

**Public Workshop for District Rule 2201
(New and Modified Stationary Source Review Rule)
and
District Rule 2301
(Emission Reduction Credit Banking)**

June 29, 2022

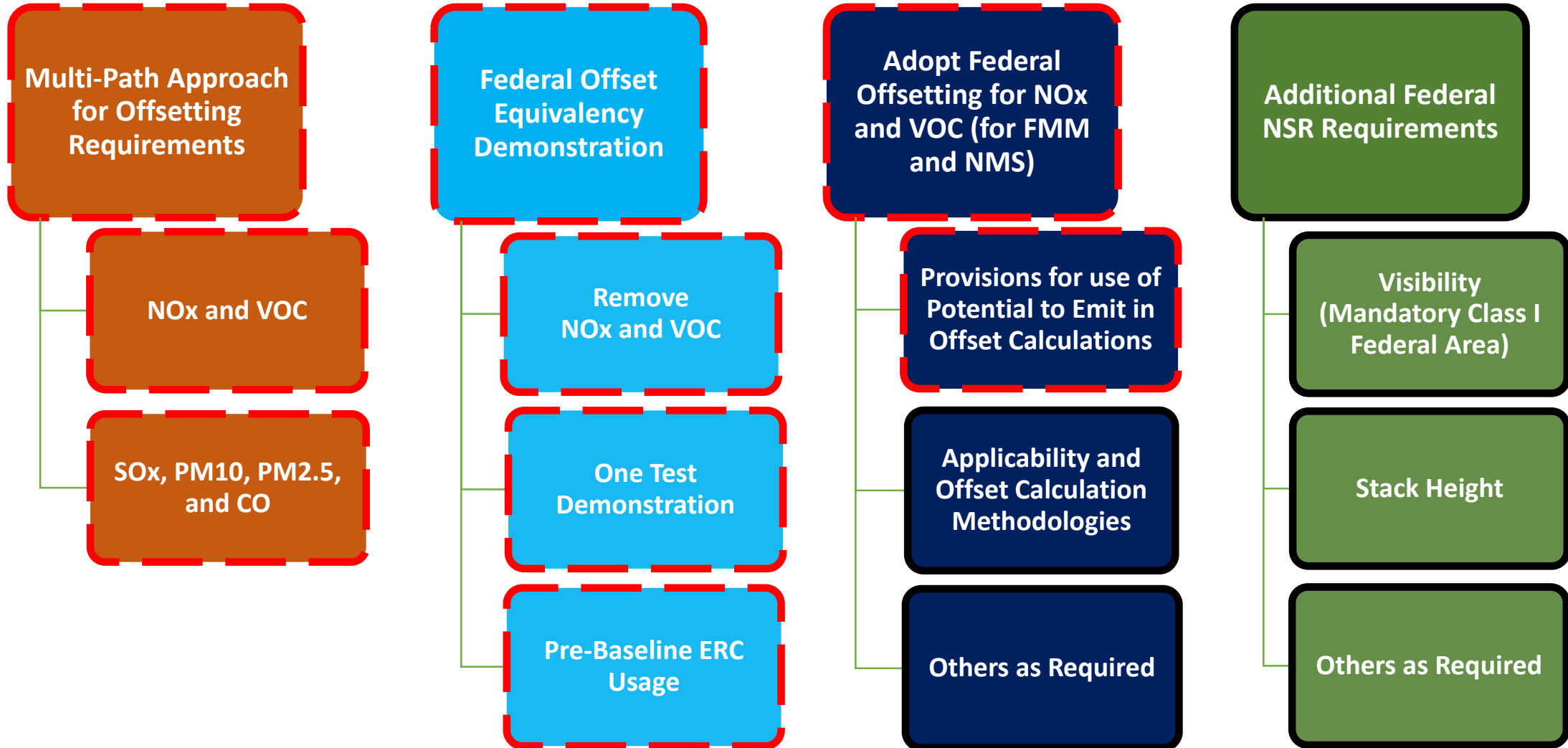
webcast@valleyair.org

Discussion of Principle Amendments Proposed for Rule 2201 and Rule 2301

- Rule 2201 Amendments
 - Federal Offset Equivalency Demonstration
 - Offsetting Requirements
 - Other Potential Amendments
- Rule 2301 Amendments
 - Application Timeliness
 - Definition of Shutdown
 - Other Potential Amendments



Overview of Rule 2201 Topics





Overview of Rule 2301 Topics



**ERC Application
Timeliness**

**Evaluate New
GHG Banking**

**ERCs from non-
Permitted Sources**

Other Topics

Shutdown Definition

Proposed Amendments to Rule 2201 (NSR)

Multi-Path Approach for Offsetting Requirements

- Path for NO_x and VOC emissions:
 - Integrate federal offsetting program into Rule 2201 consistent with current requirements and equivalency remedies in place
 - For New Major Sources (NMS) and Federal Major Modifications (FMM)
 - Require Federal Offset Quantity (FOQ)
 - Require FOQ to be satisfied with ERCs that are surplus at time-of-use
 - For all other ATC projects
 - Require District Offset Quantity (DOQ)
 - DOQ may be satisfied with ERC that are valued at time of banking/issuance
 - consistent with State law and historic California air district practice
 - No longer a need for NO_x and VOC projects to be tracked and included in the offset equivalency system

Multi-Path Approach for Offsetting Requirements

(cont'd)

- Path for PM10, PM2.5, SOx, and CO:
 - For all ATC projects
 - Require District Offset Quantity (DOQ)
 - DOQ may be satisfied with ERCs that are valued at time of banking/issuance
 - consistent with State law and historic California air district practice
 - Programmatically Rule 2201 offsetting requirements are more stringent than federal NSR offsetting requirements
 - Continue to track and include these pollutants in federal offset equivalency system to ensure federal offset equivalency
 - Offsetting requirements are not expected to change

Federal Offset Equivalency Tracking System

- NO_x and VOC will be removed from the equivalency system
 - Federal NSR offsetting requirements will be applied to New Major Sources and Federal Major Modifications for NO_x or VOC
- PM₁₀, PM_{2.5}, SO_x, and CO will remain in the system
- See next slide for draft rule language

7.0 Annual Offset Equivalency Demonstration for PM10, PM2.5, SO_x, and CO and Pre-baseline ERC Cap Tracking System for all regulated NSR pollutants

7.1 Offset Tracking System

The APCO shall implement a system for tracking the following for each permitting action:

7.1.1 Federal Offset Quantity, which is defined as t~~The quantity of offsets that would have been required for new major sources and federal major modifications in the District had the federal new source review requirements, codified in 40 CFR 51.165, and Title I part D of the Clean Air Act (CAA), been applied to these sources. These requirements include offsetting the full emissions increase from new and modified major sources, using actual emissions baselines when required under 40 CFR 51.165, and providing offsets necessary to meet the CAA offset ratio requirements and provide a net air quality benefit.~~

7.1.2 District Offset Quantity, which is defined as t~~The The quantity of offsets actually required for all new and modified sources in the District pursuant to the requirements of this rule and, for the purposes of the Pre-baseline ERC Cap Tracking System outlined in any District-adopted and EPA-approved attainment plan.~~

Federal Offset Equivalency Tracking System (cont'd)

- Evaluation of equivalency will be based on one comprehensive test for each pollutant:
 - For all ATC projects issued during the tracking year, the District must be able to match the total Federal Offset Quantity (FOQ) required for that pollutant with an equal amount of surplus emission reductions valued at time-of-use
 - This would be a version of “Test 2”, the surplus value test (Rule 2201, 7.2.2), and is the appropriate measure of programmatic equivalency
 - Remedy for failure is implementation of the federal NSR offset system
 - The current two-test approach is not sufficient to ensure the District will remain equivalent with federal offsetting requirements when one test fails
 - Using one test for equivalency reduces complexity and eliminates potential interpretive confusion of having different remedies for different tests
- See next slide for draft rule language

7.2.1 ~~Demonstration on Equivalency of~~Compilation of Offset Requirements:

~~7.2.1.1~~—The report shall include a comparison ~~the total~~ of the ~~annual quantity of federal offsets~~Federal Offset Quantity that would have been required (as tracked pursuant to Section 7.1.1) ~~to~~and the ~~total annual quantity of offsets~~District Offset Quantity actually required under this rule during the tracking period, including any excess offsets required from previous reporting years (as tracked pursuant to Section 7.1.2).

~~7.2.1.2~~—The report shall also describe any additional emission reductions retired to address a shortfall in required offsets as specified in Section 7.4.1.1. Such description shall, at a minimum, specify the emission reductions used and the surplus value of those reductions. The surplus value of these reductions may also be used in demonstrating equivalency under Section 7.2.2.

7.2.2 Demonstration of Federal Offset Equivalency~~on Creditability of Emission Reductions~~

7.2.2.1 The report shall include a comparison of the ~~total annual quantity of federal offsets that would have been required (as tracked pursuant to Section 7.1.1)~~Federal Offset Quantity to the surplus value of creditable emission reductions used as offsets during the year (as determined and tracked pursuant to Section 7.1.3).

Other Proposed Amendments to District NSR Rule

- Amendments to clarify which provisions may be utilized for NO_x and VOC NMS and FMM consistent with federal offsetting requirements
 - Explore amending Baseline Emissions definition to clarify when Historic Actual Emissions must be used rather than Pre-Project Potential to Emit:
 - Remove *Clean Emissions Unit* provision
 - Modify *Fully-Offset Emissions Unit* definition such that offsets have been provided for the full potential to emit within the past five years.
 - For a given pollutant, an emissions unit for which offsets have been provided within the 5 year period prior to the date that the application is deemed complete, for the unit's full potential to emit
 - Explore retention of *Highly Utilized Emissions Unit* provision
 - Explore emission offset exemptions including, but not limited to, the exemption for emergency equipment
- Specify provisions for calculating Unbanked Shutdown Emission Reductions (USERs) from facility, e.g. require they be Actual Emission Reductions
- Explore Clean Air Act Sec. 182(e)(2) offset provisions for Extreme Areas
 - Add requirements to allow the use of internal offsets at 1.3:1

Proposed Amendments to Rule 2301 (Emission Reduction Credit Banking)

ERC Application Timeliness

- CARB Report flagged ERC Application Timeliness as an issue for ERCs generated by facility shutdowns
- District Policy APR 1805, Policy on the Interpretation of the Definition of Shutdown also flagged this issue and proposed a solution which the District had put into practice
- ERC Application Timeliness – an emission reduction is eligible for banking if an application is submitted within 180 days of the emission reduction occurrence (Rule 2301, Section 4.2.3 and 5.5)
- Clarify rule language to implement longstanding practice

Emission Reductions

- For permitted sources, an emission reduction can come about through:
 - Reducing emissions from an emissions unit (e.g. voluntarily adding an emission control device not required by law or regulation)
 - Requires implementation of an ATC
 - On the day the ATC is implemented, the emissions unit begins operating with reduced emissions
 - Thus, generally, the date of emission reduction is the ATC implementation date
 - Shutdown of an emissions unit
 - Rule 2301 defines shutdown in Section 3.14

Current Rule 2301 Definition of Shutdown

- Section 3.14, Shutdown: shall mean either the earlier of the permanent cessation of emissions from an emitting unit or the surrender of that unit's operating permit. If, prior to the surrender of the operating permit, the APCO determines that:
 - Section 3.14.1: the unit has been removed or fallen into an inoperable and unmaintained condition such that startup would require an investment exceeding 50% of the current replacement cost; and
 - Section 3.14.2: the owner cannot demonstrate to the satisfaction of the APCO that the owner intended to operate again, then the APCO may cancel the permit and deem the source shutdown as of the date of last emissions. Evidence of an intent to operate again may include valid production contracts, orders, other agreements, or any economically based reasons which would require the operation of the emitting unit after initial cessation of emissions

Potential Opportunities for Clarification:

- As written, Section 3.14 and Sections 3.14.1 and 3.14.2 are difficult to reconcile
 - 3.14 implies priority should be given to last emissions over PTO surrender for shutdowns
 - But 3.14.1 and 3.14.2 imply 3.14 gives priority to PTO surrender over last emissions
 - Sections 3.14.1 and 3.14.2 describe a contingency where the District should use date of last emissions over PTO surrender of a PTO. But Sections 3.14.1 and 3.14.2 are logically unnecessary if 3.14 already gives priority to last emissions
- Section 3.14 also implies surrender of PTO can legally occur before last emissions (in violation of Rule 2010, Permits Required)
 - Since permitted sources cannot legally operate without a permit, 3.14 would not allow for any situation where surrender of PTO is given priority over last emissions. But if this is the intention, why mention PTO surrender at all?
- As written, the definition could be read to create an incentive to operate (and to emit) merely to extend application eligibility
- As written, the definition could be read to effectively eliminate seasonal sources from banking emission reductions

Recommended Shutdown Language

- District Policy APR 1805, Policy on the Interpretation of the Definition of Shutdown (from 1992) provides language that is coherent and has been used in practice since the formation of SJVAPCD
- See next slide for draft rule language

3.14 ~~Shutdown: shall mean: either the earlier of the permanent cessation of emissions from an emitting unit or the surrender of that unit's operating permit. If, prior to the surrender of the operating permit, the APCO determines that:~~

3.14.1 For unpermitted sources, the date of the shutdown shall be the date of the last emissions from the emissions unit.

3.14.2 For permitted sources, the date of the shutdown shall be the date of the surrender of the operating permit, unless the APCO determines that:

3.14.2.1 the unit has been removed or fallen into an inoperable and unmaintained condition such that startup would require an investment exceeding 50% of the current replacement cost; and

3.14.2.2 the owner cannot demonstrate to the satisfaction of the APCO that the owner intended to operate again, ~~then the APCO may cancel the permit and deem the source shutdown as of the date of last emissions.~~ Evidence of an intent to operate again may include valid production contracts, orders, other agreements, or any economically based reasons which would require the operation of the emittingemissions unit. ~~after initial cessation of emissions.~~

Recommended Language for Application Procedures

- ERC applications must be received within 180 days of the date of an actual emission reduction (AER). AER is defined in Rule 2301 (by reference) and Rule 2201
 - For emission reductions generated through over-control of a permitted source, the date of emission reduction will be the date the Authority to Construct permit authorizing the reduction is implemented
 - For emission reductions generated through permanent removal of a permitted source, the date of emission reduction will be the date of shutdown (as defined in 3.14)
 - The date of shutdown in the default case will be the date the Permit to Operate is surrendered
- See next slide for draft rule language

5.5 Except for reductions covered under Sections 4.1.2 ~~and 4.5.1~~, ERC Certificate applications for reductions shall be submitted within 180 days after the emission reduction occurs. For AER resulting from the implementation of an Authority to Construct permit, the date of emission reduction is the date the Authority to Construct permit was implemented. For AER resulting from the permanent removal of an emissions unit with a Permit to Operate, the date of emission reduction is the date of shutdown as defined in Section 3.14.

~~5.5.1 For reductions covered under Section 4.1.2, ERC Certificate applications shall be filed with the District by June 17, 1993.~~

~~5.5.2 For reductions covered under Section 4.5.1 that occurred prior to January 19, 2012 ERC Certificate applications shall be filed with the District by July 19, 2012. For reductions covered under Section 4.5.1 that occur on or after January 19, 2012 ERC Certificate applications shall be submitted within 180 days after the emission reduction occurs.~~

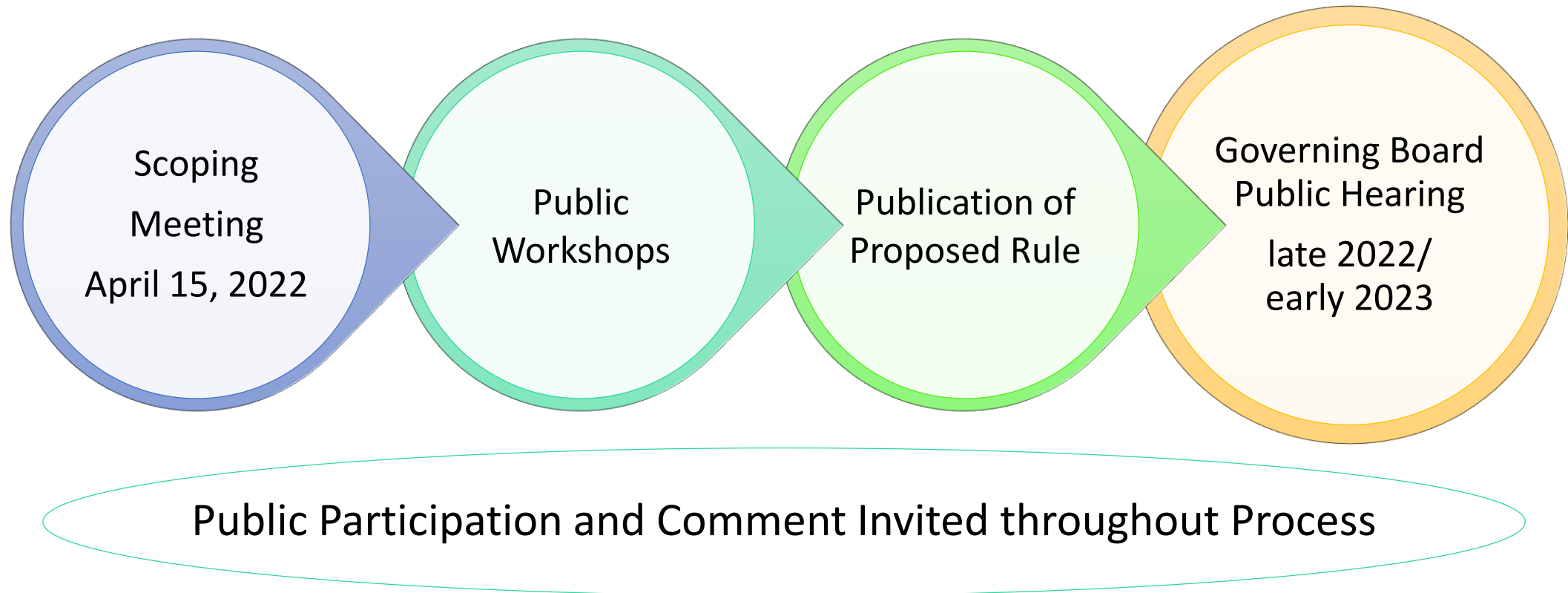
GHG Banking Assessment

- Evaluate need for future banking of new greenhouse gas (GHG) emission reductions
- Minimal historical use since GHG banking was added to the rule in 2012
- Existence of alternative mature GHG banking programs, e.g. CARB's Compliance Offset Program within Cap-and-Trade

Other Amendments to Rule 2301

- Revise as needed administrative mechanisms, definitions, and procedures for the banking and use of other creditable emission reductions (USERS, AQID, mobile source credits, etc.)

Next Steps: Public Engagement Process for Rule 2201 and Rule 2301 Amendments



Comments/Questions