

**SACRAMENTO METROPOLITAN
AIR QUALITY MANAGEMENT DISTRICT**

STAFF REPORT

**AMENDMENTS TO:
RULE 201, GENERAL PERMIT REQUIREMENTS**

AND

**NEW RULE:
RULE 215, AGRICULTURAL PERMIT REQUIREMENTS AND NEW AGRICULTURAL
PERMIT REVIEW**

July 25, 2006

Prepared by: Aleta Kennard
Program Supervisor, Technical Services

Approved by: Brigette Tollstrup
Division Manager, Program Coordination

INTRODUCTION

Rule 201, GENERAL PERMIT REQUIREMENTS, established the administrative procedures for review of new sources of air pollution and the modification and operation of existing sources through the issuance of permits. The rule includes the list of equipment and processes that are exempt from permit requirements. Staff is proposing to amend the exemption for agricultural operations in Rule 201 to make the requirements of Rule 201 applicable to new major stationary sources and major modifications and to update the ASTM Methods referenced in the rule.

New Rule 215, AGRICULTURAL PERMIT REQUIREMENTS AND NEW AGRICULTURAL PERMIT REVIEW, establishes the administrative procedures for the review of existing, new and modified agricultural sources and issuance of permits to agricultural operations that are not a new major stationary source or a major modification. It also sets the requirements for Best Available Control Technology (BACT) and offsets for these sources.

BACKGROUND

In the past, agricultural operations have been exempt from obtaining air quality permits from local districts pursuant to state law. This exemption conflicted with federal law. If California did not amend this exemption, California would have lost billions of dollars in federal transportation funding, as well as faced other sanctions. In addition, in some parts of the state – including the Sacramento Federal Ozone Nonattainment Area – air quality is poor and agricultural activities contribute to the problem. Poor air quality harms public health – causing and/or exacerbating asthma, respiratory illness, heart and lung disease, and early mortality. In September 2003, California Senate Bill 700 (SB 700) was signed into law 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.

Health and Safety Code Section 42301.16 established permitting requirements for individual agricultural stationary sources. The District is required to issue permits to agricultural stationary sources with actual emissions equal to or exceeding one-half of any applicable emissions threshold for a major stationary source. The removal of the agricultural source exemption also requires agricultural stationary sources whose potential to emit is equal to or exceeding any applicable emissions threshold for a major stationary source to obtain a federal operating permit, as is required by District Rule 207, Title V – Federal Operating Permit Program.

In the District, the majority of agricultural stationary sources are farming operations that grow crops. The majority of emissions from this type of operation are from the use of diesel-fired engines driving irrigation pumps. There are also some small dairies and chicken/turkey farms in the area. Agricultural stationary sources may also operate equipment similar to traditional stationary sources – such as, gasoline/propane/natural gas-fired engines, gasoline/diesel storage tanks, boilers, and painting and degreasing

operations. The emissions from all of these types of agricultural operations contribute to the overall emissions created by an agricultural stationary source.

Federal Mandate: The District is designated serious for the 8-hour ozone standard by the United States Environmental Protection Agency (EPA). Section 173 of Title I of the Federal Clean Air Act Amendments of 1990 requires permitting authorities to establish a permitting program for reviewing applications for construction of new sources or modification of existing sources of air pollutants. A New Source Review, or Preconstruction Review, is required as part of the SIP under 40 Code of Federal Regulations (CFR) Part 51 Subpart 1 to ensure that the construction or modification of a source will not cause violations of the State's control strategy or interfere with attainment or maintenance of ambient air quality standards. 40 CFR Part 51 also requires the District to adopt a permitting program that requires the application of BACT for any net increase in emissions at a major stationary source, and Lowest Achievable Emission Rate (LAER) for a new major stationary source or modification to an existing stationary source that result in significant emission increases. Proposed Rule 201 complies with these requirements by removing the agricultural exemption in Rule 201 and making new major stationary sources and major modifications subject to Rule 201 and Rule 202, NEW SOURCE REVIEW requirements. Proposed Rule 201 also updates the ASTM methods cited to the most recent versions. Rule 202 complies with the requirements of this mandate.

Rule 215 does not address any Federal mandates.

State Mandates:

SB700 Requirements: Health and Safety Code Section 42301.16 requires the District to establish a permit program for agricultural stationary sources with actual emissions equal to or exceeding one-half of any applicable emissions thresholds for a major stationary source.

In addition, Rule 215 will require permits for agricultural sources that are subject to Rule 496, LARGE CONFINED ANIMAL FACILITIES, and for boilers and process heaters located at an agricultural source that are subject to Rule 411, NOX FROM BOILERS, PROCESS HEATERS AND STEAM GENERATORS and are applying for a low fuel usage exemption. These facilities would include agricultural sources with actual emissions less than one-half of any applicable emissions thresholds for a major stationary source. Pursuant to Health and Safety Code Section 42301.16(c), prior to requiring a permit from an agricultural source with actual emissions that are less than one-half of any applicable emissions threshold for a major stationary source, the District shall make all of the following findings:

- 1) The source is not subject to a permit requirement pursuant to Section 40724.6;
- 2) A permit is necessary to impose or enforce reductions of emission of air pollutants that the district show cause or contribute to a violation of a state or federal ambient air quality standard; and

- 3) The requirement for a source or category of sources to obtain a permit would not impose a burden on those sources that is significantly more burdensome than permits required for other similar sources of air pollution.

For boilers and process heaters located at an agricultural source which are subject to Rule 411 and are applying for a low fuel usage, the District makes the following findings:

- 1) Boilers and process heaters are not subject to Section 40724.6 which establishes the requirements for Large Confined Animal Facilities;
- 2) Rule 411 was required to be adopted pursuant to state and federal law to help the District achieve attainment of both the state and federal air quality standards. Pursuant to Rule 411, a permit is necessary to establish a low fuel usage exemption from having to meet the NOx standards set by the rule. Without a requirement to obtain a permit for a low usage exemption, an agricultural source with a boiler or process heater would have to meet the standards established in the rule; and
- 3) Requiring a permit to establish a low usage exemption under Rule 411 is consistent with the permit requirement for all other boilers and process heaters in the District.

For Large Confined Animal Facilities, these sources are subject to a permit requirement pursuant to Health and Safety Code Section 40724.6, so the findings that are required under Health and Safety Code Section 42301.16(c) can not be made. For these types of sources Health and Safety Code Section 40724.6 applies. Pursuant to Health and Safety Code Section 40724.6, the two findings that are necessary to require a permit for Large Confined Animal Facilities with actual emissions less than one-half any applicable emissions threshold for a major stationary source are the same as the findings 2 and 3 from above. The District makes the following findings:

- 1) A permit is necessary to enforce the requirements of Reasonably Available Control Technology and to meet the requirements of Section 40724.6(d) which require the District to adopt a regulation to require the owner/operator of a large confined animal facility to submit an application for a permit within 6 months from date of adoption of the rule; and
- 2) A permit is being required which is consistent with the permit requirements for other agricultural sources and is consistent with other stationary sources within the District.

Proposed Rule 215 complies with the requirements of Health and Safety Code Sections 42301.16 and 40724.6.

Serious Nonattainment Plan Requirements: The California Clean Air Act, Health and Safety Code Section 40919, requires that the District's permitting program be designed to achieve no net increase in emissions from stationary sources with emissions greater than 15 tons per year of reactive organic compounds (ROC) or nitrogen oxides (NOx) as precursors to ozone. The California Clean Air Act also requires the permitting program to require the use of BACT for any new or modified stationary source which has the potential to emit 10 pounds per day or more of ROC or NOx.

Proposed Rule 215 requires the use of BACT for any new or modified agricultural emission unit where there is an increase in emissions and the potential to emit from the

emission unit is 10lbs/day or greater for ROC or NOx. The proposed rule requires emission offsets where there is an increase in emissions, the potential to emit of the agricultural stationary source is 5,000 lbs/quarter or greater for ROC or NOx, and the emission unit is a type where the District has adopted a specific emission reduction crediting rule and the rule has been approved by EPA, and as such, has been determined to meet the criteria of real, permanent, quantifiable, and enforceable as required by SB700. The offset section is being implemented this way to be consistent with San Joaquin Valley Unified Air Pollution Control District's (SJVAPCD) policy and the CAPCOA Ag Permitting White Paper to only require offsets when there is a specific District adopted and EPA approved credit rule as was agreed to in a conference call with Seyed Sadredin on November 14, 2005.

Transport Mitigation Emission Control Requirements: Upwind districts in a transport couple, as identified in California Code of Regulations Section 70500(c), are required to include sufficient emission control measures in their state ozone attainment plans to mitigate their impacts on ozone concentrations in downwind areas. An upwind district is required to comply with the transport mitigation planning and implementation requirements set forth in California Code of Regulations Section 70600 regardless of its attainment status, unless it complies with the requirements of Section 70601. The 2003 amended ozone transport mitigation regulation requires districts to implement by December 31, 2004, a stationary source permitting program designed to achieve no net increase in the emissions of ozone precursors from new or modified stationary sources that emit or have the potential to emit 10 tons or greater per year of an ozone precursor. The offset threshold of 5,000 lbs/quarter is consistent with this requirement.

Chapter 4.5, Protect California Air Act of 2003 Requirements: On December 31, 2002, the EPA, under direction of the President of the United States, promulgated regulations that modified the basic federal new source review program (67 Fed. Reg. 80186-80289) (Dec. 31, 2002)). In an effort to minimize the potential adverse air quality impact of this regulation, the state legislature passed the Protect California Air Act in 2003. The Act intended to minimize the impact of any relaxation of the federal new source review program on air quality in California. The Act prohibits districts from making revisions to their SIP approved NSR rules (in existence prior to December 30, 2002) that would result in weakening their rules. These revisions include but are not limited to, revisions to rule applicability, changing the definition of modification so that NSR is not triggered or triggered at a higher level of emission increases, or relaxing BACT, air quality analysis, and public participation requirements. The Act does permit districts to deviate from these requirements under specified condition.

The proposed rule and rule amendments will not result in a relaxation of the requirements of the SIP approved new source review rule since these amendments will require additional sources, specifically agricultural sources, to be subject to the new source review requirements. Therefore, the proposed rule amendments do not trigger requirements of the Act.

SUMMARY OF PROPOSED RULES

Rule 201, General Permit Requirements: Staff is proposing to amend the rule to make agricultural sources that are new major stationary sources or major modifications subject to Rule 201 and, therefore, Rule 202 requirements. In addition, staff updated the ASTM method dates and added an enforceability clarification consistent with other rules in the state.

Rule 215, Agricultural Source Permit Requirements and New Agricultural Source Review: Staff is proposing the new rule to:

1. Establish the permitting requirement for existing agricultural stationary sources.
2. Establish a mechanism for reviewing new or modified agricultural stationary sources including Best Available Control Technology (BACT) Requirements and emission offset requirements.

A detailed summary of both proposed rules may be found in Appendix A (see page 10).

Major source thresholds and Permitting Thresholds:

Under the 1-hour ozone standard, the District was classified as severe, and as such, had a 25 ton per year threshold for NO_x and ROG for major stationary sources. Under the 8-hour standard, the District is currently classified as serious, and as such, has a 50 tons per year threshold for NO_x and ROG for major stationary sources. Both of these thresholds were in effect from June 15, 2004 until the one-hour ozone standard was revoked on June 15, 2005. In accordance with SB700 and, specifically, Health and Safety Code Section 42301.16 the permitting threshold for agricultural stationary sources is one-half or more of any applicable emission threshold for a major stationary source. The District is proposing to implement a 25 tons per year permitting threshold for NO_x and ROG because at the time of the adoption Rule 215, the major source threshold for the District is 50 tons per year for NO_x and ROG. The rule will also include a provision that will refer to 50% of the major source thresholds in the Federal Clean Air Act, which corresponds to the nonattainment designation of the District. If in the future the District bumps up in classification then the rule would automatically incorporate those lower permitting threshold triggers.

COST IMPACTS

Section 40703 of the California Health and Safety Code requires that the District, pursuant to Section 40922, consider and make public its findings relating to the cost effectiveness of implementing an emission control measure. Two aspects of the proposed rules – the application of BACT and emission offsets – concerns emission control measures.

Proposed Rule 215 will require BACT for new agricultural emission units that have a potential to emit 10 lbs/day for ROC, NO_x, SO_x, or PM₁₀, 550 lbs/day for CO, or 3.3

lbs/day of lead, or modifications of agricultural emission units where there is an increase in emissions and the unit has the potential to emit more than 10 lbs/day or the other specified levels for the affected pollutants. The Air Pollution Control Officer shall periodically publish BACT guidelines for commonly permitted agricultural emission units. In general, BACT is based on the most stringent and most cost effective emissions control method that has been achieved in practice.

Proposed Rule 215 will require offsets to be surrendered where the cumulative emission increase from the agricultural stationary source meets or exceeds 5,000 lbs/quarter for ROC and NO_x, 13,650 lbs/quarter for SO_x, and 7,500 lbs/quarter for PM₁₀ and there is a new or modified type of equipment/process where the District has adopted a specific emission reduction crediting rule and that rule has been approved by EPA. The District does not currently have any EPA approved emission reduction crediting rules.

Impact on Businesses in Sacramento: The proposed rule will only affect agricultural stationary sources with actual emissions that are greater than 25 tons/year of ROC and NO_x or 50 tons/year of SO_x, PM₁₀ or CO. It will also affect smaller agricultural stationary sources if they become subject to a new Rule 496, LARGE CONFINED ANIMAL FACILITIES and boilers and process heaters that are subject to Rule 411, NO_x FROM BOILERS, PROCESS HEATERS AND STEAM GENERATORS and are applying for a low fuel usage exemption pursuant to that rule. The actual impact to agricultural businesses is unknown and will depend on the number of agricultural stationary sources with actual emissions over the trigger level that will modify their operations in the future. It is estimated that there could be approximately 4 sources affected: 1 source with estimated actual emissions greater than the rule applicability limits and 3 Large Confined Animal Facilities.

The only cost impact from the proposed rule on existing sources will be from the imposition of permit fees. For information on this cost impact see the Staff Report for Rule 310, PERMIT FEES – AGRICULTURAL SOURCE. Expansion of large enough existing sources and construction of large enough new sources will require application of BACT and may require offsets. For more information, see the discussion under the Socioeconomic Impact Analysis section below.

Cost to District: The proposed rule is estimated to result on 0.09 Fulltime Equivalent (FTE) for the initial agricultural permitting and 0.04 FTE for the ongoing inspection time. The costs of administering the agricultural permitting program will be recovered through proposed Rule 310, PERMIT FEES – AGRICULTURAL SOURCE.

SOCIOECONOMIC IMPACT ANALYSIS

The provisions of Section 40728.5 of the California Health and Safety Code require, in part, that:

“Whenever a district intends to propose the adoption, amendment, or repeal of a rule or regulation that will significantly affect air quality or emissions limitations, that agency

shall, to the extent that data are available, perform an assessment of the socioeconomic impacts of the adoption, amendment, or repeal of the rule or regulation.”

Staff prepared a socioeconomic analysis for Rule 215 pursuant to California Health and Safety Code Section 40728.5. The six separate elements are defined in Section 40728.5 and are discussed below.

Type of industry or businesses, including small business affected by the proposed amendments: Rule 215 applies to any agricultural stationary source with actual emissions greater than 25 tons/year for ROC and NOx and 50 tons/year of SOx, CO, and PM10, smaller agricultural stationary sources if they are subject to Rule 496, LARGE CONFINED ANIMAL FACILITIES and boilers and process heaters that are subject to Rule 411, NOX FROM BOILERS, PROCESS HEATERS AND STEAM GENERATORS and are applying for a low fuel usage exemption pursuant to that rule. There is an estimate that there are approximately 1,600 agricultural stationary sources in the District based on the United States Department of Agriculture 2002 Census data. From information obtained from agricultural sources in the District in a survey conducted August 2004 with a 60% response rate and from the District's SECAT/Moyer information, staff is estimating that there could be 4 agricultural stationary sources affected by the rule including a farming operation with greater than 800 acres using diesel engines to irrigate, a turkey ranch with greater than 100,000 birds, and dairies with greater than 1,000 milking cows.

Impact on employment and economy in the District of the proposed amendments: Rule 215 may require offsets for sources that modify their operations and increase emissions more than 10 tons per year NOx and ROC. There are also offset triggers at a higher level for PM10, CO and SOx. Offsets are only required where a specific emission reduction credit rule has been adopted by the District and has been approved by EPA. Since no credit rules have been approved, none of the permitting actions would trigger offsets at this time. Sources also have the option of limiting their potential to emit to less than the offset triggers. Staff does not know how many of these facilities will take a permit limit below the offset trigger levels and how many will require offset credits. Once the District has specific emission reduction crediting rules in place that are EPA approved the cost of offsets will vary according to the pollutant and the demand of offsets on the open market. The most recent weighted average costs of credits on the open market ranged from \$2,500 to \$33,685/ton of emissions. Staff does not anticipate a significant impact on the employment and economy in Sacramento.

The rule also sets a BACT trigger level of 10 lbs/day of ROC and NOx and other higher levels for PM10, CO and SOx. This requires new or modified agricultural emission units of more than an insignificant size to be equipped with the most stringent emission controls. The cost impact will vary depending on the type of emission unit (e.g., boiler, engine, dairy operation, etc.). The costs of BACT vary from no additional cost up to the cost of other prohibitory regulations recently adopted (\$13.90/lb reduced).

Range of probable costs, including costs to industry or business, including small business of the proposed rule amendments: The costs will range based on the type

of equipment and type of pollutant emitted. There is no cost impact to existing sources. Staff can not estimate how many new or modified emission units will occur in the future.

Availability and cost effectiveness of alternatives to the proposed amendments:

Staff is proposing the new Rule 215 and Rule 201 amendments in order to comply with the SB700 agricultural source permit requirements in state law. The only other option is not to comply with state law. This may result in ARB establishing a program or exercising any of the powers of the district to achieve and maintain the ambient air quality standards (California Health and Safety Code, Section 41504 and 41505).

Emission Reduction Potential of the proposed rule amendments:

The proposed rule establishes a permit program for stationary agricultural sources, but does not establish new emission control measures for agricultural sources. This rule will ultimately provide the frame-work for the District to enforce regulations that achieve emission reductions, like the Large Confined Animal Facilities rule also required by SB700. The proposed rule requires BACT and offsets for new or modified agricultural emission units, and therefore, will help maintain the District's progress towards attainment.

Necessity of amending the rule: Staff proposes new Rule 215 and amendments to Rule 201 to comply with state law (SB700).

PUBLIC COMMENTS

Staff held public workshops on the proposed rule concepts in conjunction with the Title V permit application workshops in November/December 2004. These workshops were held in the evening in locations that were more accessible to the farmers. Staff presented the rule concepts and outlined the rule impacts for the farmers and growers who attended. The proposed rule is based on the concepts discussed.

A public workshop was held to discuss the actual rule language and Staff Report on July 6, 2006. The workshop was held in the evening at the same location as the previous workshop. Staff addressed all questions and comments at the workshop. Additionally, individual meetings were held with the affected sources to explain the requirements and impacts of the proposed rule. All associated comments and responses have been included in Attachment C of this staff report.

ENVIRONMENTAL REVIEW AND COMPLIANCE

The proposed amendment to Rule 201 will require new major agricultural stationary sources or major modifications at existing major agricultural stationary sources to apply for a permit and to meet BACT and offset requirements prior to construction. This will mean that new/modified large agricultural stationary sources will have greater controls than now, which would lead to a beneficial impact. As was discussed in the socio-

economic section, staff can not estimate how many new or modified emission units will occur in the future.

Proposed new Rule 215 will require existing agricultural stationary sources that have emitted more than 25 tons/year of ROG or NOx or other specified trigger levels for PM10, SOx and CO to apply for a permit. It also requires permits for Large Confined Animal Facilities subject to Rule 496 and boilers/process heaters subject to Rule 411 to apply for permits. It will also require modifications at those facilities to meet BACT requirements. This will mean that these modifications would potentially have greater controls, which would lead to a beneficial impact. As was discussed in the socio-economic section, staff can not estimate how many new or modified emission units will occur in the future.

The proposed amendments to Rule 201 and adoption of Rule 215 qualify for a Class 8 categorical exemption as an action by a regulatory agency, as authorized by state law, for the protection of the environment (Section 15308 of the state CEQA Guidelines). The exceptions to categorical exemptions for sensitive locations, cumulative impact, significant effect, scenic resources, toxic sites and historical resources do not apply to the proposed amendments to Rule 201 and proposed adoption of Rule 215.

California Public Resources Code (Section 21159) requires an environmental analysis of the reasonably foreseeable methods of compliance. The analysis must include the following information for the proposed rule adoption. The District is not required to engage in speculation or conjecture.

1. An analysis of the reasonably foreseeable environmental impacts of the methods of compliance.
2. An analysis of the reasonably foreseeable mitigation measures.
3. An analysis of the reasonably foreseeable alternative means of compliance with the rule or regulation.

Environmental Impacts, Mitigation Measures, and Alternatives

Compliance Methods	Reasonably Foreseeable Environmental Impacts	Reasonably Foreseeable Mitigation Measures
Existing agricultural sources: Apply for a permit	This is just applying and receiving a permit, there are no potential environmental impacts from this requirement.	No mitigation necessary
New/Modified agricultural sources: Apply for a permit and meet any BACT/offset requirements at that time. Examples of potential BACT are: lower emitting diesel engines; lower emitting boilers, improved housekeeping procedures or waste handling procedures.	As was discussed above, it would be speculative to analyze reasonable foreseeable impacts because staff can not estimate what future new/modified agricultural sources will require BACT, nor what the specific BACT technology will be required.	N/A

It has been determined that no reasonably foreseeable environmental impacts will be caused by the proposed rule amendments and rule adoption.

TABLE OF FINDINGS

Six required findings: According to Section 40727(a) of the California Health and Safety Code, prior to adopting or amending a rule or regulation, an air district's board must make findings of necessity, authority, clarity, consistency, nonduplication, and reference. The findings must be based on the following:

1. Information presented in the District's written analysis, prepared pursuant to Health and Safety Code Section 40727.2;
2. Information contained in the rulemaking records pursuant to Section 40728 of the California Health and Safety Code; and
3. Relevant information presented at the Board's hearing for the rule.

The table below sets the finding and the basis for making the finding.

FINDING	FINDING DETERMINATION
Authority: The District must find that a provision of law or of a state or federal regulation permits or requires the District to adopt, amend, or repeal the rule.	The District is authorized to adopt rules and regulations by Health & Safety Code Sections 40001, 40702, 41010, 40919, 42301.16, and 42300 et. seq. (Health & Safety Code Section 40727(b)(2))
Necessity: The District must find that the rulemaking demonstrates a need exists for the rule, or for its amendment or repeal.	It is necessary for the District to adopt a new rule and amendments to an existing rule to comply with Health and Safety Code Section 42301.16. (Health & Safety Code Section 40727(b)(1))
Clarity: The District must find that the rule is written or displayed so that its meaning can be easily understood by the persons directly affected by it.	The District has reviewed the rule and determined that it can be easily understood by the affected industry. In addition, the record contains no evidence that the persons directly affected by the rule cannot understand the rule. (Health & Safety Code Section 40727(b)(3))
Consistency: The rule is in harmony with, and not in conflict with or contradictory to, existing statutes, court decisions, or state or federal regulations.	The proposed rule amendments do not conflict with and are not contradictory to existing statutes, court decisions, or state or federal regulations. (Health & Safety Code Section 40727(b)(4))
Non-Duplication: The District must find that either: 1) The rule does not impose the same requirements as an existing site or federal regulation; or 2) that the duplicative requirements are necessary or proper to execute the powers and duties granted to, and imposed upon the District.	The proposed rule duplicates state or federal rules or regulations for permitting programs. The duplicative requirements are necessary in order to execute the powers and duties imposed upon the District (Health & Safety Code Section 40727(b)(5))
Reference: The District must refer to any statute, court decision, or other provision of law that the District implements, interprets, or makes specific by adopting, amending or repealing the rule.	The adoption implements state law requirements pursuant to Health and Safety Code Section 42301.16. (Health & Safety Code Section 40727(b)(6))
Additional Informational Requirements (Health & Safety Code Section 40727): In complying with HSC Section 40727, the District must identify all federal requirements and District rules that apply to the same equipment or source type as the proposed rule or amendments.	The matrix attached (Attachment B) contains a comparison of Rule 215 to other District rules that apply. There are no federal requirements that apply to these sources because this permitting program does not apply to new major stationary sources or major modifications. (Health & Safety Code Section 40727.2)

**ATTACHMENT A
 SUMMARY OF PROPOSED AMENDMENTS**

Rule 201, General Permit Requirements

NEW SECTION NUMBER	EXISTING SECTION NUMBER	PROPOSED CHANGES
NA	114	Revised the exemption language in this section to exempt agricultural equipment/processes not located at a new major stationary source or not part of a major modification as defined in Rule 202, NEW SOURCE REVIEW. New major stationary sources and major modifications will be subject to Rule 201 and Rule 202 requirements. All other agricultural stationary sources will be subject to the requirements of Rule 215, AGRICULTURAL SOURCE PERMIT REQUIREMENTS AND NEW AGRICULTURAL SOURCE REVIEW, as applicable.
NA	405	Added a statement clarifying that a failure to comply with a condition on a permit would be a violation of this rule and any applicable Health and Safety Code section.
NA	501	Updated the ASTM Methods to the latest approved dates.

Rule 215, Agricultural Source Permit Requirements and New Agricultural Source Review

NEW SECTION NUMBER	EXISTING SECTION NUMBER	PROPOSED CHANGES
101	N/A	Set the purpose of the rule to provide a mechanism for permitting existing agricultural emissions units and for reviewing new or modified agricultural emission units.
102	N/A	Set the applicability limits of the rule consistent with Health and Safety Code Section 42301.16. In addition, made the rule applicable to agricultural emission units that become subject to Rule 496, LARGE CONFINED ANIMAL FACILITIES and to boilers/process heaters at agricultural sources which are subject to Rule 411 and are applying for a low fuel usage exemption.
103	N/A	Set the severability language of the rule consistent with existing language in Rule 202, NEW SOURCE REVIEW.
110	N/A	Incorporated language to grandfather existing equipment from BACT and offset requirements when they become newly subject to the rule or when they again become subject to the rule pursuant to Section 111.3.
111	N/A	Established a mechanism for agricultural emission units who have a permit to be able to petition to discontinue the permit if they can demonstrate that the emissions from the agricultural stationary source have and will continue to be below the applicability

		thresholds of the rule.
112	N/A	Incorporated language to exempt new major stationary sources and major modifications from the requirements of this rule to be consistent with Rule 201, GENERAL PERMIT REQUIREMENTS and Rule 202, NEW SOURCE REVIEW.
113	N/A	Incorporated language to exempt portable equipment that is registered and operated in accordance with the Statewide Portable Equipment Registration Program from the requirements of this rule.
114	N/A	Incorporated language to make it clear that agricultural burning is only subject to Rule 501, AGRICULTURAL BURNING permit requirements.
115	N/A	Incorporate the general exclusion language for the exemptions included in Sections 116 to 125 consistent with Rule 201, GENERAL PERMIT REQUIREMENTS. The exemptions do not apply to equipment subject to NSPS, NESHAPS, emits toxic levels deemed appropriate for review by the APCO, or the APCO makes a determination that a permit is needed to ensure compliance. Otherwise exempt equipment which is part of a process that requires a permit is not exempt either. An example of this is a less than 50 Hp diesel engine used to exclusively power an abrasive blasting operation.
116	N/A	Incorporated exemption language for vehicles consistent with Rule 201, GENERAL PERMIT REQUIREMENTS.
117	N/A	Incorporated exemption language for combustion and heat transfer equipment consistent with Rule 201, GENERAL PERMIT REQUIREMENTS.
118	N/A	Incorporated exemption language for residential structures consistent with Rule 201, GENERAL PERMIT REQUIREMENTS.
119	N/A	Incorporated exemption language for cooling systems and vacuum cleaning consistent with Rule 201, GENERAL PERMIT REQUIREMENTS.
120	N/A	Incorporated exemption language for storage and transfer consistent with Rule 201, GENERAL PERMIT REQUIREMENTS except for the specific inclusion of equipment less than 251 gallons and asphalt and coal tar pitch of less than 159 gallons. These two additional exemptions are based on SCAQMD Rule 219 exemptions.
121	N/A	Incorporated exemption language for surface coating and preparation consistent with Rule 201, GENERAL PERMIT REQUIREMENTS except Section 118.3 from Rule 201 was not included. Equipment that would have been exempt under that section will be evaluated under the storage and transfer equipment exemption pursuant to Section 120 in this rule.
122	N/A	Incorporated exemption language for food processing consistent with Rule 201, GENERAL PERMIT REQUIREMENTS except for the equipment that would not be likely to be found at an agricultural stationary source.
123	N/A	Incorporated exemption language for laboratory equipment consistent with Rule 201, GENERAL PERMIT REQUIREMENTS.

124	N/A	Incorporated exemption language for repairs and maintenance consistent with Rule 201, GENERAL PERMIT REQUIREMENTS.
125	N/A	Incorporated exemption language for other equipment consistent with Rule 201, GENERAL PERMIT REQUIREMENTS.
126	N/A	Incorporated language to exempt new nonroad engines from the BACT standards in the rule consistent with the federal pre-emption language.
127	N/A	Incorporated language to exempt replacement equipment from offsets consistent with Rule 202, NEW SOURCE REVIEW.
201	N/A	Defined "actual emissions" consistent with Rule 202, NEW SOURCE REVIEW.
202	N/A	Defined "affected pollutant" consistent with Rule 202, NEW SOURCE REVIEW except for the compounds that would not apply to agricultural sources.
203	N/A	Defined "agricultural emission unit" consistent with Health and Safety Code Section 39011.5 and also included boiler/process heater as an agricultural emission unit.
204	N/A	Defined "agricultural permit" to be a permit that is issued to an agricultural emission unit or groups of similar emissions units as defined by the section.
205	N/A	Defined "agricultural stationary source" consistent with the Rule 202, NEW SOURCE REVIEW definition of stationary source.
206	N/A	Defined "ambient air quality standards" to be state and federal ambient air quality standards.
207	N/A	Defined "anniversary date" consistent with Rule 201, GENERAL PERMIT REQUIREMENTS.
208	N/A	Defined "best available control technology" consistent with SCAQMD Rule 1302 New Source Review Definitions and consistent with Rule 202, NEW SOURCE REVIEW.
209	N/A	Defined "boiler/steam generator" consistent with Rule 411, NOX FROM BOILERS, PROCESS HEATERS AND STEAM GENERATORS.
210	N/A	Defined "confined animal facility" consistent with Health and Safety Code Section 39011.5.
211	N/A	Defined "contiguous property" consistent with Rule 202, NEW SOURCE REVIEW.
212	N/A	Defined "cost effective" consistent with the District's BACT Cost-Effectiveness Guidelines.
213	N/A	Defined "cumulative emission increase" as an increase calculated pursuant to Section 404.
214	N/A	Defined "emissions limitation" consistent with Rule 202, NEW SOURCE REVIEW except for the specific language that is applicable to Rule 202 only.
215	N/A	Defined "existing agricultural emission unit" consistent with Health and Safety Code Section 42301.18.

216	N/A	Defined "fugitive dust" consistent with the definition of fugitive emissions in Rule 202, NEW SOURCE REVIEW and with the definition of fugitive dust in Rule 403, FUGITIVE DUST.
217	N/A	Defined "fugitive emissions" consistent with Rule 202, NEW SOURCE REVIEW.
218	N/A	Defined "historic potential emissions" consistent with Rule 202, NEW SOURCE REVIEW.
219	N/A	Defined "implements of husbandry" consistent with the State of California Vehicle Code Section 36000.
220	N/A	Defined "large confined animal facility" consistent with Title 17, Division 1, Chapter 1, Subchapter 2.7, Section 86500.
221	N/A	Defined "major modification" by referring to Rule 202, NEW SOURCE REVIEW.
222	N/A	Defined "major stationary source" by referring to Rule 202, NEW SOURCE REVIEW.
223	N/A	Defined "modification" to be a change that results in either an increase or decrease of potential emissions. Excluded certain changes from being a modification consistent with Rule 202, NEW SOURCE REVIEW.
224	N/A	Defined "net emission increase" as an increase calculated pursuant to Section 405.
225	N/A	Defined "new agricultural emission unit" consistent with Health and Safety Code Section 42301.18.
226	N/A	Defined "new nonroad engine" consistent with Title 13, California Code of Regulations, Section 2452.
227	N/A	Defined "nonroad engine" consistent with Title 13, California Code of Regulations, Section 2452.
228	N/A	Defined "offset" consistent with Rule 204, EMISSION REDUCTION CREDITS.
229	N/A	Defined "PM10" consistent with Rule 202, NEW SOURCE REVIEW.
230	N/A	Defined "potential to emit" consistent with Rule 202, NEW SOURCE REVIEW.
231	N/A	Defined "process heater" to be consistent with Rule 411, NOX FROM BOILERS, PROCESS HEATERS AND STEAM GENERATORS.
232	N/A	Defined "reactive organic compounds" to be the same as 'Volatile organic compounds' as defined by Rule 101, GENERAL PROVISIONS AND DEFINITIONS which is consistent with Rule 202, NEW SOURCE REVIEW.
233	N/A	Defined "reconstructed agricultural stationary source" consistent with Rule 202, NEW SOURCE REVIEW's definition of a "reconstructed stationary source".
234	N/A	Defined "reformer" to be consistent with Rule 411, NOX FROM BOILERS, PROCESS HEATERS AND STEAM GENERATORS.
235	N/A	Defined "replacement equipment" consistent with Rule 202, NEW SOURCE REVIEW.

236	N/A	Defined "stationary engine" to be any engine that does not propel a vehicle and is not a nonroad engine.
237	N/A	Defined "vehicle" consistent with the State of California Vehicle Code Section 670.
301	N/A	Sets the requirement for a person operating an agricultural emission unit to need a written permit from the APCO. It also sets the requirement that the unit needs to comply with specified requirements for the permit to be issued. It sets the requirement for needing the permit prior to construction, unless it is a nonroad engine.
302	N/A	Sets the standards for granting an application which is consistent with Rule 201, GENERAL PERMIT REQUIREMENTS, except the separate section for permit to operate requirements is not necessary since the agricultural permit is a one step permit.
303	N/A	<p>Sets the requirement that BACT applies to new or modified agricultural emission units if the daily potential to emit from the unit is greater than the limits specified and if there is an increase in quarterly emission according to the calculation in Section 403.</p> <p>It also sets the requirement for the APCO to periodically publish a BACT guideline for the commonly permitted agricultural sources. This shall establish the BACT for those categories and a case by case BACT analysis will only be done for units that don't have an established BACT requirement in the guideline.</p>
304	N/A	<p>Sets the requirements for when emission offsets are triggered. They are triggered if the potential to emit from the agricultural stationary source is greater than the specified trigger levels and if the emissions unit is a type where the District has adopted a specific emission reduction crediting rule and that rule has been approved by EPA. This language has been used to be consistent with SJVAPCD policy and the CAPCOA Ag Permitting White Paper as was agreed to in a conference call with Seyed Sadredin on November 14, 2005.</p> <p>Requires offsets to come from same calendar quarter except for some specific situations.</p>
305	N/A	<p>Sets the distance ratios for the location of the emission offset. The ratio is 1 to 1 except when the location is more than 15 miles when it goes to 1.2 to 1. For locations more than 50 miles the ratio has not been set but would need to be more than 1.2 to 1.</p> <p>Also sets the additional ratio requirements for emission offsets that may come from another air district.</p>
306	N/A	Allows interpollutant emission offsets to be used on a case by case approval by the APCO. This language is consistent with Rule 202, NEW SOURCE REVIEW. Interpollutant offsets are discouraged and should be the last resort.

307	N/A	Clearly identifies that the APCO will deny any permit application if it is found that it will not comply with all District, state, or federal rules, regulations or statutes including BACT and offsets in force on the date the application is deemed complete.
308	N/A	Sets the requirement that a permit is non-transferable. A permit is only valid for that location, that agricultural emission unit, and for that person. This language is consistent with Rule 201, GENERAL PERMIT REQUIREMENTS.
309	N/A	Sets the requirement that a permit shall be renewed annually on its anniversary date. This language is consistent with Rule 201, GENERAL PERMIT REQUIREMENTS and works in conjunction with new Rule 310, PERMIT FEES – AGRICULTURAL EMISSION UNIT. Also incorporates the Health and Safety Code Section 42301(e) requirement that permits will be reviewed annually to make sure the conditions are adequate to ensure compliance with District rules and regulations.
401	N/A	This section in general sets the procedural permit requirements like posting, application requirements, approval process including conditional approvals, public notification, denial process, suspension of permits and the appeal process for decisions. Where applicable, this language is consistent with Rule 201, GENERAL PERMIT REQUIREMENTS and Rule 202, NEW SOURCE REVIEW. Details for each of these sections are discussed below.
401.1	N/A	Sets the requirements that a legible copy of the permit must be on the premises and that information that indicates the nature, extent, quantity or degree of air contaminants shall be readily available for inspection.
401.2	N/A	Sets the requirement that a person shall not change a permit.
401.3	N/A	Sets the requirement for the form and manner of the permit application which is the District's List and Criteria. Sets the requirement for determining an application incomplete consistent with the Permit Streamlining Act in California Government Code Sections 65940 through 65943.
401.4	N/A	Sets the approval process for permit applications which includes an evaluation and a written notice to the applicant. The approval timeframes that are set are consistent with the Permit Streamlining Act in California Government Code Sections 65952. These are the latest timeframes that a decision can be made. The section also sets the requirement that a permit shall be granted or denied based on BACT and offset requirements in place at the time the application is deemed complete.
401.5	N/A	Allows the APCO to grant a permit with condition. The section sets the requirements for including conditions and also sets the requirements for approving a permit that needs offsets.
401.6	N/A	Sets the requirements for public notice of permit applications if the application involves emission offsets. Permit applications that require emission offsets or are for a large confined animal facility will be noticed in a newspaper of general circulation and transmitted to

		the California Air Resources Board and any party that requests it. The notice will invite written public comments for a 30-day period.
401.7	N/A	Sets the requirements for a written final notice where public notice has been required.
401.8	N/A	Sets the requirement for the APCO to notify an applicant in writing if a permit is denied. The notification must include the reasons for denying the application.
401.9	N/A	Sets the requirement that the APCO can suspend a permit consistent with Health and Safety Code Section 42304.
401.10	N/A	Sets the appeal process for a permit applicant when a permit is suspended, denied or conditionally approved consistent with Health and Safety Code Section 42302 and 42302.1.
402	N/A	Sets the application timeframe for existing agricultural emission units to six months from date of adoption.
403	N/A	Sets the application timeframes for sources which are no longer exempt from the rule.
404	N/A	Establishes the calculation method for a quarterly change which is used in the BACT triggers in Section 303. A change is calculated by subtracting the historic potential emissions from the new proposed emissions.
405	N/A	Establishes the calculation method for a cumulative emission increase which is used in the offset triggers in Section 304.1. Offsets are triggered when the potential to emit of all the emission units at the agricultural stationary source, including the potential to emit from the new or modified emission unit, exceeds the levels established in Section 304.1.
406	N/A	Establishes the calculation method for determining the net emission increase that needs to be offset pursuant to Section 304.3. For new units this is the potential to emit and for modifications it is any positive value from subtracting the new potential to emit from the historic potential emissions.
407	N/A	Sets the requirement for notification when an unpermitted nonroad engine is entered into service. The requirement is needed to make Section 301.2 enforceable.
408	N/A	Sets the requirement for petitioning to be exempt pursuant to Section 111 and requires information for the prior three years.
409	N/A	Sets the requirement that any air quality models used for the purpose of this rule be consistent with EPA "Guidelines on Air Quality Models" unless the APCO finds that such model is inappropriate.
501	N/A	Sets the testing procedures for "initial boiling point" and "vapor pressure" which are used in Sections 120.2 and 120.3.
502	N/A	Sets the recordkeeping requirements for inventory statements when a source has been granted a petition pursuant to Section 111. Requires an inventory statement to be filed annually.

Attachment B

40727.2 Matrix for Proposed Amendments to Rule 201, General Permit Requirements and New Rule 215, Agricultural Permit Requirements and New Agricultural Permit Review

Elements of Comparison	Specific Provisions	Rule 201, General Permit Requirements and Rule 215, Ag Permits	Rule 411, Boiler NOx	Coating Operations, Rules 442, 451, 459, 460	Solvent Cleaning Operations, Rules 454, 466
Exemptions	Permitting/Rule applicability	1. Specified low emitting equipment consistent with Rule 201	1. <1 mmBTU/hr input rating 2. Electric Utility Boilers 3. Process heaters, kilns and furnaces where products of combustion are in direct contact with material heated	1. Aerosol 2. Specific operations by rule	1. Aerosol in small containers 2. Specific operations by rule
	BACT/Emission Limitations	1. New nonroad engines and equipment that is newly subject	1. Low fuel Usage 2. Standing Pilot Flame Burner	1. Low usage	1. Nozzle tips of automated spray equipment
	Offset Requirements	1. Newly subject equipment 2. Replacement equipment	Not Applicable	Not applicable	Not applicable
Averaging Provisions		Averaging provisions will be specified in the Permit depending on the emissions from the emissions unit.	One hour average	Not applicable	Not applicable
Units		lbs/day; lbs/quarter, ppm, grams/liter	ppm	Grams/liter; Composite partial pressure	Grams/liter; Composite partial pressure
Emissions Limits	Emissions Reduction	BACT and Emissions offset	NOx BARCT limits	VOC Content BARCT Limits	VOC Content BARCT Limits
	Compliance Alternatives	Interpollutant Emission Offsets	Emission Reduction Credits	Emission Reduction Credits; add-on control	Emission Reduction Credits; add-on control

Operating Parameters		Operating Parameters will be specified in permit as applicable	Monitor emissions; record-keeping for hours of operations, throughput, and emissions.	O & P Plan for those that use add-on control	O & P Plan for those that use add-on control
Work Practice Requirements		Work Practices will be specified in permit as applicable	Monitor emissions; record-keeping for hours of operations throughput, and emissions.	Closed containers for storage; application methods	Cleaning methods; closed containers
Monitoring/ Records	Recordkeeping	Inventory Statements for sources exempt pursuant to Section 111	Hours of operations, fuel use, CEM records, source test records.	List of Materials; Product Information Sheets, Usage records	List of Materials; Product Information Sheets, Usage records
	Frequency	Annual	Annual	Monthly	Monthly
Monitoring/ Testing	Test Methods	Specifies testing provisions for initial boiling point and vapor pressure. Other monitoring/testing provisions will be specified in permit as applicable	Continuous emission monitoring (CEM); testing to verify compliance with emission limits.	Determination of VOC Content, exempt materials, and metallic content	Determination of VOC Content, exempt materials, and metallic content
	Frequency		Continuous for CEM; Annual or biennial depending on size for source testing.		

ATTACHMENT C Public Comments

Public Workshop Comments (July 6, 2006)

- Comment #1:** No incentives are built into the rule. How does the incentive funding work?
- Response:** The District has incentive funding available through the Carl Moyer Program for the replacement or retrofit of diesel engines and equipment.
- Comment #2:** The last thing you are going to remember during a busy period is to notify the District when an engine is switched out. What are the penalties for not notifying?
- Response:** The District compliance staff can issue a Notice to Comply or a Notice of Violation, depending on the circumstances. Generally a Notice to Comply is issued for the first incident of not providing the required District notification. Repeated violations generally trigger a Notice of Violation which could involve a financial penalty.
- Comment #3:** What determined the emission thresholds for permitting agricultural sources?
- Response:** The thresholds are established by state and federal law. State law - specifically SB 700 (Health and Safety Code Section 42301.16) - set the permitting threshold at one-half the applicable emissions threshold for a federal major source in the District for any air contaminant. The federal major source thresholds are linked to the District's attainment/nonattainment designations and classifications. As a "serious nonattainment area" for ozone a major source is defined by the Federal Clean Air Act (42 USC 7511a.c) as 50 tons per year of either VOC or NOx.
- Comment #4:** Will the emissions threshold for permitting of agricultural sources change? If so, what would be the time frame?
- Response:** The emissions thresholds for VOC and NOx will decrease if the District determines that it is necessary to change our federal air quality classification - called a "bump up" for the federal 8-hour ozone standard. It is likely, but not certain, that such a bump up will occur. That decision will be made as part of the public process for the ozone attainment plan. Better information will be available later this year, and a formal request (decision) being made about one year from now. EPA must then take action to approve such a request. EPA has one year to take that action. So, although the

specific schedule is subject to negotiation (and notice and comment hearings) a change in the threshold may occur roughly 2 to 2½ years from now.

Comment #5: How many more agricultural sources would be subject to permitting requirements if a bump up occurred?

Response: Preliminary information indicates that approximately 20 additional agricultural sources would be subject to permitting requirements. In the event a bump-up is considered more a thorough evaluation would be conducted.

Comment #6: Will a permit be required for diesel tanks? If only gasoline then how big a gasoline tank requires a permit.

Response: Permits are not required for diesel tanks. Gasoline tanks must be permitted only at facilities with emissions above the threshold described above. If a facility has triggered the emission thresholds then any gasoline storage tank greater or equal to 251 gallons must be permitted. It would take an annual throughput of 5.3 million gallons of gasoline for a gasoline tank to trigger the threshold on its own. One must keep in mind that the thresholds take into account emissions from the entire facility and not individual sources alone.

Comment #7: When will the rules be adopted?

Response: The four proposed rules are scheduled to be considered for adoption by the Board of Directors at a public hearing on August 24, 2006.

Comment #8: Can sources set up one-on-one meetings with District staff?

Response: Yes. We have contacted all of the affected sources, and visited all but two before the workshop, to discuss the specific requirements. We will arrange additional individual meetings if requested.

Comment #9: Are there more rules coming for agricultural sources?

Response: As part of SB700 a particulate control measure that applies to emissions of particulate matter from agricultural practices such as tilling, disking, cultivation, and the raising of animals will be proposed later this year. We are evaluating the control measure adopted by San Joaquin Valley APCD as a basis for our proposal.