State of California
AIR RESOURCES BOARD

Resolution 86-98

November 20, 1986

Agenda Item No.: 86-13-4

WHEREAS, Sections 39600 and 39601 of the Health and Safety Code authorize the Air Resources Board (the "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;

WHEREAS, pursuant to Section 41850 of the Health and Safety Code, the Board may regulate, but not prohibit, agricultural burning;

WHEREAS, Section 41856 of the Health and Safety Code authorizes the Board to promulgate guidelines for the regulation and control of agricultural burning in each air basin of the state, and Sections 41857 and 41858 provide that the guidelines shall be based on meteorological data, the nature and volume of materials to be burned and the probable effect of such burning on ambient air quality, and that, in adopting the guidelines, the Board shall consider their economic and technological feasibility;

WHEREAS, the Board has established Agricultural Burning Guidelines in Sections 80100 through 80330, Title 17, California Administrative Code;

WHEREAS, Section 41859 of the Health and Safety Code provides that the Board shall continually review its Agricultural Burning Guidelines;

WHEREAS, wildland vegetation management burning is conducted in California by many public agencies to accomplish a variety of natural resource management objectives such as wildlife habitat improvement, watershed management, and forest improvement, as well as the primary objective of preventing high intensity wildland fires;

WHEREAS, wildland vegetation management burning may be classified and regulated under the existing Agricultural Burning Guidelines as either forest management or range improvement burning, depending on the purposes for which the particular project is conducted;

WHEREAS, the existing forest management and range improvement burning provisions lack flexibility in certain respects to accommodate the sophisticated needs of wildland vegetation management burning and lack sufficient stringency in other respects regarding such burning programs;

WHEREAS, the Board staff has proposed amendments to the Agricultural Burning Guidelines which include definitions of wildland vegetation management burning and prescribed burning, specific requirements for wildland vegetation management burning, and a requirement that districts amend their agricultural burning implementation plans to provide for regulation of wildland vegetation management burning;

WHEREAS, Board staff has developed the proposed amendments in coordination with representatives of numerous interested parties including local air pollution control districts, the California Deparment of Forestry, and the United States Forest Service;

WHEREAS, the California Environmental Quality Act and Board regulations require that no project having significant adverse environmental impacts be adopted as originally proposed if feasible alternatives or mitigation measures are available;

WHEREAS, a public hearing and other administrative proceedings have been held in accordance with the provisions of Chapter 3.5 (commencing with Section 11340), Part 1, Division 3, Title 2 of the Government Code; and

WHEREAS, the Board finds that:

The proposed amendments to the Agricultural Burning Guidelines set forth in Attachment A will alleviate the need to determine the particular agricultural purpose for which wildland vegetation management burning is conducted and thereby simplify the identification of applicable requirements;

The proposed amendments will impose requirements for wildland vegetation management burning conducted by public agencies which are more closely tailored to the needs and potential problems of such burning;

The proposed amendments will protect air quality without adversely impacting the agricultural economy of the state.

This regulatory action will have no significant adverse impact on the environment.

NOW, THEREFORE BE IT RESOLVED, that the Board adopts the amendments to Sections 80100, 80110, 80140 and 80175, Title 17, California Administrative Code, as set forth in Attachment A hereto.

I hereby certify that the above is a true and correct copy of Resolution 86-98, as adopted by the Air Resources Board.

Harold Holmes

Harold Holmes, Board Secretary

ATTACHMENT A

Amend Title 17, California Administrative Code, Section 80100 to read as follows:

80100. Definitions

(a) "Agricultural Burning Guidelines" means the provisions of Subchapter 2, Chapter 1, ~~of~~ Part III, Title 17, California Administrative Code.

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

(c) "Designated agency" means any agency designated by the Air Resources Board (~~State Board~~ state board) as having authority to issue agricultural burning permits. The U.S. Forest Service and the California Department of Forestry are so designated within their respective areas of jurisdiction.

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

(e) A "no-burn" day means any day on which agricultural burning is prohibited by the ~~State Board~~ state board or by a district.

(f) "Open burning in agricultural operations in the growing of crops or raising of fowl 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 fowl 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.

(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.

(B) The burning of materials 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.

(g) A "permissive-burn" day means any day on which agricultural burning is not prohibited by the ~~State Board~~ state board.

(h) "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.

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

(j) "Tahoe Basin" means the 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.

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

(l) "Wildland vegetation management burning" means the use of prescribed burning conducted by a public agency, or through a cooperative agreement or contract involving a public agency, to burn land predominantly covered with chaparral (as defined in Title 14, California Administrative Code, Section 1561.1), trees, grass or standing brush.

(m) "Prescribed burning" means the planned application of fire to vegetation on lands selected in advance of such application, where any of the purposes of the burning are specified in the definition of agricultural burning as set forth in Health and Safety Code Section 39011.

NOTE: Authority cited: Sections 39600, 39601, 41856, and 41859, Health and Safety Code. Reference: Sections 39011, ~~39025, 39053,~~ 41853, 41854, 41855, 41856, 41857, 41858, 41859, 41861, 41862 and 41863, Health and Safety Code.

Amend Title 17, California Administrative Code, Section 80110(c) to read as follows:

80110. Permissive-Burn or No-Burn Days

* * * * *

(c) Upon request from a permittee through a designated agency, seven days in advance of a specific range improvement burn, ~~or~~ forest management burn, or wildland vegetation management burn, at any elevation below 6,000 ft. (msl), a permissive-burn or no-burn notice will be issued by the ~~State Board~~ 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.

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NOTE: Authority cited: Sections 39600, 39601, 41856, and 41859, Health and Safety Code. Reference: Sections 41855, 41856, 41857, 41858, 41861, and 41862, Health and Safety Code.

Amend Title 17, California Administrative Code, Section 80140 to read as follows:

80140. General

(a) In accordance with Section 41863 of the California Health and Safety Code, each district in the State shall adopt 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" (as defined in the Agricultural Burning Guidelines adopted on June 21, 1972, filed as Administrative Code regulations with the Secretary of State on July 7, 1972) need not submit an implementation plan for regulating open burning in agricultural operations in the growing of crops or raising of fowl 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 subdivision (i) of this section. Districts shall submit modifications to their implementation plans by March 1, 1980, to include provisions for regulating agricultural burning and for disease or pest prevention which conform to the amendments to these Guidelines adopted on October 12, 1979. <u>No later than June 1, 1987, districts shall submit modifications to their implementation plans to conform them to the amendments to these guidelines adopted on [insert date of adoption] or shall notify the executive officer of the state board in writing of their determination that no modifications are necessary.</u>

(c) The form of permit(s) required under subdivision (a) of Section 80120 and the form of information required under subdivision (c) of 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~~ state board for approval within ten days after adoption by the district.

(f) The ~~State Board~~ state board shall either approve, modify and approve, or reject any plan or modification of such plan submitted. Prior to disapproval or modification of any such plan the ~~State Board~~ state board shall hold a public hearing. Approval of any plan or any part of such plan is hereby delegated to the ~~Executive Officer~~ executive officer of the ~~State Board~~ state board. With respect to modifications submitted or a district determination that no modifications are necessary as a result of the amendments to the Agricultural Burning Guidelines adopted on [insert date of adoption], the executive officer shall approve any plan or modification if the plan as adopted or modified includes provisions in conformity with the amendments, and contains enforcement procedures likely to result in compliance with those provisions.

(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~~ state board, after a public hearing 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~~ state board, modifications to the plan shall be submitted to the ~~State Board~~ state board for its approval, and shall not be effective until approved.

NOTE: Authority cited: Sections 39600, 39601, 41856 and 41859, Health and Safety Code. Reference: Sections 41856, 41859 and 41863, Health and Safety Code.

Adopt new Title 17, California Administrative Code, Section 80175 to read as follows:

80175. Wildland Vegetation Management Burning

(a) A district with no wildland vegetation management burning within its jurisdiction may request to be exempted from the requirements of this section.

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

(1) Apply to all burning which meets the definition of wildland vegetation management burning, regardless of whether such burning also meets another definition in Section 80100 of this subchapter.

(2) Limit the ignition of fires to approved devices.

(3) Regulate the total acreage or tonnage of vegetation that may be burned each day within the district.

(4) Regulate burning or require mitigation when the meteorological conditions could otherwise cause smoke to create or contribute to an exceedance of a state or federal ambient air quality standard or cause a public nuisance.

(5) Require the vegetation to be burned to be free of tires, rubbish, tar paper or construction debris, and reasonably free of dirt and soil.

(6) Require the vegetation to be in a condition which will facilitate combustion and minimize the amount of smoke emitted during combustion.

(7) For projects exceeding a predetermined size or tonnage threshold level, or for projects situated in zones specified by the district, require the following information be provided to the district for review and approval in advance of the proposed burning:

(a) location and specific objectives of the burn project;

(b) acreage or tonnage, type, and arrangement of vegetation to be burned;

(c) directions and distances to nearby sensitive receptor areas;

(d) fuel condition, combustion, and meteorological prescription elements developed for the project;

(e) projected schedule and duration of project ignition, combustion, and burndown;

(f) specifications for monitoring and verifying critical project parameters; and

(g) specifications for disseminating project information.

NOTE: Authority cited: Sections 39600, 39601, 41856 and 41859, Health and Safety Code. Reference: Sections 41856, 41857, 41858, 41859 and 41863, Health and Safety Code.

State of California
AIR RESOURCES BOARD

Response to Significant Environmental Issues

Item: Public Hearing to Consider Amendments to Agricultural Burning Regulations

Agenda Item No.: 86-13-4

Public Hearing Date: November 20, 1986

Response Date: November 20, 1986

Issuing Authority: Air Resources Board

Comment: No comments were received identifying any significant environmental issues pertaining to this item. The staff report identified no adverse environmental effects.

Response: N/A

Certified: _____
Board Secretary

Date: 11/05/82

State of California

MEMORANDUM

To : Gordon Van Vleck
Secretary
Resources Agency

Date : January 13, 1988

Subject : Filing of Notice of Decisions of the Air Resources Board

Cary Allison
Board Secretary
From : **Air Resources Board**

Pursuant to Title 17, Section 60007 (b), and in compliance with Air Resources Board certification under Section 21080.5 of the Public Resources Code, the Air Resources Board hereby forwards for posting the attached notice of decisions and response to environmental comments raised during the comment period.

ATTACHMENTS
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