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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 70

[EPA-R09-OAR-2025-0166; FRL-12718-01-R9]

Clean Air Act Operating Permit Program Revisions; California; Amador County Air Pollution Control District, Calaveras County Air Pollution Control District, Great Basin Unified Air Pollution Control District, Northern Sierra Air Quality Management District

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve revisions to four State of California air districts' Clean Air Act title V program rules to remove emergency affirmative defense provisions. The four districts are the Amador County Air Pollution Control District (ACAPCD), the Calaveras County Air Pollution Control District (CCAPCD), the Great Basin Unified Air Pollution Control District (GBUAPCD), and the Northern Sierra Air Quality Management District (NSAQMD) ("Districts"). This proposed action is being taken in accordance with Federal regulations and the Clean Air Act (CAA or "Act"). We are taking comments on these proposed revisions and plan to follow with a final action.

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-R09-OAR-2025-0166 at *https://www.regulations.gov.* For comments submitted at *https://www.regulations.gov*, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *http://www.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 disabilities 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: Camille Cassar, EPA Region IX, 75 Hawthorne Street, San Francisco, CA 94105; telephone number: (415) 947-4164; email address: *cassar.camille@epa.gov*.

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

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I. Title V Program Background

The CAA Amendments of 1990 include title V, which requires States to develop an operating permits program that meets the Federal criteria codified in title 40 of the Code of Federal Regulations (CFR) part 70. The title V program requires certain sources of air pollution to obtain Federal operating permits from their respective States or air districts. These Federal operating permits improve enforcement and compliance by consolidating all applicable Federal requirements into one federally enforceable document. Before a State can issue permits under 40 CFR part 70 (which are referred to as "title V permits"), the EPA must approve its program under appendix A of 40 CFR part 70. States may submit revisions to their approved programs for EPA approval.

II. Requirements for Approval of Revisions to Title V Programs

Pursuant to 40 CFR 70.4(i), either the EPA or the State may initiate a title V program revision "when relevant Federal or State statutes or regulations are modified or supplemented." It is the responsibility of the State to keep the EPA apprised of any proposed modifications to its basic statutory or regulatory authority or procedures. Revision of a State program shall be accomplished as follows:

a) The State submits a modified program description, Attorney General's statement (if necessary for expanded or additional authority), or other documents as the EPA determines to be necessary. *See* 40 CFR 70.4(i)(2)(i).

b) After the EPA receives a proposed program revision, it will publish a notice of the proposed change in the *Federal Register* and provide for a public comment period of at least 30 days. *See* 40 CFR 70.4(i)(2)(ii).

c) The Administrator shall approve or disapprove program revisions based on the requirements of 40 CFR part 70 and the Act. *See* 40 CFR 70.4(i)(2)(iii).

d) The EPA must publish a notice of approval in the *Federal Register* for any substantial program revisions. *See* 40 CFR 70.4(i)(2)(iv).

e) Approval of nonsubstantial revisions may be given by a letter from the Administrator to the Governor or a designee. *See* 40 CFR 70.4(i)(2)(iv).

f) A program revision shall become effective upon the approval of the Administrator. *See* 40 CFR 70.4(i)(2)(iv).

III. What are the States' Proposed Title V Program Revisions?

Table 1 lists the rules submitted as part of the title V program revisions by the ACAPCD, the CCAPCD, the GBUAPCD, and the NSAQMD, and the dates they were adopted by the Districts and submitted by the California Air Resources Board (CARB), which is the governor's designee for California rule submittals.

Table 1 - Submitted Rules

District	Rule Number	Rule Title	Amended Date	Submitted Date
ACAPCD	500	Procedures for Issuing Permits to Operate for Sources Subject to Title V of the Federal Clean Air Act Amendments of 1990	1/21/2025	4/25/2025
CCAPCD	1002	Additional Procedures for Issuing Permits to Operate for Sources Subject to Title V of the Federal Clean Air Act Amendments of 1990 – Definitions	08/12/2025	08/21/2025
CCAPCD	1006	Additional Procedures for Issuing Permits to Operate for Sources Subject to Title V of the Federal Clean Air Act Amendments of 1990 – Permit Content Requirements	08/12/2025	08/21/2025
GBUAPCD	217	Additional Procedures for Issuing Operating Permits for Sources Subject to Title V of the Federal Clean Air Act Amendments of 1990	07/03/2025	08/21/2025
NSAQMD	522	Title V Federal Operating Permits	10/28/2024	2/4/2025

The ACAPCD Title V Operating Permit Program is implemented through its "Procedures for Issuing Permits to Operate for Sources Subject to Title V of the Federal Clean Air Act Amendments of 1990" rule, codified as ACAPCD Rule 500. On November 21, 2003, the EPA approved the ACAPCD Title V Operating Permit Program, which became effective January 1, 2004 (68 FR 65637, November 21, 2003). On January 21, 2025, the ACAPCD amended its Rule 500 and on April 25, 2025, CARB submitted the revision to Rule 500 for approval into the district's EPA-approved title V program.[1] The revision includes removal of emergency affirmative defense provisions in section 500.VI.B.12, "Emergency Provisions."

The CCAPCD Title V Operating Permit Program is implemented through the following two rules: its "Additional Procedures for Issuing Permits to Operate for Sources Subject to Title V of the Federal Clean Air Act Amendments of 1990 – Definitions" rule, codified as CCAPCD Rule 1002, and its "Additional Procedures for Issuing Permits to Operate for Sources Subject to Title V of the Federal Clean Air Act Amendments of 1990 – Permit Content Requirements" rule, codified as CCAPCD Rule 1006. On November 21, 2003, the EPA approved the CCAPCD Title V Operating Permit Program, which became effective January 1, 2004 (68 FR 65637, November 21, 2003). On August 12, 2025, the CCAPD amended their Rules 1002 and 1006, and on August 21, 2025, CARB submitted the revisions to Rules 1002 and 1006 for approval into the district's EPA-approved title V program.[2] The revisions include removal of emergency affirmative defense provisions in section 1 (M) of 1002, "Emergency" definition, and section B (12), "Emergency Provisions" of 1006.

The GBUAPCD Title V Operating Permit Program is implemented through its "Additional Procedures for Issuing Operating Permits for Sources Subject to Title V of the Federal Clean Air Act Amendments of 1990" rule, codified as GBUAPCD Rule 217. On

[1] April 25, 2025 electronic submittal to the EPA with a cover letter dated April 18, 2025, from CARB to the EPA.
[2] August 21, 2025 electronic submittal to the EPA with a cover letter dated August 21, 2025, from CARB to the EPA.

November 21, 2003, the EPA approved the GBUAPCD Title V Operating Permit Program, which became effective January 1, 2004 (68 FR 65637, November 21, 2003). On July 3, 2025, the GBUAPCD amended its Rule 217, and on August 21, 2025, CARB submitted the revision to Rule 217 for approval into the district's EPA-approved title V program.[3] The revisions include removal of emergency affirmative defense provisions in section 2 (M), "Emergency" definition, and section I (12), "Emergency Provisions."

The NSAQMD Title V Operating Permit Program is implemented through its "Title V Federal Operating Permits" rule, codified as NSAQMD Rule 522. On November 21, 2003, the EPA approved the NSAQMD Title V Operating Permit Program, which became effective January 1, 2004 (68 FR 65637, November 21, 2003). On October 28, 2024, the NSAQMD amended its Rule 522, and on February 4, 2025, CARB submitted the revision of Rule 522 for approval into the district's EPA-approved title V program.[4] The revisions include removal of emergency affirmative defense provisions in Section 6.12, "Emergency Provisions."

IV. EPA Evaluation of Title V Revisions

As mentioned above, the revisions to these rules include removing emergency affirmative defense provisions.[5] Our Technical Support Document (TSD) provides more details for each of these revisions and how they meet EPA requirements. The EPA finds these revisions acceptable as title V program revisions and consistent with part 70 provisions.

V. Proposed Action

[3] August 21, 2025 electronic submittal to the EPA with a cover letter dated August 20, 2025, from CARB to the EPA.

[4] February 4, 2025 electronic submittal to the EPA with cover letter dated February 3, 2025, from CARB to the EPA.

[5] On September 5, 2025, the Court of Appeals for the D.C. Circuit issued a decision in *SSM Litigation Group v. EPA* rejecting the legal bases for EPA's July 2023 final rule concerning "emergency" affirmative defense provisions in title V permits and reversing that final rule (88 FR 47029, July 21, 2023). *SSM Litigation Group v. EPA, et al.*, 150 F.4th 593 (D.C. Cir. 2025), *reh'g denied*. Because *SSM Litigation Group* does not prohibit States from removing affirmative defense provisions from their title V programs, we are proceeding with this proposal to remove these provisions from the ACAPCD's, CCAPCD's, GBUAPCD's and NSAQMD's Title V Operating Permit Programs consistent with their requests. For additional information, please see the TSD in the docket for this proposed action.

Pursuant to 40 CFR 70.4(i)(2), the EPA is proposing to approve the revisions to the ACAPCD Title V Operating Permit Program submitted on April 25, 2025, the CCAPCD Title V Operating Permit Program submitted on August 21, 2025, the GBUAPCD Title V Operating Permit Program submitted on July 3, 2025, and the NSAQMD Title V Operating Permit Program submitted on February 4, 2025. The revisions meet the requirements of section 502 of the CAA and 40 CFR 70.4. The EPA is soliciting public comments on the revisions discussed in this document.

VI. Statutory and Executive Order Reviews

A. General Requirements

Under the CAA, the Administrator is required to approve 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 permit program submissions, the 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);
- Is not an Executive Order 14192 (90 FR 9065, February 6, 2025) regulatory action because this proposed 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 (Public Law 104-4);

- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);

- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);

- 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 proposed rule does not have Tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the proposed 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.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: July 15, 2026.

Michael Martucci,

Acting Regional Administrator,

Region IX.

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