Message

From: Yannayon, Laura [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=0EC245483F2D4762801CD01D01220F92-LYANNAYO]
Sent: 5/22/2019 3:45:13 PM
To: Clerico, Brian@ARB [Brian.Clerico@arb.ca.gov]
Subject: RE: Question about Placer Rule 501 exemption for ag sources

Hi Brian,
OK, so we have agreement on the CAFO issue. For engines, please look at HSC 40724 (c)(1) and following, which requires ag engines to have controls similar to those for other IC engines regulated by the District. Since the District has a permit exemption threshold of 50 bhp, I would expect this same threshold to apply for their ag engines. I don't think SB 700 provides any special permit exemptions for ag engines.

Please take a look and let me know if you agree. I'll work on writing up my discussion of why their exemptions for the ag sources are not approvable for CAFO's. It will be a bit tricky, given the provision is so convoluted. I may also call the District to see how they interpret the two provisions.

Thanks,
Laura

From: Clerico, Brian@ARB <Brian.Clerico@arb.ca.gov>
Sent: Tuesday, May 21, 2019 12:21 PM
To: Yannayon, Laura <Yannayon.Laura@epa.gov>
Subject: RE: Question about Placer Rule 501 exemption for ag sources

Hi Laura

1. For CAFOs, I agree. The rule as written does not require large CAFO's to obtain a permit, which as you said, SB 700 does require:

HSC 40724.6.
(a) On or before July 1, 2005, the state board shall review all available scientific information, including, but not limited to, emissions factors for confined animal facilities, and the effect of those facilities on air quality in the basin and other relevant scientific information, and develop a definition for the source category of a "large confined animal facility" for the purposes of this section. In developing that definition, the state board shall consider the emissions of air contaminants from those sources as they may affect the attainment and maintenance of ambient air quality standards. [See CCR 86500 attached]
(b) Not later than July 1, 2006, each district that is designated as a federal nonattainment area for ozone as of January 1, 2004, shall adopt, implement, and submit for inclusion in the state implementation plan, a rule or regulation that requires the owner or operator of a large confined animal facility, as defined by the state board pursuant to subdivision (a), to obtain a permit from the district to reduce, to the extent feasible, emissions of air contaminants from the facility.

Maybe they should have a section 114.3 that adds to list of agricultural sources not exempt from permit that says

114.3 A large CAFO.

And then include in Rule 501 the CCR 86500 definition of a large CAFO in the rule, e.g.
A large confined animal facility shall mean:

(a) In any area designated as a federal ozone nonattainment area as of January 1, 2004, any confined animal facility that maintains on any one day:
(1) 1,000 or more milk-producing dairy cows;
(2) 3,500 or more beef cattle;
(3) 7,500 or more calves, heifers, or other cattle;
(4) 100,000 or more turkeys;
(5) 650,000 or more chickens other than laying hens
(6) 650,000 or more laying hens
(7) 3,000 or more swine;
(8) 15,000 or more sheep, lambs, or goats;
(9) 2,500 or more horses;
(10) 650,000 or more ducks; or
(11) 30,000 or more rabbits or other animals.

For clarity, would it help if they added the word "also" to section 114:

This exemption does not apply to an agricultural source, as defined in this Rule, that is also:

2. For ag IC engines, looking through SB 700, I don't believe SB 700 does require permits for ag IC engines that belong to ag operations < ½ major source threshold. However, the California Stationary Compression IC Engine ATCM does require registration of all diesel ag engines > 50 bhp. There may also be a requirement in the Carl Moyer program funding that also requires some kind of registration for eligibility. In any case, Placer County does appear to have a Rule 412 requiring registration of diesel ag engines (attached) that looks similar to what is required by the ATCM. (side note: CARB Legal issued a memo/letter a number of years ago stating that to conform to requirements in the Carl Moyer program, farm-owned portable diesel ag engines were subject to the Stationary instead of the Portable Compression IC Engine ATCM). Rule 412 has some peculiar items like the extended life for Tier 0 and Tier 1 and 2 engines that seem questionable, and I don't see where having a permit exempts one from have a registration – does the district issue both a registration and permit to ag engines at sources with emissions > ½ major source threshold? Nevertheless, potential questions I have on Rule 412 aside, I think Rule 501 is OK with regard to ag IC engines given that Placer County also has Rule 412.

Let me know if your reading agrees or not, or if I can take a look at something more.

CALIFORNIA
AIR RESOURCES BOARD

Brian Clerico
Air Pollution Specialist
Enforcement Division
California Air Resources Board
Brian.Clerico@arb.ca.gov
Ph (916) 229-0349

CONFIDENTIALITY NOTICE: This communication with its contents may contain confidential and/or legally privileged information. It is solely for the use of the intended recipient(s). Unauthorized interception, review, use or disclosure is prohibited and may violate applicable laws including the Electronic Communications Privacy Act. If you are not the intended recipient, please contact the sender and destroy all copies of the communication.

From: Yannayon, Laura <Yannayon.Laura@epa.gov>
Sent: Monday, May 20, 2019 1:32 PM
To: Clerico, Brian@ARB <Brian.Clerico@arb.ca.gov>
Subject: Question about Placer Rule 501 exemption for ag sources

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hi Brian,
I am currently reviewing revisions to Placer County Rule 501, General Permit Requirements, which they adopted back in 2010. In the rule they collected several older permit related, but mostly administrative short rules and placed them into this single rule. Note also, that for SIP purposes, Placer county has 3 air basins and some of the rules only applied to certain air basins. A real hodge-podge that I am trying to clean up with an approval of Rule 501, which applies to all three air basins.

Of concern, and the reason I'm writing you, is the exemption they provide for Ag. sources. I don't think they got it quite right. Please see Section 114, which states the typical CA exemption for Ag. Sources, but then states that the "exemption does not apply to an agricultural source, as defined in this Rule, that is:" 114.1: a major source or major mod as defined in Rule 502 (paraphrased), or 114.2: a stationary source that emits in any 12-month period more than 50% of any air pollutant (paraphrased).

These exceptions to the exemption seem appropriate, but the wording of the exception is confusing, since it first states that it does not apply to agricultural sources as defined in Section 202, which basically reads the same as the exemption "sources used in the production of corps or the raising of fowl or animals... including but not limited to the following criteria: 202.1: basically a confined animal facility (with no animal counts) and 202.2: IC engines used in the growing of corps or raising of fowls. If this is read to mean that the Ag. sources as defined in Rule 202 are excluded from the exemption, than all ag sources, including CAFO's require permits, which of course cannot be correct. If it is read to say those two Ag. Sources are exempted only if their emissions are below the emission thresholds specified in Section 114 (i.e., a major source or a source with emissions greater than 50% of a major source), then IC engines are exempted up to those thresholds as are CAFOs. It seems it would be very difficult to determine the actual emissions of a CAFO, and I thought that is why CARB specified a specific number of animals for this exemption. Thus I would say that this provision in not clear and not enforceable. Second, I thought under SB700, they could not exempt Ag. Engines, but instead had to require permits, notwithstanding the emissions based thresholds.

Can you please take a look at these provisions in the near future (by early next week would be great), and help me sort it out? I'm afraid that EPA will have to disapprove for this provision, for the reasons I stated above, but I would appreciate your input before I write up the disapproval element.

Please feel free to give me a call if you have any questions. I'm attaching a copy of submitted Rule 501 for your reference.

Thanks!

Laura