

Submitted online via: <https://www.regulations.gov/commenton/EPA-HQ-OAR-2025-1212-0001>

August 11, 2026

Richard Bowen
U.S. Environmental Protection Agency
Office of State Air Partnerships
Permitting & Program Support Division
P.O. Box 12055
Research Triangle Park, NC 27711

Re: U.S. Environmental Protection Agency's Proposed Rule: "*Minor New Source Review Program Air Permitting Public Participation Requirements for State Implementation Plans*" (Docket ID No. EPA-HQ-OAR-2025-1212)

Dear Mr. Bowen:

The Arizona Department of Environmental Quality (ADEQ) appreciates the opportunity to comment on the U.S. Environmental Protection Agency's (EPA) proposed rule "*Minor New Source Review Program Air Permitting Public Participation Requirements for State Implementation Plans*." 91 FR 41591 (Jul. 7, 2026).

ADEQ was established under the Environmental Quality Act of 1986 by the Arizona State Legislature as the state's cabinet-level environmental agency. ADEQ carries out several core functions including planning, permitting, compliance, management, monitoring, assessments, cleanups, and outreach. ADEQ's mission is to protect and enhance public health and the environment.

Through this comment letter, ADEQ encourages EPA to retain the minimum regulatory requirements for public participation in the New Source Review (NSR) permitting process for minor sources. ADEQ believes 1) public participation during the minor NSR preconstruction review process is "necessary to assure that [the NAAQS] are achieved" and 2) EPA does have authority to require public participation in minor NSR programs.

ADEQ supports a national policy to promote public participation in the permitting process. Leaving this determination to states and local air agencies would create a patchwork system with inconsistent requirements across jurisdictions.

Public engagement and agency transparency are core components of ADEQ's mission. Robust opportunities for public notice and comment are part of ADEQ's minor source permitting process, and comments received may substantially impact the permits issued by the state.

The public is uniquely positioned to provide valuable local knowledge and practical perspectives on how a proposed activity may affect the surrounding community. Eliminating the public participation requirement would:

- reduce the public’s ability to understand potential new sources of local pollution,
- undermine agency transparency goals,
- erode the public trust in state and local agencies,
- remove opportunities for affected communities to provide input on minor sources that may have tangible local impacts.

In the proposed rule, EPA states that minor source “public participation risk[s] overwhelming the public with inconsequential information.” ADEQ believes the public is best positioned to determine which permitting actions are relevant to their communities and warrant their involvement.

In the proposed rule, EPA states that the Clean Air Act (CAA) does not specifically require a federal public participation requirement and as a result public participation is generally not “necessary” to achieve the statutory objective. EPA contends that substantive permitting requirements—such as emissions limits and control measures—are what directly assure attainment of the NAAQS.

ADEQ is concerned that this reasoning does not fully account for the important role public participation plays in the minor source permitting process, particularly in Arizona. Minor source permits are the most common facility source type and modification type in Arizona. Although an individual minor source may have a limited impact on air quality, these permitting actions can have meaningful implications for the communities in which they are located, and the cumulative impact of numerous minor sources and modifications may have a significant impact. Arizona has numerous active minor source permits which have generated considerable public interest and extensive public discussion. The public comment periods for these permits have been consistently robust.¹ On numerous occasions, public comments received during a permit’s review process have prompted ADEQ to revise the permit to address issues or recommendations raised.²

¹ In a recent minor NSR permit public comment period, ADEQ received 827 submissions for comments from 637 commenters. See Ariz. Dep’t of Env’tl. Quality, Responsiveness Summary to Public Comments and Questions for Aluminum Dynamics, Inc. Permit No. 106233 (Dec. 17, 2025), <https://azdeq.gov/aqd/AluminumDynamics> [hereinafter Responsiveness Summary for Aluminum Dynamics].

² See, e.g., *Id.* (indicating that comments received during the public comment period resulted in the incorporation of additional conditions, including additional monitoring requirements as a mechanism to ensure compliance that the actual emissions are kept below the limits specified in the permit); Ariz. Dep’t of Env’tl. Quality, Responsiveness Summary to Public Comments and Questions for UNS Electric, Inc.- Black Mountain Generating Station Air Quality Significant Permit Revision No. 103667 to Air Quality Operating Permit No. 96392 (Jun. 23, 2026) [hereinafter Responsiveness Summary for UNS] (discussing additional conditions and revisions made to the permit as a result of comments received during the public comment periods, including adding a condition to limit hourly NO_x to ensure the protection of the 1-hour NAAQS for NO₂).

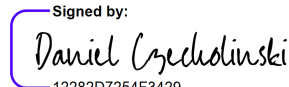
As documented in previous permits, ADEQ has incorporated additional conditions into its permits to improve the protection of the NAAQS in response to public comment.³ Through opportunities such as these, ADEQ is able to ensure protection of the NAAQS, which is a core function of the minor NSR program. ADEQ is tasked with making critical decisions that affect public health and the environment, and public participation is one of the tools ADEQ uses to make well-informed, health-based decisions.

Congress's delegation to EPA to administer the CAA reflects its recognition that it would not itself prescribe a comprehensive regulatory program in statute. Instead, Congress established the governing principles and entrusted EPA with developing the detailed regulatory requirements necessary to carry out the CAA. The fact that Congress did not specifically require a particular element for a program in the statute does not mean EPA lacks authority to adopt that requirement. Indeed, EPA's adoption of public participation for major nonattainment NSR (NNSR) programs under 40 C.F.R. § 51.165(i) demonstrates that the absence of a specific statutory directive does not preclude EPA from incorporating program elements that it reasonably determines are necessary to implement the Act. While EPA notes that public participation is required by statute for Prevention of Significant Deterioration (PSD) programs under 42 U.S.C. § 7475, the statute is silent as to a requirement for public participation for NNSR. It follows that EPA does retain discretion to impose procedural requirements on states that go beyond the specific procedural requirements for public participation that are listed in the CAA.

For these reasons, ADEQ encourages EPA to retain the minimum federal regulatory requirement for public participation in the minor source preconstruction permitting process. Retaining these requirements supports transparency, promotes public trust, and provides meaningful opportunities for communities to participate in the permitting process as these decisions may affect them. EPA should—and has the authority to—require public participation because it is a core principle that adds value to the regulatory process for the protection of the NAAQS.

ADEQ appreciates the opportunity to provide these comments on the EPA's proposed rule, "*Air Permitting Public Participation Requirements for State Implementation Plans in Minor New Source Review Programs*," 91 FR 41591 (July 7, 2026). Thank you for your consideration of ADEQ's comments. If you have any questions, please contact me at (602) 771-4684 or czecholinski.daniel@azdeq.gov.

Sincerely,

Signed by:

12282D7254F3429...
Daniel Czecholinski, CHMM
Director, Air Quality Division

³ See, e.g., Responsiveness Summary for Aluminum Dynamics, *supra* note 1; Responsiveness Summary for UNS, *supra* note 2.