

## Agriculture: Stationary Source Guidance

This guidance from APCD is to help determine whether agricultural parcels should be considered together as a single “stationary source.” This is important for addressing whether farming operations and acreage on multiple parcels are combined for determining permit applicability.

Under APCD Rule 102, contiguous (adjacent or adjoining) properties that have the same use (e.g., the growing of crops) are part of the same stationary source if they are under “common control.” Common control normally exists where the properties are under common ownership or are run by the same operator.

### Common ownership

Where contiguous properties are under common ownership, if the landowner is considered to have common control, then, the acreage is combined and considered together as a single stationary source. If there is a bona fide lease of a parcel to another independent party (someone not under the control of or in business with the owner) then that parcel may be considered part of a separate stationary source. .

Several factors would be considered when determining whether the lease of property creates a situation where it is no longer under the control of the owner. Factors that would indicate that adjacent leased parcels are not part of the same stationary source include where:

1. The landowner is not the owner of the farm equipment used on the leased land;
2. The landowner does not receive profits from or have other financial interest in the lessees.

Note: The main focus of the above criteria is that the landowner does not have control over the operations on adjacent leases. The fact that the landowner collects rent from the lessees does not establish control.

### Common Control

Even where contiguous properties are not under common ownership, they may be part of the same stationary source if they are under “common control.” Typically, this occurs where the same operator runs each operation. The main factor that would indicate that separately-owned contiguous properties form one stationary source is:

1. A person (including a business or corporation) leases several contiguous properties and then runs them as a single operation. This could occur in the case of a lease of contiguous properties for purposes of a vineyard.
2. A corporation operates the farm on the parcel adjacent to the landowner, but that corporation is under the control of the landowner, e.g. the landowner has created a corporation to own and operate the property next door and that landowner is the chief executive of a privately held corporation owned by his immediate family.
3. The landowner has a decision-making role in the lessee’s operation of the farm (e.g., officer of a corporation or member of a partnership, or the lease is to an immediate family member).