



Eastern Kern APCD

Rule Development Public Workshop

May 15, 2025



Workshop Agenda

Rule 201.1, Permits to Operate for Sources Subject to Title V of the
Federal Clean Air Act Amendments of 1990

Rule 301.1, Banking Certificate Fees

Rule 303, Miscellaneous Fees



Rule 201.1 Overview

Rule 201.1 was originally adopted November 1, 1993.

Purpose of the rule is to implement permitting requirements of Title V of the Federal Clean Air Act amendments of 1990 (CAA).

District adopted extensive revisions to Rule 201.1, in 2012.

EPA never acted on the 2012, submittal.

District continued enforcing the last SIP approved amendment from 2004.



2022 Amendment

Rule 201.1 was last amended September 1, 2022.

Primary reason for amending the rule was to update the NO_x and VOC Major Source threshold to match the 8-hour Ozone NAAQS for Severe Nonattainment (25 ton/yr).

All 2012 amendments were included in the 2022 revision.

EPA notified the District in 2024 that they could not fully approve the 2022 amendment because it contained *Emergency Affirmative Defense Provisions*.



Emergency Affirmative Defense

Historically, a stationary source could use emergency affirmative defense to avoid liability for noncompliance with emission limits contained in their Title V permit.

In 2023 EPA removed the emergency affirmative defense provisions from 40 CFR 70 and 71 because they were deemed inconsistent with the enforcement structure of the CAA.

Air districts were required to remove emergency affirmative defense provisions from their Title V rules by August 21, 2024, or request EPA grant a one-year extension.



Affirmative Defense cont.

July 25, 2024, the District submitted a letter to EPA Region IX requesting a one-year extension to amend the rule.

EPA granted the District's request and moved the amendment deadline to August 21, 2025.



201.1 Amendment

Language for Emergency Affirmative Defense provisions have been removed from District Rule 201.1.

Source is still required to report “Breakdowns” and comply with conditions of District Rule 111, Equipment Breakdown.

Source can still petition for a Variance Hearing pursuant to District Series 500 rules.



Greenhouse Gas Tailoring Rule

Rule 201.1 includes Greenhouse Gas (GHG) emission provisions that trigger requirements for a facility to obtain a Title V permit based solely on GHGs being emitted (GHG Tailoring Rule).

However, the U.S. Supreme Court held that EPA may not treat GHGs as an air pollutant for purposes of determining whether a source is a major source required to obtain a Title V permit.

(Utility Air Regulation Group v. EPA, 573 U.S. 302)



201.1 GHG Amendments

The Major Source definition lists potential to emit thresholds of regulated air pollutants and HAPs that trigger Title V.

The following GHG language has been removed from the Major Source definition:

GHG emissions that are subject to regulation as defined in 40 CFR 70.2, provided that the mass emissions of all GHGs emitted, without consideration of Global Warming Potential (GWP), are equal to or greater than 100 tpy.

What this means:

Facility will not be considered Title V based solely on GHGs.

GHG Amendments **cont.**

Language has been added to Section V.B.6:

All applicable requirements for greenhouse gases shall be included in Title V permits for any facility that is otherwise required to obtain a new, renewed, or revised Title V permit.

Any source subject to Rule 201.1 is still required to submit actual GHG emissions to the District for the previous calendar year by March 31 of each year.

Emissions shall be calculated and reported in accordance with 40 CFR Part 98, Mandatory Greenhouse Gas Reporting.



Extreme Major Source Threshold

District is currently designated Sever nonattainment pursuant to the 8-hour Ozone NAAQS, 2008 (75 ppb) and 2015 (70 ppb).

Although the District is on track to attain the 2008 NAAQS, the 2015 standard may not be achieved, and the District could be bumped up to Extreme nonattainment.

To account for this possibility the Major Source definition is being revised to include the Extreme Major Source threshold of 10 tpy of NO_x and VOC.

201.1 Definitions

Definitions for Greenhouse Gas (GHG) and Global Warming Potential (GWP) are expanded to complete definitions. Language previously stated *As defined in District Rule 102*.

Carbon Dioxide Equivalent (CO₂e) definition is being removed because it's already defined in Section II.KK.2, Subject to Regulation.

Subject to Regulation definition added the aggregate group of the six GHGs : *carbon dioxide, nitrous oxide, methane, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride,*



Rule 201.1

Questions

Comments



301.1, Banking Certificate Fees

Adopted April 25, 1983, last amended March 13, 2008.

District adopted a Filing Fee increase from \$120 to \$130 on January 13, 2022 (Rules 301 and 303).

Rule 301.1 currently lists \$120 filing fee.

Amendment will update the filing fee to the current \$130.



Rule 303, Miscellaneous Fees

Priority Processing allows applicant to pay increased engineering analysis fee to be prioritized over other projects.

Rule 303 currently calculates priority processing fee at 1.5 times an Air Quality Engineer II, step 5 hourly salary.

Air Quality Engineer II classification no longer exists.

Kern county replaced 5-step salary with 10-step salary.

Priority Processing Fee revised to: *1.5 times a Senior Air Quality Engineer, step 10 hourly salary.*

Questions Comments

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