Pinal County Air Quality Control District
(PCAQCD)

Proposed Amendments to Remove Emergency Defense Provisions in Air Quality Operating Permits

State Implementation Plan (SIP) Rulemaking
Ch.3 Article 1 Section 081
Ch.8 Article 1 Section 020

BOS Work Session

April 16, 2025

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Presentation Outline

- **Background**
  - Part 70 Operating Permits (aka “Title V” Operating Permits).
- **Proposed Amendments**
  - Removal of Emergency Affirmative Defense.
- **Stakeholder & Public Engagement**
- **Staff Recommendation**

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Regulation

- **Delegated Functions and Duties**
  - ADEQ Delegation Agreement # EV22-0020
  - District Authority to review, issuance, administration and enforcement of air quality permits.
- **Emergency Affirmative Defense Applies to "major sources" of air pollution.**
    - Sources with PTE ≥ 100 tons/yr of criteria pollutant.
    - Currently we permit 388 sources of which 24 are major sources.

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Emergency Affirmative Defense

- **Emergency Events**
  - Examples: wildfires, high winds events.
  - Can cause permitted equipment or air pollution control equipment to malfunction and exceed their emission limits.
  - Are typically beyond the reasonable control of a permittee.

- **Emergency Affirmative Defense**
  - The permittee submits a report that demonstrates that all reasonable steps were taken to minimize emissions form the emergency.

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Court Case & Changes

Date	Description
1992	Emergency affirmative defense provisions were included in EPA's initial Title V regulation.
2014	***Natural Resource Defense Council v. EPA*** • EPA exceeded its authority under the Clean Air Act by creating these emergency affirmative defense provisions in an EPA NESHAP regulation. • Hence, the affirmative defense provisions in the affected EPA NESHAP regulation were vacated.
2016	• EPA proposed changes to the Title V program. Changes not finalized.
2022-2023	• EPA responded and finalized changes to the Title V program. • Affected entities have until August 21, 2024 to change their implementing rules and remove Emergency Defense provisions. • District request for 1 year extension granted to August 21, 2025.

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Proposed Amendments

- **Remove Affirmative Defense text in rules:**
  - 3-1-081 Permit conditions
  - 8-1-020 Violation; classification; definition
- **Removal will apply to Title V and Non Title V Sources**
- **Negligible impacts to Permitted Title V and Non Title V Sources**
  - Equipment failures – Malfunctions (Chapter 8, Article 1, Section 030)
  - Emergency Variance – Non Title V (Chapter 3, Article 5, Section 530)
  - Mutual Settlement Program – Supplemental Environmental Projects
  - Level playing field – Hearing Board Appeals (Chapter 3, Article 1, Section 080)
- **Emergency Affirmative Defense Provisions have never been used.**

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Public & Stakeholder Engagement

Date	Description
March 17, 2025	• Begin 30 day public notice
April 14, 2025	• Stakeholder Meeting
April 16, 2025	• BOS Work Session
April 28, 2025	• Public hearing – End of Public Comment Period
May 28, 2025	• BOS Agenda Consent Item – Request to Adopt Rule Amendment
May 2025	• SIP Submittal to ADEQ - Permit Program Rule Amendment to EPA

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Staff Recommendation

- **Consider adoption of the proposed amendments to the Districts Regulation 3-1-081 and 8-1-020 Operating Permit Program.**

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https://www.pinal.gov/403/Rulemaking

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