

# Proposed Amendments to Regulation XIII - Part 70 Operating Permits

Community Advisory Council  
Santa Barbara County  
Air Pollution Control District

Our Mission: To protect the people and the environment of Santa Barbara County from the effects of air pollution.

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# Presentation Outline

- ▶ **Background**
  - Part 70 (aka “Title V”) Operating Permits
  - Emergency Affirmative Defense
- ▶ **Proposed Rule Amendments**
  - Removal of Emergency Affirmative Defense
  - Administrative Changes
- ▶ **Public & Stakeholder Engagement**
- ▶ **Staff Recommendation and Questions & Answers**

# Regulation XIII - Part 70 Operating Permits

- ▶ Regulation XIII (Rules 1301 - 1305) was adopted in 1993.
- ▶ Applies to major stationary sources of air pollution.
  - Sources with a PTE >100 tons/year of a criteria air pollutant
  - 17 major sources within Santa Barbara County  
(Examples: Offshore Platforms, Landfills, VSFB, and UCSB.)

Rule #	Rule Name	Year Last Amended	Last Amended Reason
1301	General Information	2016	NSR changes
1302	Permit Application	1993	--
1303	Permits	2001	EPA corrections
1304	Issuance, Renewal, Modification and Reopening	2018	E-notice
1305	Enforcement	1993	--

# Emergency Affirmative Defense

- ▶ Emergency events (e.g. wildfires, high wind events, or mudslides) can cause permitted equipment or air pollution control equipment to malfunction and exceed their emission limits.
- ▶ Emergency events are typically beyond the reasonable control of a permittee.
- ▶ **Emergency Affirmative Defenses** establish why, despite violations of an emission limit, the permittee should not be assessed penalties for the exceedance.
  - ▶ Affirmative Defenses **do not** protect the source from being issued a violation.

# Emergency Affirmative Defense

- ▶ **Scenario:** An earthquake causes emission control equipment at a Title V facility to fail or break, causing excess emissions for 45 minutes.
  
- ▶ The permittee:
  - 1) Documents the equipment was operating properly before the earthquake.
  - 2) Attests that the earthquake caused the emission control equipment to fail, and it was not caused by operator error or negligence.
  - 3) Takes all reasonable steps to minimize emissions (such as initiating shutdown procedures to repair the equipment).
  - 4) Submits records and a report to the District within 2 days, establishing the Emergency Affirmative Defense.
  
- ▶ **Result:** When settling the emission violation, the monetary penalty is \$0.

# Court Case & Changes

Date	Description
1992	<ul style="list-style-type: none"><li>• Emergency affirmative defense provisions were included in EPA's initial Title V regulation.</li></ul>
2014	<p><b><u>Natural Resource Defense Council v. EPA</u></b></p> <ul style="list-style-type: none"><li>• The public may file a civil suit against any person who allegedly violated an emission standard.</li><li>• The courts have the power to decide the appropriate penalty.</li><li>• Hence, the affirmative defense provisions in the affected EPA NESHAP regulation were vacated.</li></ul>
2016	<ul style="list-style-type: none"><li>• EPA proposed changes to the Title V program. Changes not finalized.</li></ul>
2022 - 2023	<ul style="list-style-type: none"><li>• EPA re-proposed and finalized changes to the Title V program.</li><li>• Affected entities have until August 21, 2024 to change their implementing rules and remove Emergency Affirmative Defense provisions.</li></ul>

# Proposed Amendments

- ▶ **Remove Affirmative Defense text in Rules 1301 and 1303.**
- ▶ **Negligible impacts to Permitted Title V Sources.**
  - **Number of Emergency Affirmative Defenses Used:** 0
  - **District's Mutual Settlement Program:** Calculates the appropriate penalty for violations based on multiple criteria, including mitigating actions.
  - **District Rule 505 – Breakdowns:** Addresses equipment failures and may provide regulatory relief from enforcement action.
  - **Emergency Variance:** If a breakdown persists for more than 24 hours, the source may apply for an emergency variance through the Hearing Board.
  - **Affected Permit Conditions:** Will be automatically removed from Title V permits during the next revision. [3-year renewal cycle]

## Other Administrative Changes

- ▶ Add the definition of “Draft Operating Permit” to Rule 1301.
- ▶ Add text to the Compliance Certification section in Rule 1302 related to “knowingly making a false certification or omitting material information.”
- ▶ These revisions will result in no change to the Title V permitting process or how the District administers the program.

# Public & Stakeholder Engagement

Date	Description
<b>April 2024</b>	<ul style="list-style-type: none"><li>• Staff distributed the draft rule language and the rationale for the changes to the US EPA for a 30-day review period.</li><li>• The US EPA agreed with the recommended changes and had no additional comments.</li></ul>
<b>June 24, 2024</b>	<ul style="list-style-type: none"><li>• Draft Rule and Staff Report posted on the rule development website.</li><li>• Direct notices to Title V facilities &amp; E-notice listserv.</li></ul>
<b>July 8, 2024 CAC Meeting:</b>	<ul style="list-style-type: none"><li>• Consider recommending that the District Board of Directors adopt the proposed amendments to Regulation XIII - Part 70 Operating Permits.</li></ul>
<b>Upcoming Aug 15, 2024 Board Hearing:</b>	<ul style="list-style-type: none"><li>• Tentative date for public hearing for rule amendments.</li><li>• 30-day public notice will be issued beforehand.</li></ul>

## Staff Recommendation

- ▶ For the CAC to consider recommending that the District Board of Directors adopt the proposed amendments to Regulation XIII - Part 70 Operating Permits.

**Open to Community Advisory Council  
Questions & Answers**

**Followed by Public Comments**