

State of California
AIR RESOURCES BOARD

Resolution 76-42

December 14, 1976

WHEREAS, Section 39601 of the Health and Safety Code authorizes the Air Resources Board to adopt standards, rules and regulations necessary for the proper execution of the powers and duties granted to and imposed upon the Board by law; and

WHEREAS, Section 41856 of the Health and Safety Code directs the Air Resources Board to promulgate Guidelines for the regulation and control of agricultural burning for each of the air basins established by the State Board; and

WHEREAS, Section 41857 of the Health and Safety Code states that the Guidelines promulgated by the Board shall be based on meteorological data, the nature and volume of materials to be burned, and the probable effect of such burning on the ambient air quality within the air basins affected; and

WHEREAS, Agricultural Burning Guidelines have previously been promulgated in accordance with the provisions in the Health and Safety Code; and

WHEREAS, Section 41859 states that the Board shall continuously review the Guidelines and may modify, repeal or alter such Guidelines if scientific and technological data indicate that such changes are warranted. Before adopting any such changes, the State Board shall hold a public hearing and shall consider the criteria set forth in Section 41857; and

WHEREAS, the statutory references in the Guidelines must be re-numbered to conform with the recodification of the California Air Pollution Control Laws (Chapter 957, Statutes of 1975); and

WHEREAS, the Guidelines need revision to reflect a change in the number of air basins established by the Board; and

WHEREAS, the definition of "agricultural burning" in Section 39011 of the Health and Safety Code has been amended by AB 2931 (Chapter 1216, Statutes of 1976); and

WHEREAS, scientific data has indicated that permissive-burn and no-burn day forecasts can be made the previous day and the Guidelines should reflect that the Board now issues such notices the previous day; and

WHEREAS, Guidelines must be established to implement the provisions of AB 2931 (Chapter 1216, Statutes of 1976) which allow open burning of cotton gin waste; and

WHEREAS, in the development of the proposed revisions to the Guidelines, the Enforcement Branch staff of the Air Resources Board has consulted with representatives of various air pollution control agencies, the University of California Agricultural Engineering Extension, the California Cotton Ginners Association, the Statewide Air Pollution Research Center at the University of California at Riverside, the Department of Food and Agriculture and other agricultural agencies and associations; and

WHEREAS, a public workshop was held in Fresno on November 8, 1976 to obtain public comment on the proposed amendments to the Guidelines; and

WHEREAS, notice of a public hearing to consider the proposed revisions and amendments to the Guidelines has been given and a public hearing held in accordance with the provisions of the Administrative Procedure Act (Government Code, Title 2, Division 3, Part 1, Chapter 4.5);

NOW, THEREFORE, BE IT RESOLVED, that the Air Resources Board repeals Subchapter 2 of Chapter 1, Part III of Title 17 of the California Administrative Code and adopts the proposed Subchapter 2 of Chapter 1, Part III of Title 17 of the California Administrative Code attached hereto.

Attachment

AIR RESOURCES BOARD

State of California

PROPOSED AGRICULTURAL BURNING GUIDELINES

Subchapter 2. Agricultural Burning Guidelines

Note: Authority cited for Subchapter 2:
Health and Safety Code §§ 41850, 41856, 41859.

Article 1. General Provisions

80100. Definitions. (a) "Agricultural Burning" means open outdoor fires used in agricultural operations in the growing of crops or raising of fowls or animals, or open outdoor fires used in forest management, or range improvement, or used in the improvement of land for wildlife and game habitat, or disease or pest prevention. In addition "agricultural burning" includes open outdoor fires used in burning solid waste which is produced from the ginning of cotton. This section shall remain in effect only until January 1, 1979 and as of that date is repealed. ~~(Section 39295.6 of the California Health and Safety Code).~~

(a) "Agricultural Burning" means open outdoor fires used in agricultural operations in the growing of crops or raising of fowl or animals, or open outdoor fires used in forest management, range improvement, or the improvement of land for wildlife and game habitat, or disease or pest prevention. This section shall become operative on January 1, 1979.

(b) "Open burning in agricultural operations in the growing of crops or raising of fowls or animals" means:

(1) The burning in the open of materials produced wholly from operations in the growing and harvesting of crops or raising of fowls or animals for the primary purpose of making a profit, of providing a livelihood, or of conducting agricultural research or instruction by an educational institution; and

(2) In connection with operations qualifying under Subdivision (1):

(A) The burning of grass and weeds in or adjacent to fields in cultivation or being prepared for cultivation; and

(B) The burning of material not produced wholly from such operations, but which are intimately related to the growing or harvesting of crops and which are used in the field, except as prohibited by district regulations. Examples are trays for drying raisins, date palm protection paper, and fertilizer and pesticide sacks or containers, where the sacks or containers are emptied in the field.

(c) "Range improvement burning" means the use of open fires to remove vegetation for a wildlife, game or livestock habitat or for the initial establishment of an agricultural practice on previously uncultivated land.

(d) "Forest management burning" means the use of open fires, as part of a forest management practice, to remove forest debris. Forest management practices include timber operations, silvicultural practices or forest protection practices.

(e) "Brush treated" means that the material to be burned has been felled, crushed or uprooted with mechanical equipment, or has been desiccated with herbicides.

(f) "Timber operations" means cutting or removal of timber or other forest vegetation.

(g) "*Silviculture*" means the establishment, development, care and reproduction of stands of timber.

(h) "*State Board*" means the State Air Resources Board, or any person authorized to act on its behalf.

(i) "Designated agency" means any agency designated by the *State Board* as having authority to issue agricultural burning permits. The U.S. Forest Service and the California Division of Forestry are so designated within their respective areas of jurisdiction.

(j) A "no-burn" day means any day on which agricultural burning is prohibited by the *State Board*.

(k) A "permissive-burn" day means any day on which agricultural burning is not prohibited by the *State Board*.

(l) "District" means each county air pollution control district, regional air pollution control district, unified air pollution control district, *South Coast Air Quality Management District*, or the Bay Area Air Pollution Control District.

(m) "Tahoe Basin" means that area, within the State of California, as defined by the California-Nevada Interstate Compact, Article II, Paragraph C, as contained in Section 5976 of the State Water Code.

(n) "Cotton Gin Waste" means solid waste which is produced from the ginning of cotton.

Note: Authority Cited: Health and Safety Code § 39011.

80101. Scope and Policy. (a) The guidelines shall not supersede any rule or regulation of any district whose rule or regulation has been in effect for five or more years prior to September 19, 1970. (Section 39295-7 of the California Health and Safety Code).

(b) Although any local or regional authority may establish stricter standards for the control and the regulation of agricultural burning than those set forth in the Guidelines, no local or regional authority may ban any agricultural burning. (Section 39057 of the California Health and Safety Code).

(c) The Agricultural Burning Guidelines were developed after considering meteorological data, the nature and volume of materials to be burned, the probable effect of agricultural burning on ambient air quality, on agricultural production, and on range and forest management within the air basins. (Section 39298-3 and 39298-4 of the California Health and Safety Code).

(d) The Guidelines are not intended to permit open burning on days when such open burning is prohibited by public fire protection agencies for purposes of fire control or prevention.

Note: Authority Cited: Health and Safety Code §§ 41864, 41857, 41858 and 41854.

80102. Exceptions. (a) Open burning in agricultural operations in the growing of crops or raising of fowls or animals *or disease or pest prevention*, at altitudes above 3,000 feet mean sea level (msl), except *in* the Tahoe Basin, is exempt from these Agricultural Burning Guidelines.

(b) Agricultural burning in areas at altitudes above 6,000 feet (msl), ~~with the exception of~~ *in* the Tahoe Basin, is exempt from these Agricultural Burning Guidelines.

80110. Permissive-Burn or No-Burn Days. (a) Commencing no later than ~~December 20, 1972~~ *December 1, 1974*, a notice as to whether ~~a~~ *the following* day is a permissive-burn day ~~er~~, a no-burn day ~~will-be-provided-by-the-Board-each-morning~~ ~~by-0745-for-each-of-the-eleven-air-basins.~~ *, or whether the decision will be announced the following day, will be provided by the State Board at 1500 daily for each of the air basins. If the decision is made the following day it will be announced by 0745.* Such notices will be based on the Meteorological Criteria for Regulating Agricultural Burning, which were adopted by the State Board on June 21, 1972, and which ~~may-be-amended-from-time-to-time-after-public-hearing.~~ *were amended on February 20, 1975 and may be further amended from time to time after public hearing.* Interested persons shall be notified 30 days in advance of the hearing.

~~(b)--An-advisory-outlook-which-estimates-whether the-following-day(s)-will-be-a-permissive-burn-or-no-burn day(s)-will-be-made.~~

~~(c)~~(b) Agricultural burning is prohibited on no-burn days, except as specified in Section 80102, in ~~S~~subdivisions

(d) ~~and~~, (e) and (f) of Section 80120, and as may be permitted by a provision in an implementation plan adopted pursuant to Section 80150(c)(5).

~~(d)~~ (c) Upon request from a permittee through a designated agency, seven days in advance of a specific range improvement burn, or forest management burn, at any elevation below 6,000 feet (msl), or of a specific forest management burn at elevations between 3,000 to 6,000 feet (msl), a permissive-burn or no-burn notice will be issued by the State Board up to 48 hours prior to the date scheduled for the burn. Without further request, a daily notice will continue to be issued until a permissive-burn notice is issued.

~~(e)~~ (d) Notwithstanding subdivision ~~(d)~~ (c) of Section 80110, the State Board may cancel permissive-burn notices that ~~had~~ have been issued more than 24-hours in advance if the cancellation is necessary to maintain suitable air quality.

~~(f)~~ (e) A permissive-burn or no-burn advisory outlook will be available up to 72-hours in advance of burns specified in subdivision ~~(d)~~ (c) of Section 80110.

Note: Authority Cited: Health and Safety Code 841855.

80120. Burning Permits. (a) The forms of burning permits shall be jointly prepared by the districts and the designated agencies.

(b) The form of the permit shall contain the following words or words of similar import: "This permit is valid only on those days during which agricultural burning is ~~are~~ not prohibited by the State Air Resources Board pursuant to Section ~~39298~~ 41855 of the Health and Safety Code."

(c) Each district shall provide the designated agencies within the district with information on state laws, district rules and regulations, these Agricultural Burning Guidelines and other information as appropriate.

(d) A district may, by special permit, authorize agricultural burning on days designated by the Board as no-burn days because the denial of such permit would threaten imminent and substantial economic loss.

(e) Each district may designate a period between January 1 and May 31, during which time range improvement burning may be conducted by permit on a no-burn day, providing that more than 50 percent of the land has been brush treated.

(f) Each district may designate a period between February 1 and June 30 inclusive, during which time cotton gin waste burning may be conducted by permit in accordance with Section 80180 (b) of these Guidelines. The burning shall be commenced only on permissive burn days but will be allowed to continue to burn should any subsequent days be no-burn days.

~~(f)~~(g) Notwithstanding the provisions in subdivision (e) and (f) of this Section, the State Board may prohibit range improvement *or cotton gin waste* burning during the period designated by the district if, in the opinion of the State Board, such prohibition is required for the maintenance of suitable air quality.

~~(g)~~(h) Permits issued by designated agencies shall be subject to these Agricultural Burning Guidelines and to the rules and regulations of the district.

(h) (i) Each applicant for a permit shall provide information required by the designated agency for fire protection purposes.

(i) (j) Each applicant for a permit shall provide information requested by the district.

(j) (k) No person shall knowingly set or permit agricultural burning unless he has a valid permit from a designated agency. A violation of this subdivision is a violation of Section ~~39299~~ 41852 of the California Health and Safety Code.

Note: Authority Cited: Heath and Safety Code §§ 41854, 41862 and 41852.

80130. Burning Report. (a) A report of burning pursuant to these Guidelines during each quarter of a calendar year shall be submitted to the *State Board* by the district within 20 days of the end of the quarter. The report shall include the date of each burn, the type of waste burned, and the estimated tonnage or acreage of waste burned. In the future if in the judgment of the *State Board*, quarterly reports are no longer necessary, the *State Board* may require reports at less frequent intervals.

(b) A report of permits issued pursuant to subdivision (d) of Section 80120 during each quarter of a calendar year shall be submitted to the *State Board* within 20 days after the end of the quarter. The report shall include the number of such permits issued, the date of issuance of each permit, the person or persons to whom the permit was issued, an estimate of the amount of wastes burned pursuant to the

permit, and a summary of the reasons why denial of such permits would have threatened imminent and substantial economic loss. In the future if in the judgment of the State Board, quarterly reports are no longer necessary, the State Board may require reports at less frequent intervals.

Note: Authority Cited: Health and Safety Code § 41862

Article 2. Implementation Plan

80140. General. (a) In accordance with Section ~~39298-8~~ 41863 of the California Health and Safety Code, each district in the State shall adopt by ~~December 20, 1972~~ an implementation plan consistent with these Agricultural Burning Guidelines. Each district shall develop its implementation plan in cooperation with the appropriate fire protection agencies having jurisdiction within the district.

(b) Districts that have an approved implementation plan for regulating "agricultural burning" ~~open burning of "agricultural waste"~~ (as defined in the Agricultural Burning Guidelines adopted on ~~March 17, 1971~~ June 21, 1972, filed as Administrative Code regulations with the Secretary of State on ~~March 25, 1971~~ July 7, 1972) need not submit an implementation plan for regulating open burning in agricultural operations in the growing of crops or raising of fowls or animals, forest management, or range improvement, or used in improvement of land for wildlife and game habitat as defined in these guidelines. Such approved implementation plans shall remain effective under this subdivision until modified and approved pursuant to Ssubdivision (i) of this Ssection. Districts shall submit modifications to their implementation plans by March 1, 1977,

to include provisions for regulating agricultural burning for disease and pest prevention.

(c) The form of permit(s) required under Ssubdivision (a) of Section 80120 and the form of information required under Ssubdivision (c) of the Section 80120 shall be part of the plan.

(d) Each plan shall specify enforcement procedures.

(e) Each plan shall be submitted to the State Board for approval within ten days after adoption by the District.

(f) After public-hearings, tThe State Board shall either approve, modify and approve, or reject the any plan or modification of such plan submitted. Prior to disapproval or modification of any such plan the State Board shall hold a public hearing. Approval of any plan or any part of such plan is hereby delegated to the Executive Officer of the State Board.

(g) If the plan or modification of such plan is rejected, or if no timely plan is submitted, or if the plan is economically or technically not feasible, the State Board, after a public hearings held in the basin affected, shall adopt an alternative plan.

(h) The approved implementation plan shall be enforced by the district.

(i) After a district implementation plan is approved by the State Board, modifications to the plan shall be submitted to the State Board for its approval, and shall not be effective until approved.

Note: Authority Cited: Health and Safety Code § 41863.

80150. Open Burning in Agricultural Operations in the Growing of Crops or Raising of Fowls or Animals. (a) A District with no agricultural operations in the growing of crops or raising of fowls or animals within its jurisdiction may request to be exempted from the requirements of this section.

(b) Where an implementation plan for open burning in agricultural operations in the growing of crops or raising of fowls or animals is required, the plan shall include rules and regulations which:

(1) Require the material to be burned to be free of material that is not produced in an agricultural operation;

(2) Require the material to be arranged so that it will burn with a minimum of smoke;

(3) Require material to be reasonably free of dirt, soil and visible surface moisture;

(4) Require the material to be dried for minimum periods to be specified in the implementation plan, with separate specifications for the following: (1) trees and large branches, (2) prunings and small branches, (3) wastes from field crops that are cut in a green condition, and (4) other materials; and

(5) Regulate the total amount of material that may be burned each day.

(c) In developing the rules and regulations each district shall consider additional provisions with respect to the following:

(1) Hours of burning;

(2) No-burning season or seasons;

(3) Regulateing burning when the wind direction is toward a nearby populated area;

(4) Limiting the ignition of fires to approved ignition devices;

(5) Permitting on no-burn days the burning of empty sacks or containers which contained pesticides or other toxic substances, providing the sacks or containers are within the definition of "open burning in agricultural operations in the growing of crops or raising of fowls or animals", as specified in Section 80100(b)(2)(B).

Note: Authority Cited: Health and Safety Code § 41863.

80160. Range Improvement Burning. (a) A district with no range improvement burning within its jurisdiction may request to be exempted from the requirements of this section.

(b) Where an implementation plan for range improvement burning is required, the plan shall include rules and regulations which:

(1) Limit the ignition of fires to approved ignition devices;

(2) Regulate the total amount of waste that may be burned each day;

(3) Require the burn to be ignited as rapidly as practicable within applicable fire control restrictions;

(4) Regulate burning when the wind direction is toward a nearby populated area;

(5) Require brush to be treated at least six months prior to the burn if economically and technically feasible;

(6) Require unwanted trees over six inches in diameter to be felled and dried prior to the burn. The

minimum drying period shall be specified in the implementation plan;

(7) Specify the period, if any, in accordance with Ssubdivision (e) of Section 80120; and

(8) If the burn is to be done primarily for improvement of land for wildlife and game habitat, require the permit applicant to file with the district a statement from the Department of Fish and Game certifying that the burn is desirable and proper.

Note: Authority Cited: Health and Safety Code §§ 41863 and 41861.

30170. Forest Management Burning. (a) A district with no forest management burning within its jurisdiction may request to be exempted from the requirements of this section.

(b) Where an implementation plan for forest management burning is required, the plan shall include rules and regulations which:

(1) Limit the ignition of fires to approved ignition devices;

(2) Regulate the total amount of waste that may be burned each day;

(3) Require the waste to be ignited as rapidly as practicable within applicable fire control restrictions;

(4) Regulate burning when the wind direction is toward a nearby populated area;

(5) Require the waste to be dried for minimum periods to be specified by the designated agency;

(6) Require the waste to be free of tires, rubbish, tar paper or construction debris;

(7) Require the waste to be burned, to be windrowed or piled where possible, unless good silvicultural practice dictates otherwise;

(8) Require the piled waste to be prepared so that it will burn with a minimum of smoke; and

(9) Require the piled waste to be reasonably free of dirt and soil.

Note: Authority Cited: Health and Safety Code § 41863.

80180. Cotton Gin Waste Burning. (This section will expire on January 1, 1979.)

(a) A District with no cotton ginning within its jurisdiction is exempt from the requirements of this section.

(b) Where an implementation plan for cotton gin waste burning is required, the plan shall include rules and regulations which:

(1) Require that burning be commenced only between 10 a.m. and 12 noon on a permissive burn day only during the months of February through June, inclusive;

(2) Require that the material to be burned be arranged in such a way as to minimize surface area of the cotton gin waste burned;

(3) Require that dry straw be spread uniformly over the surface of the pile to provide uniform ignition and rapid formation of a surface ash covering to promote smoke filtering. The straw shall be ignited on the downwind edge of the pile;

(4) Require that after formation of the surface ash within 24 hours after commencement of the burning, the surface of the pile shall be sprayed with water to stabilize the ash layer and set the surface to minimize blowing of ash;

(5) Require that burning not be commenced when visibility in the District is less than 10 miles (when the relative humidity is less than 70 percent) or when surface moisture is present on the cotton gin waste;

(6) Require that burning of any cotton gin waste not be permitted within a 1 mile radius of any area having a population density of more than 200 persons per square mile;

(7) Regulate the total amount of material that may be ignited in each day. The plan shall take into consideration that burning will be commenced on a permissive burn day but will probably extend for several days;

(8) Require that burn permits for burning of cotton gin waste be issued by the local air pollution control officer;

(9) Require that in addition to obtaining a permit for burning cotton gin waste from the air pollution control officer, the applicant obtain an agricultural burning permit from the permit issuing agency having jurisdiction in the area where the burn is to take place.

(10) Require the applicant for a cotton gin waste burn permit to:

i) Pay the required fee pursuant to Section 41853.5 of the Health and Safety Code for the waste

created from the total number of bales ginned at the applicant's gin for the entire season(s), or

ii) Provide substantiation to the satisfaction of the air pollution control officer that the waste represents a specific portion of the cotton ginned and pay the appropriate fee, and/or

iii) At the district's discretion allow the district to obtain and weigh 3 one cubic foot representative samples of the cotton gin waste to be burned and measure the pile(s) to determine the total volume of the waste in order to calculate the total weight of the waste. The applicant shall then pay the appropriate fee assuming 150 pounds of waste represents one bale of cotton ginned;

(11) Require that the permit from the air pollution control officer not allow open burning on days when such open burning is prohibited by public fire protection agencies for purposes of fire control or prevention;

(12) Require that the burn permit application for burning of cotton gin waste include the following information:

i) Name, owner and location of gin,

ii) Total number of bales of cotton ginned at the applicant's gin for each season or seasons,

iii) Total number of bales of cotton ginned that the waste to be burned represents,

iv) Substantiating documentation or test results and calculations performed by the district to justify any difference between items ii and iii above,

v) Total fee at 15¢ for each bale ginned that the waste represents or each 150 pounds of waste as calculated by the district,

vi) Maximum population density per square mile within a 1 mile radius of the burn site;

(13) Require that prior to burning, the applicant contact the district for information on visibility, verification of permissive burn day, notification of amount to be burned, and final approval by the air pollution control officer;

(14) Require that the burn permit fees collected be sent monthly to the Air Resources Board to be deposited in the Air Pollution Control Fund. These funds shall be continuously appropriated to the State Board to be used for the sole purpose of funding research for the development of a cotton gin trash incinerator heat exchanger or other device for the disposal of cotton gin waste consistent with emission standards set by the district board or State Board. Existing procedures for allocating the State Board's research funds will be used in determining how the funds are to be committed. The State Board will consult with the Solid Waste Management Board prior to awarding a contract for, or conducting, such research and development. If the State Board determines that such a device is available or that further expenditures for such purposes would not contribute meaningfully to their development, the fees will be utilized in accordance with the provisions of Section 43014 of the Health and Safety Code; and

(15) Require that each district send a check payable to the Air Resources Board, for the portion of