

**SAN JOAQUIN VALLEY AIR POLLUTION CONTROL DISTRICT
CENTRAL REGION
1990 E Gettysburg Avenue
Fresno, CA 93726
(559) 230-6000**

STAFF REPORT

October 21, 2026

SHORT VARIANCE

DOCKET No. C-26-15S

FACILITY: Panoche Energy Center, LLC
43883 West Panoche Road
Firebaugh, CA 93622

LOCATION: 43883 West Panoche Road
Firebaugh, CA 93622

RULE VIOLATION: 1080 – *Stack Monitoring*
2070 – *Standards for Granting Applications*
2201 – *New and Modified Stationary Source Review Rule*
2520 – *Federally Mandated Operating Permits*
4001 – *New Source Performance Standards*
4703 – *Stationary Gas Turbines*

PERMIT NUMBERS: C-7220-0-2, -3-5

EPA AIRS NUMBER: 06-19-C7220

NOV NUMBER: N/A

TYPE OF BUSINESS: Electrical Power Generation

NATURE OF THE PROBLEM:

Panoche Energy Center, LLC (PANOCHÉ) operates a 400 megawatt electric power generating facility consisting of four General Electric LMS100 natural gas-fired combustion turbine generators. All electric power generated at the facility, which commenced first commercial operation in mid-2009, is in accordance with a Power Purchase Agreement with Pacific Gas & Electric (PG&E), and the plant is dispatched solely at PG&E's direction. Each of the combustion turbine (CT) units utilize water injection, a selective catalytic reduction (SCR) system with ammonia injection, and an oxidation catalyst to control emissions. Exhaust gas from each turbine is routed through individual stacks. District Rules and PANOCHÉ permit conditions require them to certify, maintain, operate, and quality-assure a Continuous Emissions Monitoring System (CEMS) on each stack that is designed to continuously measure and record the NO_x, CO, and O₂ concentrations of the exhaust gas.

PANOCHÉ will be replacing the NO_x, CO and O₂ CEMS analyzers on CT-3 with new, like kind analyzers. The current analyzers are in proper working order but are becoming obsolete and PANOCHÉ is electing to replace now them to avoid future potential problems.

Once the new analyzers are installed PANOCHÉ will calibrate the CEMS and begin collecting data. However, the CEMS data will not be valid until PANOCHÉ completes testing and certification of the new system, including a Relative Accuracy Test Audit (RATA), which is currently scheduled for the week of November 30, 2026.

PETITIONER'S REQUEST:

PANOCHÉ has requested a short variance from District Rules 1080, 2070, 2201, 2520, 4001, and 4703 in addition to conditions of the applicable permits. The requested short variance would be from November 9, 2026, through February 7, 2027. If granted, the variance would allow PANOCHÉ to operate CT-3 without a certified CEMS while the analyzers are replaced and the CEMS is certified.

EXCESS EMISSIONS:

No excess emissions are expected to occur during the variance period nor is any relief being sought from the applicable permitted emission limits.

IMMEDIATE COMPLIANCE:

PANOCHÉ is currently in compliance.

COMMENTS ON REQUIRED FINDINGS:

1. ***That the petitioner for a variance is, or will be, in violation of Section 41701 or of any rule, regulation, or order of the District.***

Operation of CT-3 without a certified CEMS will result in a violation of applicable requirements of District Rules 1080, 2070, 2201, 2520, 4001, and 4703 in addition to the applicable conditions on the subject permits.

2. ***That, due to conditions beyond the reasonable control of the petitioner, requiring compliance would result in either (1) an arbitrary or unreasonable taking of property, or (2) the practical closing and elimination of a lawful business.***

It is beyond the reasonable control of PANOCHÉ to maintain a certified CEMS at all times when hardware gets old, becomes obsolete, and must be upgraded to ensure compliant operation in the future. After installation of the analyzers, PANOCHÉ will be operating out of compliance until the necessary testing is done to complete the certification process. However, they must continue to operate the facility in order to complete the testing. Requiring PANOCHÉ to remain in compliance is unreasonable and would effectively shut down the facility since the unit could not complete the necessary testing to certify the CEMS.

3. ***That the closing or taking would be without a corresponding benefit in reducing air contaminants.***

There will be no excess emissions associated with this variance. Therefore, the closing or taking will not have a corresponding benefit in reducing air contaminants.

4. *That the applicant for the variance has given consideration to curtailing operations of the source in lieu of obtaining a variance.*

PANOCHE considered an operational curtailment. However, since no excess emissions are expected to occur and PANOCHE has contractual requirements to provide power to customers, an operational curtailment is not considered a reasonable alternative. Also, the certification process requires that the facility be operating under normal conditions.

5. *During the period, the variance is in effect, that the applicant will reduce excess emissions to the maximum extent feasible.*

No excess emissions are expected to occur as a result of the variance activities, nor is any relief being sought from the applicable emission limits.

6. *During the period the variance is in effect, that the applicant will monitor or otherwise quantify emission levels from the source, if requested to do so by the District, and report these emissions levels to the District pursuant to a schedule established by the District.*

It is not expected that excess emissions will occur. During the variance period, PANOCHE will use the data gathered by the CEMS as “credible evidence”. The collected data will be conditionally valid until the CEMS can be fully certified. The records will be available to the District for review.

GENERAL COMMENTS:

A nuisance as defined in District Rule 4102 is not expected to occur as a result of this variance. Nor would continued operations likely create an immediate threat or hazard to public health or safety.

It should be noted that the Environmental Protection Agency (EPA), which monitors major sources, might not recognize this variance, should it be granted. PANOCHE should be aware that the EPA could take enforcement action on this matter if it deems such action is appropriate.

RECOMMENDATIONS:

Should the Central Region Hearing Board make the required findings and move to grant a short variance to Panoche Energy Center, LLC, the District would recommend the following conditions:

1. The requested short variance would be from November 9, 2026, through February 7, 2027. If granted, the variance would allow PANOCHE to operate CT-3 without a certified CEMS while the new analyzers are installed and the CEMS recertified.
2. Relief shall be granted from the requirements of the applicable sections of District Rules 1080, 2070, 2201, 2520, 4001, and 4703, in addition to the following permit conditions:

C-7220-0-2	Condition 5
C-7220-3-5	Conditions 36, 37

3. The variance shall allow the continued operation of CT-3 without a certified CEMS until it can be certified per the applicable parts of the Code of Federal Regulations.
4. The variance shall end upon completion of the certification.
5. This variance does not grant relief for excess emissions during the variance period.
6. Notwithstanding the protection granted by this variance pending full certification, a failed RATA will not be granted variance protection and the District may take enforcement action upon failure.
7. At the conclusion of this variance, PANOCHE must be in compliance with all their permit conditions and applicable District Rules. If PANOCHE will not achieve compliance prior to conclusion of this variance they must contact the District as soon as practicable and before the variance period ends
8. A Federal Title V deviation report shall be submitted to the District within 10 days of discovery each time a Federal Title V permit condition is violated. It should be noted that multiple deviation reports may need to be submitted during this variance period. The deviation report must be sent to the facility inspector.
9. Should the facility experience operational conditions likely to cause a public nuisance, PANOCHE shall cease operations causing the problems and take all necessary actions to abate the problem immediately.
10. By February 22, 2027, or no later than 15 calendar days after the CEMS is certified, whichever occurs first, PANOCHE shall submit to the District a summary report. If the report due date should fall on a day the District is closed, it shall be due the next business day. The report shall include the following:
 - A. A summary of all activities undertaken during the variance period,
 - B. Date of the RATA (results can be submitted at a later date), and
 - C. The required certification of truth and accuracy, and completeness, signed by the designated responsible official of the facility, as required by Sections 9.13.1 and 10.0 of District Rule 2520 – *Federally Mandated Operating Permits*.
11. The end of variance summary report shall be submitted to the attention of:

Shannon Moore
SJVAPCD, Compliance Department
1990 E. Gettysburg Avenue
Fresno, CA 93726
Telephone: (559) 230-5963
E-mail: shannon.moore@valleyair.org
11. Failure to comply with any condition of this variance may render the variance null and void with the possibility of enforcement action taken that may include monetary penalties.