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PROPOSED AMENDMENTS TO RULE 11.3, AGRICULTURAL ENGINE REGISTRATIONS

PROPOSED STAFF REPORT

November 24, 2010

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I. EXECUTIVE SUMMARY

On December 8, 2010, the Yolo-Solano Air Quality Management District (District) Board of Directors will consider amendments to Rule 11.3, Agricultural Engine Registrations. Rule 11.3 is being amended in order to incorporate a "low-use" exemption and an "intermittent-use" exemption from the requirements of the Airborne Toxic Control Measure (ATCM) for Stationary Compression Ignition Engines (Title 17, California Code of Regulations, section 93115).

Currently District Rule 11.3 requires each non-road (excludes vehicular engines) engine rated greater than 50 horsepower used in agricultural service to obtain and maintain registration from the District. In accordance with Rule 11.3, section 302, as part of that registration the District is required to enforce all applicable rules and regulations (i.e. the ATCM).

The ATCM applies to diesel non-road agricultural use engines rated greater than 50 hp and requires non-certified (pre-1996) engines to be replaced by 2010/2011 and Tier 1 and Tier 2 (1997 - 2007) engines to be replaced by 2014/2015, regardless of how much (or how little) the engine is actually operated. The District is proposing to amend our Rule 11.3, such that our rule is equivalent (in protecting the public health) to the ATCM, however contains an exemption for engines which are not used very much. If we do not adopt this rule amendment, any owner or operator of a Tier 0 engine is required by the ATCM to cease using the engine by the end of 2010 (or 2011 for engines less than 99 hp).

The main new requirements for proposed Rule 11.3 are:

1. Definitions for "low-use", "intermittent-use", "remote", and "resident" engines.
2. A low-use engine will be able to obtain an exemption from the need to comply with the emission limits of the ATCM.
3. Until 12/31/2020, a Tier 0 intermittent-use engine will be able to obtain an exemption from the need to comply with the emission limits of the ATCM.
4. Until 12/31/2025, a Tier 1 or Tier 2 intermittent-use engine will be able to obtain an exemption from the need to comply with the emission limits of the ATCM.
5. In order to obtain any of these exemption and make the limitations enforceable by the District, the owner/operator will be required to submit an application to amend their registration.
6. Once granted an exemption, the owner or operator will be required to maintain records of their actual use on a quarterly basis and submit an annual report of their usage. The limitations on operating hours will be an enforceable registration condition and will be strictly enforced.

Proposed Rule 11.3 amendments are expected to directly benefit agricultural sources within the District. Currently, the District has 750 active engine registrations. Of those, it is unknown how many will apply for a low-use exemption, however based on the estimated usage from the application forms, District staff estimates that number might be around 100 engines.

The proposed amendments will neither have a significant nor detrimental effect on the environment. Therefore, staff have prepared a Notice of Exemption to satisfy the requirements of the California Environmental Quality Act (CEQA). The notice states that the revisions to Rule 11.3 are exempt from the requirements of CEQA pursuant to Section 15308, Actions by Regulatory Agencies for Protection of the Environment.

A. BACKGROUND

When the Air Resources Board (ARB) promulgated the ATCM amendments in 2006, they felt a statewide low-use exemption was not appropriate and not protective of public health in all cases. However, the state has sent a letter to the Sacramento Valley Basin Control Council (BCC) in December 2008 stating that "if a local air district wishes to provide a 'low-use' exemption for agricultural engines in their jurisdiction, ARB staff is committed to working with them to develop alternative requirements that are at least equally protective of public health as the adopted ATCM".

The ATCM requires that all existing agricultural use engines be "cleaned up" over time, which essentially requires that owners of pre-2008 engines will have to replace their engines with new certified engines between 2010 and 2015. According to the ARB's rulemaking documents for the ATCM, "the primary purpose of the proposed amendments is to establish in-use stationary diesel agricultural engine emission standards in order to reduce diesel PM emissions, exposure and health risk". In the Final Statements of Reason (<http://www.arb.ca.gov/regact/agen06/fsor.pdf>), response to comment #7, the ARB discusses that the remote-location engines would be associated with an estimated cancer risk of less than 10 chances in a million - an "acceptable" risk for most risk management purposes.

When the ATCM was last amended, the ARB performed cost effectiveness calculations using many assumptions (<http://www.arb.ca.gov/regact/agen06/append.pdf>), including an average horsepower rating of 184 hp, a useful life of 20 years, and an average annual usage of 1000 hours/year. The cost effectiveness was calculated at a range of \$1 to \$22 per pound of diesel PM reduced. If an owner/operator uses an engine significantly less than 20,000 hours, the corresponding emissions will be much lower, and consequently replacement of the engine likely would not be cost effective.

The District is promulgating this rule amendment to exempt existing (resident) intermittent and low-use engines from having to be replaced in accordance with the existing ATCM schedule. Subsequent to the ATCM promulgation, many growers have opted to electrify their engines, some are choosing to replace their engines, and some will be switching to intermittent or low-use status. This staff report shows that the large amount of emission reductions resulting from electrification of 299 engines under the Pacific Gas & Electric Ag-

ICE program (as well as an additional 114 engines electrified under the Moyer program) far outweigh the small amount of emission reductions not realized by allowing intermittent-use or low-use exemptions. In addition, the risk from any of these exempted engines will be minimized by requiring the engine be located more than one-half mile from a residential area, school, or hospital. Therefore, our rule will be equally protective of public health as the adopted ATCM.

The District is aware of some engines in our District which are "low-use", which are used very limited hours per year, mostly for standby purposes (the ATCM currently has an exemption for emergency standby generators, but not emergency standby pumps). For engines which are low-use, the District will grant an exemption for those limited to 200 hours per year, which is consistent with our existing exemptions from offsets in Rule 3.4 as well as exemption from our IC engine Rule 2.32. In order to ensure that the engines are eventually replaced, the District will impose a cumulative total limit of 2,400 hours.

The District is aware of similar engines which are used on an infrequent basis, but when they are used, they are operated for an extended number of hours. For example, many growers rely on surface water from canals or rivers to irrigate. In drought years when surface water is limited or not available, they might need to pump from a well. In that year, the grower might need to operate an engine 1,000 hours to pump, but wouldn't need to pump for the next 5 or 10 years. The District considers this type of use to be an "intermittent-use" engine. The District will also grant an exemption for these engines, however because the emissions and exposures from these engines are slightly different than from low-use engines, the District will impose a tighter cumulative limit of 2,000 hours, and an absolute replacement date limit of not later than 12/31/2020 for Tier 0 engines and 12/31/2025 for Tier 1 and Tier 2 engines.

As our District is promulgating these limited exemptions, we don't want to see engines from around the state (which would be non-compliant with the ATCM) start moving to our District. Therefore as part of these exemptions, we will require the engine be a resident engine.

A District registration will still be required in order for the District to enforce the provisions of the exemption by verifying on an ongoing basis that the engines under this exemption are below their limit for operating hours. The District will require the owner/operator to submit an application to modify their registration to make the limits enforceable. The District will strictly enforce the allowable hour limit. If a grower reaches their engine specific hour limit, any usage will be in violation and will be subject to a Notice of Violation (NOV) and monetary penalty. Therefore, if a grower is approaching their limit at the beginning of a growing season, the District would strongly encourage the grower to replace the engine before that new season.

II. DISCUSSION OF PROPOSED RULE 11.3 REQUIREMENTS

Listed below are descriptions of the proposed changed sections for Rule 11.3, Agricultural Engine Registrations.

Section 100 General

Existing section 111.1 - Exemption - Limited: This section provided an exemption for a grower who as of the filing deadline was in the process of electrifying an engine, so that they could use their existing engine until the electric service was installed. The grower was required to provide a copy of the contract to electrify by September 2, 2008 and complete the work by September 2, 2009. Nobody provided the District with copies of a contract to electrify their engines, and the September 2, 2008 deadline has passed, so this section will be deleted.

Existing section 111.2 - Exemption - Limited: This section provided an exemption for a grower who as of the filing deadline was in the process of replacing an engine through an incentive program (e.g. the Moyer program). So that the grower didn't have to submit filing fees for the old engine, and then resubmit filing fees months later for the new engine, this section stated that they could submit an application and fees for the old engine along with a copy of their contract to replace the engine, and the District would use the application and fees to issue the registration directly to the new engine. Nobody provided the District with copies of the contract or application to replace the engine through an incentive program, however a number of applications came in with notes saying that the engines were being replaced by Moyer. The District went ahead and used the applications and fees to issue the registration directly to the new engines. Because this date has passed, this section will also be deleted.

New section 111 - Exemption - Intermittent-use: A new exemption will be added that states that until 12/31/2020 and 12/31/2025 that intermittent-use engines will not be subject to the emission standard requirements of the diesel ATCM. After 12/31/2020 or 12/31/2025, when an intermittent engine becomes subject to the ATCM, that engine will not comply with the ATCM, and therefore it is expected that at that point the owner/operator of these engines will have to cease operating these engines.

New section 112 - Exemption - Low-use: A new exemption will be added that states that low-use engines will not be subject to the emission standard requirements of the diesel ATCM.

New section 113 - Exemption - Resident Engine: If a owner/operator doesn't register an engine by the effective date of this rule, but we find them later (or they come in voluntarily) and they can prove to the satisfaction of the APCO that the engine had primarily operated in our District prior to the effective date of this rule (the engine wasn't displaced from some other part of the state after the ATCM deadlines became effective), they can still qualify as a resident engine so long as they apply within 60 days of being notified of the program and pay fees equivalent to what they would have paid had they registered in a timely manner.

New section 114 - Exemption - Notification: A new exemption will be added that states that portable engines which are registered in accordance with this rule are not subject to the requirement in the ATCM for the owner to provide the District with written notification each time they move the engine, install an emissions control system, or replace the engine. The main reason to have this type of requirement would be to aid in the enforcement of the

regulation. Presumably, if each owner/operator was required to notify the District each time they moved an engine, then if District staff were to see an ag engine somewhere within our District, we would be able to look up in our database who we expect to be operating the engine at that location. With the interpretation from ARB that all engines used in agricultural service (including portable engines) are subject to the stationary ATCM, this requirement is not practical. For engines such as booster pumps that get moved from field to field on a daily or weekly basis, it is not reasonable for the grower to send us a letter each time they move the engine. The District believes that since all of the registered engines in our District must have a registration stickers on the unit, that we can use the stickers (or lack of sticker) as our primary tool for enforcing the regulation. This new exemption is also an effort to provide a program which is more user friendly for the growers.

Section 200 Definitions

Old Section 203 - This section differed slightly from the definition in the ATCM, and therefore, this section is being deleted. Any places where this term is used in the rule will be enforced using the definition in the ATCM.

New Section 205 - A new definition is being added for intermittent-use engines, which is a resident engine, a remote engine, for which the owner applies to modify their registration, and which is operated less than a cumulative total of 2,000 hours after being granted an intermittent-use status.

New Section 206 - A new definition is being added for low-use engines, which is a resident engine, a remote engine, for which the owner applies to modify their registration, and which is operated less than 200 hours per year and less than a cumulative total of 2,400 hours after being granted an intermittent-use status.

New section 210 - A new definition is being added for a remote engine, which is an engine which is more than one-half mile from a residential area, a school, or a hospital. We won't define residential area in our rule, because we intend to use the same definition as the ATCM for this term.

New section 211 - A new definition is being added for a resident engine, which is an engine which was registered prior to 90 days after the effective date of the regulation, and which maintains that registration. This 90 days is being incorporated to allow for some growers who have engines in their barns, who didn't register their engines initially because of the looming deadline, but now want to register them as a low-use or intermittent-use engine.

Section 300 Standards

Section 304 - Every intermittent-use and low-use engine will be required to have a functioning hour meter.

Section 400 Administrative Requirements

Section 401.2 - Intermittent-use Status: This new section requires that an application for

an intermittent-use status must be initiated by an owner/operator submitting an application and documentation that the engine was used in our District was prior to the date of rule adoption. If the engine was registered with us prior to the date of rule adoption, this will suffice as documentation that the engine was used in our District prior to the date. Per the existing language in section 601, the fee for each District application (including this new intermittent-use application), shall be based on 2 hours at the District's time and material rate.

Section 401.3 - Low-use Status: This new section requires that an application for a low-use status must be initiated by an owner/operator submitting an application and documentation that the engine was used in our District was prior to the date of rule adoption. If the engine was registered with us prior to the date of rule adoption, this will suffice as documentation that the engine was used in our District prior to the date. Per the existing language in section 601, the fee for each District application (including this new intermittent-use application), shall be based on 2 hours at the District's time and material rate.

Old Section 407 - As discussed above, the requirement to notify the District in writing each time an engine is moved, control is installed, or an engine replaced is being deleted. However, it is important to note that if a grower does buy a new engine (e.g. to replace an existing one), the new engine would still be required to obtain a registration prior to use.

Section 500 Monitoring and Records

Section 501 - Record keeping: This is a new section which requires owners or operators of emergency standby, intermittent-use, and low-use engines to maintain records of their actual usage, by calendar quarter. The records must be retained for 60 months (5 years) past the date the engine was last used. This time frame is longer than the District's expected inspection frequency of 3 years to allow the District to verify the actual operating hours for any engine which is an intermittent-use or low-use engine. In addition, owners will be required to keep records relating to hour meters which stop working.

Section 502 - Reporting: This is a new section which requires owners or operators of emergency standby, intermittent-use, and low-use engines to annually report their actual usage (by January 31st of each calendar year) and also to report if they ever exceed their allowable operating hours or if their hour meter stops working.

III. COMPARISON WITH OTHER APPLICABLE REGULATIONS AND REQUIREMENTS

California Health & Safety Code (CH&SC) Section 40727.2(a) requires districts to prepare a written analysis that identifies:

- 1) 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;
- 2) any other District rule or regulation that applies to the same equipment or source type; and

- 3) all air pollution control requirements and guidelines that apply to the same equipment or source type and of which the district has been informed pursuant to 40727.2(b)

The analysis shall be in a format that minimizes paperwork and, at the option of the district, may be in matrix form.

This rule establishes a local program which is equivalent to an ATCM. Per section 40727.2(g) the District elects to comply with subdivision (a) by finding that the rule falls within one or more of the categories specified in this subdivision.

IV. IMPACTS OF THE PROPOSED RULE

The proposed amendments to Rule 11.3 establishes two new exemptions, but is equivalent to the ATCM, and therefore does not establish any new emission control measures itself.

Emissions Impacts

By requiring that each exempted engine is located more than one-half mile from any residential area, school, or hospital, the diesel PM emissions impacts from our rule will be equivalent to the ATCM.

ARB has requested that as part of a low-use exemption, the District should account for any "lost" reductions - those which the ATCM would have achieved, but that our program did not achieve. For our District, we believe that any potential lost reductions from intermittent-use or low-use engines will be more than offset by a large number of diesel engines which were electrified (essentially controlled above and beyond what the ATCM would have required) subsequent to the ATCM being adopted.

In our District, under the Pacific Gas & Electric Ag-ICE program, there were 299 agricultural engines, totaling 50,106 horsepower (an average of 168 hp), which were replaced with electric motors. In addition, there were 114 engines totaling 18,595 horsepower (an average of 163 hp), which were electrified under the Moyer program. The average age of the engines replaced under the Moyer program was 1993 (an uncertified Tier 0).

Using the ARB assumptions of 1000 hours per year and 12 years (even though the ISOR used 20 years for cost effective analysis, the ATCM only guarantees a minimum useful life of 12 years for new engines) and a difference from Tier 3 level (3 gr/hp-hr NOx) down to zero (electric motor), the amount of "excess" reductions obtained from the 299 Ag-ICE engines would have been 1,993 tons of NOx. For any given "intermittent-use" engine, the maximum amount that it might emit over its remaining life would be $184 \text{ hp} * 11 \text{ gr NOx/hp-hr} * 2,000 \text{ hours} * 1 \text{ lb/453.6 gr} * 1 \text{ ton/2,000 lbs} = 4.46 \text{ tons NOx}$. For any given "low-use" engine, the maximum amount that it might emit over its remaining life would be $184 \text{ hp} * 11 \text{ gr NOx/hp-hr} * 2,400 \text{ hours} * 1 \text{ lb/453.6 gr} * 1 \text{ ton/2,000 lbs} = 5.35 \text{ tons NOx}$. This would mean that if our District has less than 446 intermittent-use engines, or less than 372 low-use engines, or some combination thereof, our program would be equivalent.

Using the same assumptions for the Moyer engines, results in an additional excess 737 tons of NO_x, or an additional 165 intermittent-use or 137 low-use engines. Because the Moyer replacements were funded with money from the State, ARB has expressed concern about "offsetting" exempt engine emissions with these reductions.

The District does not know how many engines will apply for low-use status, but based on the 750 total engine registrations issued to date, we expect there may be about 100 engines apply for low use (nowhere near the 500 to 600 which would be equivalent in reductions).

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. Since the proposed rule amendment establishes an equivalent regulation, not a new emission control measure, a cost effectiveness evaluation is not applicable.

Socioeconomic Impacts

CH&SC 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 325,000 and well below the 500,000 person threshold. Therefore, a socioeconomic analysis for this rule-making is not required.

Incremental Cost Effectiveness

CH&SC Section 40920.6 requires an assessment of the incremental cost-effectiveness for proposed regulations relative to ozone, Carbon Monoxide (CO), Sulfur Oxides (SO_x), Nitrogen Oxides (NO_x), 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 establishes an equivalent regulation, not a new emission control measure, an incremental cost effectiveness evaluation is not applicable.

Impacts to the District

The District has already performed a lot of work at the program level (negotiations with ARB, meetings with the Agricultural Permitting Advisory Committee (APAC), farm bureau workshops, rule development) and will continue to have program level work (database modification, answering questions from growers and/or the public about this program, and assisting growers with the applications)

In addition, the District will have work associated with the actual applications that we receive. The initial work associated with the applications will include inspecting the engines (to verify functioning hour meters and take an initial reading) as well as processing the

application. On an ongoing basis, the work for the District related to intermittent-use or low-use engines will be similar (if not more) than for engines complying with the ATCM. The engines will be inspected on the same schedule (every 3 years) as regular use engines to verify the actual use of the engine. In addition, the source will be required to submit annual hour meter readings, which the District will log into our database for tracking.

It is expected that the amount of work resulting from this rule amendment can be absorbed by existing staff. The existing rule specifies that the fee for each registration application will be based on two (2) hours at the time and materials rate established in Rule 4.1, therefore these new applications for low-use or intermittent-use status will be subject to the existing fees.

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 when adopting a rule or regulation requiring the installation of pollution control equipment. As stated, this proposed rule amendment is to adopt a rule equivalent with the ATCM, but with limited exemptions, not require the installation of control equipment, therefore an analysis is not applicable.

Staff has determined that the project is categorically exempt from the requirements of the 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 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: Information in the District's rulemaking record maintained pursuant to Health and Safety Code section 40728 demonstrates a need for amending Rule 11.3, Agricultural Engine Registrations.

Authority: The District is authorized to adopt rules and regulations by CH&SC, Sections 40001 and 40702.

Clarity: The proposed rule is written so that the meaning can be easily understood by the persons directly affected by it. In addition, the record contains no evidence that the persons directly affected by the rule cannot understand the rule.

Consistency: The proposed rule is in harmony with, and not in conflict with or contradictory to, existing statutes, court decisions, or state or federal regulations.

Non-Duplication: The proposed rule is necessary or proper to execute the powers and duties granted to, and imposed upon, the District.

Reference: The proposed rule implements the requirements of the Airborne Toxic Control Measure (ATCM) for Stationary Compression Ignition Engines (Title 17, California Code of Regulations, section 93115).

VII. PUBLIC COMMENTS AND STAFF RESPONSES

In February 2009 and December 2009, District staff met with the APAC. The purpose of the APAC meetings was 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 the proposed amendments to Rule 11.3. The District received input on what elements should be included with a low-use exemption, and had a couple meetings with ARB staff throughout 2010.

Staff held a public workshop on November 23, 2010 at the Yolo County Farm Bureau offices and a public hearing on December 8, 2010 at the District offices.

A notice for the public workshop and the public hearing was sent to all registration holders, the APAC, the farm bureaus, plus our standard mailing list (which includes the neighboring air Districts, the building/planning departments for each city in our jurisdiction, all the libraries in our jurisdiction, and each local chambers of commerce). The notice was also published in the local newspapers. A copy of the notice and rule documents (draft staff report and draft rule language), was posted on the District's web page.

The District did not receive any comments related to this proposed rule amendment.

VIII. REFERENCES

1. Airborne Toxic Control Measure for Stationary Compression Ignition Engines, Effective October 18, 2007

ATTACHMENT A

**PROPOSED AMENDMENTS TO RULE 11.3
AGRICULTURAL ENGINE REGISTRATIONS**

RULE 11.3 AGRICULTURAL ENGINE REGISTRATIONS

ADOPTED July 9, 2008
Revised December 8, 2010

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100 GENERAL

- 101 **PURPOSE:** The purpose of this rule is to provide an administrative mechanism for the registration of internal combustion (IC) engines used in agricultural operations within the District.
- 102 **APPLICABILITY:** This rule applies to any engine with a maximum rated horsepower of greater than 50 hp used in an agricultural operation.
- 103 **SEVERABILITY:** If any section, subsection, sentence, clause, phrase or portion of this rule is, for any reason, held invalid, unconstitutional, or unenforceable by any court of competent jurisdiction, that portion shall be deemed as a separate, distinct and independent provision, and the holding shall not affect the validity of the remaining portions of the rule.
- 110 **EXEMPTIONS - GENERAL:** The provisions of this rule shall not apply to the following:
- 110.1 Engines used to provide motive power;
 - 110.2 Engines powering an agricultural wind machine;
 - 110.3 Engines used exclusively to power Mobile Agricultural Equipment.
 - 110.4 Engines operating in accordance with a valid statewide Portable Equipment Registration Program (PERP) certificate;
 - 110.5 Engines operating in accordance with a valid District Agricultural Operating Permit (AOP) issued pursuant to District Rule 11.1; or
 - 110.6 Engines operating in accordance with a valid federal operating permit issued pursuant to District Rule 3.8.
- 111 **EXEMPTIONS - ~~LIMITED~~INTERMITTENT-USE:** The in-use stationary diesel agricultural emission standard and other requirements of section 93115.8(b) of the Airborne Toxic Control Measure (ATCM) for Stationary Compression Ignition Engines shall not apply to intermittent-use engines until the following dates:
- 111.1 Tier 0 diesel engines -12/31/2020
 - 111.2 Tier 1 or Tier 2 diesel engines - 12/31/2025
- ~~111.1 The provisions of sections 301 and 303 shall not apply to any existing IC engine which an owner or operator has committed (prior to September 2, 2008) to replace with an electric motor. In order to qualify for this~~

exemption, prior to September 2, 2008 the owner or operator must provide the District with a copy of the contract/application to electrify the engine and the electrification must be completed by September 2, 2009 (or longer with APCO approval). If the contract/application to electrify is canceled for any reason, the owner/operator must submit an application for registration for the existing engine along with the appropriate fees within 14 calendar days:

~~111.2 The provisions of section 306.1 shall not apply to any existing IC engine which an owner or operator has committed (prior to September 2, 2008) to replace with a new Tier 3 engine through an incentive program. In order to qualify for this exemption, prior to September 2, 2008, the owner or operator must provide the District with a copy of the contract/application to replace the engine through an incentive program and the replacement must be completed by September 2, 2009 (or longer with APCO approval).~~

~~For the existing engine, the owner/operator must submit the registration application including applicable fees in compliance with section 400. Provided that the engine is replaced in accordance with the incentive program, the District will use the application and filing fee to issue the registration directly to the new engine. If the contract/application to replace the engine is canceled for any reason, the owner/operator must notify the District in writing within 14 calendar days.~~

112 EXEMPTION - LOW-USE: The in-use stationary diesel agricultural emission standard and other requirements of section 93115.8(b) of the Airborne Toxic Control Measure (ATCM) for Stationary Compression Ignition Engines shall not apply to diesel low-use engines.

113 EXEMPTION - RESIDENT ENGINE: An owner/operator of an engine who can prove to the satisfaction of the APCO that the engine operated primarily in the Yolo-Solano Air Quality Management District's jurisdiction prior to (effective date of the rule) but that they had no knowledge of the requirement to register their engine, can qualify as a resident engine so long as they submit an initial application within 60 days of being notified of the program and pay fees equivalent to the amount they would have paid had they registered in a timely manner.

114 EXEMPTION - NOTIFICATION: The provisions of section 93115.8(c)(3) of the ATCM shall not apply to portable engines which are registered with the District in accordance with this rule.

200 DEFINITIONS: Except as defined below, the terms used in this Rule are the same as defined in District Rule 1.1.

201 AGRICULTURAL OPERATION(S): The growing and harvesting of crops or the raising of fowl or animals. Agricultural operations do not include activities involving

the processing or distribution of crops or fowl.

202 **AGRICULTURAL WIND MACHINE:** An engine-powered fan used exclusively in agricultural operations to provide protection to crops during cold weather by mixing warmer atmospheric air with the colder air surrounding a crop.

203 **~~DATE OF INITIAL INSTALLATION:~~** ~~The date on which an engine is placed into service at a location within the District in order to be operated for the first time since delivery from the manufacturer, distributor, or other source.~~

~~204~~ **DISTRICT:** The Yolo-Solano Air Quality Management District.

2054 **ENGINE:** Any reciprocating IC engine.

205 **INTERMITTENT-USE ENGINE:** An engine which:

205.1 a resident engine;

205.2 a remote engine;

205.3 the owner has modified their District registration to claim the intermittent-use status; and

205.4 operates less than a cumulative total of 2,000 hours after receiving a District registration with a intermittent-use status.

206 **LOW-USE ENGINE:** An engine which:

206.1 a resident engine;

206.2 a remote engine;

206.3 the owner has modified their District registration to claim the low-use status;

206.4 operates less than 200 hours per year after receiving a District registration with a low-use status; and

206.5 operates less than a cumulative total of 2,400 hours after receiving a District registration with a low-use status.

2067 **MAXIMUM RATED HORSEPOWER:** The maximum brake horsepower (hp) rating of an engine as specified by the engine manufacturer and listed on the nameplate of the engine, or advertised in sales or service literature, regardless of any derating.

2078 **MOBILE AGRICULTURAL EQUIPMENT:** Equipment at an agricultural operation which is towed or mounted on a vehicle and is moved during the operation of the equipment. Mobile Agricultural Equipment includes, but is not limited to sprayers, balers, and harvest equipment.

2089 **OWNER OR OPERATOR:** Any person subject to the requirements of this rule, including but not limited to:

2098.1 An individual, trust, firm, joint stock company, business concern, partnership,

limited liability company, association, or corporation including but not limited to, a government corporation; and

2098.2 Any city, county, district, commission, the state or any department, agency, or political subdivision thereof, any interstate body, and the federal government or any department or agency thereof to the extent permitted by law.

2109 REGISTRATION: A certificate issued by the District acknowledging expected compliance with all applicable requirements at the time the certificate is issued.

210 REMOTE ENGINE: An engine which is located more than one-half mile from any residential area, school, or hospital.

211 RESIDENT ENGINE: An engine which was registered in Yolo-Solano Air Quality Management District's jurisdiction prior to (90 days after effective date of this rule) and maintains that registration. If the registration is ever canceled, the engine can never be subsequently registered as a resident engine.

300 STANDARDS

301 REGISTRATION: The owner or operator of each engine to which this rule is applicable shall obtain and maintain a registration from the District, according to the compliance schedule in section 402.

302 STANDARDS FOR GRANTING APPLICATIONS: Except as provided in this rule, ~~t~~The Air Pollution Control Officer (APCO) shall deny an application for a registration if the applicant does not show that the engine is so designed, controlled, equipped, and operated with such air pollution control equipment, that it may be shown to operate in compliance with District Rules and Regulations, or any state or federal statutes or regulations that may be enforceable by the APCO.

303 IDENTIFICATION DEVICE: An identification device as specified by the District shall be required for each engine registered with the District. The device shall be permanently affixed on the registered engine at all times so that it may be easily viewed from a distance.

304 HOUR METER: A non-resettable hour meter with a minimum display capability of 9,999 hours shall be installed and maintained operational on each intermittent-use engine, each low-use engine, and each engine with a date of initial installation after January 1, 2005.

305 VISIBLE EMISSIONS: No air contaminant, other than uncombined water vapor, shall be discharged into the atmosphere for a period or periods aggregating more than 3 minutes in any one hour which is as dark or darker than Ringelmann 1 or

equivalent 20% opacity.

306 TRANSFER:

306.1 Registrations shall not be transferable, by operation of law or otherwise, from one engine to another.

306.2 Registrations shall not be transferable, by operation of law or otherwise, from one owner or operator to another owner or operator, if such transfer is prohibited by any Air Toxic Control Measure (ATCM).

If not prohibited, an application for such transfer shall be submitted in accordance with section 406. Operation of the engine by the new owner or operator shall be under the terms and conditions of the registration issued to the previous owner or operator until the new registration is issued.

307 RIGHT OF ENTRY: The "right of entry" as delineated by the California Health and Safety Code 41510 of Division 26 shall apply at all times.

308 VIOLATIONS: Failure to comply with any provision of this rule or any condition of a registration issued under this rule shall constitute a violation of this rule. The owner or operator shall be liable for any penalties assessed in accordance with the California Health and Safety Code 42400.

400 ADMINISTRATIVE REQUIREMENTS

401 APPLICATION REQUIREMENTS:

401.1 **-REGISTRATION:** Requests for a registration shall be initiated by an owner or operator filing a District registration application for each engine along with the registration application fee required by Section 601 of this Rule.

401.2 **INTERMITTENT-USE STATUS:** Requests for an exemption per section 111 shall be initiated by an owner or operator filing a District application for each intermittent-use engine along with documentation that the engine was used in our District prior to (the effective date of the rule).

401.3 **LOW-USE STATUS:** Requests for an exemption per section 112 shall be initiated by an owner or operator filing a District application for each low-use engine along with documentation that the engine was used in our District prior to (the effective date of the rule).

402 COMPLIANCE SCHEDULE:

402.1 For each engine with a date of initial installation prior to July 9, 2008, submit

a complete registration application by September 2, 2008. The APCO shall issue or deny each application by no later March 31, 2009. The applicant shall be notified in writing of the reasons for denying any application.

402.2 For all other engines, submit a complete registration application prior to the date of initial installation. The APCO shall issue or deny each registration application no later than ninety (90) days after receipt of an application. The applicant shall be notified in writing of the reasons for denying any application.

403 **CONDITIONAL APPROVAL:** The APCO may include written conditions on any registration to ensure compliance with all applicable District, State, or Federal requirements.

404 **REGISTRATION REOPENING:** The APCO may reopen and revise a registration under the following circumstances:

404.1 To correct a material mistake or an inaccurate statement.

404.2 To incorporate any new, revised, or additional applicable requirements.

405 **TERM OF REGISTRATION:** Registrations are issued on a calendar year basis and are valid for up to five (5) years, provided that the owner or operator pays all applicable fees and the engine is in compliance with all District and ATCM requirements.

406 **APPLICATION REQUIREMENT - TRANSFER OF OWNERSHIP:** An application for transfer of ownership or a registration shall be submitted together with the applicable fees prior to operation of the engine by the new owner. The transferred registration shall have the same expiration date as the original registration.

407 ~~**NOTIFICATION REQUIREMENT:** The owner or operator of any registered engine shall notify the District in writing no later than 14 days after any change in location, installation or commencement of an emissions control strategy, replacement of the engine with a new engine, or replacement with an electric motor.~~

~~408~~ **APPEALS:** Within thirty (30) days after notice by the APCO of denial or approval of an application submitted pursuant to this Rule, 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.

500 **MONITORING AND RECORDS (NOT INCLUDED)**

501 RECORD KEEPING: The owner or operator of each emergency standby engine, intermittent-use, and each low-use engine shall keep records of the following:

501.1 The actual number of hours the engine is operated on a calendar quarter basis.

501.2 If an hour meter stops working, the date the failure was detected, the reading on the meter when detected, and the date the meter replaced.

Such records shall be retained for a minimum of 60 months past the date the engine was last used. Records shall be made available to District staff within 5 working days from the District's request.

502 REPORTING: Owners or operators of emergency standby engines, intermittent-use engines, and low-use engines shall:

502.1 Submit an annual report (in a format approved by the District) by January 31st of every year, detailing the actual operating hours for the previous calendar year for each registration.

502.2 If the actual cumulative usage of any engine ever exceeds the registration condition limiting the hours, cease using the engine immediately and notify the District in writing within five days after they become aware that the hours were exceeded.

502.3 If the hour meter ever stops working, replace the hour meter immediately and notify the District in writing within five days after they become aware that the meter wasn't working.

600 FEES

601 REGISTRATION APPLICATION FEE: A fee equal to two (2) hours at the time and materials labor rate, established in District Rule 4.1, shall be submitted with each registration application. Registration fees cannot be refunded or applied to any other registration.

601.1 For engines with a date of initial installation in our District, on or before September 2, 2008, the application fee covers the engine until December 31, 2009.

601.2 For all other engines, the application fee covers the engine for twelve (12) months from the date of initial installation. For these applications, at the end of the calendar year in which the application is submitted, a prorated fee will be calculated to align the registration with the end of the following calendar year.

- 602 **ANNUAL REGISTRATION FEE:** A fee equal to one (1) hour at the time and materials labor rate, established in District Rule 4.1, shall be charged annually for each registration. Registration fees cannot be refunded or applied to any other registration.
- 603 **REGISTRATION TRANSFER FEE:** A fee equal to one (1) hour at the time and materials labor rate, established in District Rule 4.1, shall be charged for transfer applications filed in accordance with Section 406 of this rule. The fee shall be submitted at the time of application.
- 604 **NOTIFICATION OF FEES DUE:** The owner or operator 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 fifty (50) percent of the fees due. If the fees and penalty are not paid within thirty (30) days after notice, the registration will be cancelled and the owner or operator will be notified by mail. If the fees and penalty amounts are subsequently submitted within 1 year, the registration may be re-instated.
- 605 **TIME AND MATERIALS RATE:** Until June 30th, 2011, in each of the above sections referring to the time and materials Rate in District Rule 4.1, the fees shall be calculated using the rate for Fiscal Year 2008/2009. After June 30th, 2011, the fees shall be calculated using the rate for the current Fiscal Year.

ATTACHMENT B

NOTICE OF EXEMPTION FROM CEQA GUIDELINES

Notice of Exemption

To: County Clerk
County of Yolo
625 Court Street Room B01
Woodland, CA 95695

Clerk of the Board of Supervisors
Solano County
675 Texas Street, Suite 6500
Fairfield, CA 94533

From: Yolo-Solano Air Quality Management District
1947 Galileo Court, Suite 103
Davis, CA 95618

Project Title: Amendments to Rule 11.3- Agricultural Engine Registrations

Project Location: Yolo-Solano Air Quality Management District

Project description: Rule 11.3 amendments will establish low-use and intermittent-use exemption provisions while maintaining the public health protections of the statewide Airborne Toxic Control Measure (ATCM) for stationary diesel engines.

Name of Public Agency Approving Project: Yolo-Solano Air Quality Management District

Name of Person or Agency Carrying Out Project: Yolo-Solano Air Quality Management District

Exempt Status:

- Ministerial
- Emergency Project
- Categorical Exemption (CEQA Guidelines Section 15308, Action by Regulatory Agency for Protection of the Environment)
- Statutory Exemption

Reason why project is exempt: The amendments to Rule 11.3 is an action taken to protect the environment and is therefore exempt from CEQA because it constitutes a Class 8 categorical exemption pursuant to CEQA Guidelines 15308.

Lead Agency Contact Person: Mat Ehrhardt, Air Pollution Control Officer

Telephone Number: (530) 757-3650

Signature: _____ Date: _____ Title: _____

ATTACHMENT C
RESOLUTION NO. 10-15

RESOLUTION NO. 10-15

**RESOLUTION AMENDING YOLO-SOLANO AIR QUALITY MANAGEMENT
DISTRICT RULE 11.3, AGRICULTURAL ENGINE REGISTRATIONS**

WHEREAS, California Health and Safety Code section 40702 provides that an air quality management district shall adopt rules and regulations, and do such acts 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 California Environmental Quality Act (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 agricultural engines pose a significant health risk to the public; and

WHEREAS, California Health and Safety Code sections 39002 and 40000 provides that an air quality management district shall have the responsibility to control air pollution from all sources other than vehicular sources; and

WHEREAS, the amendments to District Rule 11.3, Agricultural Engine Registrations will establish low-use and intermittent-use exemption provisions while maintaining the public health protections of the statewide Airborne Toxic Control Measure (ATCM) for stationary diesel engines;

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 amending Rule 11.3, Agricultural Engine Registrations;
 - b. Authority: The District is authorized to adopt rules and regulations by CH&SC sections 40001 and 40702;
 - c. Clarity: The proposed rule is written so that the meaning can be easily understood by the persons directly affected by it. In addition, the record contains no evidence that the persons directly affected by the rule cannot understand the rule;
 - d. Consistency: The proposed rule is in harmony with, and not in conflict with or contradictory to, existing statutes, court decisions, or state or federal regulations;
 - e. Nonduplication: The proposed rule is necessary or proper to execute the powers and duties granted to, and imposed upon, the District;
 - f. Reference: The proposed rule implements the requirements of the Airborne Toxic Control Measure (ATCM) for Stationary Compression Ignition Engines (California Code of Regulations, Title 17, Section 93115).
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 amending District Rule 11.3 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 amends District Rule 11.3 Agricultural Engine Registrations as set forth in Exhibit 1 (Attachment A of the Staff Report), which is attached and incorporated by reference. The amendment is effective December 8, 2010.

PASSED AND ADOPTED by the Board of Directors of the Yolo-Solano Air Quality Management District this 8th day of December, 2010, by the following vote:

Ayes:

Noes:

Absent:

Abstain:

Jack Batchelor, Jr., Chair
Board of Directors
Yolo-Solano Air Quality Management District

Attest:

Approved as to Form:

Kay Whistler, Clerk
Board of Directors

Hope Welton, District Counsel

ATTACHMENT D
WRITTEN COMMENTS RECEIVED

No comments received