

**SACRAMENTO METROPOLITAN
AIR QUALITY MANAGEMENT DISTRICT**

For Agenda of **September 28 2006**

To: Board of Directors
Sacramento Metropolitan Air Quality Management District

From: Larry Greene, Air Pollution Control Officer
Sacramento Metropolitan Air Quality Management District

Subject: New Rule 310, PERMIT FEES – AGRICULTURAL SOURCE

Recommendations

1. Determine that the Rule amendment is Categorically Exempt from the California Environmental Quality Act (CEQA), and
2. Approve the attached resolution adopting new Rule 310.

Executive Summary

This is the second of the two hearings required under Health and Safety Code Section 42311 for approval of a new fee. New Rule 310, PERMIT FEES – AGRICULTURAL SOURCE, sets fees for recovering the cost of permitting agricultural stationary sources. Pursuant to California Health and Safety Code section 42311(e), before adopting a regulation establishing fees the District Board must hold a public meeting as part of a regularly scheduled meeting to hear oral or written presentations regarding the proposed changes. The August 24, 2006 Board hearing served as the first meeting, with adoption considered at this Board meeting.

The proposed fees do not fully recover the costs of implementing the agricultural permitting program. The proposed fees are similar to fees paid by other permitted industrial sources under Rule 301, PERMIT FEES – STATIONARY SOURCE. Program costs are estimated at \$30,224 and fee revenue is estimated at \$12,452. Remaining costs will be covered by state grants or other funding sources.

Attachments

The table below identifies the attachments to this memo.

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Background

In September 2003, California signed into law Senate Bill 700 (SB 700) which amended the air pollution control requirements in the California Health and Safety Code, in particular Section 42301.16, to include regulatory requirements for agriculture sources. In order to comply with the requirements of SB700, Staff recommended and the Board adopted two new rules at the August 24, 2006 Board meeting. Rule 215, AGRICULTURAL PERMIT REQUIREMENTS AND NEW AGRICULTURAL PERMIT REVIEW, established an agricultural permit system which requires agricultural stationary sources with actual emissions equal to or exceeding one-half of any applicable emissions threshold for a major stationary source to obtain an agricultural permit. It also requires agricultural sources subject to Rule 496, LARGE CONFINED ANIMAL FACILITIES and boilers/process heaters located at agricultural sources that are subject to Rule 411, NOX FROM BOILERS, PROCESS HEATERS AND STEAM GENERATORS that are applying for a low fuel usage exemption to obtain a permit. Rule 496 established mitigation requirements for Large Confined Animal facilities.

Rule 310 establishes a fee schedule that will apply to the new agricultural permits to cost recover administering the permit program. The fees are the same as the existing fees for non-agricultural sources with some differences: 1) combination of similar equipment types into one permit rather than individual permits per piece of equipment; 2) a specific fee category for confined animal facilities; 3) a fee for confined animal facilities emission mitigation plan updates; and 4) a public notification fee when a public notification is required by Rule 215 or Rule 496.

Impact on Businesses

Rule 310 will apply to any agricultural stationary source that is required to obtain a permit pursuant to Rule 215. Staff is estimating that there could be 4 agricultural stationary sources affected by the rule including one farming operation with greater than 800 acres using diesel engines to irrigate, a turkey ranch with greater than 100,000 birds, and two dairies with more than 1,000 milking cows.

The table below summarizes the fees that different types of agricultural emission units may anticipate. The cost to an affected agricultural stationary source will vary from one operation to another depending on the type of operation and the number of emission units involved.

POTENTIAL FEES			
Type of Agricultural Stationary Source	Initial Fee Existing Equipment	Initial Fee New Equipment	Renewal Fee
Farm with 800 acres irrigated with 10 diesel engines totaling 2370 HP (one permit for all 10 engines)	\$2355	\$4710	\$4083
Poultry Ranch or Dairy (one confined animal permit for each facility)	\$589	\$1178	\$1767

District Impacts

The permit fees do not cost recover the overall permitting program. Revenues from EPA 105 Grants and ARB Subvention are used to help fund the agricultural permitting program. The agricultural permitting program is a subset of the overall stationary source permitting program. Rule 310 is being proposed to help recover the costs from the agricultural permitting program specifically. Based on the District costs from the staff report for Rule 215, the anticipated staff costs from the agricultural permitting program are as follows:

Agricultural Permitting Program Costs
\$30,224

These costs include engineer and field inspection staff costs fully loaded and include the costs attributable to the program from rule development, air monitoring, emission inventory, Business Environmental Resource Center and the Hearing Board.

The fees that are anticipated to be collected from the new fee rule are:

Initial Permitting	Permit Renewals	Total
\$4,417	\$8,035	\$12,452

Emission Impacts

Rule 310 is an administrative rule and therefore does not impact emissions.

Environmental Review and Compliance

The District's Environmental Coordinator has determined that proposed Rule 310 requirements are exempt from CEQA. Public Resources Code section 21080(b)(8) and section 15273 of the state CEQA Guidelines provide that the adoption or amendments of fee rules are not subject to CEQA. To claim this exemption the District must find that the amendments are for the purpose of meeting operating expenses. Proposed Rule 310 establishes a fee schedule to recover the expenses of implementing District responsibilities for the permitting of agricultural stationary sources.

Public Comments & Outreach

Below is a summary of the public outreach undertaken by Staff to ensure that affected businesses are aware of the proposed new Rule 310.

- Staff conducted a public workshop on July 6, 2006, which was held in a location more accessible for the agricultural community (Wilton) and in the evening to promote increased attendance. Staff published the notice of public workshop in the Sacramento Bee, and sent the notice to all identified agricultural sources.
- Staff visited each affected source to tour the facility and talk one-on-one with the owner/operator about the requirements of the rule and to take input on the proposal.
- A meeting was held before the public workshop with Supervisor Don Nottoli, Agricultural Commissioner Frank Carl, Charlotte Mitchell of the Sacramento County

Farm Bureau, and Cynthia Cory of the California Farm Bureau to go over requirements of the rule and answer any questions.

- A notice for the first public hearing was published in the Sacramento Bee on July 24, 2006. The notice was also mailed to attendees of the public workshop, all affected sources, other agricultural facilities, and persons who have requested rulemaking notices.
- The Board held the first public hearing on August 24, 2006. No comments were received at the hearing.
- A notice for the rule adoption hearing was published in the Sacramento Bee on August 29, 2006. The notice was also mailed to attendees of the public workshop, all affected sources, other agricultural facilities, and persons who have requested rulemaking notices.

Staff received comments at the workshop. Specifically, staff received a comment on the proposed confined animal facility fee. The commenter requested that the fee recognize the difference between a facility that had fully implemented control measures and is in compliance and a facility that has not. They also indicated that the proposed fee of \$2355 was too high. After visiting the affected confined animal facilities, staff agreed that the original cost estimate was too high. Staff revised the proposal to include a confined animal facility fee of \$589, with an additional hourly fee if the actual time spent by District staff is more than 10 hours for an initial permit or 5 hours for a renewal permit. This additional fee would potentially recognize the difference between compliant facilities and non-compliant facilities.

All of the comments and questions received, together with the Staff responses, are presented in Attachment B of the Staff Report (page 25 of this Board Package).

Conclusion

The proposed Rule 310 will help recover the costs of administering the permitting program as adopted in Rule 215, AGRICULTURAL PERMIT REQUIREMENTS AND NEW AGRICULTURAL PERMIT REVIEW. Therefore, Staff recommends that the Board approve the attached resolution to adopt new Rule 310.

Respectfully Submitted

Larry Greene; Air Pollution Control Officer
Sacramento Metropolitan
Air Quality Management District

Approved as to form:

Kathrine Pittard, District Counsel
Sacramento Metropolitan
Air Quality Management District

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Attachments

Attachment A
Board Resolution

Attachment B

Draft Rule 310

Attachment C

Staff Report

Attachment D

Evidence of Public Notice