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Via Regulations.gov

U.S. Environmental Protection Agency
EPA Docket Center
Docket ID No. EPA-HQ-OAR-2025-1212
Mail Code 28221T
1200 Pennsylvania Avenue NW
Washington, DC 20460

Re: Minor New Source Review Program Air Permitting Public Participation Requirements for State Implementation Plans, 91 Fed. Reg. 41,591 (July 7, 2026)

Dear Sir/Madam:

GPA Midstream Association ("GPA Midstream") appreciates the opportunity to comment on the U.S. Environmental Protection Agency's ("EPA" or "Agency") proposed rule concerning public participation requirements for state and local minor New Source Review ("NSR") programs. 91 Fed. Reg. 41,591 (July 7, 2026). GPA supports removal of source-specific public participation as a federal minimum for minor NSR programs, while recognizing that States may exercise their discretion to retain or adopt alternative public-participation requirements under their State Implementation Plan ("SIP")-approved programs.

GPA Midstream has served the U.S. energy industry since 1921 and represents approximately 45 domestic corporate members that directly employ 57,000 employees engaged in the gathering, transporting, processing, treating, storage, and marketing of natural gas, natural gas liquids, crude oil and refined products, commonly referred to as "midstream activities." The work of our members indirectly creates or impacts an additional 470,000 jobs across the U.S. economy. In 2024, GPA Midstream members had an economic impact of \$191 billion through operating 502,900 miles of gas gathering pipelines, gathering more than 91 billion cubic feet per day of natural gas, and operating more than 342 natural gas processing facilities that delivered pipeline quality gas into markets across a majority of the U.S. interstate and intrastate pipeline systems.

The proposed rule appropriately recognizes the substantial discretion that Congress afforded States under Clean Air Act ("CAA") § 110(a)(2)(C) to design minor NSR programs suited to their particular circumstances. Unlike the detailed statutory requirements governing major NSR, CAA § 110(a)(2)(C) directs States to regulate construction and modification of stationary sources "as necessary to assure" achievement of the National Ambient Air Quality Standards ("NAAQS"), without prescribing a particular public-participation process for minor NSR

authorizations. EPA also reasonably recognizes that applying the same public-participation requirements to every minor NSR action can consume substantial agency and applicant resources without materially improving environmental outcomes, particularly for routine or low-emitting projects.

For the proposed reforms to achieve their intended purpose, however, EPA should ensure that implementation does not replace the existing federal requirement with new federal constraints or simply shift permitting delays and disputes to other Clean Air Act processes. GPA Midstream therefore urges EPA to finalize the proposal promptly and, in doing so, to: (1) preserve genuinely broad state discretion without imposing new federal guardrails on the exercise of that discretion; (2) establish a simple and expedited process for approval of corresponding SIP revisions; and (3) take appropriate action, whether in this rulemaking or a separate Title V rulemaking, to ensure that Title V proceedings do not become a substitute forum for reopening minor NSR decisions solely because a State elected not to provide source-specific public notice and comment.

I. EPA Should Promptly Finalize the Proposal.

GPA Midstream supports EPA's central determination that public participation should not be a mandatory federal element of every state and local minor NSR authorization. 91 Fed. Reg. at 41,597 (proposing to leave “decisions regarding public participation requirements in State and local minor NSR programs to the discretion of the air agencies.”). The existing regulatory language at 40 C.F.R. § 51.161 does not distinguish between major and minor NSR, even though the Clean Air Act itself draws important distinctions between those programs and imposes substantially more detailed requirements on the permitting of major sources and major modifications.

EPA appropriately proposes to align its regulations with that statutory structure. CAA § 110(a)(2)(C) requires SIPs to provide for regulation of construction and modification “as necessary” to assure achievement of the NAAQS. 42 U.S.C. § 7410(a)(2)(C). It does not require States to employ any particular authorization mechanism for minor sources and minor modifications, much less require every minor NSR decision to undergo an identical public-notice process.

EPA's proposed revision also reflects the practical realities of minor NSR permitting. E.g., 91 Fed. Reg. at 41600. As EPA explains, state and local permitting authorities process a large volume and wide variety of minor NSR actions. Those actions can range from projects with potentially significant localized implications to routine changes with relatively small emissions impacts and little or no public interest. A uniform federal requirement to provide the same 30-day public-comment process for every such action can divert limited permitting resources away from projects warranting greater technical review or public attention.

That problem is particularly relevant to industries such as the midstream natural gas sector, in which facilities may undertake frequent equipment replacements, operational improvements, emissions-control projects, and other modifications that remain well below major NSR thresholds. Examples include compressor replacements, lower-emitting engines or controls

upgrades, minor tank or vapor recovery unit (VRU) changes, steps to electrify, and other routine equipment replacements. Delaying such projects solely to satisfy a categorical federal public comment requirement can impose costs on both permitting agencies and applicants while providing no corresponding demonstrable environmental benefit. In some cases, permitting delays can also impede projects intended to improve operational efficiency, reliability, or emissions performance and undercut the national policy of expeditiously advancing production.

EPA should therefore move promptly to finalize its proposal and remove public participation under § 51.161 as a mandatory federal requirement for minor NSR programs.

II. EPA Should Preserve Genuinely Broad State Discretion and Should Not Replace the Existing Requirement With New Federal Guardrails.

EPA asks (Question #2) “What regulatory alternatives, if any, should the EPA consider instead of the action presented in this proposed rule?” 91 Fed. Reg. at 41,603. GPA Midstream urges EPA to stay the course with its proposal. A principal virtue of EPA’s proposal is its recognition that States are best positioned to determine when and how public participation is warranted in their minor NSR programs. EPA should preserve that principle in the final rule.

As EPA recognizes, existing state and local minor NSR programs employ a variety of approaches. Some provide public participation for a broad range of actions, while others focus public participation on categories of projects, such as larger minor sources, synthetic minor sources, projects presenting particular air quality considerations, or projects generating significant public interest. Still other programs employ general permits, permits-by-rule, or similar standardized mechanisms that can provide for public participation when the applicable requirements are established rather than requiring a new public comment proceeding for every source obtaining coverage.

That variation is not a defect. It is the product of the discretion Congress provided in CAA § 110(a)(2)(C) and allows permitting agencies to tailor their programs to the sources, emissions profiles, administrative resources, and public participation needs within their jurisdictions.

EPA therefore should not replace the current categorical requirement with new federal thresholds, presumptions, or mandatory criteria specifying when public participation is required. For example, EPA should not establish federal requirements based on defined emissions levels, source categories, geographic considerations, sensitive receptors, or other criteria as prerequisites to dispensing with source-specific public notice. Nor should EPA use the SIP approval process to impose such requirements informally where they are not contained in the final regulations. EPA should instead evaluate the adequacy of each minor NSR SIP submission under the applicable Clean Air Act requirements, including CAA §§ 110(a)(2)(C), 110(k), and 110(l), without recreating public participation as a standalone federal prerequisite.

States should retain discretion to determine whether source-specific public participation is appropriate for true minor sources, synthetic minor sources, minor modifications at major or minor stationary sources, and other actions governed by their minor NSR programs, except where public participation is independently required by another applicable federal statutory or

regulatory provision. That discretion should include the ability to determine whether a comment period is appropriate at all and, where an opportunity for comment is provided, whether a period shorter than 30 days is sufficient.

EPA should also expressly recognize the important role of general permits, permits by rule, and other standardized permitting mechanisms to encourage states to follow that flexible approach. Where the public has already had an opportunity to comment on the eligibility criteria, emissions limitations, control requirements, monitoring provisions, and other conditions applicable to a category of sources, there is no reason to require a duplicative public comment period each time an individual source demonstrates that it qualifies for coverage. Requiring individualized notice in those circumstances would diminish the streamlining benefit these permitting mechanisms are intended to provide.

EPA can encourage transparency without converting such measures into new prerequisites to permit issuance. For example, States may choose to make final authorizations or coverage determinations readily available online. Such measures, however, should remain within state discretion and should not create a new federal waiting period, opportunity for collateral review, or other prerequisites to construction.

In short, EPA should adopt a final rule that provides States with genuine flexibility—not merely the ability to choose among a new set of federally prescribed public participation requirements.

III. EPA Should Establish a Simple and Expedited Process for SIP Revisions Implementing the Final Rule.

The practical benefits of EPA's proposal will depend substantially on how readily States can revise existing SIP-approved minor NSR programs. As EPA properly recognizes, finalization of this proposal would not automatically eliminate public participation provisions already contained in approved SIPs. Those requirements would remain federally enforceable unless and until a State submits, and EPA approves, a SIP revision.

The benefits of the final rule therefore could be substantially delayed if States must undertake lengthy or resource-intensive SIP revision processes or if EPA Regions impose inconsistent evidentiary requirements on revisions that merely alter administrative public participation procedures.

EPA should take affirmative steps to facilitate prompt State implementation. For example, the Agency should provide model regulatory language and clear guidance concerning the information needed to support a SIP revision that changes only minor NSR public participation procedures. EPA should also encourage expedited review of such submissions and promote consistency across EPA Regions.

Of particular importance, EPA should confirm the proposal's recognition that revisions limited to public participation procedures generally are administrative or procedural in nature and do not themselves affect emissions. For such revisions, a straightforward CAA section 110(l) demonstration should ordinarily be sufficient. A State should be able to explain that the revision

changes an administrative procedure, does not alter applicable emissions limitations, control requirements, or other substantive requirements, and therefore will not interfere with attainment, reasonable further progress, or another applicable Clean Air Act requirement.

EPA should not presumptively require States to conduct air-quality modeling, source-by-source analyses, emissions inventories, or other technical demonstrations where the underlying SIP revision does not alter substantive emissions requirements, unless EPA can demonstrate that the circumstances of a particular SIP revision demonstrate that such analysis is necessary to satisfy CAA section 110(l) or another applicable requirement. EPA also should ensure that the SIP approval process does not become a vehicle for recreating the federal public participation requirements that the Agency is removing. If a State determines that its minor NSR program will remain adequate to assure achievement of the NAAQS without source-specific public participation for a particular category of actions, EPA should evaluate that submission under the standards Congress enacted and the regulations ultimately adopted in this rulemaking—not under additional criteria developed informally during SIP review.

Clear national direction from EPA would allow States interested in taking advantage of the final rule to do so promptly and would avoid inconsistent implementation among EPA Regions. EPA should therefore accompany the final rule with a streamlined pathway for SIP revisions implementing the new framework.

IV. EPA Should Ensure That Title V Does Not Become a Substitute Forum for Reopening Minor NSR Permit Decisions.

GPA Midstream also urges EPA to address an important issue that could substantially undermine the permitting efficiencies this proposal is intended to produce.

EPA notes in the proposal that eliminating public notice and comment from a minor NSR authorization could have consequences in subsequent Title V proceedings. 91 Fed. Reg. at 41601. EPA explains that, under the Agency's current position concerning Title V oversight, an NSR authorization that has undergone public notice, an opportunity for comment, and judicial review may conclusively establish the applicable NSR requirements for purposes of Title V. By contrast, EPA states that where those procedures were not provided, the substance of the underlying NSR authorization potentially may be examined during Title V permitting.

EPA accordingly acknowledges that reducing public participation requirements at the minor NSR stage could increase the number of minor NSR decisions subject to challenges through the Title V process. That result would substantially reduce—and potentially negate—the practical benefit of this rulemaking.

If a State exercises precisely the discretion that EPA proposes to recognize and issues a lawful minor NSR authorization without source-specific public notice, regulated entities should not face materially greater uncertainty that the underlying permitting determination will later be reopened through a Title V permitting action or petition. Otherwise, applicants and permitting authorities may reasonably conclude that retaining public notice at the minor NSR stage is necessary to

obtain finality, even where the State has determined that source-specific notice provides little regulatory or environmental value.

The result would be an unfortunate mismatch between the two programs: EPA would remove public participation as an unnecessary federal prerequisite to minor NSR authorization while simultaneously creating a strong practical incentive to retain the same process solely to avoid later collateral review.

EPA should take steps to prevent that outcome. For one, the Agency should make clear that the absence of source-specific public notice, standing alone, does not render an otherwise valid minor NSR authorization suspect and should not provide a basis for reopening the underlying permitting determination in Title V. Where a permitting authority has issued a final minor NSR authorization in accordance with an EPA-approved SIP, the fact that the SIP lawfully did not require source-specific notice should not deprive that determination of regulatory finality.

The concern is particularly acute for general permits and permits by rule. Where the applicable requirements and eligibility criteria were themselves established through a public process, there is even less reason to permit later Title V proceedings to relitigate the underlying NSR requirements merely because an individual source's request for coverage did not undergo an additional public comment process.

GPA Midstream recognizes EPA's statement that the Agency is addressing its broader position regarding the relationship between NSR and Title V in a separate rulemaking. 91 Fed. Reg. at 41601, *citing* 89 Fed. Reg. 1150 (Jan. 9, 2024). That should not prevent EPA from acknowledging in the final minor NSR rule that the two issues are closely connected and that implementation of the minor NSR reforms should not inadvertently shift the same—or a greater—regulatory burden to Title V.

If resolving that concern requires separate regulatory action during the ongoing Title V-related rulemaking, then EPA should undertake or complete that action promptly and coordinate it with this rulemaking. The ultimate regulatory framework should provide a reasonable degree of finality for minor NSR authorizations issued in accordance with EPA-approved SIP procedures, regardless of whether the State elected to require source-specific public notice and comment. Without such coordination, the proposed rule risks replacing a predictable 30-day delay at the front end of the permitting process with uncertain disputes at the Title V stage. That would not advance the permitting reform objectives underlying EPA's proposal.

GPA Midstream appreciates EPA's consideration of these comments and looks forward to working with the Agency on continued improvements to the efficiency, predictability, and effectiveness of Clean Air Act permitting programs.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Stuart Saulters', with a stylized, sweeping flourish extending from the end.

Stuart Saulters
Vice President, Federal Affairs
GPA Midstream Association
6060 S. American Plaza St E
Suite 700
Tulsa, Oklahoma 74135
ssaulters@gpamidstream.org