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New Source Review/Minor Sources: Midwest Ozone Group Comments Addressing U.S. EPA Proposed Rule to Streamline State and Local Permitting Process

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The Midwest Ozone Group ("MOG") 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).

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 stated purpose is to align its regulations with what it characterizes as the "best reading of the Clean Air Act."

MOG is an affiliation of companies and associations that is stated to draw upon its collective resources to seek solutions to the development of legally and technically sound air quality programs that may impact their facilities, their employees, their communities, their contractors, and the consumers of their products.

MOG's primary efforts are characterized as working with policy makers in evaluating air quality policies by encouraging the use of sound science.

The list of 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
- Wabash Valley Power Alliance

The MOG comments characterize EPA as recognizing:

... 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” (citing 91 Fed. Reg. 41596).

They also characterize EPA’s position in the proposal as indicating that the 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 “the 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 Clean Air Act and Federal regulations.”

MOG also states 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.’

The EPA proposal is described as providing 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 Clean Air Act and applicable Federal regulations. MOG agrees with this approach.

The MOG comments address four of the five areas that EPA seeks input for, responding:

- Believes that the revisions proposed, if finalized, would reduce the burdens on State and local air agencies that exist under the current regulatory scheme.
- 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.
- Believes that the proposed action adequately addresses relevant reliance interests.
- 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.

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