



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 70

[EPA-R01-OAR-2025-1608; FRL-13018-01-R1]

Operating Permit Program Approval; New Hampshire; Revised Definitions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve revisions to the State of New Hampshire's Clean Air Act (CAA) title V operating permit program. These revisions amend the definitions of "hazardous air pollutant" and "regulated air pollutant" in New Hampshire regulations to remain consistent with Federal permitting and air toxics requirements in accordance with the CAA.

DATES: Written comments must be received on or before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R01-OAR-2025-1608 at <https://www.regulations.gov>, or via email to kilpatrick.jessica@epa.gov. For comments submitted at Regulations.gov, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from Regulations.gov. For either manner of submission, EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (i.e. on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the "**For Further Information Contact**" section. For the full

EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <https://www.epa.gov/dockets/commenting-epa-dockets>. Publicly available docket materials are available at <https://www.regulations.gov> or at the U.S. Environmental Protection Agency, EPA Region 1 Regional Office, Air and Radiation Division, 5 Post Office Square – Suite 100, Boston, MA. EPA requests that if at all possible, you contact the contact listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection.

FOR FURTHER INFORMATION CONTACT: Jessica Kilpatrick, Air Permits, Toxics, and Indoor Programs Branch, Air and Radiation Division, U.S. Environmental Protection Agency, Region 1, 5 Post Office Square, Mail Code: 5-MI, Boston, MA 02109-0287. Telephone: 617-918-1652. Email: kilpatrick.jessica@epa.gov.

SUPPLEMENTARY INFORMATION:

Throughout this document whenever “we,” “us,” or “our” is used, we mean EPA.

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I. Background

Section 112 of the CAA regulates hazardous air pollutants (HAPs), also known as air toxics, which are air pollutants that present a threat of adverse human health effects, such as cancer. The CAA specifically defines a HAP as any air pollutant listed pursuant to 42 U.S.C. §7412(b). This list currently has 189 HAPs organized by chemical name and CAS number and may be revised by the Administrator pursuant to 42 U.S.C. § 7412(b)(2). According to 42 U.S.C. § 7412(b)(3), any person may petition the Administrator to modify the list of HAPs by adding or deleting a substance. The Administrator may add a substance to the HAP list when a determination is made that the substance is an air pollutant and that emissions, ambient concentrations, bioaccumulation

or deposition of the substance are known to cause or may reasonably be anticipated to cause adverse effects to human health or adverse environmental effects. Effective February 4, 2022, EPA added 1-bromopropane (1-BP) to the HAP list (87 FR 393). This amendment was promulgated at 40 CFR § 63.64.

Under the CAA Amendments of 1990, state and local permitting authorities are required to develop operating permit programs under title V of the CAA (42 U.S.C. §7661-7661f). HAPs are regulated air pollutants subject to title V operating permit programs consistent with the requirements of 40 CFR Part 70—State Operating Permit Programs. See 40 CFR 70.2 Air pollution sources utilize the HAP list to calculate HAP emissions in determining applicable title V operating permit requirements.

II. Title V Operating Permit Program Revisions

As a result of the HAP list modification in 2022, state environmental agencies were required to incorporate 1-BP into their state regulations and title V operating permit programs. The New Hampshire Department of Environmental Services (NHDES) revised New Hampshire Code of Administrative Rules, Chapter Env-A – Air Related Programs (Env-A) to comply with the CAA. NHDES revised the definition of “hazardous air pollutant” at Env-A 103.41 and the definition of “regulated air pollutant” at Env-A 104.47. The amended language at Env-A 103.41 states that, “‘Hazardous air pollutant’ means any air pollutant listed pursuant to section 112(b) of the Act.” The amended language at Env-A 104.47 states, “Regulated air pollutant means ‘Regulated air pollutant’ as defined in 40 CFR 70.2, reprinted in Appendix D.” These revisions require the state to incorporate all current and future HAPs into its title V operating permit program, such as the newly added 1-BP.

On June 12, 2025, NHDES formally submitted the revised definitions to EPA, providing a copy of the official state rule and certification of adoption. On July 31, 2025, NHDES submitted a supplemental letter clarifying that the purpose of the previous submittal was to revise the definitions in its title V operating permit program pursuant to 40 CFR 70.4(i).

III. EPA's Review

Upon review, EPA finds that the permit program's revised definitions of "hazardous air pollutant" and "regulated air pollutant" are consistent with Federal definitions at CAA section 112(b) and 40 CFR 70.2. The revised definitions have the intended effect of incorporating changes to the EPA list of HAPs, including the recent addition of 1-BP, into the state's CAA title V permitting program.

According to 40 CFR 70.4(i)(2)(i), a state's obligation to revise its CAA title V operating permit program shall be accomplished as follows: "The State shall submit a modified program description, Attorney General's statement, or such other documents as EPA determines to be necessary." EPA deems NHDES's submitted materials for revision of its title V operating permit program to be adequate and satisfy the requirements of 40 CFR 70.4(i)(2)(i).

IV. Proposed Action

EPA is proposing to approve NHDES's title V operating permit program revisions. EPA is soliciting public comments on the issues discussed in this notice or on other relevant matters. These comments will be considered before taking final action. Interested parties may participate in the Federal rulemaking procedure by submitting written comments to this proposed rule by following the instructions listed in the **ADDRESSES** section of this *Federal Register*.

V. Incorporation by Reference

EPA is proposing to include incorporation by reference in a final rule regulatory text. In accordance with requirements of 1 CFR 51.5, EPA is proposing to incorporate by reference the definitions at Env-A 103.41 and at Env-A 104.47 discussed in sections II and III of this preamble. EPA has made, and will continue to make, these documents generally available through <https://www.regulations.gov> and at EPA Region 1 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

VI. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve title V operating permit program revisions that comply with the provisions of the CAA and applicable Federal regulations. Thus, in reviewing revisions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this proposed action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this proposed action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997) because it approves a state program;
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001); and
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA.

In addition, this action is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of

Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

List of Subjects in 40 CFR Part 70

Environmental protection, Air pollution control, Acid rain, Administrative practice and procedure, Hazardous substances, Incorporation by reference, Intergovernmental relations, Licensing and registration, Reporting and recordkeeping requirements.

Dated: September 26, 2025.

Mark Sanborn,
Regional Administrator,
EPA Region 1.

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