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New Source Review/Minor Sources: Joint Comments of Environmental and Public Health Groups addressing U.S. EPA Proposed Rule to Streamline State and Local Permitting Process

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13 environmental and public health organizations submitted August 21st comments to the United States Environmental Protection Agency ("EPA") addressing the 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 organizations include:

- Environmental Defense Fund
- Southern Environmental Law Center
- Earthjustice
- Greater-Birmingham Alliance to Stop Pollution
- Sierra Club
- Clean Air Council
- Center for Biological Diversity
- Kentucky Resources Council
- Natural Resources Defense Council
- California Communities Against Toxics
- Air Law for All
- Environmental Law & Policy Center
- Environmental Integrity Project

(Collectively, "NRDC").

EPA stated that the proposed rule will make decisions about public participation requirements for State and local minor NSR programs be turned over to the respective State and local air agencies. The federal agency states that the purpose is to align its regulations with what it characterizes as the "best reading of the Clean Air Act."

NRDC states that the joint commenters:

... strongly oppose EPA's proposal to eliminate minimum public participation requirements for state and local Clean Air Act minor NSR preconstruction permitting programs.

They further state in part:

... For more than fifty years, EPA's regulations have required public notice and an opportunity to comment on preconstruction air pollution permits. That longstanding federal requirement reflects the reality that public review improves permitting decisions by identifying underestimated emissions, inadequate pollution limits, insufficient air-quality-impacts analyses, and other errors before construction begins.

The comments also, by way of introduction, express concerns such as:

- EPA's own Office of Inspector General has urged the Agency to strengthen oversight of minor NSR programs and ensure that states comply with the existing federal public participation requirements.
- EPA's use of the term "minor," which does not appear in the Clean Air Act's permitting provisions, obscures the significance of the new sources and plant modifications governed by the permitting programs impacted by EPA's proposed rule.
- Vast majority of new sources and modifications to existing sources are authorized pursuant to minor NSR permits.
- Due to the various emissions accounting tricks authorized by EPA over the last few decades, surprisingly large modifications to existing major sources are subject to minor NSR.
- Even lower-emitting projects can have significant impacts on nearby communities.
- Emissions from minor sources can be significant to National Ambient Air Quality Standards attainment and maintenance.
- Deficiencies in EPA oversight of State and local permitting programs.

Arguments put forth by NRDC include:

- EPA Should Withdraw the Proposed Rule and Instead Require States to Adopt and Implement the Public Participation Requirements in the Existing Federal Rules.
- EPA's Proposal Constructively Reopens Whether Minor NSR Permits May Be Used to Establish Synthetic Minor Limits, and Most Paper Limits Cannot Lawfully Exempt Otherwise Major Sources from Major NSR.
- If EPA Finalizes its Proposal, it Should Not Require States to Revise Their Plans to Eliminate Public Participation Requirements.
- To Prevent "Minor" New Sources and Modifications from Preventing Achievement of Ambient Air Quality Standards, EPA Should Strengthen Its Minor NSR Regulations and Increase Oversight of State and Local Minor NSR Programs.

The comments also address specific questions posed by EPA in the preamble to the proposed rule.

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