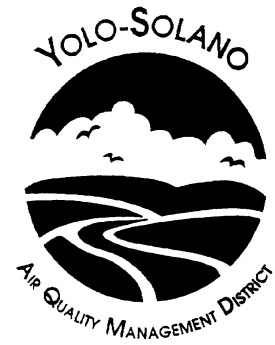


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PROPOSED ADOPTION OF RULE 11.1, AGRICULTURAL OPERATING PERMIT PROGRAM

FINAL STAFF REPORT

February 1, 2005

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I. EXECUTIVE SUMMARY

On March 9, 2005, the Yolo-Solano Air Quality Management District (District) Board of Director's will consider the adoption of proposed Rule 11.1, Agricultural Operating Permit Program. Rule 11.1 is required to implement the requirements set forth in Section 42301.16 of the California Health and Safety Code (CH&SC).

The main requirements for proposed Rule 11.1 are:

1. No person shall operate a Stationary Agricultural Source (SAS) without first obtaining an Agricultural Operating Permit (AOP) from the Air Pollution Control Officer (APCO).
2. The APCO shall deny an application for an AOP if the applicant does not show that every Agricultural Emissions Unit (AEU) is so designed, controlled, equipped, and operated with such air pollution control equipment, that it may be shown to operate without emitting or without causing to be emitted any air contaminant in violation of the District's Rules and Regulations, or any state or federal statutes or regulations that may be enforceable by the APCO.
3. Applications to add an AEU to a SAS shall be submitted prior to the installation of the AEU. Operation of the new AEU is not allowed until approved by the APCO under the AOP.
4. The AOP shall contain the following: stationary agricultural source description, listing of AEU's, enforceable emission limitations, and applicable requirements.
5. The operator of the SAS shall maintain data necessary to determine the annual emissions from each AEU operated at the SAS.
6. No later than March 31st of each calendar year, the holder of an AOP shall submit an annual emission statement. The emission statement shall list each AEU, the data used to calculate actual emissions, and the actual emissions from each AEU. Calculations shall be conducted in accordance with the Actual Emission Monitoring Plan.
7. The applicant shall submit an Actual Emission Monitoring Plan as part of the application procedure. The monitoring plan shall indicate the parameters that are measured in order to calculate actual emissions from each AEU.

Proposed Rule 11.1 is expected to directly affect agricultural sources of air pollution within the District. Since agricultural operations have historically been exempt from air quality permitting requirements, the number of affected sources is unknown.

Proposed Rule 11.1 establishes an operating permit program for stationary agricultural sources. However, the rule does not establish any emission control measures. Proposed Rule 11.1 may result in emission reductions from sources modifying operations to avoid permitting requirements. This rule will provide a frame-work for the District to develop

additional regulations needed to attain ambient air quality standards and protect public health.

Proposed Rule 11.1 will add new air quality regulations to a previously permit-exempt source category. Because any new regulations will, at least, maintain the air quality attainment status of the District, staff prepared a Notice of Exemption to satisfy the requirements of the California Environmental Quality Act (CEQA).

A. BACKGROUND

Overview of Stationary Agricultural Sources (SAS or Agricultural Sources)

Within the District, the majority of stationary agricultural sources are farming operations that grow crops. The District estimates that a large portion of air pollution emitted by a SAS is from the use of diesel-fired engines driving irrigation pumps. Most agricultural sources rely on deep-well or surface water irrigation as their primary means of water for their crops. Emissions from a diesel engine contain hundreds of chemical compounds including the criteria air pollutants, volatile organic compounds (VOCs), nitrogen oxides (NO_x), carbon monoxide (CO), sulfur oxides (SO_x), and particulate matter (PM), as well as hazardous air pollutants.

Of the criteria air pollutants, diesel engines produce a large quantity of NO_x. NO_x emissions lead to smog formation and also contribute to the photochemical reactions that create ozone (O₃). NO_x can damage the cells lining the human respiratory tract, increase a person's susceptibility to respiratory infection, and constrict lung airways. Studies show that mice injected with cancer cells develop more tumors when exposed to NO_x. Other studies with animals show that NO_x adversely affects the kidneys, liver, spleen, red blood cells and immune system.

Older diesel engines can also have very high particulate emissions causing a cloud of visible emissions. Short term exposure to particulate matter can lead to coughing and throat irritation. Inhaled particles can irritate the respiratory tract, constrict airways and interfere with the mucous lining of the airways. Long term exposures can lead to increased chances of developing bronchial disease. Particulates can be composed of metals and toxic compounds or they may carry carcinogens such as dioxins or benzene. These particles can penetrate deep into the lungs and increase the probability of cancer.

Stationary agricultural sources may also operate equipment similar to traditional stationary sources - such as, gasoline/propane/natural gas-fired engines, gasoline/diesel storage tanks, boilers, painting and degreasing operations, etc. These operations contribute to the overall emissions created at a SAS.

The California Air Resources Board (ARB) maintains an emission inventory which estimates the amount of pollutants emitted from particular source categories each year for the entire state, as well as air basins and counties. The 2003 emission inventory for the Yolo-Solano Air District shows estimated emissions of: 0.351 tons of reactive organic gases (ROG), 0.854 tons of carbon monoxide (CO), 3.070 tons of nitrogen oxides (NO_x), 0.049 tons of sulfur oxides (SO_x), and 0.277 tons of particulate matter less than 10 microns in diameter

(PM₁₀), emitted per day, averaged over the 2003 calendar year, due to agricultural irrigation internal combustion engines alone. During the summer months, the ARB's 2003 emission inventory estimates for the District: 0.596 tons of ROG, 1.453 tons of CO, 5.218 tons of NOx, 0.083 tons of SOx, and 0.471 tons of PM₁₀, emitted per day due to agricultural irrigation internal combustion engines alone.

Overview of SB 700

In the past, agricultural operations have been exempt from obtaining air quality permits from local air districts. However, in September 2003, California signed into law Senate Bill 700 (SB 700). This bill amended air pollution control requirements in the California Health and Safety Code to include regulatory requirements for agriculture. In particular, SB 700 added Section 42301.16 - the section addressed in proposed Rule 11.1.

SB 700 targeted agriculture and air pollution for two main reasons. First, California's previous agriculture exemption conflicted with federal law. California would have lost billions of dollars in federal transportation funding, as well as faced other sanctions, if the bill had not passed. Secondly, in some parts of the state - including the Sacramento air basin - 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.

SB 700 established permitting requirements based on emissions from individual agricultural operations. The District is required to issue permits to sources emitting actual emissions equal to or exceeding one-half of any applicable emissions threshold for a major source. The removal of the agricultural source exemption in the CH&SC requires agricultural operations whose potential to emit is equal to or exceeding any applicable emissions threshold for a major source to obtain a federal operating permit, as required by District Rule 3.8. The permit requirements for "Large" Confined Animal Facility (CAFs), as defined by the ARB, will be established in a separate District rule.

II. DISCUSSION OF PROPOSED RULE 11.1 REQUIREMENTS

Listed below are descriptions of the proposed requirements for Rule 11.1, Agricultural Operating Permit Program.

Section 100 General

Section 101 - Purpose: The purpose of this rule is to implement the requirements of Section 42301.16 of the California Health and Safety Code.

Section 102 - Applicability: The proposed rule applies to all stationary agricultural sources with the potential to emit greater than one half of any applicable emissions threshold for a major source. Although Section 42301.16 of the CH&SC contains a provision stating that permits are not required for sources with actual emissions less than one half of any applicable emissions threshold for a major source, the District feels it is necessary to establish rule language to require sources with a potential to emit greater than one half of

any applicable emissions threshold for a major source to comply with certain record-keeping requirements. The permit exemption for stationary agricultural sources with actual emissions of less than one half of any applicable emissions threshold for a major source is addressed in Section 111 of the proposed rule.

Section 110 - Exemptions - General: Stationary agricultural sources subject to the requirements of District Rule 3.8, Federal Operating Permits, that maintain a valid federal operating permit issued by the District will be exempt from Rule 11.1. A source's federal operating permit contains similar or more stringent requirements compared to proposed Rule 11.1. Also, "Large" Confined Animal Facilities (CAFs), as defined by the ARB, are exempt from proposed Rule 11.1. The permitting of "Large" CAFs will be addressed in a separate District rule and permit program.

Section 111 - Exemptions - Actual Emissions: Proposed Rule 11.1, with the exception of Section 501, does not apply to stationary agricultural sources with actual emissions of less than one half of any applicable emissions threshold for a major source. This exemption is in accordance with Section 42301.16 of the CH&SC. However, if a source's potential to emit is greater than one half of any applicable emissions threshold for a major source, the source must continue to comply with Section 501 of the proposed rule.

Section 200 Definitions

Proposed Rule 11.1 provides approximately 16 definitions to clarify terms used in the rule, and to improve overall enforceability and compliance. Many of the definitions come from other District rules. However, some new definitions were constructed to accommodate new terms not used before by the District.

Section 300 Standards

Section 301 - Agricultural Operating Permit (AOP): The requirements of this section states that no person shall operate a SAS without first obtaining an Agricultural Operating Permit (AOP) from the Air Pollution Control Officer (APCO). Therefore, it is a violation of proposed Rule 11.1 to operate a SAS without a AOP if the source is subject to the permitting requirements of the proposed rule.

Section 302 - Addition or Replacement of an Agricultural Emissions Unit (AEU): This section states that no person shall add or replace an AEU at a SAS unless the AOP holder adheres to the application procedures outlined in Sections 402 and 403 of the proposed rule. Therefore, addition or replacement of an AEU must be reported to the District and a completed application is required. The purpose of this section is to obligate AOP holders to maintain a current listing of AEU's on their AOP, and to allow the District the opportunity to evaluate the emissions from the additional or replacement AEU before it is added.

Section 303 - Reconfiguration of a Stationary Agricultural Source: This section states that no person shall reconfigure a SAS unless the AOP holder adheres to the application procedures outlined in Section 404 of the proposed rule. Reconfiguration means any physical modification in the method of operation that results in a change in the SAS description - such as, increasing the land acreage of the operation. Therefore,

reconfiguration of a SAS must be reported to the District and a completed application is required. The purpose of this section is to require AOP holders to maintain a current SAS description on their AOP, and to allow the District the opportunity to evaluate possible pollutant emission changes caused by the reconfiguration.

Section 304 - Standards for Granting Applications: The language of Section 304 is similar to portions of District Rule 3.1, General Permit Requirements, Section 303, Standards for Granting Applications. This section specifies standards a SAS must comply with in order to obtain an AOP. First, the APCO has the authority to deny an application for an AOP if the applicant does not show that the equipment can operate without emitting or without causing to be emitted any air contaminant in violation of District Rules and Regulations, or any state or federal statutes or regulations that may be enforceable by the APCO. Secondly, the APCO must determine if the applicant has complied with public notice requirements set forth in Section 42301.6 of the CH&SC. This section of the CH&SC contains public noticing requirements for sources that emit hazardous air pollutants within 1,000 feet of a K-12 school.

Section 305 - Transfer: This section states that an AOP, or any AEU under an AOP, shall not be transferable, by operation of law or otherwise, from one location to another or from one piece of equipment to another. However, an AOP, or any AEU under an AOP, may be transferred from the AOP holder to another entity provided that an application is submitted for such transfer in accordance with Sections 401 through 406, as applicable. It is the transferee's responsibility to inform the District of the transfer of any AEU if the transferee is subject to the permitting requirements of proposed Rule 11.1.

Section 306 - AOP Content Requirements: This section specifies that an AOP shall contain a description of the SAS, a list of AEU's operated at the SAS, enforceable limitations for Volatile Organic Compounds, Nitrogen Oxides, Sulfur Oxides, Carbon Monoxide, and PM₁₀, and a listing of applicable requirements for the SAS. The purpose of this section is to require certain information and statements to be listed on an AOP to improve overall enforceability of and compliance with the AOP.

Section 400 Administrative Requirements

Section 401 - Application Requirements - Initial AOP: This section states that the owner or operator of any SAS subject to the proposed rule upon rule adoption is required to submit a complete standard application no later than 6 months after the date of rule adoption. The owner or operator of a SAS that becomes subject to the proposed rule after rule adoption must submit a complete standard application within 6 months of the date the source commences operation or otherwise becomes subject to the proposed rule. This section allows existing sources to comply with the permitting requirements within a reasonable time-frame after rule adoption and new sources the flexibility to begin operation before applying for an AOP.

Section 402 - Addition of an AEU: Section 402 states an application must be submitted to the District before the installation of any additional AEU's not listed on the AOP. This section allows the District to determine whether an additional AEU is approvable under the AOP. The new AEU is not allowed to operate until approved under the AOP by the District.

Any additional AEU's may increase the source's potential to emit, which may trigger federal operating permit requirements.

Section 403 - Application Requirements - Replacement of an AEU: This section states that the AOP holder must notify the District in writing within 7 days, and submit an application within 6 months, of replacing an AEU with a functionally equivalent AEU replacement. AOP holders who replace an AEU with a non-functionally equivalent AEU replacement must submit a completed application prior to the installation of the replacement AEU. A non-functionally equivalent AEU replacement cannot be operated until it is approved under the AOP by the District.

This section allows for the flexibility of replacing an AEU with a functionally equivalent AEU (identical function with a potential to emit less than or equal to the replaced AEU). However, a non-functionally equivalent AEU replacement must be evaluated by the District before it can be added to the AOP. The addition of a non-functionally equivalent AEU may result in the source triggering federal permitting requirements.

Section 404 - Application Requirements - Reconfiguration: Section 404 states that the AOP holder must notify the District in writing within 7 days, and submit an application within 6 months, of a SAS reconfiguration that does not result in an increase in potential to emit. For a reconfiguration that results in an increase in potential to emit, the AOP holder must submit an application prior to operating the reconfigured portion of the SAS. Operating the reconfigured portion of the SAS is not allowed until approved under the AOP by the District.

This section allows the flexibility for sources to reconfigure their operation at any time, but requires the AOP holder to contact the District and submit an application within a reasonable time-frame. However, a reconfiguration that results in an increase in potential to emit must be evaluated by the District before the AOP holder can operate the reconfigured area of the SAS. A reconfiguration that results in an increase in potential to emit may result in the source triggering federal permitting requirements.

Section 405 - Application Requirements - AOP Renewal: Section 405 governs the application requirements for AOP renewal. For the renewal of an AOP, the AOP holder must submit a standard complete application no earlier than 9 months and no later than 3 months before the expiration date of the current AOP. This section allows a renewal application to be received in a reasonable period of time for the District to re-issue the AOP before the current AOP expires.

Section 406 - Application Requirements - Transfer of Ownership: Section 406 governs the application requirements for a transfer in ownership. Applications to transfer ownership of an entire SAS shall be submitted within 30 days of the ownership change occurring. The new owner is subject to the same terms and conditions of the existing AOP issued to the previous AOP holder until a new AOP is issued.

This section allows the flexibility for a SAS to change ownership at any time, but requires a transfer application within a reasonable time-frame. The transferee is responsible for notifying the district of the transfer of ownership and for submitting the transfer application.

Section 407 - Application Requirements - Information: Section 407 ensures that applications contain the information necessary for the APCO to make a determination required by Section 304.1 of the proposed rule. If the information on the application is not sufficient, the APCO can require additional information from the applicant before issuing an AOP. This section allows the APCO to require any information from the applicant deemed necessary for evaluating an application. If the requested information is not provided by the applicant, the APCO can deem the application incomplete and deny the issuance of an AOP.

Section 408 - AOP Reopening: This section allows the APCO to reopen and revise an AOP. If an AOP contains a material mistake or an inaccurate statement, the APCO may reopen and revise the AOP to correct those mistakes. Also, as rules and regulations are adopted by the District, the APCO may reopen and revise an AOP to incorporate any new, revised, or additional applicable requirements.

Section 409 - Denial of Applications: Section 409 requires the APCO to notify the applicant in writing explaining the basis for denial if an application is deemed denied. This section ensures that the applicant, whose application is deemed denied, is given full explanation and clarity as to why the application is denied.

Section 410 - Right of Entry: The language in Section 410 is similar to that of District Rule 3.1, General Permit Requirements, Section 405.5, Information. This section provides the APCO right of entry to a SAS operating under an AOP. Right of entry to the SAS allows the APCO to ascertain whether the SAS is operating under the requirements of the AOP.

Section 411 - Appeals: This section provides the applicant a 30 day period to petition the Hearing Board after notice by the APCO of denial or approval of an AOP. The Hearing Board, after notice and a public hearing, may sustain or reverse the actions of the APCO. The language in Section 411 is similar to that of District Rule 3.1, General Permit Requirements, Section 406, Appeals.

Section 412 - Term of the AOP: This section specifies that the term of an AOP shall not exceed five years. This AOP term period is similar to the permit term for federal operating permits. The similarity between the two permitting programs will allow sources to make a smoother transition between the two programs if applicable.

Section 500 Monitoring and Records

Section 501 - Actual Emissions: This section requires the owner or operator of a SAS to maintain the necessary data to determine the annual emissions from each AEU located at the SAS. This requirement will allow the source and the District to determine what the actual emissions emitted from the source are and whether the source is required to obtain, maintain, or cancel an AOP. The requirements in this section applies to all stationary agricultural sources with the potential to emit greater than one half of any applicable emissions threshold for a major source.

Section 502 - Actual Emission Statements: Section 502 requires the AOP holder to submit an annual emission statement by no later than March 31st of each calendar year. The emission statement must list each AEU, the data used to calculate actual emissions and the

actual emissions from the emissions unit. The AOP holder must conduct calculations in accordance with the Actual Emission Monitoring Plan. The requirements of this section are similar to the annual throughput/production reports required by the District for other source categories. The Actual Emission Statement allows the District to evaluate the compliance status of the SAS to their AOP's emission limitations and AOP conditions.

Section 503 - Actual Emission Monitoring Plan: Section 503 requires that in addition to submitting an application, the applicant shall submit an Actual Emission Monitoring Plan. In the Actual Emission Monitoring Plan, the applicant must indicate the parameters to be measured in order to calculate actual emissions from each AEU. The Actual Emission Monitoring Plan prepares the applicant for the AOP monitoring requirements. This ensures that the source understands their own individual calculation method for the Actual Emission Statement. Also, the plan allows the District to review the source's monitoring method prior to issuing the AOP.

Section 600 Fees

Section 601 - AOP Processing Fee: This section establishes the fee for applications filed in accordance with Sections 401 through 405 of the proposed rule. The application processing fee is based on the actual hours spent by District staff in evaluating the application and processing the AOP. The fee is assessed in accordance with the time and materials labor rate established in section 307.10 of District Rule 4.1, Permit Fees - Stationary Sources. An initial filing fee must be included with the application when submitted to the District. The initial filing fee is equal to two hours at the time and materials labor rate established in Section 307.10 of District Rule 4.1, Permit Fees - Stationary Sources. Once the application filing fee is submitted, the fee cannot be refunded or applied to any other application.

This section establishes the standard processing fee for an AOP. The District plans to fund the agricultural operating permit program through permit and application fees associated with the program. These fees are based on actual hours of work done by the District. The initial filing fee ensures the District that a partial amount for the cost of work done on applications submitted will be covered ahead of time.

Section 602 - AOP Transfer: Section 602 establishes the fee required to transfer an AOP. The applicant is charged a fee equal to two hours at the time and materials labor rate to process applications filed in accordance with Section 406 of the proposed rule. The applicant must submit the fee at the time of application.

Section 603 - Annual AOP Fee: Section 603 establishes the annual fee required to maintain an AOP. The AOP holder shall be charged an annual fee in accordance with the requirements of Section 500 of District Rule 3.8, Federal Operating Permit. The annual fee is directly correlated with a source's actual emissions.

Section 604 - Notification of Fees Due: Section 604 requires the District to notify AOP holders by mail of any fees due and payable and the date the fees are due. This section states that if any fees are not paid by the specified due date, the District shall assess a penalty to the AOP holder of not more than 50 percent of the fee due, but in an amount

sufficient, in the District's determination, to pay the District's additional expenses incurred by the AOP holder's non-compliance. This penalty is similar to the penalty established in District Rule 4.1, Permit Fees - Stationary Source, Section 401, Notification of Permit Renewal Fee Due, for other source categories.

III. COMPARISON WITH OTHER APPLICABLE REGULATIONS AND REQUIREMENTS

Health and Safety Code Section 40727.2 requires districts to prepare a written analysis that identifies all existing federal air pollution control requirements, including, but not limited to emission control standards constituting BACT that applies to the same equipment or source type as the rule or regulation proposed for adoption or modification by the District. In addition, the analysis shall identify any other District rule or regulation that applies to the same equipment or source type.

Comparison with BACT Requirements

Health and Safety Code Section 40727.2 requires districts to prepare a written analysis to identify the requirements of a proposed new or amended rule with Best Available Control Technology (BACT) requirements that apply to the same equipment or source type. The California Air Pollution Control Officers Association (CAPCOA) Engineering Managers Rule Development Subcommittee developed guidance on this matter. Under this guidance, it was recommended BACT be interpreted as a District's BACT determination. Stationary agricultural sources are not subject to District Rule 3.1, General Permit Requirements. District Rule 3.2, Exemptions, Section 107, exempts agricultural operations from the requirements of District Rule 3.1. Therefore, stationary agricultural sources are also exempt from the requirements of BACT as required by Section 301 of District Rule 3.4, New Source Review.

IV. IMPACTS OF THE PROPOSED RULE

Emissions Impacts

Proposed Rule 11.1 establishes an operating permit program for stationary agricultural sources as required by the CH&SC, but does not establish new emission control measures for agricultural sources. This rule will provide a frame-work for the District to develop additional regulations needed to attain ambient air quality standards. Proposed Rule 11.1 will, at the minimum, maintain the air quality attainment status of the District.

Cost Effectiveness

Section 40703 of the CH&SC requires that the District consider and make public its findings relating to the cost effectiveness of implementing an emission control measure.

Proposed Rule 11.1 establishes an operating permit program for stationary agricultural sources. The rule does not establish new emission control measures for agricultural sources. Therefore, proposed rule 11.1 does not require sources to implement new

equipment or emission control devices. The costs to sources associated with the proposed rule are District fees for application processing, AOP transfers, and annual AOP fees.

The cost to the District for maintaining the new agricultural operating permit program is expected to be offset by the permit program fees established in Section 600, Fees, of proposed Rule 11.1.

Socioeconomic Impacts

California Health and Safety Code Section 40728.5 (a) requires the District, in the process of the adoption of any rule or regulation, to consider the socioeconomic impact if air quality or emission limits may be significantly affected. However, districts with a population of less than 500,000 persons are exempt from the provisions of Section 40728.5 (a). The District's population is estimated to be approximately 300,000 and well below the 500,000 person threshold. Therefore, a socioeconomic analysis for this rule-making is not required.

Incremental Cost Effectiveness

Health and Safety Code Section 40920.6 requires an assessment of the incremental cost-effectiveness for proposed regulations relative to ozone, CO, SOx, NOx, and their precursors. Incremental cost-effectiveness is defined as the difference in control costs divided by the difference in emission reductions between two potential control options that can achieve the same emission reduction goal of a regulation. Since the proposed rule does not establish emission control measures, an incremental cost effectiveness evaluation is not applicable.

V. ENVIRONMENTAL IMPACTS OF METHODS OF COMPLIANCE

California Public Resource Code Section 21159 requires the District to perform an environmental analysis of the reasonably foreseeable methods of compliance. The analysis must include the following information for the proposed adoption of Rule 11.1:

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.

Table 1 lists all reasonably foreseeable compliance methods, the environmental impacts of those methods, and measures that could be used to mitigate the environmental impacts.

TABLE 1. Environmental Impacts, Mitigation Measures, and Alternatives

Compliance Methods	Reasonably Foreseeable Environmental Impacts	Reasonably Foreseeable Mitigation Measures
Obtain a permit.	Air Quality Impacts: State certified engines and electric motors have stricter emission standards or zero emissions, respectively, thus having lower emission rates than non-certified engines.	No mitigation necessary
Replace current internal combustion engines with State certified engines or electric motors (so as to lower the operation's emissions, thereby avoiding permitting requirements).	Water Impacts: No impact.	No mitigation necessary
	Human Health Impacts: The replacement of current internal combustion engines with State certified engines or electric motors will reduce the quantity of criteria air pollutants, as well as hazardous air pollutants (HAPs), generated from agricultural sources. This will have a beneficial impact on human health.	No mitigation necessary
	Solid Waste Disposal Impacts: No impact.	No mitigation necessary
	Noise Impacts: No impact.	No mitigation necessary

This analysis demonstrates that the adoption of proposed Rule 11.1 will not have a significant effect on the environment or humans due to unusual circumstances. In addition, proposed Rule 11.1 may prompt SAS owners/operators to replace current equipment with units that have lower emission rates as a way to exempt the source from proposed Rule 11.1 permitting requirements. Therefore, staff has determined that the project is categorically exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to Section 15308, Actions by Regulatory Agencies for Protection of the Environment. Staff prepared a Notice of Exemption (NOE) to meet the CEQA Guidelines (Attachment B).

VI. REGULATORY FINDINGS

Section 40727(a) of the California Health & Safety Code (CH&SC) requires that prior to adopting or amending a rule or regulation, an air district's board 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 CH&SC Section 40727.2;
2. Information contained in the rule-making records pursuant to CH&SC Section 40728; and
3. Relevant information presented at the Board's hearing for adoption of the rule.

The required findings are:

Necessity: The proposed rule is necessary in order to meet the requirements of Section 42301.16 of the California Health and Safety Code. (CH&SC Section 40727(b)(1)).

Authority: The District is authorized to adopt rules and regulations by California Health and Safety Code, Sections 40001, 40702, 40716, 41010 and 41013. (CH&SC Section 40727(b)(2)).

Clarity: District staff has reviewed the proposed 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. (CH&SC Section 40727(b)(3)).

Consistency: The proposed rule does not conflict with and is not contradictory to, existing statutes, court decisions, or state or federal regulations. (CH&SC Section 40727(b)(4)).

Non-Duplication: The proposed rule does not duplicate any state laws or regulations, regarding the attainment and maintenance of state and federal air quality limits. (CH&SC Section 40727(b)(5)).

Reference: This rule incorporates provisions of the California Health and Safety Code. (CH&SC Section 40727(b)(6)).

VII. PUBLIC COMMENTS AND STAFF RESPONSES

In August, 2004, District staff formed the Agricultural Permitting Advisory Committee (APAC). The purpose of APAC is to bring together the local agricultural community, agricultural officials, the environmental community, and other interested parties, to share their expertise and comments with the District regarding SB700 implementation and proposed Rule 11.1. Draft versions of proposed Rule 11.1 were distributed for review to APAC members. The draft versions of proposed Rule 11.1 continued to evolve over several months as APAC members commented on the rule language. At the November, 2004 APAC meeting, District staff presented a draft version of proposed Rule 11.1 which incorporated the comments made to date by APAC. APAC did not have any additional comments and agreed with District staff's proposal to conduct a public workshop for proposed Rule 11.1.

The notice for a public workshop regarding proposed Rule 11.1 was mailed to parties listed on a District mailing list generated from the Yolo and Solano Department of Agriculture databases for calendar year 2003. In addition, the notice was sent to neighboring districts, published in the Vacaville Reporter, Woodland Democrat, Davis Enterprise, River News-Herald, Winters Express, Dixon Tribune, and Daily Democrat newspapers, and provided to all libraries within the District's jurisdiction. Also, a copy of the notice, the draft staff report, and draft rule language was placed on the District's webpage.

A. Public Workshop

Below, District staff will attempt to paraphrase formal verbal comments submitted during the public workshop and respond to each comment.

Comment 1. Rick Landon, Yolo County Agricultural Commissioner, commented that the District should make a greater effort in promoting incentives for growers to switch from diesel engines to electric motors.

Response 1. The District will continue to encourage growers to take advantage of Carl Moyer incentive funding as well as NRCS/USDA EQIP funding. The District will monitor progress being made by a group of California electric companies and the California Public Utilities Commission which may offer growers reduced rates and charges for converting to electric motors.

B. WRITTEN COMMENTS

No written comments were submitted to the District.

VIII. REFERENCES

1. State of California. California Air Resources Board, 2003 Emission Inventory.
2. California EPA/California Air Resources Board. Stationary Reciprocating Engines (June 1998).
3. California State Senator Flores. Senate Bill 700 (September 2003).
4. California Air Pollution Control Officer's Association (CAPCOA). Senate Bill 700 (Flores): Agriculture & Air Quality - Summary and Implementation (April 2004).

ATTACHMENT A

PROPOSED RULE 11.1

AGRICULTURAL OPERATING PERMIT PROGRAM

RULE 11.1 AGRICULTURAL OPERATING PERMIT PROGRAM

ADOPTED (MONTH, DATE, YEAR)

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- 214 STATIONARY AGRICULTURAL SOURCE (SAS)
- 215 STATIONARY AGRICULTURAL SOURCE DESCRIPTION
- 216 VOLATILE ORGANIC COMPOUNDS

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- 402 APPLICATION REQUIREMENTS - ADDITION OF AN AEU
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500 MONITORING AND RECORDS

- 501 ACTUAL EMISSIONS
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600 FEEES

- 601 AOP PROCESSING FEE
- 602 AOP TRANSFER FEE
- 603 ANNUAL AOP FEE
- 604 NOTIFICATION OF FEES DUE

100 GENERAL

- 101 **PURPOSE:** The purpose of this rule is to implement the requirements of Section 42301.16 of the California Health and Safety Code.
- 102 **APPLICABILITY:** This rule shall apply to all stationary agricultural sources with a potential to emit greater than one half of any applicable emissions threshold for a major source.
- 110 **EXEMPTIONS - GENERAL:** The provisions of this rule shall not apply to:
- 110.1 Stationary agricultural sources with a valid federal operating permit issued pursuant to District Rule 3.8.
- 110.2 Large Confined Animal Facilities.
- 111 **EXEMPTIONS - ACTUAL EMISSIONS:** The provisions of this rule, with the exception of Section 501, shall not apply to a stationary agricultural source with actual emissions of less than one half of any applicable emissions threshold for a major source.

200 DEFINITIONS

- 201 **ACTUAL EMISSIONS:** Measured or estimated emissions which most accurately represent the emissions from a SAS.
- 202 **AGRICULTURAL EMISSIONS UNIT (AEU):** Any stationary or portable article, machine, equipment or other contrivance used in the production of crops or the raising of fowl or animals, the use of which may cause the issuance of air contaminants. Equipment listed in sections 101, 102, 103, 104, 105, 106, 108, 109, 110, 111, 112 and 113 of District Rule 3.2 shall not be considered AEU's.
- 203 **AGRICULTURAL OPERATING PERMIT (AOP):** Permit issued to a SAS pursuant to the provisions of this rule.
- 204 **AIR CONTAMINANT:** As defined in District Rule 1.1, excluding odors.
- 205 **AIR POLLUTION CONTROL OFFICER (APCO):** The Air Pollution Control Officer of the Yolo-Solano Air Quality Management District, or his or her designee.

- 206 **ENFORCEABLE EMISSION LIMITATION:** One or more AOP conditions specific to the SAS which restricts its maximum emissions, at or below the maximum emission capacity of the SAS.
- 207 **FUNCTIONALLY EQUIVALENT AEU REPLACEMENT:** The replacement of an AEU where the replacement AEU serves the identical function as the replaced AEU and the potential to emit does not exceed the potential to emit of the replaced AEU.
- 208 **LARGE CONFINED ANIMAL FACILITIES:** As defined by the California Air Resources Board (CARB). CARB is required to promulgate a definition pursuant to Section 40724.6 of the California Health and Safety Code.
- 209 **MAJOR STATIONARY SOURCE:** As defined in District Rule 3.8.
- 210 **PM₁₀:** As defined in District Rule 3.4.
- 211 **PORTABLE EQUIPMENT:** Designed to be and capable of being carried or moved from one location to another. Indicators of portability include, but are not limited to, wheels, skids, carrying handles, dolly, trailer, or platform.
- 212 **POTENTIAL TO EMIT:** The maximum physical and operational design capacity to emit a pollutant.
- 213 **RECONFIGURATION OF THE STATIONARY AGRICULTURAL SOURCE:** Any physical change to the SAS or change in the method of operation at the SAS that results in a change in the SAS description.
- 214 **STATIONARY AGRICULTURAL SOURCE (SAS):** An AEU or group of AEU's, under common ownership or control, used in the production of crops or the raising of fowl or animals located on contiguous property.
- 215 **STATIONARY AGRICULTURAL SOURCE DESCRIPTION:** The description of the SAS as it appears on the AOP. The description shall include the physical location, total acreage, crop(s) grown and any other information used to establish the enforceable emission limitation for the SAS that is not specific to individual AEU's.
- 216 **VOLATILE ORGANIC COMPOUNDS:** As defined in District Rule 1.1.

300 STANDARDS

301 AGRICULTURAL OPERATING PERMIT (AOP): No person shall operate any SAS without first obtaining an AOP from the APCO.

302 ADDITION OR REPLACEMENT OF AN AEU: No person shall add or replace an AEU at a SAS without following the application procedures outlined in Sections 402 and 403 of this rule.

303 RECONFIGURATION OF A STATIONARY AGRICULTURAL SOURCE: No person shall reconfigure a SAS without following the application procedures outlined in Section 404 of this rule.

304 STANDARDS FOR GRANTING APPLICATIONS:

304.1 The APCO shall deny an application for an AOP if the applicant does not show that every AEU is so designed, controlled, equipped, and operated with such air pollution control equipment, that it may be shown to operate without emitting or without causing to be emitted any air contaminant in violation of these Rules and Regulations, or any state or federal statutes or regulations that may be enforceable by the APCO.

304.2 The APCO shall determine that an applicant has complied with the applicable requirements of Health and Safety Code Section 42301.6, preparation and distribution of public notice prior to approving an application for an AOP.

305 TRANSFER:

305.1 An AOP, or any AEU under an AOP, shall not be transferable, by operation of law or otherwise, from one location to another or from one piece of equipment to another.

305.2 An AOP, or any AEU under an AOP, may be transferred from the AOP holder to another entity provided that an application for such transfer is submitted in accordance with Sections 401 through 406 of this Rule, as applicable. It shall be the transferee's responsibility to inform the District on assumption of ownership or operating control

of any AEU under an AOP and for which an AOP will be required.

306 AOP CONTENT REQUIREMENTS:

- 306.1 Stationary Agricultural Source Description:**
The AOP shall provide a description of the SAS.
- 306.2 Listing of AEU's:** The AOP shall list all AEU's operated at the SAS.
- 306.3 Enforceable Emission Limitation:** The AOP shall contain an enforceable emission limitation for the SAS for Volatile Organic Compounds, Nitrogen Oxides, Sulfur Oxides, Carbon Monoxide and PM₁₀.
- 306.4 Applicable Requirements:** The AOP shall contain a listing of the applicable requirements for the SAS.

400 ADMINISTRATIVE REQUIREMENTS

401 APPLICATION REQUIREMENTS - INITIAL AOP:

- 401.1 STATIONARY AGRICULTURAL SOURCES SUBJECT UPON RULE ADOPTION:** The owner or operator of any SAS subject to the requirements of this rule upon rule adoption shall submit a complete standard application no later than six (6) months after the date of rule adoption.
- 401.2 STATIONARY AGRICULTURAL SOURCES THAT BECOME SUBJECT AFTER RULE ADOPTION:** The owner or operator of any SAS that becomes subject to the requirements of this rule after the date of rule adoption shall submit a complete standard application no later than six (6) months after the date the source commenced operation or otherwise became subject to this Rule.

- 402 APPLICATION REQUIREMENTS - ADDITION OF AN AEU:**
Applications to add an AEU to a SAS shall be submitted prior to the installation of the AEU. Operation of the new AEU is not allowed until approved by the APCO under the AOP.

403 APPLICATION REQUIREMENTS - REPLACEMENT OF AN AEU:

403.1 Functionally Equivalent AEU Replacement: Applications to replace an AEU which meets the definition of Functionally Equivalent AEU Replacement shall be submitted within six (6) months of AEU replacement. The AOP holder shall provide the APCO written notification of AEU replacement within seven (7) days of replacement.

403.2 Non-Functionally Equivalent AEU Replacement: Applications to replace an AEU which does not meet the definition of Functionally Equivalent AEU Replacement shall be submitted prior to the installation of the AEU. Operation of the replacement AEU is not allowed until approved by the APCO under the AOP.

404 APPLICATION REQUIREMENTS - RECONFIGURATION:

404.1 No Increase in Potential to Emit: Applications for reconfiguration of a SAS that does not result in an increase in potential to emit shall be submitted within six (6) months of the reconfiguration occurring. The AOP holder shall provide the APCO written notification of the reconfiguration within seven (7) days of the reconfiguration occurring.

404.2 Increase in Potential to Emit: Applications for reconfiguration of a SAS that results in an increase in potential to emit shall be submitted prior to operating the reconfigured portion of the SAS. Operating the reconfigured portion of the SAS is not allowed until approved by the APCO under the AOP.

405 APPLICATION REQUIREMENTS - AOP RENEWAL: For renewal of an AOP, the AOP holder shall submit a standard complete application no earlier than nine (9) months and no later than three (3) months before the expiration date of the current AOP.

406 APPLICATION REQUIREMENTS - TRANSFER OF OWNERSHIP: Applications to transfer ownership of the entire SAS shall be submitted within thirty (30) days of the ownership change occurring. Operation of the SAS by the new owner shall be under the terms and conditions of the

AOP issued to the previous owner until the new AOP is issued.

407 **APPLICATION REQUIREMENTS - INFORMATION:** The application shall contain all information necessary to enable the APCO to make a determination as required by Section 304.1 of this Rule. When the information is not sufficient for the APCO to make a determination, additional information shall be submitted by the applicant as requested.

408 **AOP REOPENING:** The APCO may reopen and revise an AOP under the following circumstances:

408.1 To correct a material mistake or an inaccurate statement; or

408.2 The need to incorporate any new, revised or additional applicable requirements.

409 **DENIAL OF APPLICATIONS:** In the event of denial of an AOP, the APCO shall notify the applicant in writing of the basis for denial.

410 **RIGHT OF ENTRY:** In order to ascertain that the SAS is operating under the requirements of the AOP, the APCO may at any time, without notice, inspect the operations and any pertinent records.

411 **APPEALS:** Within thirty (30) days after notice by the APCO of denial or approval of an AOP, the applicant may petition the Hearing Board, in accordance with District Rule 5.1, for a public hearing. The Hearing Board, after notice and a public hearing, may sustain or reverse the action of the APCO; such order may be made subject to specified conditions.

412 **TERM OF THE AOP:** The term of the AOP shall not exceed five (5) years.

500 MONITORING AND RECORDS

501 **ACTUAL EMISSIONS:** The operator of the SAS shall maintain data necessary to determine the annual emissions from each AEU operated at the SAS.

502 **ACTUAL EMISSION STATEMENTS:** No later than March 31st of each calendar year, the holder of an AOP shall submit an annual emission statement. The emission statement shall list each AEU, the data used to calculate actual

emissions, and the actual emissions from each AEU. Calculations shall be conducted in accordance with the Actual Emission Monitoring Plan.

503 **ACTUAL EMISSION MONITORING PLAN:** As part of an application submitted pursuant to Sections 401 through 406 of this rule, the applicant shall submit an Actual Emission Monitoring Plan. The monitoring plan shall indicate the parameters that will be measured in order to calculate actual emissions from each AEU.

600 FEES

601 **AOP PROCESSING FEE:** The fee for applications filed in accordance with Sections 401-405 of this rule shall be based on the actual hours spent by District staff in evaluating the application and processing the AOP. The fee shall be assessed in accordance with the time and materials labor rate established in section 307.10 of District Rule 4.1. All applications shall be submitted with an initial filing fee. The initial filing fee shall be equal to two (2) hours at the time and materials labor rate established in Section 307.10 of District Rule 4.1. Application filing fees cannot be refunded or applied to any other application.

602 **AOP TRANSFER FEE:** A fee equal to two (2) hours at the time and materials labor rate, established in Section 307.10 of District Rule 4.1, shall be charged to process applications filed in accordance with Section 406 of this rule. The fee shall be submitted at the time of application.

603 **ANNUAL AOP FEE:** An annual fee shall be charged for holders of an AOP in accordance with the requirements of Section 500 of District Rule 3.8.

604 **NOTIFICATION OF FEES DUE:** The AOP holder will be notified by mail of fees due and payable and the date the fees are due. If the fees are not paid by the specified due date, the District shall assess a penalty of not more than 50 percent of the fees due, but in an amount sufficient, in the District's determination, to pay the District's additional expenses incurred by the AOP holder's non-compliance. If the fees and penalty are not paid within thirty (30) days after notice, the AOP will be cancelled and the AOP holder will be notified by mail.

ATTACHMENT B

NOTICE OF EXEMPTION FROM CEQA GUIDELINES

ATTACHMENT C
RESOLUTION NO. 05-01

RESOLUTION NO. 05-01

RESOLUTION ADOPTING YOLO-SOLANO AIR QUALITY MANAGEMENT DISTRICT RULE 11.1, AGRICULTURAL OPERATING PERMIT PROGRAM

WHEREAS, California Health and Safety Code section 40702 provides that an air quality management district shall adopt rules and regulations as may be necessary or proper to execute the powers and duties granted to, and imposed upon, the district by Division 26 of the Health and Safety Code; and

WHEREAS, Health and Safety Code section 40727 provides that before adopting, amending, or repealing a rule or regulation, a district board shall make findings of necessity, authority, clarity, consistency, nonduplication, and reference, based upon information developed pursuant to section 40727.2, information in the rulemaking record maintained pursuant to section 40728, and relevant information presented at the public hearing required by section 40725; and

WHEREAS, section 15308 of the CEQA Guidelines provides that actions taken by regulatory agencies as authorized by state law to assure the maintenance, restoration, or enhancement of the environment where the regulatory process involves procedures for protection of the environment, are categorically exempt from CEQA review (Class 8 Categorical Exemption); and

WHEREAS, air pollution is a major public health concern in California, and can result in significant economic costs and negative impacts on our quality of life; and

WHEREAS, air pollution emissions from stationary agricultural sources poses a significant health risk to the public; and

WHEREAS, the purpose of adopting District Rule 11.1 is to meet the requirements of the California Health and Safety Code, Section 42301.16.

NOW, THEREFORE, BE IT RESOLVED that the Board of Directors of the Yolo-Solano Air Quality Management District hereby finds, authorizes, directs and declares as follows:

1. The Board of Directors has considered and hereby adopts by reference the staff report prepared in this matter.
2. The Board of Directors makes the following findings pursuant to Health and Safety Code section 40727:

- a. Necessity: Information in the District's rulemaking record maintained pursuant to Health and Safety Code section 40728 demonstrates a need for adopting District Rule 11.1;
 - b. Authority: Health and Safety Code section 40702 permits the District to adopt District Rule 11.1;
 - c. Clarity: District Rule 11.1 as proposed is written so that its meaning can be easily understood by the persons directly affected by it;
 - d. Consistency: District Rule 11.1 as proposed is in harmony with, and not in conflict with or contradictory to, existing statutes, court decisions, or state or federal regulations;
 - e. Nonduplication: District Rule 11.1 as proposed does not impose the same requirements as an existing state or federal regulation;
 - f. Reference: By adopting District Rule 11.1, the District meets the requirements of Health and Safety Code Section 42301.16.
3. The Board of Directors finds that the District has complied with the procedural requirements set forth in Chapters 6 and 6.5 of Part 3 of Division 26 of the Health and Safety Code.
 4. The Board of Directors finds that adopting District Rule 11.1 is an action taken by a regulatory agency as authorized by state law to assure the maintenance, restoration, or enhancement of the environment where the regulatory process involves procedures for protection of the environment, and is therefore categorically exempt from CEQA review as a Class 8 Categorical Exemption.
 5. The Board of Directors hereby adopts District Rule 11.1, AGRICULTURAL OPERATING PERMIT PROGRAM, as set forth in Exhibit 1 (Attachment A of the Staff Report), which is attached and incorporated by reference. The adoption is effective March 9, 2005.

PASSED AND ADOPTED by the Board of Directors of the Yolo-Solano Air Quality Management District this 9th day of March, 2005, by the following vote:

Ayes:

Noes:

Absent:

Abstain:

Frank Sieferman, Jr., Chair
Board of Directors
Yolo-Solano Air Quality Management District

Attest:

Approved as to Form:

Kay Mahorney, Clerk
Board of Directors

Hope Welton, District Counsel

ATTACHMENT D
WRITTEN COMMENTS RECEIVED

No written comments submitted to District.