



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R09-OAR-2025-1641; FRL-12972-01-R9]

Air Quality Plan; California; San Diego County Air Pollution Control District; Landfill Flares

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to conditionally approve a revision to the San Diego County Air Pollution Control District (SDCAPCD or “District”) portion of the California state implementation plan (SIP). This revision concerns emissions of oxides of nitrogen (NO_x) from landfill flares. We are proposing to conditionally approve a local rule to regulate these emission sources under the Clean Air Act (CAA or “Act”). We are taking comments on this proposal and plan to follow with a final action.

DATES: 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-R09-OAR-2025-1641 at <https://www.regulations.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. 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>. If you need assistance in a language other than English or if you are a person with a disability who needs a reasonable accommodation at no cost to you, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: Donnique Sherman, EPA Region IX, 75 Hawthorne St., San Francisco, CA 94105. By telephone: (415) 947-4129 or by email at sherman.donique@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document, “we,” “us,” and “our” refer to the EPA.

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I. The State’s Submittal

A. What rule did the State submit?

Table 1 lists the rule addressed by this proposal with the dates that it was adopted by the local air agency and submitted to the EPA by the California Air Resources Board (CARB).

TABLE 1 - SUBMITTED RULE

Local Agency	Rule #	Rule Title	Adopted	Submitted
SDCAPCD	69.7	Landfill Gas Flares	03/09/23	04/03/23

On April 12, 2023, the EPA sent a letter to SDCAPCD that determined that the submittal for SDCAPCD Rule 69.7, “Landfill Gas Flares,” (“Rule 69.7”) met the completeness criteria in 40 CFR part 51, appendix V.¹

B. Are there other versions of this rule?

There are no previous versions of Rule 69.7 in the SIP.

C. What is the purpose of the submitted rule?

Emissions of NO_x contribute to the production of ground-level ozone and smog, which harm human health and the environment. Section 110(a) of the CAA requires states to submit regulations that control NO_x emissions. Rule 69.7 is designed to set NO_x limitations for enclosed landfill gas flares. The EPA’s technical support document (TSD) has more information about this rule.

II. The EPA’s Evaluation and Action

A. How is the EPA evaluating the rule?

Emission limitations in the SIP must be enforceable (see CAA section 110(a)(2)) and must not interfere with applicable requirements concerning attainment, reasonable further progress, or other CAA requirements (see CAA section 110(l)). Additionally, 40 CFR part 51, subpart K (Source Surveillance) requires SIPs to contain enforceable procedures for monitoring the status of compliance with the requirements in the control strategy.

Generally, SIPs must require reasonably available control technology (RACT) for each category of sources covered by a Control Techniques Guidelines (CTG) document, as well as each major source of volatile organic compounds (VOCs) or NO_x in ozone nonattainment areas

¹ See letter signed April 12, 2023, from Elizabeth Adams, Director Air and Radiation Division, EPA, Region 9, to Dr. Steven S. Cliff, Executive Officer, CARB.

classified as “Moderate” or above (see CAA sections 182(b)(2) and 182(f)). The SDCAPCD regulates an ozone nonattainment area classified as “Severe” for the 2008 and 2015 8-hour ozone national ambient air quality standards (NAAQS) (40 CFR 81.305). Therefore, this area must implement RACT, and we anticipate SDCAPCD will rely on this rule to implement RACT in an upcoming RACT SIP submittal. This action focuses on the approvability of Rule 69.7 for inclusion into the SIP under CAA section 110. If relied upon to meet RACT, we will evaluate whether Rule 69.7 meets the applicable CAA requirements for RACT when acting on the District’s RACT SIP submittal.

Guidance and policy documents that we used to evaluate enforceability and rule stringency requirements for the applicable criteria pollutants include the following:

1. “State Implementation Plans; General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990,” 57 FR 13498 (April 16, 1992); 57 FR 18070 (April 28, 1992).
2. “Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations,” EPA, May 25, 1988 (“the Bluebook,” revised January 11, 1990).
3. “Guidance Document for Correcting Common VOC & Other Rule Deficiencies,” EPA Region 9, August 21, 2001 (“the Little Bluebook”).
4. “State Implementation Plans; Nitrogen Oxides Supplement to the General Preamble; Clean Air Act Amendments of 1990 Implementation of Title I; Proposed Rule,” (“the NO_x Supplement”), 57 FR 55620 (November 25, 1992).

B. Does the rule meet the evaluation criteria?

Rule 69.7 establishes emission limitations and work practice standards for landfill flares. We evaluated this rule to ensure it meets applicable CAA requirements and is consistent with relevant guidance regarding enforceability and SIP revisions. The rule requires landfill flares to not exceed NO_x emissions of 0.06 pounds per million British thermal units (lb/MMbtu) and carbon monoxide emissions of 0.20 lb/MMbtu; sets standards for how the landfill flares should

be equipped and kept when in operation; requires monitoring and recording, such as requiring a gas flow rate measuring device to monitor, display, and record the landfill gas flow rate to each flare; requires enclosed flares to have a gas temperature device equipped with a continuous recorder; and requires open flares to have a heat device to continuously monitor for the presence of a flare pilot flame. To confirm that the flare is operating within those emission and operational standards, the rule sets requirements for initial and annual source testing and specifies test methods to use to confirm compliance.

However, as identified below, the rule contains a deficiency that precludes full approval. In a letter dated January 13, 2026, the SDCAPCD identified the rule deficiency and committed to revise the affected provisions in accordance with EPA guidance and submit the revised rule to CARB for submittal to the EPA no later than June 30, 2027, or within one year of the effective date of the EPA's final action, whichever is soonest.² On February 10, 2026, CARB provided its own commitment letter to submit the SDCAPCD's revised rule to the EPA no later than June 30, 2027, or within one year of the effective date of EPA's final action, whichever is soonest.³ Because the commitments by the SDCAPCD and CARB would remedy the identified rule deficiency, we are proposing to conditionally approve Rule 69.7. These commitment letters are included in the docket for the action and are described in the TSD. Our TSD has more information on our evaluation for this proposed conditional approval.

C. What is the deficiency?

To determine landfill gas composition, Rule 69.7 allows operators to use EPA Method 25C or ASTM methods D3588-98(2017)e1 and D1945-14(2019).⁴ However, the rule also provides the operator the option to alternatively use the "most current version" of the listed

² Letter dated January 13, 2026, from Paula Forbis, Air Pollution Control Officer, SDCAPCD, to Ariel Fideldy, Air Quality Planning Branch, CARB, and Mike Martucci, Acting Regional Administrator, EPA, Region 9, Subject, "Request for Submittal of Commitment Letter to Make Amendments to Rule 69.7 – Landfill Gas Flares of the San Diego County Air Pollution Control District."

³ Letter dated February 10, 2026, from Matthew Lakin, Chief, Air Quality Planning and Science Division, CARB, to Mike Martucci, Acting Regional Administrator, EPA, Region 9.

⁴ Rule 69.7, section (h)(3).

ASTM methods. 40 CFR 51.212(c) requires SIPs to contain enforceable test methods and requires alternative test methods to be reviewed and approved by the EPA. By providing the option to use a version of a test method other than the specific versions listed in the rule, the rule allows for the use of alternative test methods not reviewed and approved by the EPA. As a result, this undermines the enforceability of the submission as required under CAA section 110(a)(2)(A) and 40 CFR 51.212(c) and thus constitutes a SIP deficiency.

D. The EPA's recommendations to further improve the rule

The TSD includes recommendations for the next time the local agency revises the rule.

E. Proposed action and public comment

Rule 69.7 largely fulfills the relevant CAA section 110 and part D requirements, but the deficiency, as discussed in section C of this document, precludes full SIP approval pursuant to section 110(k)(3) of the Act. Section 110(k)(4) of the CAA authorizes the EPA to conditionally approve SIP revisions based on a commitment by the state to adopt specific enforceable measures by a date certain but not later than one year after the date of the plan approval.⁵

Because the SDCAPCD and CARB have committed to provide the EPA with a SIP submission that will include specific rule revisions that would adequately address the identified deficiency, and submit the revisions within one year of conditional approval, we are proposing to conditionally approve Rule 69.7 pursuant to section 110(k)(4) of the Act. If the SDCAPCD and CARB submit the required rule revision by the specified deadline, and the EPA approves the submission, then the identified deficiency will be cured. However, if this proposed conditional approval is finalized and SDCAPCD, through CARB, fails to submit the revision within the required timeframe, the EPA will take action to disapprove the rule. We will accept comments from the public on this proposal until **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. If we take final action to approve the submitted rule, our final action will incorporate this rule into the federally enforceable SIP.

⁵ 42 U.S.C. 7410(k)(4).

III. Incorporation by Reference

In this rule, the EPA is proposing to include in a final EPA rule regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is proposing to incorporate by reference SDCAPCD Rule 69.7, “Landfill Gas Flares,” adopted on March 9, 2023, which regulates NO_x emissions from landfill gas flares. The EPA has made, and will continue to make, these materials available through <https://www.regulations.gov> and at the EPA Region IX Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

IV. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA’s role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this proposed action merely proposes to approve 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);
- Is not an Executive Order 14192 (90 FR 9065, February 6, 2025) regulatory action because this action is not significant under Executive Order 12866;
- 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 (Pub. L. 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 proposes to approve 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 Clean Air Act.

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where the 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 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Nitrogen oxides, Ozone, Reporting and recordkeeping requirements.

Dated: April 27, 2026.

Michael Martucci,
Acting Regional Administrator, Region IX.