



Empowerment Programs

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August 20, 2026

U.S. Environmental Protection Agency, EPA Docket Center
OAR Docket, Mail Code 28221T
1200 Pennsylvania Avenue NW
Washington, DC 20460

Re: NAACP Comment on Proposed Revision: Minor New Source Review Program Air Permitting Public Participation Requirements for State Implementation Plans (Docket No. EPA-HQ-OAR-2025-1212)

I. Introduction

The NAACP submits these comments in strong opposition to the U.S. Environmental Protection Agency's (EPA) proposed rule to revise the public participation regulatory requirements for sources subject to Clean Air Act (CAA) New Source Review (NSR) programs approved into State Implementation Plans (SIPs). The proposed rule would remove the minimum public participation requirements for minor NSR for SIP submissions, and local air permitting agencies would have discretion on when and how long to have opportunities for public participation. Under the guise of efficiency and state-level decision-making, the EPA is opening the door for permitting that is biased and without oversight. The EPA must implement the Clean Air Act and protect communities from air pollution. These changes weaken transparency, consistency, and equity, deviating from long-held beliefs and regulations for public participation in environmental decision-making. The proposed revision could eradicate public participation and create additional sacrifice zones in already overburdened communities.

This Administration has already actively endorsed industries that harm our environment, including promoting executive orders to fast-track the development of hyperscale AI data centers and expanding fossil fuel production, as well as hiding decisions by the Bureau of Land Management to approve data centers on public lands, all without seeking input from affected communities. The EPA should not expand this pattern. These decisions have disproportionately burdened Black and low-income neighborhoods, where many of these large-scale projects are located. Moreover, many data center projects utilize minor source permits as a venue for large-scale buildouts.¹ Frontline communities do not have many regulatory tools to combat these industrial projects, and this revision will be yet another way in which communities are left without the essential regulations to challenge decisions made regarding their own neighborhoods and quality of life. The EPA must reject the proposed revision to the minor source public participation, as it is a crucial process for empowering communities and aiding them in making sure communities meet NAAQS standards and resist further harm to Black neighborhoods and other frontline communities.

II. The revisions are contrary to the purpose of the Clean Air Act.

Eliminating the federal minimum requirements for public participation in minor NSR permitting undermines the Clean Air Act's core goals of protecting public health, ensuring accountability, and maintaining transparent decision-making. Congress enacted the Clean Air Act "to protect and enhance the quality of the Nation's air resources so as to promote the public health and welfare and the productive capacity of its population."² Congress directed the EPA to establish air quality standards, which state permitting authorities would work to attain and maintain. Congress believed that cooperative federalism would be the best way to ensure that consistent national standards are met within each state. However, this NSR proposal will likely decrease public engagement at the state level and would severely undermine the Clean Air Act's cooperative federalism framework. In essence, it removes the federal floor for public

¹ Evan Simon, *This Permit, Common for Dry Cleaners, Is Now Being Used to Build AI Power Plants*, FLOODLIGHT (July 9, 2026), <https://floodlightnews.org/ai-data-centers-texas-pollution-loop-hole/>, Kala Hunter, *Georgia Data Center Activists Are Alarmed. EPA Wants to Change Clean Air Act*, COLUMBUS LEDGER-ENQUIRER (Aug. 4, 2026), <https://www.ledger-enquirer.com/news/environment/article316751432.html>.

² 42 U.S.C. § 7401(b)(1).

participation in the Act's longstanding emphasis on accountability and protection of public health. Without it, a now bare minimum of at least hearing impacted communities' concerns regarding pollution near their homes could become a gold standard overnight, and that is a problem.

When industries pollute at any level, the environmental and public health impacts are immense. The Clean Air Act regulates minor sources of air pollution because they still contribute to overall air quality and emit harmful pollutants, such as methane, formaldehyde, nitrogen oxides (NOx), and particulate matter (PM2.5). Numerous scientific studies have shown that PM2.5 is one of the most harmful air pollutants to communities and leads to increased risks of heart disease, stroke, respiratory illness, asthma exacerbation, and premature death.³ In Virginia, a survey found that Amazon can emit over 4,000 tons of nitrogen oxides (NOx) under minor source air permits.⁴ Studies have connected NOx pollution to respiratory ailments, cardiovascular problems, and higher death rates.⁵ When enacting the Clean Air Act, Congress knew that air pollution, such as PM2.5 and NOx, from industrial facilities and motor vehicles traveled beyond state boundaries and that local decisions have impacts on the entire country's air quality and health.

The NAACP is currently advocating to stop the illegal operation of xAI's hyperscale data center because it is violating the Federal Clean Air Act. A 2026 Harvard study found that xAI's proposed power plant, using methane gas turbines in Southaven, Mississippi, could cause \$30 - 44 million per year in health damages from premature deaths, emergency room visits, and increased asthma attacks.⁶ The study found that the health impact would be felt in Northern Memphis, Tennessee, and in some instances, the airshed of the contamination could reach over 100 miles.⁷ In another study, the NAACP and the Center for Engagement, Environmental Justice and Health, along with research institutions from across the country, found that Prince George's

³ Michael Cork and Francesca Dominici, *Air Quality, Health, and Economic Impacts of the Proposed MZX Tech Facility* (2026)4.

⁴ Jeremy Fisher, *VA Data Center Air Permits* (2026).

⁵ Sara Sami Taha et al., *Comprehensive Review of Health Impacts of the Exposure to Nitrogen Oxides (NOx), Carbon Dioxide (CO2), and Particulate Matter (PM)*, 19 JOURNAL OF HAZARDOUS MATERIALS ADVANCES 100771 (2025)3.

⁶ *Id* at 26.

⁷ *Id* at 15-18.

County, Maryland, was already undergoing harmful air pollution from the neighboring Loudoun County, Virginia, as it considered adding even more data centers within the County.⁸ The NAACP and CEEJH's findings unfortunately did not reflect the County's review and initial recommendations regarding data center considerations, demonstrating a need for additional input for permitting decisions. The NAACP, CEEJH, and community groups submitted these findings to the Council earlier this year. Due to robust public participation, community-centered research and recommendations, and community advocacy, the County enacted a two-year moratorium to assess the environmental impacts of data center projects.⁹ This would not have happened without residents and people-informed decisions. Communities should identify the cumulative impacts and amplify concerns that may otherwise be overlooked by permitting authorities.

Additionally, the proposed revisions risk creating inconsistent public participation requirements across states, resulting in inequitable protections. Depending on the motives and discretion of local authorities alone, the air permitting process risks losing essential community input and agency credibility. In Clarksdale, Mississippi, the NAACP stood with community members and Planning and Zoning commission members to demand transparency after several decisions that resulted in rezoning of 648 acres of land for a potential data center. The Commission unintentionally rezoned land without knowing the full scope of the project and its potential impacts on the community. These actions highlight why there needs to be an additional layer of accountability as some local elected officials try to dismiss the concerns of the community and circumvent public engagement.

In Southaven, Mississippi, MDEQ held a public hearing in February where 200 people attended to share their concerns about the potential permitting for xAI and MZX Tech's gas turbines. In response to substantial opposition from the community, the Mississippi Department of Environmental Quality (MDEQ) decided to hold a "final decision hearing" on Election Day, in Jackson, Mississippi, three hours away from Southaven and the site of the facility. The NAACP, SELC, Young, Gifted & Green, and Safe and Sound are currently appealing the permit decision

⁸ NAACP and CEEJH, *The People Report – Data Centers in Prince George's County, MD* (2026)12.

⁹ Chair Oriadha Announces Two-Year Moratorium to Prevent New Data Centers from Operating in the County, Prince George's County Council (June, 30, 2026) <https://pgccouncil.us/m/newsflash/home/detail/2073>.

that was subsequently made because there was an insufficient rationale to address the public's concerns regarding the permit, form of the permitting decision, and overall public participation in decision-making.

Actions like this from elected officials and permitting agencies do not inspire confidence in governance, and contrary to the EPA's assertions, this will not create efficiency. It will create inconsistent application of public engagement and a "race to the bottom." The proposed revisions will leave room for large industrial projects with immense environmental and public risk to be placed in areas where they know they will not have to endure public pushback. In Box Elder County, Utah, Stratos sought to convert 40,000 acres of land for a huge AI data center and energy campus. The local community's concerns over the lack of transparency in the permitting process and concerns about water and energy use led to the project being cut to 20,000 acres and a lawsuit to pursue a referendum to undo the county's approval for the data center. The voices of the community matter, and they are powerful. The EPA's decision will surely facilitate industrial buildouts to be pushed into communities that do not want them.

xAI's actions represent one of the most egregious examples of what could go wrong when local, state, and the federal government, allow fossil fuel and adjacent industries to dictate environmental and climate decisions that then remove any layers of accountability or community input. In Memphis, Tennessee, xAI was operating methane gas turbines to power an AI supercomputer, Colossus I, without permits or the best available pollution controls. The data center surrounds a historically Black community called Boxtown, and despite abundant public outcry, xAI continued to operate the gas turbines. As a result, the NAACP filed an intent to sue xAI for violating the Clean Air Act, and, ultimately, the data center began being powered by permitted turbines and the Tennessee Valley Authority.

However, xAI crossed state lines and continued to violate the Clean Air Act when it began operating methane gas turbines in Southaven, MS, without permits. And, again, the NAACP had to advocate for the health and well-being of the community and is currently suing xAI for constructing a gas plant without permits and operating without the necessary pollution controls. The revisions to the public engagement rule will further exacerbate scenarios, such as these, where overburdened communities will be inundated with fast-tracked industrial projects

and will not have the chance to provide agencies with scientific reports, community perspectives, and environmental and climate issues.

III. Revisions will further historical inequality in environmental permitting

The proposed revision would further historic exclusion of Black and other frontline communities from advocating for their communities and their health. Industrial facilities are continuously placed near frontline communities who experience the detrimental effects of air pollution. Public notice and comment often provide the only meaningful opportunity for residents to identify cumulative pollution burdens, local health and environmental concerns, and inconsistent permitting practices. Eliminating minimum federal participation requirements risks further harm to Black and frontline communities that have historically had disproportionate environmental burdens from industrial activities. This revision will enable states to profit from the harm of these communities. Business should never be leveraged for community health.

The EPA claims that the revision will “provide State and local air agencies with greater discretion to identify the requisite level of public participation that is appropriate in their minor NSR programs.” However, local agencies are complicit in disenfranchising local communities in favor of profit from large industries in frontline and rural areas. City councils have signed NDAs to shield projects from the public, and local permitting agencies have approved projects without the requisite environmental review. In Bessemer, Alabama, the NAACP is opposing the lack of transparency for the Project Marvel data center because local elected officials signed non-disclosure agreements with data center developers that concealed the potential environmental impacts of the project on the community. The local government officials are wrongfully claiming they have “discretion” to hide critical information from the public to enable industrial development. Under the revision, decision-makers will use alleged discretion which has typically created unjust outcomes for Black and other communities of color in the past.

The proposed rule seems to be another tactic to rush data center projects and to prioritize large fossil fuel developments over communities concerns. Communities are at risk of losing one of the few regulatory tools to fight for their communities if public comment is not

mandated by federal law. The EPA is aligning itself with large polluting companies by rewriting established regulatory practices, instead of protecting communities. The federal government's support for fossil fuel-intensive companies is particularly concerning because we are battling a climate crisis. A recent study found that AI-driven production generates more fossil fuel emissions than it avoids, necessitating renewable energy sources to be 4-5 times larger to achieve net-zero greenhouse gas emissions.¹⁰ The Clean Air Act cannot be used as a tool to promote fossil fuels and usher big business into communities that do not want it. Instead, its purpose is to safeguard our nation's air quality, particularly in areas where the federal government has industrial pollution and hazardous air quality.

IV. Conclusion

By prioritizing large industrial projects over community health and engagement, the proposed revision is a direct threat to historically disinvested communities that rely on the public process to protect themselves and their communities. Having a say in accessing clean air should not be up for debate, and changes to participatory democracy cannot be taken lightly. The proposed revision jeopardizes community-based advocacy and has the potential to exacerbate pollution in frontline and fenceline communities. We urge the EPA to withdraw the proposed revision because what we have is a bare minimum to ensure that communities have a fighting chance at centering their voice to live in a healthy neighborhood. These core principles underscore the Clean Air Act's purpose of protecting public health and ensuring that communities retain a meaningful voice in decisions affecting the air they breathe.

Sincerely,

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¹⁰ Alpine, W., Geldner, N., Alpine, H., & Chepeliev, M. G. AI-driven productivity gains enable more CO₂ emissions than they avoid in a global energy-economy model. *Npj Climate Action*, (2026) 5(1), 71. <https://doi.org/10.1038/s44168-026-00411-0>.

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