



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 70

[EPA-R01-OAR-2025-0282; FRL-13016-01-R1]

Air Plan Approval; Maine; Chapter 140: Part 70 Air Emission License Regulation

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve a Clean Air Act (CAA) operating permit program revision submitted by the State of Maine. The revisions include minor changes to Maine's operating permit program that are considered clarifications, that correct grammar, that codify longstanding practices, or that are necessary to utilize an expected future electronic application system. The revisions also include provisions allowing the public comment period on a draft permit to run concurrently with EPA's review of a proposed permit. The intended effect of EPA's action is to propose approval of Maine's revisions. This action is being taken under 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-2025-0282 at <https://www.regulations.gov>, or via email to turner.andre@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, the 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. The 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. The Regional Office’s official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding legal holidays and facility closures due to COVID-19.

FOR FURTHER INFORMATION CONTACT: Andre Turner, U.S. Environmental Protection Agency, Region 1 Office of Air and Radiation Division, 5 Post Office Square, Suite 100, Boston, MA 02109, Phone number: (617) 918-1216, Email: turner.andre@epa.gov.

SUPPLEMENTARY INFORMATION:

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

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I. Background and Purpose

The EPA requires all major stationary sources of air pollution and certain other sources to obtain operating permits under title V of the CAA and 40 CFR part 70. The State of Maine, through the Department of Environmental Protection (DEP), submitted its operating permit program to the EPA for approval on October 23, 1995. EPA granted source-category limited interim approval on February 21, 1997. See 61 FR 49292 - 49293 (September 19, 1996) for a complete discussion

of the conditions for full approval. On September 28, 2001, EPA received Maine's revisions to its program that address the conditions described in EPA's interim approval. EPA granted full approval on December 17, 2001. *See* 66 FR 52874. The Maine DEP implements the title V operating permit program through its Chapter 140: Part 70 Air Emission License Regulation. EPA approved additional revisions to Maine's title V operating permit program in 2011. Maine's program approvals are listed in 40 CFR Part 70, Appendix A.

II. Overview of Maine's Submittal

On July 29, 2024, the Maine DEP submitted to EPA revisions to its operating permit program at 06-096 CMR Chapter 140, "Part 70 Air Emission License Regulation," to remove the emergency affirmative defense provisions and make minor changes that are considered clarifications, that correct grammar, that codify longstanding practices, or that are necessary to utilize an expected future electronic application system. The revisions also include provisions allowing the public comment period on a draft permit to run concurrently with EPA's review of a proposed permit. The EPA is not taking action on the removal of the emergency affirmative defense provisions in Section 2(AA) of Chapter 140 at this time. The EPA intends to address Maine's request to approve the revisions removing the emergency affirmative defense provisions in a subsequent action.

The State's formal rulemaking process began on March 7, 2024, when the Maine DEP presented its proposal to the Maine Board of Environmental Protection. Maine DEP states that a public hearing was not required under state law at 38 MRS § 585, because the proposed rulemaking did not establish new emission standards or make changes to existing emission standards. However, this rule implements a federal program, and federal regulations require the opportunity for a public hearing. Therefore, Maine held a hearing on April 18, 2024. No persons attended the hearing to provide testimony, but DEP did receive written comments during the comment period, which closed on April 29, 2024. Maine's final rule incorporates minor changes

based on the comments DEP received. This rulemaking was completed and adopted by Maine DEP and became effective at the state level on July 8, 2024.

The State's July 29, 2024, submittal requests EPA approval of the following revisions to Maine's existing EPA-approved CAA title V operating permit program:

- Removal of inappropriate references to New Source Review permitting. New Source Review is addressed by the Maine DEP's Chapter 115;
- Allowing applications to be signed electronically provided the signature complies with the requirements of Cross-Media Electronic Reporting, 40 C.F.R. part 3;
- Allowing public notices of intent to file and draft availability to be published on the Maine DEP website in lieu of publication in a print newspaper;
- Allowing the Maine DEP to keep records for public inspection electronically rather than requiring a paper copy at the Augusta, Maine office;
- Adding further information regarding the applicability of Section 502(b)(10); and
- Requiring transfer applications to be completed within 60 days as is required by the underlying federal regulation.

The Maine DEP also codified the following revisions to align the rule with longstanding practices and seeks approval of these changes into their EPA-approved CAA title V operating permit program:

- Clarifying that Maine DEP, and not the applicant, will provide draft licenses to affected states when appropriate;
- Removing the requirement for applicants to submit redlined versions of previous applications when applying for a license renewal;
- Specifying that EPA's review period on a draft license may run concurrently with the public comment period provided the State does not receive comments that cause it to make substantive changes to the draft license; and

- Clarifying that portable engines not used to power process equipment are considered insignificant activities.

III. EPA's Evaluation of Maine's Submittal

The EPA has reviewed the State's July 29, 2024, revisions made to Chapter 140: Part 70 Air Emission License Regulation. As stated above, the EPA is not taking action on the removal of the emergency affirmative defense provisions in Section 2(AA) of Chapter 140 Part 70 Air Emission License Regulation, at this time. The EPA will address Maine's request to remove the emergency affirmative defense provisions in a subsequent action.

EPA considers the majority of Maine's other revisions to be administrative in nature and consistent with the requirements in title V of the CAA and 40 CFR part 70. The revisions did not establish new emission standards or make changes to existing emission standards, and no change is inconsistent with the CAA title V provisions or EPA's 40 CFR part 70 operating permits program regulations. The revisions focus on clarifying procedures, modernizing administrative processes, and improving consistency with federal regulations.

Maine's revisions allowing DEP to conduct the 30-day public comment period concurrent with EPA 45-day review period, under certain circumstances, are consistent with the Act and authorized by EPA regulations. In 2020 amendments to part 70, EPA recognized that some permitting authorities conduct the public comment period and 45-day EPA review period concurrently for some permits, particularly in situations where the permitting authority does not anticipate receiving significant public comments on the draft permit. 85 FR 6431 at 6436 (February 5, 2020); 40 CFR 70.8(a)(1)(ii). Maine's revisions to Chapter 140 allow DEP to use concurrent review periods, except in cases where DEP "receives comments from the public or affected states that lead [DEP] to make substantive changes to the draft/proposed license." 06-096 CMR Chapter 140 §§ 3(G), 6(G), 9(G), 10(G). Maine's revisions also recognize that, if DEP refuses to accept an affected state's comments, the EPA 45-day review period will not start until DEP provides EPA with a written explanation of such refusal. *See, e.g., id.* § 2(L)(2). Further,

EPA's regulations provide that the EPA will not consider its review period to have run if a permitting authority receives significant comment on a draft permit during the public participation process. 40 CFR 70.8(a)(1)(ii); *see also* 85 FR at 6441 & n.11. In such instances, the permitting authority must make any revisions to the permit and permit record necessary to address such public comments, including preparing a written response to comments, and submit the proposed permit and response to comments to EPA after the public comment period has closed. 40 CFR 70.8(a)(1)(ii). In these cases, EPA's review period does not begin until EPA has received all required materials from the State. *Id.*

EPA proposes to approve Maine's revisions to Chapter 140 that allow concurrent review because the revisions do not allow concurrent review in cases where DEP makes substantive changes to a draft permit based on comments from the public or an affected state or where DEP refuses to accept an affected state's comments, as described above. Further, 40 CFR 70.8(a)(1)(ii) ensures that, if DEP receives significant public comment that does not result in a substantive change to the permit, the 45-day EPA review period does not begin until DEP provides EPA with a written response to all significant comments raised during the public participation process. For these reasons, EPA proposes that Maine's revisions regarding concurrent review meet the requirements of part 70 and of the Act.

IV. Proposed Action

EPA is proposing to approve the above-discussed revisions to Maine DEP's operating permit program at Chapter 140, "Part 70 Air Emission License Regulation," except those in section 2(AA) related to affirmative defense, which EPA intends to address at a later date. 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. Statutory and Executive Order Reviews

Under the CAA, the Administrator approves title V operating permit program revisions that comply with the Act and applicable Federal Regulations. See 42 U.S.C. 7661a(d). Thus, in reviewing title V operating permit program submissions, the EPA's role is to approve state choices, provided that they meet the criteria of the CAA. This 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 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.

This rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the title V action is not approved to apply in Indian country

located in the State, and the EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

List of Subjects in 40 CFR Part 70

Environmental protection, Administrative practice and procedure, Air pollution control, Carbon monoxide, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds

Dated: September 26, 2025.

Mark Sanborn,
Regional Administrator,
EPA Region 1.

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