

MONTEREY BAY UNIFIED AIR POLLUTION CONTROL DISTRICT

**RULE 438 - OPEN OUTDOOR FIRES**

*(Adopted 4-16-2003; and Revised 9-15-2004.)*

CONTENTS

PART 1	GENERAL	3
1.1	Purpose	3
1.2	Applicability	3
1.3	Exemptions	3
1.3.1	Exemptions from Section 3.1 (General Prohibition)	3
1.3.2	Exemptions from Subsection 3.2.1	5
1.3.3	Exemptions from Section 3.3 (Burn Days and "No-burn" Days)	5
1.3.4	Exemptions from Section 3.4 (Standards for Materials to be Burned)	6
1.4	Effective Date of Rule	6
1.5	References	6
PART 2	DEFINITIONS	7
2.1	Agricultural Burning	7
2.2	Agricultural Waste Burning	7
2.3	Air District	7
2.4	Approved Ignition Device	7
2.5	Backyard Burning	7
2.6	Brush-treated	7
2.7	Burn Barrel	8
2.8	Burn Day	8
2.9	Burn Season	8
2.10	Census Zip Code	8
2.11	Combustible	8
2.12	Designated Agency	8
2.13	Flammable	9
2.14	Forest Management Burning	9
2.15	Household Rubbish	9
2.16	Incorporated Place	9
2.17	Monterey Peninsula/Carmel Valley Smoke Sensitive Area (MP/CV SSA)	9
2.18	Natural Vegetation	10
2.19	"No-burn" Day	10
2.20	Open Outdoor Fire	10
2.21	Organized Waste Disposal Service	10
2.22	Population Density	10
2.23	Prescribed Burning	10
2.24	Treated Wood	11
2.25	Processed or treated wood and wood products	11
2.26	Range Improvement Burning	11
2.27	Recreational Fires	11
2.28	Residential Burning	11
2.29	Smoke-Sensitive Area (SSA)	12

2.30	Waste .....	12
2.31	Wildland Vegetation Management Burning .....	12
2.32	Woody Wastes from Development .....	12
<b>PART 3</b>	<b>GENERAL REQUIREMENTS AND STANDARDS FOR OPEN OUTDOOR FIRES</b> .....	<b>12</b>
3.1	General Prohibition .....	12
3.2	General Permit Requirements .....	13
3.3	Burn Days and "No-Burn" Days .....	13
3.4	General Standards for Materials to be Burned .....	13
3.5	Prohibition of Nuisances .....	14
<b>PART 4</b>	<b>ADDITIONAL REQUIREMENTS FOR BURNING OF AGRICULTURAL WASTES .....</b>	<b>15</b>
4.1	Burning Hours .....	15
4.2	Fertilizer and Pesticide Sacks or Containers .....	15
4.3	Garlic Tops .....	15
<b>PART 5</b>	<b>ADDITIONAL REQUIREMENTS FOR PRESCRIBED BURNING .....</b>	<b>15</b>
5.1	Requirements for All Prescribed Burning .....	15
5.1.1	Project Registration .....	15
5.1.2	Permit Required .....	16
5.1.3	Smoke Management Plan and Permit Application Form .....	16
5.1.4	Daily Burn Authorization .....	16
5.1.5	Restrictions on Poor Air Quality Days .....	17
5.1.6	Public Notification .....	17
5.1.7	Daily Emissions Allocation .....	17
5.1.8	Use of Approved Ignition Devices .....	17
5.1.9	Certification by Department of Fish and Wildlife .....	17
5.1.10	Reporting of Actual Materials Burned .....	17
5.2	Additional Requirements for the Burning of Woody Wastes from Developments ..	18
5.3	Additional Requirements for Forest Management and Range Improvement Burning .....	18
5.4	Additional Requirements for Wildland Vegetation Management Burning .....	19
<b>PART 6</b>	<b>ADDITIONAL REQUIREMENTS FOR FIRES WITHIN THE MONTEREY PENINSULA/CARMEL VALLEY SMOKE SENSITIVE AREA .....</b>	<b>20</b>

## PART 1 GENERAL

### 1.1 Purpose

The purpose of this Rule is to codify requirements and standards regarding the use of open outdoor fires within the boundaries of the Monterey Bay Unified Air Pollution Control District (Air District).

### 1.2 Applicability

The provisions of this Rule shall apply to all persons who set or maintain open outdoor fires set within the boundaries of the Air District.

### 1.3 Exemptions

#### 1.3.1 Exemptions from Section 3.1 (General Prohibition)

The following types of open outdoor fires are exempted from the provisions of Section 3.1 of this Rule, except as provided at Subsection 3.1.1 below.

1.3.1.1 With notification of the Air Pollution Control Officer, except in emergencies, when such fire is set or permission for such fire is given in the performance of the official duty of any public officer, and such fire in the opinion of such officer is necessary:

1.3.1.1.1 for the instruction of public employees in the methods of fighting fire; or

1.3.1.1.2 for disposing of Russian thistle (*Salsola kali*); or

1.3.1.1.3 for the setting of backfires necessary to save life or valuable property pursuant to Section 4426 of the Public Resources Code; or

1.3.1.1.4 for the abatement of fire hazards pursuant to Section 13055 of the California Health and Safety Code which cannot be abated by other means; or

1.3.1.1.5 for disease or pest prevention, where there is an immediate need for and no reasonable alternative to burning.

1.3.1.2 With notification of the Air Pollution Control Officer, except in emergencies, when such fire is set pursuant to permit on property used for industrial purposes for the purpose of instruction of employees in methods of fighting fire.

- 1.3.1.3 Agricultural burning, including prescribed burning, necessary to maintain and continue an agricultural operation, set or permitted by a fire official having jurisdiction in the performance of his/her official duty including:
  - 1.3.1.3.1 fires set in the course of any agricultural operation in the growing of crops, or raising of fowls, animals or bees;
  - 1.3.1.3.2 fires for the control and disposal of agricultural wastes;
  - 1.3.1.3.3 range improvement burning;
  - 1.3.1.3.4 forest management burning;
  - 1.3.1.3.5 wildland vegetation management burning.
- 1.3.1.4 Effective January 1, 2004, on burn days only, fires for disposal of dry, non-glossy paper and cardboard originating from and being burned on the premises of a single- or two-family dwelling (residential burning) if that dwelling meets all the following criteria:
  - 1.3.1.4.1 the single- or two-family dwelling is not in an incorporated place; and
  - 1.3.1.4.2 the single- or two-family dwelling lies within the boundaries of a Census Zip Code within the Air District where the population density is equal to or less than 10.0 people per square mile, as calculated from the last decennial United States Census data; and
  - 1.3.1.4.3 the single- or two-family dwelling is in an area not served on a weekly basis by an organized waste disposal service; and
  - 1.3.1.4.4 the single- or two-family dwelling does not lie within the boundary of a jurisdiction which prohibits the burning of dry, non-glossy paper and cardboard as of January 4, 2002, or thereafter; and
  - 1.3.1.4.5 the census zip code population density remains equal to or below 10.0 persons per square mile if the air district chooses to renew the exemption areas every ten years pursuant to Section 93113(e), Title 17 of the California Code of Regulations. As of the date of rule adoption the following areas (listed by Census Zip Code) meet the population density criterion and may meet the weekly organized waste disposal service criterion: 93426 (Bradley, Lake Nacimiento areas); 93450 (San Ardo area); 93451 (San Miguel, Camp Roberts, Parkfield areas); 93920 (Big Sur, Gorda, Lucia areas); 93927 (Greenfield area); 93928 (Jolon, Ft. Hunter Liggett areas); 93930 (King City area); 93932 (Lockwood area); 93954 (San Lucas area); 95043 (Paicines, New Idria, Panoche, Pinnacles, San Benito areas).

- 1.3.1.5 On burn days only, and only during the burn season, fires for disposal of natural vegetation originating from, and being burned on, the premises of a single- or two-family dwelling (backyard burning).
- 1.3.1.6 On burn days only, and only during the burn season, burning of woody wastes from developments.
- 1.3.1.7 Fires used only for the cooking of food for human beings, or ceremonial, religious or recreational fires.
- 1.3.1.8 With notification of the Air Pollution Control Officer, except in emergencies, burning for right-of-way clearing by a public entity or utility where access by chipping equipment is not available by existing means, or for levee, reservoir, and ditch maintenance.
- 1.3.1.9 Mechanized burning, e.g., trench burning, may be used for the purpose of disposing of agricultural wastes, or wood waste from trees, vines, bushes, or other wood debris free of non-wood materials as provided in Section 41812 of the California Health and Safety Code.

#### 1.3.2 Exemptions from Subsection 3.2.1 (Permit Requirements)

The following types of open outdoor fires are exempted from the requirement to receive written permits from the District under subsection 3.2.1 of this Rule. This does not affect any permits that may be required by local fire agencies.

- 1.3.2.1 fires described in subsection 1.3.1.1 where the entity conducting the fire is the permitting agency;
- 1.3.2.2 fires described in subsection 1.3.1.4 (residential burning);
- 1.3.2.3 fires described in subsection 1.3.1.5 (backyard burning);
- 1.3.2.4 fires described in subsection 1.3.1.7 (recreational and cooking fires).

#### 1.3.3 Exemptions from Section 3.3 (Burn Days and "No-burn" Days)

- 1.3.3.1 fires described in subsection 1.3.1.7 (recreational and cooking fires);
- 1.3.3.2 fires described in subsection 1.3.1.1.1 (fire-fighting instruction for public employees);
- 1.3.3.3 fires described in subsection 1.3.1.2 (industrial fire-fighting instruction);
- 1.3.3.4 agricultural fires set upon Air Pollution Control Officer approval where denial of such approval would threaten imminent and substantial economic loss as provided in California Health and Safety Code Section 41862.

1.3.3.4.1 As provided in California Health and Safety Code Section 41862, the Air Pollution Control Officer may by permit authorize agricultural waste burning on "no-burn" days, if denial of such approval would threaten imminent and substantial economic loss. In authorizing such burning, the Air Pollution Control Officer shall limit the acreage which can be burned in any one day and shall only authorize burning when downwind metropolitan areas are forecasted by the California Air Resources Board to achieve the ambient air quality standards.

1.3.3.4.2 Exceptions may be made by the designated agency which issues the permit to burn, with concurrence of the Air Pollution Control Officer, if the material to be burned is diseased or insect-infested and there would be irreparable damage if the standards of Sections 3.3 were rigidly enforced.

1.3.3.5 a prescribed burn project which has been declared a test burn jointly by the California Air Resources Board and the Air District for the purpose of evaluating alternative criteria for making burn day decisions.

#### 1.3.4 Exemptions from Section 3.4 (Standards for Materials to be Burned)

Fires qualifying for exemption under subsection 1.3.3.4 may be exempted by the Air Pollution Control Officer from certain requirements of Section 3.4.

#### 1.4 Effective Date of Rule

The Rule in its present form is effective on September 15, 2004.

#### 1.5 References

The requirements of this Rule arise from the provisions of:

1.5.1 California Health and Safety Code Sections 39011 *et seq.*, 39665 *et seq.*, 41800 *et seq.*, 41850 *et seq.*; and

1.5.2 California Code of Regulations, Title 17, Subchapter 2, Sections 80100 *et. seq.* and 93113 *et seq.*

## PART 2 DEFINITIONS

### 2.1 Agricultural Burning

As defined by California Health and Safety Code Section 39011, *et seq.*

## 2.2 Agricultural Waste Burning

Refers to open burning in agricultural operations in the growing of crops or raising of fowl or animals, as defined in California Code of Regulations, Title 17, Subchapter 2, Article 1, Section 80100(w). This includes 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 Air District rules and regulations.

## 2.3 Air District

The Monterey Bay Unified Air Pollution Control District, unless otherwise noted.

## 2.4 Approved Ignition Device

An instrument or material that will ignite open fires without the production of black smoke by the ignition device.

## 2.5 Backyard Burning

Fires for disposal of natural vegetation originating from and being burned on the premises of a single- or two-family dwelling.

## 2.6 Brush-treated

The material to be burned has been felled, crushed or uprooted with mechanical equipment, has been desiccated with herbicides, or is dead.

## 2.7 Burn Barrel

A metal or other fireproof or nonflammable container used to hold combustible or flammable waste materials so that they can be ignited outdoors for the purpose of disposal.

## 2.8 Burn Day

Any day on which agricultural burning, including prescribed burning, is not prohibited by the California Air Resources Board, and agricultural burning, including prescribed burning, is authorized by the Air District consistent with the Smoke Management Guidelines for Agricultural and Prescribed Burning, set forth in Sections 80100 - 80330 of Title 17 of the California Code of Regulations.

## 2.9 Burn Season

The time during the year during which certain types of burning are allowed. The burn season shall begin on December 1 and shall continue through April 30 each year.

## 2.10 Census Zip Code

A Zip Code<sup>®</sup> tabulation area, a statistical geographic entity that approximates the delivery area for a U.S. Postal Service five-digit Zip Code. Census zip codes are aggregations of census blocks that have the same predominant Zip Code associated with the mailing addresses in the U.S. Census Bureau's Master Address File. Census zip codes do not precisely depict Zip Code delivery areas, and do not include all Zip Codes used for mail delivery. For the purposes of this Rule, census zip codes are referenced to the most recent national decennial census completed by the U.S. Census Bureau.

## 2.11 Combustible

Any substance capable of burning or any substance that will readily burn.

## 2.12 Designated Agency

Any agency, other than the Air District, designated by the California Air Resources Board as having authority to issue agricultural burning permits. The U. S. Forest Service and the California Department of Forestry and Fire Protection are so designated within their respective areas of jurisdiction.

## 2.13 Flammable

Capable of catching fire easily, or combustible.

## 2.14 Forest Management Burning

The use of open outdoor 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.

## 2.15 Household Rubbish

Solid, semisolid or liquid waste from materials used or consumed in a human dwelling which can be placed inside a 30-gallon garbage can. This includes materials such as animal or vegetable putrescible wastes (garbage) and nonputrescible wastes (rubbish), including discarded materials resulting from normal residential activities.



## 2.16 Incorporated Place

The city, town, municipality or village reported to the U.S. Census Bureau as being legally in existence under California law at the time of the most recent national decennial census completed by the U.S. Census Bureau. For the purposes of calculating population density for this regulation, incorporated places include the FIPS Place Class Codes C1, C7 and C8, as defined by the U.S. Census Bureau in Technical Documentation, Summary File 1, October 2002.

## 2.17 Monterey Peninsula/Carmel Valley Smoke Sensitive Area (MP/CV SSA)

The MP/CV SSA is delineated by the following Township and Range coordinates, or Sections thereof, based on the Mount Diablo Meridian:

- a) All of T15S, R1W.
- b) T15S, R1E, Sections 19, 20, 21, and 28 thru 33.
- c) All of T16S, R1W.
- d) T16S, R1E, Sections 4 thru 9, and 13 thru 36.
- e) T16S, R2E, Sections 18, 19, and 26 thru 35.
- f) T17S, R1W, Sections 1, 2, 11, 12, 13, 14, and 24.
- g) T17S, R1E, Sections 1 thru 24.
- h) T17S, R2E, Sections 1 thru 24.

## 2.18 Natural Vegetation

All plants, including but not limited to grasses, forbs, trees shrubs, flowers, or vines that grow in the wild or under cultivation. Natural vegetation excludes vegetative materials processed, treated or preserved with chemicals for subsequent human or animal use, including but not limited to processed or treated wood and wood products or paper products.

## 2.19 "No-burn" Day

Any day on which agricultural burning, including prescribed burning, is prohibited by the California Air Resources Board or by the Air District.

## 2.20 Open Outdoor Fire

The burning of combustible material of any type outdoors in the open, not in any enclosure, where the products of combustion are not directed through a flue.

## 2.21 Organized Waste Disposal Service

Weekly curbside or roadside collection by a contracted waste hauler of residential waste in wheeled carts, standard trash cans, or garbage bags for single- or two-family dwellings, as distinguished from transfer station collection or commercial dumpster collection.

## 2.22 Population Density

The number of people per square mile within a census zip code. It is calculated as the number of people within a census zip code divided by the area of the census zip code after subtracting the population and area of all incorporated places within the census zip code.

## 2.23 Prescribed Burning

The planned application of fire to natural vegetation to achieve any specific objective on lands selected before that application. The planned application of fire may also include natural or accidental ignition. [California Health and Safety Code Section 39011(c)] For the purposes of this Rule, prescribed burning includes but is not limited to: burning of woody wastes from developments; forest management burning; fuels management burning; range improvement burning; wildland vegetation management burning.

## 2.24 Treated Wood

Wood that has been treated with a penetrating chemical to retard rot, infestation or decay. In California, such wood is often characterized by the presence of dimples that look like staple holes covering its surface. While not all treated wood is dimpled, all wood that has dimples is treated wood.

## 2.25 Processed or treated wood and wood products

Wood that has been chemically treated to retard rot or decay, or wood that has been modified with glues, laminates, stains, finishes, paints or glosses for use in furniture or for construction purposes, including but not limited to plywood, particle board, fencing or railroad ties. For the purposes of this Rule, dimensional lumber that has been air-dried or kiln-dried, with no preservatives or finishes added, is not considered processed or treated wood.

## 2.26 Range Improvement Burning

The use of open outdoor fires to remove vegetation for a wildlife, game or livestock habitat or for the initial establishment of an agricultural practice on previously uncultivated land.

## 2.27 Recreational Fires

Any fires for which the purpose is other than the disposal of the material being combusted, including but not limited to ceremonial, cooking food for human consumption, education, religious or warming.

## 2.28 Residential Burning

Fires for the disposal of dry, non-glossy paper and cardboard originating from and being burned on the premises of a single- or two-family dwelling.

## 2.29 Smoke-Sensitive Area (SSA)

A populated area, an airport, a traveled road or highway designated Class I for visibility standards, or any place where smoke can adversely affect the public health and welfare, as defined in the California Code of Regulations, Title 14, Section 1561.1.

## 2.30 Waste

All discarded putrescible and nonputrescible solid, semisolid, and liquid materials, including but not limited to petroleum products and petroleum wastes; construction and demolition debris; coated wire, tires, tar; tar paper; wood waste; processed or treated wood and wood products; metals; motor vehicle bodies and parts; rubber; synthetics; plastics, including plastic film, twine and pipe; fiberglass; Styrofoam; garbage; trash; refuse; rubbish; disposable diapers; ashes; glass; industrial wastes; manufactured products; equipment; instruments; utensils; appliances; furniture; cloth; rags; paper or paper products; cardboard; boxes; crates; excelsior; offal; swill; carcass of a dead animal; manure; human or animal parts or wastes, including blood; fecal- and food-contaminated material; felled trees; tree stumps; brush; plant cuttings and prunings; branches; garden waste; weeds; grass clippings, pine needles, leaves and other natural vegetation waste.

## 2.31 Wildland Vegetation Management Burning

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 Code of Regulations, Section 1561.1), trees, grass or standing brush.

## 2.32 Woody Wastes from Development

Woody waste from trees, vines or bushes or natural vegetation grown on the property being developed for commercial or residential purposes.

## PART 3 GENERAL REQUIREMENTS AND STANDARDS FOR OPEN OUTDOOR FIRES

### 3.1 General Prohibition

Except as otherwise provided in this Rule, no person shall use open outdoor fires within the boundaries of the Monterey Bay Unified Air Pollution Control District for the purpose of disposal or burning of petroleum wastes, demolition or construction debris, tires, tar, trees, wood waste, processed or treated wood and wood products, or other combustible or flammable solid, semisolid or liquid waste; or for metal salvage or burning of motor vehicle bodies.

- 3.1.1 Notwithstanding the exemptions at Subsection 1.3.1 *et seq.*, no person shall use open outdoor fires within the boundaries of the Monterey Bay Unified Air Pollution Control District for the purpose of disposal or burning of treated wood under any circumstances. However, the District may exempt specific lots of wood from this prohibition upon the request on any person who can prove to the District that the wood sought to be exempt, while chemically treated, does not contain arsenic, chromium or other chemical compound that substantially adds to the toxicity of the emissions from burning.

### 3.2 General Permit Requirements

- 3.2.1 No person shall set, or permit to be set, any open outdoor fire including agricultural fires without first obtaining a written permit from the Air District, except as provided at subsection 1.3.2 of this Rule, and as required from the local fire protection agency with jurisdiction.
- 3.2.2 In issuing a permit to burn wastes, the Air Pollution Control Officer or other permitting authority may limit the amount of such material that can be burned in any one day and the hours of the day during which material may be burned.

### 3.3 Burn Days and "No-Burn" Days

No person shall set, or permit to be set, any open outdoor fire on any day designated by the California Air Resources Board as a "no-burn" day, except as provided at subsection 1.3.3 of this Rule. Fires allowed pursuant to this Rule shall only be set during burn days as designated by the California Air Resources Board or by the Air District.

### 3.4 General Standards for Materials to be Burned

All materials to be burned shall conform to the following requirements to ensure rapid and complete combustion to minimize smoke generation:

- 3.4.1 Materials to be burned shall be dry and reasonably free of visible surface moisture prior to burning.

- 3.4.2 Materials to be burned shall be free from combustible impurities such as tires, tar paper, household rubbish, plastics, demolition or construction debris, and other material not grown at the site, unless otherwise provided in this Rule, and shall be reasonably free of dirt and soil.
- 3.4.3 Tree stumps more than six inches in diameter shall have been dried for at least 180 days prior to burning.
- 3.4.4 Trees, branches and prunings more than two inches but equal to or less than six inches in diameter shall have been dried for at least 60 days prior to burning.
- 3.4.5 Trees, branches and prunings equal to or less than two inches in diameter and plant trimmings shall have been dried for at least 30 days prior to burning.
- 3.4.6 Wastes from field crops that are cut in a green condition shall have been dried for at least 10 days prior to burning.
- 3.4.7 Material to be burned shall be arranged to provide adequate aeration to allow the material to burn with a minimum of smoke.
- 3.4.8 The use of burn barrels to burn materials is prohibited, unless authorized by the local fire agency with jurisdiction. Burn barrels shall only be used to burn materials consistent with the provisions of Subsection 1.3.1.4 (residential burning).
- 3.4.9 Material containing poison oak shall not be burned where in the opinion of the Air Pollution Control Officer the smoke from the burning operations could adversely affect adjacent or nearby residences.
- 3.4.10 Only approved ignition devices shall be used for ignition.
- 3.4.11 Burning shall not commence when the wind direction would blow smoke toward a Smoke Sensitive Area or populated area which would be adversely affected by the smoke.

### 3.5 Prohibition of Nuisances

Notwithstanding any other provision of this Rule, no fire shall constitute a nuisance as defined in District Rule 402 (Nuisances).

## PART 4 ADDITIONAL REQUIREMENTS FOR BURNING OF AGRICULTURAL WASTES

The purpose of this Part is to codify standards and requirements for burning of agricultural wastes within the Air District. The provisions of this Part shall apply to all persons who set or maintain fires used for burning agricultural wastes within the Air District.

#### 4.1 Burning Hours

No field crop burning shall commence before 10:00 a.m. or after 5:00 p.m. of any day, unless local conditions indicate that other hours are appropriate. (California Health and Safety Code Section 80150(a)(2)).

#### 4.2 Fertilizer and Pesticide Sacks or Containers

Empty fertilizer and pesticide sacks or containers may be burned on burn days only in the field where the sacks or containers are emptied.

#### 4.3 Garlic Tops

The burning of garlic tops in harvesting operations is prohibited.

### PART 5 ADDITIONAL REQUIREMENTS FOR PRESCRIBED BURNING

The purpose of this Part is to codify standards and requirements for prescribed burning within the Air District. The provisions of this Part shall apply to all persons who set or maintain fires used for prescribed burning within the Air District.

#### 5.1 Requirements for All Prescribed Burning

##### 5.1.1 Project Registration

Prescribed burn projects must be registered with the Air District annually or seasonally. Information to be submitted includes but is not limited to: project name; project location; approximate total number of tons (for piled material) or acres (for standing material) of vegetation; type of vegetation; expected time of year (which months) the burning project may be conducted; applicant contact information.

##### 5.1.2 Permit Required

No person shall conduct or permit to be conducted any prescribed burning within the boundaries of the Air District without first having obtained a permit from the Air District and the California Department of Forestry and Fire Protection (CDF) or other designated agency with jurisdiction, as required by such agencies.

### 5.1.3 Smoke Management Plan and Permit Application Form

Before a permit may be issued by the Air District for prescribed burning, a completed Smoke Management Plan and Permit Application form consistent with the requirements of Title 17 to mitigate and monitor smoke impacts, and describing how the burn is to be carried out, shall be submitted by the owner, or his/her agent, of the land on which the burn is proposed, to the Air District and be approved by the Air District. This information shall include a list of any "Smoke Sensitive Areas" (SSAs) within 10 miles of the burn, with compass directions to the nearest of eight prime compass points; and contingency measures to be followed in case of significant downwind smoke impacts from the project.

### 5.1.4 Daily Burn Authorization

Prescribed burns may only be conducted after receiving authorization from the Air District. The burner must receive authorization from the Air District any time within the 24 hours before burning by calling (831) 647-9411 during the Air District's normal business hours (Mondays through Fridays; 8:00 A.M. to 5:00 P.M.).

5.1.4.1 The following types of burns do not require daily burn authorization from the Air District: agricultural waste burns; backyard burns; any household rubbish fires; residential burns; and wildland vegetation management pile burns, when the daily amount of fuel to be burned is no more than 10 tons.

5.1.4.2 If the burn will be conducted on weekends or holidays, or if the burner cannot otherwise comply with the 24-hour requirement, the burner must contact the Air District before the burn during the Air District's normal business hours to receive Provisional Authorization. Provisional Authorization will allow the burn to be conducted on a burner-selected future date, if:

5.1.4.2.1 that future date is declared a burn day by the California Air Resources Board or by the Air District; and

5.1.4.2.2 the requirements of the Air District-approved project Smoke Management Plan are met on the day of the burn.

### 5.1.5 Restrictions on Poor Air Quality Days

No prescribed burns may be conducted on days when air quality conditions (including high ozone concentrations) have been predicted to result in smoke impacts or to be unacceptable for burning for the region.

### 5.1.6 Public Notification

Direct public notification of sensitive downwind receptors shall be required for prescribed burn projects with potentially significant air quality impacts.

### 5.1.7 Daily Emissions Allocation

The total emissions from all prescribed burn projects on each day in the air basin shall remain within the District's adopted Air Quality Maintenance Plan VOC and NOx emission inventories during the ozone season (May through October).

- 5.1.7.1 The Air Pollution Control Officer (APCO) may modify the above restriction on total emissions if limiting the proposed burn would: require multiple burns that would result in prolonged smoldering and expose sensitive receptors to air pollutants over multiple days; or, substantially increase costs; or, affect public services such as roadway access; or, be in an area where several smaller burns would be difficult to conduct and/or would require firebreaks that would increase erosion or landslide potential or disturb cultural resources or endangered plants or species.

5.1.8 Use of Approved Ignition Devices

The material shall be ignited only by devices and methods approved by the California Department of Forestry and Fire Protection and ignition shall be rapid as practicable within applicable fire control restrictions.

5.1.9 Certification by Department of Fish and Wildlife

Burning conducted primarily for improvement of land for wildlife and game habitats shall require the permittee to file with the Air District a statement obtained from the Department of Fish and Game certifying the burning is desirable and proper for the improvement of land for wildlife and game habitat.

5.1.10 Reporting of Actual Materials Burned

Within 30 days of completion of a prescribed burn project, the burner shall report to the Air District the date and amount of fuel actually consumed for each day of burning conducted. The reporting period may be reviewed by the District and may be reestablished, if deemed appropriate, based on the availability of a statewide electronic reporting system for prescribed burn projects.

5.2 Additional Requirements for the Burning of Woody Wastes from Developments

In addition to the requirements of Section 5.1 of this Rule, the following requirements apply to the burning of woody wastes from developments:

- 5.2.1 The purpose of this Section is to provide requirements for the disposal by burning of woody wastes from trees, vines, or bushes or natural vegetation grown on property being developed for commercial or residential purposes.
- 5.2.2 The provisions of this Section shall apply to all persons who set or maintain fires within the Air District for the burning of woody wastes on land being developed for commercial or residential purposes, provided that the wastes resulted from trees, vines, or bushes or other natural vegetation grown on the land being developed.



5.2.3 No person shall conduct or allow the conduct of any land development burning within the boundaries of the Air District without first obtaining a written permit from the Air District.

5.2.4 After consideration of the amount of woody waste to be burned, the season of the year, the ambient air quality and the proximity of the waste to developed areas, the Air Pollution Control Officer may grant a permit to burn woody wastes from developments.

5.2.5 Where economically and technically feasible, brush shall be treated by chemical or mechanical means at least six months prior to a proposed burn, to kill or uproot the brush to insure rapid combustion.

#### 5.2.6 During Burn Season

All fires allowed under this Section shall be conducted only during the burn season as defined in Section 2.9 of this Rule.

### 5.3 Additional Requirements for Forest Management and Range Improvement Burning

In addition to the requirements of Section 5.1 of this Rule, the following requirements apply to forest management and range improvement burning:

5.3.1 All materials to be burned during forest management and range improvement burning when permitted shall conform to the following requirements to ensure rapid burning and ignition and to minimize smoke generation:

5.3.1.1 Where economically and technically feasible, brush shall be treated by chemical or mechanical means at least six months prior to a proposed burn, to kill or uproot the brush to insure rapid combustion.

5.3.1.2 Unwanted trees over six inches in diameter expected to burn or those not effectively treated at the time of the brush treatment shall be felled at least three months prior to the burn, but a longer time may be required where conditions warrant.

### 5.4 Additional Requirements for Wildland Vegetation Management Burning

In addition to the requirements of Section 5.1 of this Rule, the following requirements apply to wildland vegetation management burning:

5.4.1 When a natural ignition occurs on a no-burn day, the initial “go/no-go” decision to manage the fire for resource benefit will be a “no-go” unless:

5.4.1.1 After consultation with the Air District, the Air District decides, for smoke management purposes, that the burn can be managed for resource benefit; or

- 5.4.1.2 For periods of less than 24 hours, a reasonable effort has been made to contact the Air District, or if the Air District is not available, the California Air Resources Board.
- 5.4.1.3 After 24 hours, the Air District has been contacted, or if the Air District is not available, the California Air Resources Board has been contacted and concurs that the burn can be managed for resource benefit.
- 5.4.2 A “no-go” decision does not mean that the fire must be extinguished, but that the fire cannot be considered as a prescribed fire.
- 5.4.3 For naturally-ignited wildland fires managed for resource benefits that are expected to exceed 10 acres in size, a smoke management plan must be submitted to the Air District within 72 hours of the start of the fire.

## PART 6 ADDITIONAL REQUIREMENTS FOR FIRES WITHIN THE MONTEREY PENINSULA/CARMEL VALLEY SMOKE SENSITIVE AREA

Notwithstanding other provisions of this Rule, open burning provided for by subsections 1.3.1.5 (backyard burning), 1.3.1.8 (right-of-way burning) and 1.3.1.6 (burning of woody wastes from developments) of this Rule is prohibited within the Monterey Peninsula/ Carmel Valley Smoke Sensitive Area (MP/CV SSA) as defined in Section 2.17 unless all the following conditions are met:

- 6.1 Such burning is permitted only in those local fire protection agency jurisdictions set forth in Section 6.4 which have adopted enforceable local fire protection agency rules that limit the total number of burns, including agricultural burns, to no more than 25 such burns per burn day. Local fire protection agency rules shall be deemed to comply with this Section only if such rules provide that the local fire protection agency shall maintain a log of each permittee authorized by said agency to burn on any given burn day, and shall assign either a daily authorization number or a local agency burn permit number. Such rules shall further provide that said log of 25 or fewer authorized permittees per burn day shall be made available to the Air District upon request, and shall be maintained for a period not less than 90 calendar days from the date of each burn day.
- 6.2 Burning delineated in this Section and agricultural burning is permitted only after a burn permit has been obtained from the proper local fire protection agency. The burn permit is valid:
  - 6.2.1 only on burn days as determined by the California Air Resources Board and the Air District; and,
  - 6.2.2 upon receipt of a daily authorization number issued by the local fire protection agency having jurisdiction.

6.3 Upon written approval of the Air Pollution Control Officer, any local fire protection agency subject to the provisions of Section 6.2 may delegate to the Air Pollution Control Officer its responsibility and authority to issue daily authorization numbers which therefore validate on a daily basis burn permits issued pursuant to Section 6.2. Should such delegation occur, the issuance or denial of a daily authorization number by the Air Pollution Control Officer shall respectively validate or invalidate the subject burn permit for that respective day as if such action had occurred by the local fire protection agency having jurisdiction in accordance with other provisions of this Rule.

6.4 In full recognition of the fact that each local fire protection agency has the prerogative and right to constrain or prohibit open burning altogether, the following agencies are authorized to issue open burning permits on behalf of the Air District:

Carmel-by-the-Sea FD  
Carmel Highlands FPD  
Carmel Valley FPD  
Cypress FPD  
Mid-Carmel Valley FPD  
Monterey FD  
Pacific Grove FD  
Pebble Beach CSD  
California Department of Forestry and Fire Protection (CDF).

6.5 The defined perimeter of the MP/CV SSA, and the limit on number of burns each day may be reviewed by the Air District Board and may be reestablished, if deemed appropriate, based on recent meteorological and open burning related data.

\* \* \* \* \*