel Manufacturers Association, and Wabash Valley Power Alliance.

² These comments were prepared with the technical assistance of Alpine Geophysics, LLC.

MOG is an affiliation of companies and associations that draws upon its collective resources to seek solutions to the development of legally and technically sound air quality programs that may impact on their facilities, their employees, their communities, their contractors, and the consumers of their products. MOG's primary efforts are to work with policy makers in evaluating air quality policies by encouraging the use of sound science.

MOG has been actively engaged in a variety of issues and initiatives related to the development and implementation of air quality policy, including the development of transport rules (including exceptional events demonstrations, implementation of NAAQS standards, nonattainment designations, petitions under Sections 126, 176A and 184(c) of the Clean Air Act (“CAA”), NAAQS implementation guidance, the development of Good Neighbor State Implementation Plans (“SIPs”), the development of greenhouse gas and Mercury and Air Toxics Standards Rules and related regional haze issues. MOG Members and Participants own and operate numerous stationary sources that are affected by air quality requirements including the ozone NAAQS.

General Comments

EPA states that it is “proposing to recognize in regulation that State and local air quality regulatory authorities determine, pursuant to the CAA, whether, when, and to what extent public participation in minor NSR programs is necessary to assure the National Ambient Air Quality Standards are achieved,” (91 Fed Reg 41591) adding that, “[i]f finalized, the changes effected by this rulemaking would 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, which regulate individual authorizations to construct minor stationary sources and minor modifications to existing stationary sources.” *Id.*

EPA recognizes inconsistencies between historical programs established by states prior to June 18, 1973, when EPA promulgated the requirements now found at 40 CFR 51.161 that require a “30-day period for submittal of public comment.” (91 Fed. Reg. 41596). It also notes that the current regulations require agencies to “submit a copy of the notice to the appropriate EPA regional office, any other State and local air agencies with jurisdiction in the area where the proposed new or modified source would be located, and any other agency in the area with responsibility for implementing the applicable requirements of 40 CFR 51.160-51.166.” *Id.*

Significantly, the EPA position in proposing the revisions to the public participation process for states and local agencies is that it “does not believe that minor source public participation is generally ‘necessary to assure that [the NAAQS] are achieved’ in the context of developing a program for the ‘regulation of’ minor source construction and modification,” (91 Fed. Reg. 41597) adding that “[t]he approach proposed in this action would enable air agencies to retain or establish public participation requirements for review of regulated minor source construction and minor modifications when they believe public participation is desirable, consistent with the CAA and Federal regulations,” (*Id*) and stating that “[i]n reviewing SIP submissions, the EPA would not expect, whether informally on a case-by-case basis or formally as a minimum requirement set out in regulation, that States include minor NSR public participation for the SIP to be approved as containing sufficient regulatory provisions ‘as necessary to assure that [the NAAQS] are achieved.’” (*Id*)”

The EPA proposal, if finalized, would provide states the flexibility to include appropriate public participation elements at their discretion and to tailor those elements to particular circumstances, so long as they are consistent with the CAA and applicable Federal regulations. MOG agrees with this approach and urges EPA to finalize the revisions as proposed.

Specific Comments

The EPA proposal seeks input on five specific areas. The four specific areas relevant to MOG and MOG responses are as follows.

Question #1: How would a final version of this rule affect how State and local air agencies analyze, publish, and act upon applications requesting permission to construct new minor sources and minor modifications under State and local minor NSR programs approved by the EPA as part of their SIPs, including potential reductions in administrative burdens (costs or hours) associated with this type of permitting?

MOG response: MOG believes that the revisions proposed, if finalized, would reduce the burdens on State and local air agencies that exist under the current regulatory scheme. State and local air agencies must currently use scarce staff and financial resources to comply with public participation regulations that fail to recognize the significant differences in impact on attainment and maintenance of NAAQS to between major and minor sources. The proposed revisions would allow State and local air agencies the

flexibility to implement appropriate public participation processes that will minimize the resource requirements while maintaining the ability of the agencies to attain and maintain the NAAQS.

Question #2: What regulatory alternatives, if any, should the EPA consider instead of the action presented in this proposed rule?

MOG response: MOG believes that the proposed revisions are the most effective alternative to the current regulatory scheme that fails to recognize the significant differences between the air impacts of major and minor sources with respect to the acquisition of feedback through the public participation process.

Question #3: Are there any relevant reliance interests that might be impacted by this proposed action? If so, how should such reliance interests be addressed?

MOG response: MOG believes that the proposed action adequately addresses relevant reliance interests.

Question #5: What factors, if any, should the EPA describe in situations in which an air agency does not find that a revision to its minor NSR program's public participation requirements is administrative or procedural in nature, for purposes of evaluating whether the SIP submission is consistent with CAA section 110(l)?

MOG response: CAA section 110(l) relates to EPA approval of SIPs and states that “[e]ach revision to an implementation plan submitted by a State under this chapter shall be adopted by such State after reasonable notice and public hearing. The Administrator shall not approve a revision of a plan if the revision would interfere with any applicable requirement concerning attainment and reasonable further progress (as defined in section 7501 of this title), or any other applicable requirement of this chapter.” (emphasis supplied)

EPA notes in the proposal that “[f]actors that may be relevant to such an analysis may include, but are not limited to the characteristics of minor sources and minor modifications that would be affected by the change to the public participation requirements (e.g., pollutants emitted, resulting emissions increases, and emissions control technologies or practices used by sources and modifications) and the characteristics of the air agency's airshed (e.g., overall emissions profile, meteorology and topography, industrial

density and composition, volume of applications, and level of public interest in those applications).”

MOG believes that State and local air agencies that do not find that a revision to minor NSR program’s public participation requirements is administrative or procedural in nature this list of characteristics can provide a sufficient description of the analysis of characteristics considered in adopting the revision to minor NSR program public participation requirements such that EPA will be able to determine whether it agrees with that determination and whether to approve or return the revision to the State or local agency for amendments in accordance with the EPA decision.

Conclusion

MOG appreciates the opportunity to comment on the proposed revisions and, for the aforementioned reasons, urges EPA to finalize the revisions as proposed.

Very truly yours,



Edward “Skipp” Kropp
Counsel for Midwest Ozone Group