

**SACRAMENTO METROPOLITAN
AIR QUALITY MANAGEMENT DISTRICT**

STAFF REPORT

**Rule 311 – REGISTRATION FEES FOR AGRICULTURAL COMPRESSION IGNITION
ENGINES**

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INTRODUCTION

The District is proposing to adopt new Rule 311, REGISTRATION FEES FOR AGRICULTURAL COMPRESSION IGNITION ENGINES. The rule will set fees for recovering the cost of implementing and enforcing a registration program for compression ignition engines used in agricultural operations, as required by the statewide Air Toxic Control Measure for Stationary Compression Ignition Engines.

BACKGROUND

On November 16, 2006, CARB amended the Air Toxic Control Measure (ATCM) for Stationary Compression Ignition (CI) Engines to include standards for in-use engines used in agricultural operations, which became effective October 18, 2007. In order to ensure compliance with the new standards, the ATCM requires CI engines used in agricultural operations to be registered with the local district. The ATCM (Title 17 of the California Code of Regulations, Section 93115.8(d)) requires the owner/operator of CI engines used in agricultural operations to pay fees necessary to recover the District's costs to implement Section 93115.8 of the ATCM.

Proposed Rule 311 will recover the District's cost of implementing and enforcing Section 93115.8 of the ATCM.

PROPOSED FEE REQUIREMENTS

The rule establishes the initial registration and annual renewal fees for engines that must submit registration information pursuant to Title 17 of the California Code of Regulations Section 93115.8(c). Exemptions are provided for permitted engines and engines in the portable engine registration program. The proposed registration fees are as follows:

- Initial registration fee: \$300
- Annual renewal fee: \$169

Other provisions in the rule include consumer price index adjustments, notification requirements, and fee submission requirements. See Appendix A for a detailed description of the rule provisions.

HEALTH AND SAFETY CODE REQUIREMENTS

California Health and Safety Code (HSC) Section 39659 allows a district board to adopt regulations which are necessary to establish, implement, and enforce programs for the regulations of hazardous air pollutants which have been listed as toxic air contaminants. HSC Section 41512.5 contains requirements that pertain to districts when adopting fees on nonpermitted sources for the evaluation of plans required by law or regulation. Although Section 41512.5 may not be strictly applicable to the adoption of Rule 311, the District will comply with its requirements to hold two public hearings prior to rule adoption, and to ensure

that the fees will not exceed the estimated costs for the District to implement and enforce Section 93115.8 of the ATCM.

Rule 311 is being proposed to recover the costs of implementing the agricultural engine registration program and of enforcing the ATCM requirements for agricultural engines. Execution of the District's responsibilities as required by the ATCM for Stationary CI engines will require additional staff time to evaluate the engine registration information, provide assistance and outreach to the affected sources, and to ensure compliance with the ATCM standards. Staff estimates the proposed rule will result in additional need for 0.3 FTE (full time equivalent) in the initial year of the program and 0.3 FTE total every three years for enforcement. The anticipated staff costs of agricultural engine registration program and of enforcing the ATCM requirements for agricultural engines are as follows:

- Initial costs for registrations: \$64,727
- Recurring costs for enforcement: \$75,608 every 3 years
(equivalent to \$25,203 per year)

Initial costs will be incurred primarily in 2008 when existing engines are require to register; however, additional initial registration costs will be incurred in subsequent years when new engines are installed and when engines are being replaced to meet the new ATCM emission standards. The initial and recurring costs include engineer and field inspection staff costs fully loaded and include the support program costs from rule development, air monitoring, emission inventory, compliance assistance from Sacramento County's Business Environmental Resource Center, and the Hearing Board.

Staff estimates that 160 engines will be subject to the registration requirements of the ATCM, based on a survey of agricultural operations that the District conducted in August of 2004. Therefore, an initial fee of \$300 and an annual renewal fee of \$169 per engine are necessary to recover the District's initial and recurring costs. Since both the revenue from fees and the District's costs are proportional to the number of engines that register, the fee revenue will not exceed the District's costs regardless of the number of engines that register.

SOCIOECONOMIC IMPACT/COST IMPACTS

California Health and Safety Code Section 40728.5 requires a district to perform an assessment of socioeconomic impacts before adopting, amending, or repealing a rule that will significantly affect air quality or emission limitations. The District Board is required to actively consider the socioeconomic impact of the proposal and make a good faith effort to minimize adverse socioeconomic impacts. Proposed new Rule 311 is exempt from the requirements of this section because the rule is administrative and does not affect air quality or emission limitations. Nonetheless, Staff prepared an overview of the cost impacts associated with the proposed new rule. These impacts are discussed below.

Type of business affected by the rule: Rule 311 will apply to any agricultural operation with CI engines rated over 50 bhp that is required to obtain registration pursuant to Title 17 of the California Code of Regulations Section 93115.8(c). Staff estimates that there are approximately

75 different businesses affected and about 160 engines required to submit registration information.

Range of probable costs: There are two fees established in the rule: the initial fee and an annual renewal fee. The initial fee is charged when the registration information is submitted for an engine for the first time. The renewal fee is charged to the source yearly to keep the registration valid. All fees will be consistent on a per-engine basis and will not vary based on engine size or use.

The table below shows the fees established by the Rule 311.

Rule 311 Fees	
Initial Fee	Annual Renewal Fee
\$300	\$169

ENVIRONMENTAL REVIEW AND COMPLIANCE

Staff finds that proposed Rule 311 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 311 establishes a fee schedule to recover the expenses of implementing District responsibilities for the registration of agricultural compression ignition engines.

PUBLIC WORKSHOP

Staff will hold a public workshop to discuss proposed new Rule 311. A public notice will be mailed to interested parties, including the affected sources, and will be posted on the District web site. The draft rule and staff report will be made available for public review at that time.

This section will be updated as public comments are received throughout the rule development process.

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, non-duplication, 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;

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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 a fee cost recovery rule by Health and Safety Code (HSC) Sections 40702, 41080, and 39659 and Title 17 of the California Code of Regulations, Section 93115.8(d). [HSC 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.	The proposed rule is required in order to recover costs of the District to implement and enforce Title 17 of the California Code of Regulations Section 93115.8. [HSC 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 proposed rule and determined that it can be understood by the affected parties. In addition, the record contains no evidence that people directly affected by the rule cannot understand the rule. [HSC 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 District has found that the proposed rule does not conflict with, and is not contradictory to, existing statutes, court decisions, or state or federal regulations. [HSC Section 40727(b)(4)].
Non-Duplication: The District must find that either: 1) The rule does not impose the same requirements as an existing state 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 District has found this proposed rule does not duplicate any existing state or federal regulations [HSC 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.	Title 17 of the California Code of Regulations, Section 93115; HSC Section 39659. [HSC Section 40727(b)(6)].
Additional Informational Requirements: In complying with HSC Section 40727.2, 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.	Rule 311 is a fee rule and does not affect emissions. Therefore, a written analysis of federal regulations and other District rules is not required. [HSC Section 40727.2(g)].

**APPENDIX A
 SUMMARY OF PROPOSED AMENDMENTS**

NEW SECTION NUMBER	EXISTING SECTION NUMBER	PROPOSED CHANGES
101	NA	Set the purpose of the rule to provide a mechanism for collecting fees to recover the cost for implementing and enforcing Title 17 of the California Code of Regulations (CCR) Section 95113.8.
102	NA	Sets the applicability to any person who owns or operates an engine that is subject to the registration requirements of 17 CCR 95113.8(c).
103	NA	Sets the severability language of the rule consistent with existing language in Rule 202, NEW SOURCE REVIEW.
104	NA	Exempts engines that are permitted with the District from the provisions of this rule.
105	NA	Exempts engines that are registered in the state portable engine registration program (Title 13 CCR, Sections 2450 through 2465).
301	NA	Sets an initial registration fee of \$300 per engine. If the initial registration requires more than 3 hours of District work, due to circumstances beyond the District's control, the time and materials labor rate from Section 303 will apply to each hour beyond 3 hours.
302	NA	Sets an annual renewal fee of \$169 for each registered engine. If, during an inspection to determine compliance with the ATCM, the engine cannot be evaluated due to circumstances beyond the District's control then the owner/operator will have to pay a reinspection fee according to the time and materials labor rate set forth in Section 303.
303	NA	The time and materials labor rate shall be \$160 per hour.
401	NA	Requires that the initial registration fee be paid at the time when the registration information is submitted to the District. For engines where the registration information was submitted before Rule 311 was adopted, the initial fee must be paid within 30 days after the adoption of Rule 311.
402	NA	This section sets the procedure for notifying an owner/operator that an annual renewal fee is due and payable. If an owner/operator does not pay by the due date, then the fee is increased by one half the amount and the applicants will be notified by mail of the increased fee, which must be paid within 30 days of such notice.
403	NA	This section sets the procedure for the Air pollution Control Officer to make an annual CPI-based fee adjustment upon Board approval of the District's budget.