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## New Source Review/Minor Sources: National Asphalt Pavement Association Comments Addressing U.S. EPA Proposed Rule to Streamline State and Local Permitting Process

08/21/2026

The National Asphalt Pavement Association (“NAPA”) submitted August 17th comments to the United States Environmental Protection Agency’s (“EPA”) proposed rule that the federal agency describes as streamlining:

... the New Source Review (“NSR”) permitting process for minor sources by eliminating the minimum federal regulatory requirements for public participation.

See 91 Fed. Reg. 41,591 (July 7, 2026).

The proposed rule is stated to make decisions about public participation requirements for State and local minor NSR programs to be turned over to the respective State and local air agencies.

This is stated to align EPA’s regulations with what it characterizes as the “best reading of the Clean Air Act.”

NAPA states its support of EPA’s proposal to remove minor NSR public participation as:

... a mandatory, minimum element of a State Implementation Plan (“SIP”) and to restore to state and local air agencies the discretion Congress afforded them under the CAA.

NAPA asks that EPA confirm, in the final rule, that this discretionary treatment applies with equal force to synthetic minor source permitting actions, and that no mandatory public participation requirement should attach to synthetic minor permits any more than it does to true minor permits.

NAPA states that it:

... represents the interests of asphalt mixture producers, contractors, suppliers, and consultants on the national level with Congress, government agencies, and national trade and business organizations.

The organization states it represents over 1,100 companies and approximately 3,500 asphalt mix plants across the nation associated with the production and application of asphalt pavement mixtures which surface more than 94 percent of America’s paved roadways.

NAPA’s comments states in part:

- The Clean Air Act Does Not Require Public Participation for Minor NSR, Including Synthetic Minor Permitting Actions (arguing that EPA concludes in the proposed rule that the best reading of the Clean Air Act is that it delegates discretionary authority of the to the EPA to determine what a State's minor source program must contain to assure attainment — a conclusion that leaves the choice of whether, and how, to provide for public comment to the States themselves).
- The Practical Concerns EPA Identifies Apply with Equal or Greater Force to Synthetic Minor Permitting Actions (synthetic minor permits are, if anything, stated to be more procedurally substantial than the typical true minor permit, and therefore are well suited to agency discretion rather than a categorical participation mandate).
- Adequate Safeguards Remain in Place Without a Mandatory Participation Requirement (removing minor NSR public participation as a federal minimum does not leave synthetic minor sources unaccountable).

A copy of the NAPA comments can be found [here](#).