Eastern Kern APCD Rule Development **Public Workshop** October 20, 2021

Workshop Agenda

- Rule 201.1 Permits to Operate for Sources Subject to Title V of the Federal Clean Air Act Amendments of 1990
- Rule 402 Fugitive Dust
- Rule 402.2 Agricultural Operations
- Rule 412 Gasoline Transfer into Stationary Storage Containers, Delivery Vessels, and Bulk Plants
- Rule 412.1 Transfer of Gas to Vehicle Fuel Tanks
- Rule 301 Permit Fees
- Rule 302 Permit Fee Schedules
- Rule 303 Miscellaneous Fees
- Rule 422 New Source Performance Standards (NSPS)
- Rule 423 National Emission Standards for Hazardous Air Pollutants (NESHAPs)

Amended Rule 201.1

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

Rule 201.1 Overview

Rule 201.1 was originally adopted November 1, 1993, and was last amended January 12, 2012.

The purpose of Rule 201.1 is intended to implement permitting requirements of Title V of the Federal Clean Air Act amendments of 1990 (CAA). Title V requires issuance of operating permits for certain sources emitting regulated air pollutants, including attainment and non-attainment pollutants.

The primary reason for amending Rule 201.1 is to update the oxides of nitrogen (NOx) and volatile organic compounds (VOC) Major Source threshold to meet the requirements of Severe Nonattainment pursuant to the 2008 Ozone NAAQS.

Rule 201.1 Background

NOx and VOCs are ozone precursor pollutants, that when emitted can form tropospheric ozone in the presence of light winds, high temperatures, and sunlight.

In 2008, EPA adopted a new 8-hour Ozone NAAQS of 75 parts per billion (ppb).

A portion of the District was classified as Serious Nonattainment and required to achieve attainment by the of end of 2020.

The District failed to meet the 75 ppb standard by the attainment date and was recently reclassified as Severe Nonattainment.

Severe Nonattainment

The Severe Nonattainment Major Source threshold for NOx and VOCs is 25 tons per year (tpy).

Therefore, the NOx and VOC threshold for Rule 201.1 is being revised from 50 tpy to 25 tpy.

Only the NOx and VOC threshold is being revised.

The threshold for "Any Regulated Air Pollutant, excluding GHGs" will remain at 100 tpy and the HAP thresholds will remain at 10 tpy of one HAP, or 25 tpy of two or more HAP's.

2012 Amendment

Although the last revision of Rule 201.1 was adopted January 12, 2012, the EPA never acted on the submittal. Therefore, the District has been enforcing the March 11, 2004, revision.

The 2012, amendment was an extensive revision of the Rule, which included adding Greenhouse Gas (GHG) provisions.

The definition of *Major Source* was revised to include...any stationary source with a potential to emit 100,000 tpy of CO2e or with GHG emissions "subject to regulation" as defined in 40 CFR 70.2.

The currently proposed revision of Rule 201.1 is based on the most recently adopted (2012) amendment of the Rule.

Rule 201.1 Questions Comments

Amended Rules 402 & 402.2

Rule 402
Fugitive Dust
&
Rule 402.2
Agricultural Operations

PM10 Health Effects

Fugitive dust contains varying sizes of particulate matter including those with a diameter of 10 micrometers or less (PM_{10}) .

Numerous studies have linked PM_{10} exposure to a variety of health problems. People with heart or lung diseases, children, and the elderly are most likely to be affected by exposure to PM_{10} . However, normally healthy people can experience symptoms too.

Short-term exposure can aggravate lung disease, cause asthma attacks, acute bronchitis, and increase susceptibility to respiratory infections.

Long-term exposures can cause reduced lung function, chronic bronchitis, and even premature death.

Rule 402 Overview

Rule 402 was originally adopted November 29, 1993, and was last amended March 3, 2015.

The purpose of Rule 402 is to prevent, reduce, and mitigate ambient concentrations of anthropogenic fugitive dust emissions to an amount sufficient to maintain the National Ambient Air Quality Standards (NAAQS) for PM_{10} .

Rule 402 Applicability

Provisions of Rule 402 are applicable to outdoor fugitive dust producing activities, which include:

Handling, storage, and transport of bulk storage piles, off-field agricultural sources, construction, demolition, excavation, extraction, and other earthmoving activities, including, but not limited to, land clearing, grubbing, scraping, on-site travel including travel on access roads to and from the job site, and any other anthropogenic condition resulting in wind erosion.

2015, Amendment

Upon completing their review of the March 12, 2015, amendments, EPA expressed concerns with a few State Implementation Plan (SIP) approvability issues. EPA gave the District the option of receiving partial approval-disapproval of amended Rule 402 or withdrawing the submittal, correcting the issues, and resubmitting the revised Rule for inclusion into the SIP at a later date.

The District chose to withdraw amended Rule 402 through formal request on March 4, 2021, then revise and resubmit at a later date.

Although amended Rule 402 was withdrawn from EPA's consideration, the District continued to enforce the rule locally, and will continue to enforce it until the Board adopts a revision.

Rule 402 Definitions

Two definitions have been added to Section III, Definitions:

• Commercial Solar Facility

Opacity

Six definitions have been revised:

- Active Project
- Contractor
- Contingency Measures

- Inactive Disturbed Surface Area
- Large Project
- Non-Routine

Two definitions have been deleted:

Event Material

Simultaneous Sampling

Rule 402 Exemptions

Revised Exemptions

- * Endangered Species Act
- * Unpaved roads that are not part of a large project
- ***** Bulk Materials

Removed Exemption due to inconsistency with CAA 110(f)

* Active operation conducted during emergency life-threatening situations, or in conjunction with any officially-declared disaster or state of emergency. Emergency activities lasting more than 30 days shall be subject to this regulation, except where compliance would limit effectiveness of ensuring public health and safety.

Exemptions continued

Removed Exemption due to inconsistency with CAA 110(f)

* Contingency measure is triggered if EPA publishes a finding in the Federal Register that District's portion of the Indian Wells Valley Planning Area has failed to maintain NAAQS for PM10.

Rule 402 Requirements

The following language was added to Section V, Requirements.

A person shall not cause or allow fugitive dust emissions from:

- 1. Any active operation to remain visible in the atmosphere beyond the property line of the emission source.
- 2. Any applicable source such that the dust causes 20% opacity or greater during each observation and the total duration of such observations (not necessarily consecutive) is a cumulative three minutes or more in any one hour. Only opacity readings from a single source shall be included in the cumulative total used to determine compliance.

Requirements continued

Language was added to Section V.D.2. to specify that the "If you see blowing dust" sign be at least 3 feet wide by 3 feet tall and made of a durable material such as metal, wood, or plastic.

District's contact phone number (661) 862-5250 was added to the rule to allow easy reference for inclusion on *if you see dust sign*.

A Commercial Solar Facility section was added to clarify the fugitive dust plan requirements for activities related to the construction and operation of commercial solar facilities.

Test Method for Unpaved Roads and Traffic Areas was added to Attachment B, Visual Determination of Opacity.

Rule 402 Questions Comments

Rule 402.2 Overview

Rule 402.2 was originally adopted March 3, 2015.

The purpose of Rule 402.2 is to prevent, reduce, and mitigate ambient concentrations of anthropogenic fugitive dust emissions generated from agricultural operations through implementation of Conservation Management Practices.

Rule 402.2 Applicability

Provisions of Rule 402.2 are applicable to agricultural operations located within the Eastern Kern Air Pollution Control District.

Requirements of Rule 402.2 are applicable to:

Handling, storage, and transport of bulk storage piles, off-field agricultural sources, construction, demolition, excavation, extraction, and other earthmoving activities, including, but not limited to, land clearing, grubbing, scraping, on-site travel including travel on access roads to and from the job site, and any other anthropogenic condition resulting in wind erosion.

2015, Adoption

Upon completing their review of adopted Rule 402.2 (March 12, 2015), EPA expressed concerns with a few SIP approvability issues. EPA gave the District the option of receiving partial approval-disapproval of Rule 402.2 or withdrawing the submittal, correcting the issues, and resubmitting the revised rule for inclusion into the SIP at a later date.

District chose to withdraw Rule 402.2 through formal request on March 4, 2021, revise then resubmit at a later date.

Although Rule 402.2 was withdrawn from EPA's consideration, the District continued to enforce the rule locally, and will continue to enforce it until the Board adopts a revision.

Rule 402.2 Definitions

The definition for High Wind Event: *Periods with sustained wind and gusts exceeding 25 miles per hour* was added to Section III, Definitions.

EPA requested adding the word "applicable" before "federal" to definition III.M, Chips/Mulches, Organic Materials, Polymers, Road Oil & Sand (i.e., "Application of any...dust suppressant that meets all specification required by any applicable federal, state, or local water agency...").

A definition for *Opacity* was added to Rule 402, Fugitive Dust to clarify the Opacity definition in Rule 402.2, which reads: *As defined in Rule 402, Fugitive Dust*.

Rule 402.2 Requirements

The following requirement was added to Section V.F, Requirements: *An owner/operator shall avoid tilling or harvesting the day before a forecast high-wind event or during a high-wind event.*

Requirements continued

Section VII.B.1 and 2, Administrative Requirements have been removed because they are no longer needed:

- 1. Within 210-days after adoption of this rule, for existing agricultural operation(s). and
- 2. Within 180-days after adoption of this rule, for agricultural operation(s) or agricultural parcel(s) that are acquired and become subject to the provisions of this Rule after adoption date.

And replaced with: Within 180 days for any new agricultural operation or agricultural parcel that is acquired and becomes subject to the provisions of this Rule.

Rule 402.2 Questions Comments

Amended Rules 412 & 412.1

Rule 412

Gasoline Transfer into Stationary Storage Containers, Delivery Vessels, and Bulk Plants

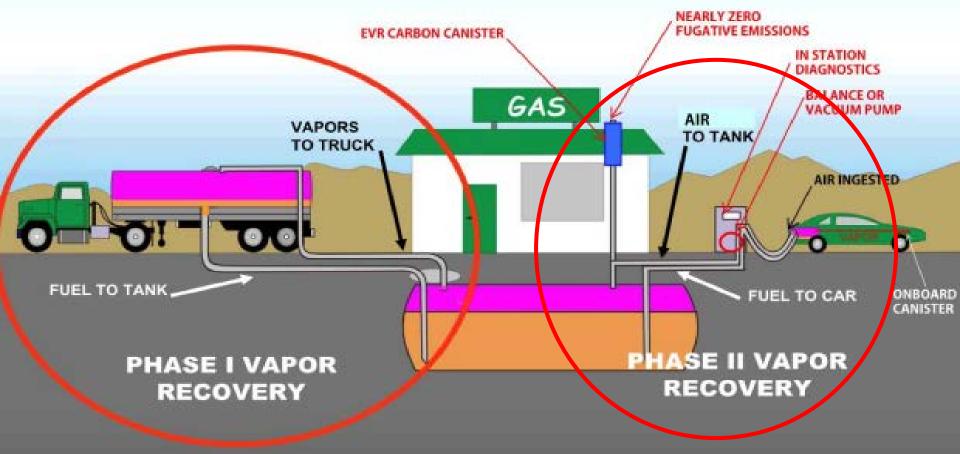
&

Rule 412.1

Transfer of Gas to Vehicle Fuel Tanks

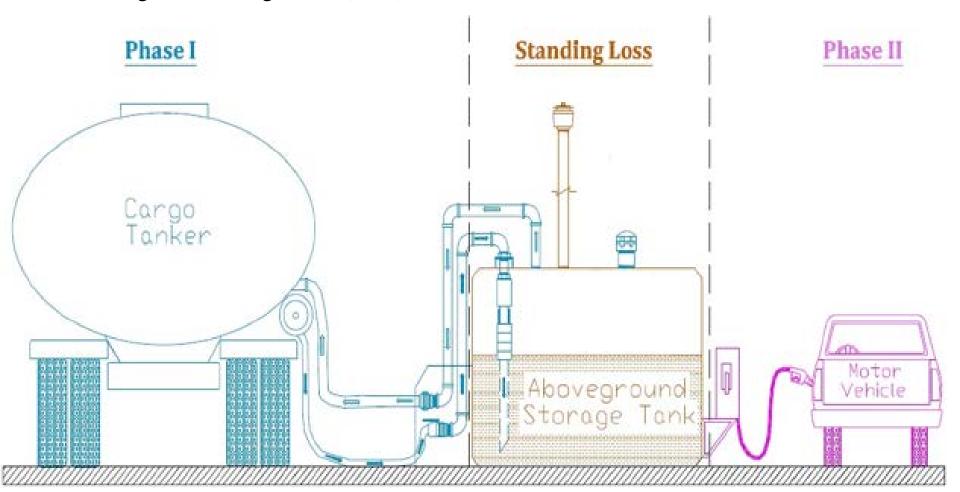
Amended Rules 412 & 412.1

Underground Storage Tank (UST)



Amended Rules 412 & 412.1

Aboveground Storage Tank (AST)



Background

- □ Rules 412 and 412.1 were last amended in 05/06/1991and 11/09/1992
- □ CARB has made many changes to vapor recovery regulations since 1991.
- □ In need for a major update/overhaul!
- □ Proposed Rule amendments not expected to result in additional vapor control requirements beyond CARB requirements.
- □ Amendments to Rule 412 poses no significant economic cost to industry.

- □ Section II-Definitions (15 total added):
 - APCO:
 - **CARB**:
 - CARB Certified:
 - Aviation Gasoline:
 - Background:
 - **Component**:
 - Delivery Vessel:
 - Emergency:
 - EPA:
 - Excess Organic Liquid Drainage:
 - Gasoline Vapors:
 - <u>Loading Rack</u>:
 - Major Modification:
 - Switch Loading:
 - Vehicle:

- □ Section III- Exemptions:
- ☐ Remove two exemptions that expired in 1993 and no longer relevant

- □ Section IV- Requirements (six subsections):
 - □ Subsection IV.A (Gasoline Storage and Loading)
 - □ Aviation gasoline storage of requirements
 - □ Incorporate CARB requirements for vacuum and pressure relief valves in accordance with Certification for Vapor Recovery Systems at Gasoline Dispensing Facilities (CP-201).
 - UST's installation and underground piping configurations shall be inspected by the District staff before backfilling.

□ Section III- Requirements:

- □ Subsection IV.B (Underground Storage Tanks)
 - □ CARB certified Phase I vapor recovery system with a minimum of 98 percent volumetric efficiency
 - □ Phase I vapor recovery system with a minimum of 95 percent volumetric efficiency for aviation gasoline
 - Incorporate parameters for pressure-vacuum relief valve requirement to match CARB's Certification for Vapor Recovery Systems at Gasoline Dispensing Facilities (CP-201).
 - □ Reference to required applicable performance test standards
- □ Subsection IV.C (Aboveground Storage Tanks)
 - □ Vacuum relief valve requirements in accordance with certification procedure (CP-206)
 - □ Vacuum relief valve requirements for aviation gasoline
 - □ CARB certified Phase I and Standing Loss Control in accordance with CARB Executive Order
 - Reference to required applicable performance test standards was also incorporated in this section.

- □ Section IV- Requirements:
 - □ Subsection IV.D (Inspection Schedule)
 - □ Check of loose, damaged, or missing liquid and vapor cap, gasket, adaptors, etc.

Table 1 - Schedule of Maintenance Inspection

Gasoline dispensed by the operation during largest monthly throughput of previous year	Frequency of Inspections
A. Retail Gasoline Outlets	
1. Less than 25,000 gallons	One day per week
2. 25,000 gallons or greater	Five days per week
B. Non-Retail Gasoline Outlets and other gasoline dispensing operations	
1. Less than 2,500 gallons	One day per month
2. 2,500 to less than 25,000 gallons	One day per week
3. 25,000 gallons or greater	Five days per week

- □ Section IV- Requirements:
 - □ Subsection IV.E (Gasoline Bulk Plants and Loading Racks)
 - □ CARB certified Phase I vapor recovery system
 - □ Phase I vapor recovery system with a minimum of 90 percent volumetric efficiency for aviation gasoline
 - ☐ Include leak testing inspection frequency for bulk plants and repair time frames
 - □ Subsection IV.F (Delivery Vessels)
 - ☐ List CARB requirements for Delivery Vessels i.e. equipped with CARB certified vapor control equipment

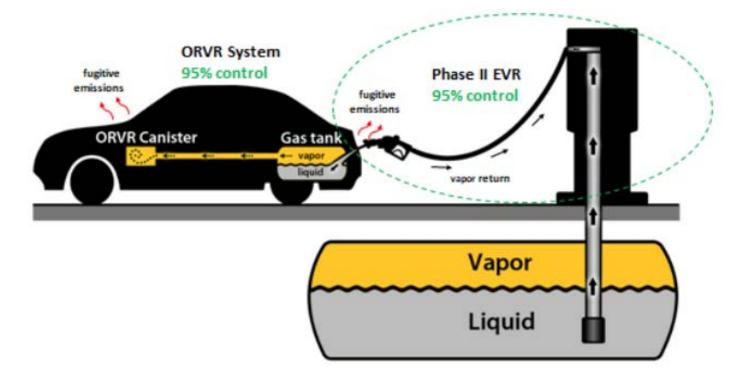
- □ Section V- Administrative Requirements:
 - □ Subsection V.A. Outline Recordkeeping Requirements
 - □ Subsection V.B. Reference CARB testing requirements
 - □ Subsection V.C. Reference applicable CARB Test Methods.
- □ Section VI- Compliance Schedule: Effective at the time of Rule adoption.

Rule 412 Questions Comments

- □ Section II-Definitions (18 total added):
 - APCO:
 - **ASTM**:
 - Background:
 - **CARB**:
 - Component:
 - <u>E85 Fuel</u>:
 - Emergency:
 - <u>EPA</u>:
 - ICC:
 - In-Station Diagnostics (ISD):
 - IOM Manual:
 - Leak:
 - <u>Liquid Condensate Trap (knock-out pot, thief port)</u>:
 - Major Defect:
 - Phase II Vapor Recovery System:
 - Portable Hydrocarbon Detection Instrument:
 - Vehicle:
 - Vehicle Fleet:

□ Section III- Exemptions:

- □ Adding two exemptions:
- □ Vehicle fleets with 90 percent of their vehicles equipped with Onboard Refueling Vapor Recovery (ORVR) to no longer maintain or not install Phase II vapor recovery.
- ☐ E-85 dispensing operations



□ Section IV- Requirements:

- All CARB-certified vapor recovery systems are maintained in accordance with their CARB Executive Orders
- □ Subsection IV.B (Inspections):
 - UST's shall have underground piping configurations and underground storage installations <u>inspected by the District staff before backfilling.</u>
 - Inspection schedule: Check nozzle faceplate, bellows, latching device spring, insertion interlock mechanism, automatic shut-off mechanism, hold open latch. etc. Check that the hoses are not torn or crimped.

Table 1 - Schedule of Maintenance Inspection

Gasoline dispensed by the operation during largest monthly throughput of previous year	Frequency of Inspections	
A. Retail Gasoline Outlets		
1. Less than 25,000 gallons	One day per week	
2. 25,000 gallons or greater	Five days per week	
B. Non-Retail Gasoline Outlets and other gasoline dispensing operations		
1. Less than 2,500 gallons	One day per month	
2. 2,500 to less than 25,000 gallons	One day per week	
3. 25,000 gallons or greater	Five days per week	

- □ Provisions for Liquid Condensate Traps
- □ Provisions for In-Station Diagnostics (ISD) system

- □ Section V- Administrative Requirements:
 - □ Separate exempt and non-exempt recordkeeping requirements
 - ORVR exempt operations maintain record of make, model, model year, and vehicle identification number of all vehicles being refueled at the facility
 - □ V.C. CARB testing requirements
 - Add language requiring District notification 7 days prior to performance testing added as well as language requiring performance test within 60 days of new equipment installation or modification
- Section VI- Compliance Schedule:
 - □ Facilities claiming ORVR exemption shall modify PTO conditions, pursuant to Rule 210.1

Rule 412.1 Questions Comments

Amended Rules 301, 302, 303

Rule 301 Permit Fees & **Rule 302** Permit Fee Schedules R **Rule 303** Miscellaneous Fees

Fee Rules Description

Rule 301 (Permit Fees)	Rule 302 (Permit Fee Schedule)	Rule 303 (Miscellaneous Fees)
☐ Outlines Application Filing Fees and Transfer of Ownership application fee	☐ Annual Permit Fees ☐ (12 schedules-based on rating and type of equipment)	☐ Outlines fees for: ☐ Application Processing ☐ CEQA document preparation fees ☐ Portable Equipment Inspections Fees ☐ Plan Review Fees

District Responsibilities

- ☐ To attain air quality standards, the District is required by State and Federal Clean Air Acts to:
 - Permit stationary sources, develop attainment plans, adopt rules and regulations, implement programs to reduce emissions, and ensure that permitted stationary sources of air pollutants are in compliance with all applicable federal, state, and District rules.
- ☐ Revenue to fund these programs:
 - ☐ District Fees (Regulation III, Fees)
 - ☐ State and Federal Grants (pass-through)
- ☐ Permit fees pursuant to Rules 301, 302, and 303, account for 82% of District founding of day-to-day operations
- □ Only 2.1% of day-to-day operation funded by state subvention aid

Background

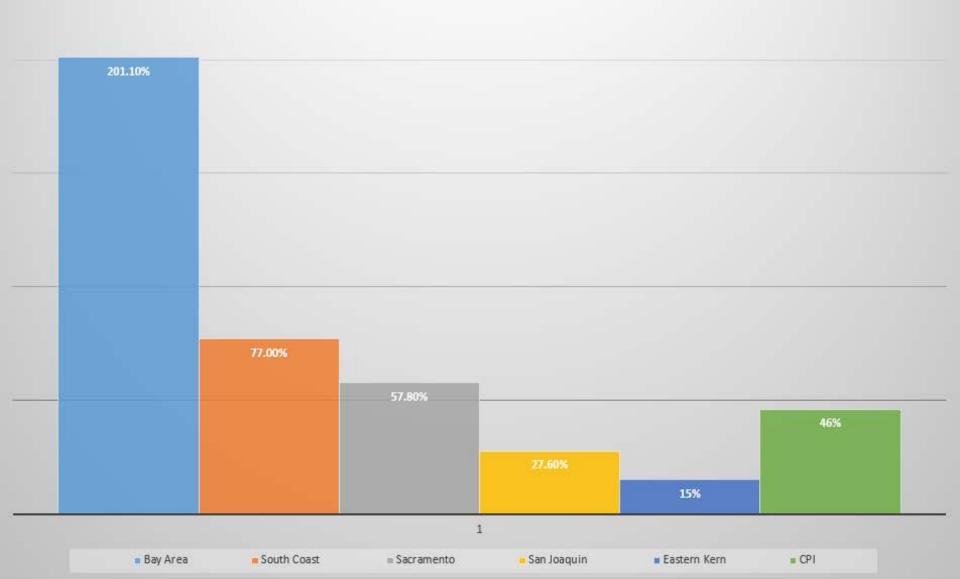
Rule 301	Rule 302	Rule 303
Adopted – 04/18/1972	Adopted – 04/18/1972	Adopted – 04/18/1972
Last fee increase– 03/13/2008	Last fee increase – 03/13/2008	Last fee increase – 03/12/2015
(13 years)	(13 years)	(6 years)

- ☐ State index for purchase of consumer goods and services has increased by 29.34% in the last 13 years (since 2008).
- ☐ Only two fee increases since 1998 (23 years)

Increase Workload/Mandates

□ Significant incurrence in workload due to unfounded state and federal mandates have been absorbed with no significant staffing increases
 □ New mandates
 □ Address AB 617 requirements (analysis of emissions inventory, processing grant funding, BARCT rule analysis, etc.)
 □ Re-assess facilities under state Air Toxics Hot Spots program and new Emission Inventory Criteria and Guidelines (EICG)
 □ New federal ozone and PM attainment plans in next 2 years
 □ Revised major rules for contingency measures
 □ New mandate may require employment of additional staff

Comparison of Fee Increases 2000-2017



Proposed Rule Amendments

• 10% Fee Increase Across Three District Rules (rounded to nearest ten)

Rule 301 (Permit Fees)	Rule 302 (Permit Fee Schedule)	Rule 303 (Miscellaneous Fees)
 Filing Fee increase from \$120 to \$130 Transfer of ownership or company name change increase from \$65 to \$70 	 10% increase across all 12 schedules as listed in App. B Phased over two years 5% in 2022/2023 5% in 2023/2024 	 10% fee increase phased over two years Processing fees increase from \$100 per hour to \$110 per hour \$105 in 2022/2023 \$110 in 2023/2024

- Result in approximately \$147,000 in additional annual revenue after April 2024
- The increase in fees will offset costs associated with processing applications, day to day operations, execution of attainment related projects, and adjust for the past 13 years of inflation.

Additional Changes to Rules 301 and 303

Correct minor language typos i.e. old reference Rule 301, section II, III and Rule 303, Section V

II. Authority to Construct, Permit to Operate, and Exemption Issuance Fees

A. For issuance of an Authority to Construct, an initial district Permit to Operate, Title V Permit to Operate, or an initial Request for Exemption pursuant to Rule 202 Section II. MK.5-7, the applicant shall pay fees as prescribed in Rule 302. For issuance of an Authority to Construct, or Permit Exemption application processing fees shall also be paid as prescribed in Rule 303.

Rules 301, 302, & 303 Questions Comments

Amended Rules 422 & 423

Rule 422
New Source Performance Standards
(NSPS)

&

Rule 423

National Emission Standards for Hazardous Air Pollutants (NESHAPs)

Code of Federal Regulations (CFR)

CFR Background

- The Federal Clean Air Act (FCAA) requires EPA to establish New Source Performance Standards (NSPS) for source categories that have the potential to affect attainment of the National Ambient Air Quality Standards (NAAQS).
- □ EPA is also required to develop Maximum Achievable Control Technology (MACT) standards for major sources of Hazardous Air Pollutants (HAPs) and certain area sources of HAPs
- □ MACT standards are listed under the "National Emission Standards for Hazardous Air Pollutants" (NESHAP) in the CFR.

Rule 422 NSPS & Rule 423 NESHAP

Amendments

Reasons for amending Rule 422 & 423

- □ EPA promulgates new standards and revisions to existing standards as needed.
- □ Authority to implement and enforce most of the standards in California is delegated to local air districts.
- Rule 422 incorporates (by reference) NSPS as promulgated by EPA and codified in 40 CFR Part 60. Rule 423 incorporates (by reference) NESHAPs as promulgated by EPA and codified in 40 CFR Parts 61 and 63.
- District periodically reviews the CFR for newly delegated source categories to include in Rules 422 and 423.

Rule 422 & 423 Amendments

- □ Rule 422 & 423 were last amended 1/11/2018 and due for an update.
- □ 422, NSPS has 11 updated subpart titles and 14 additional subparts.
- □ 423, NESHAP has 20 updated subpart titles and 1 additional subpart.
- □ Amendments to Rules 422 & 423 pose no significant economic cost to industry.

Questions Comments

Contact Information

Jeremiah Cravens
Senior Air Quality Specialist
CravensJ@kerncounty.com
(661) 862-5250

Miguel Sandoval Ortega Air Quality Engineer SandovalM@kerncounty.com (661) 862-5250

Samuel Johnson
Air Quality Engineer
johnsonsam@kerncounty.com
(661) 862-5250