

SAN JOAQUIN VALLEY UNIFIED AIR POLLUTION CONTROL DISTRICT

RULE 4106 PRESCRIBED BURNING AND HAZARD REDUCTION BURNING

(Adopted June 21, 2001)

1.0 Purpose

The purpose of this rule is to permit, regulate, and coordinate the use of prescribed burning and hazard reduction burning while minimizing smoke impacts on the public.

2.0 Applicability

The provisions of this rule shall apply to all prescribed burning, and to hazard reduction burning in wildland/urban interface.

3.0 Definitions

Unless defined below, terms used in this rule are defined in Rule 4103 (Open Burning) and Rule 1020 (Definitions).

3.1 Burn plan: an operational plan for managing a specific burn to achieve resource benefits and specific management objectives. The plan includes, at a minimum, the project objective, contingency responses for when a fire is out of prescription with a smoke management plan, fire prescription including smoke management components, personnel, organization, and equipment.

3.2 Burn project: an active or planned prescribed burn or a naturally ignited wildland fire managed for resource benefits.

3.3 Class I Area: a mandatory visibility area designated pursuant to Section 169A of the Federal Clean Air Act.

3.4 Designated agency: any agency designated by the ARB as having authority to issue agricultural burning (including prescribed burning) permits.

3.5 Duff: forest floor material consisting of decomposing needles, leaves, twigs, bark and other natural materials.

3.6 Forest management burning: the use of prescribed fire, as part of a forest management practice, to remove forest debris. Forest management practices include timber operations, silvicultural practices, or forest protection practices.

3.7 Hazard reduction burning: the burning of flammable vegetation that has been removed and cleared away from buildings or structures in compliance with local ordinances to reduce fire hazard pursuant to Section 4291 of the California Public

Resources Code for the purpose of maintaining a firebreak of up to 100 feet from such buildings or structures.

- 3.8 Land Manager: any federal, state, local or private entity that administers, directs, oversees or controls the use of public or private land, including the application of fire to the land.
- 3.9 Naturally ignited fire: Fires ignited by natural causes, such as lightning, and not by any anthropogenic actions.
- 3.10 Permit: as used herein refers to District Hazard Reduction Permit. In addition to air pollution permits, burn permits may be required by a Fire Protection Agency having jurisdiction.
- 3.11 Planned resource management objectives: include forest management, wildlife habitat management, range improvement, fire hazard reduction, wilderness management, weed abatement, watershed rehabilitation, vegetation manipulation, disease and pest prevention, and ecosystem management.
- 3.12 Prescribed burning: the planned application of fire, including natural or accidental ignition, to vegetation on lands selected in advance of such application to meet specific planned resource management objectives as set forth in section 3.11.
- 3.13 Range improvement burning: the use of prescribed burning to remove vegetation for a wildlife, game, or livestock habitat, or for the initial establishment of an agricultural practice on previously uncultivated land.
- 3.14 Silviculture: the establishment, development, care, and reproduction of stands of timber.
- 3.15 Smoke management plan: a document prepared for each prescribed burn by land managers or fire managers that provides the information and procedures required in section 5.2. of Rule 4106.
- 3.16 Timber operations: the cutting or removal of timber or other forest vegetation for the purpose of producing commercial forest products.
- 3.17 Wildfire: any non-structure fire, other than a prescribed burn, that is unwanted and unplanned and occurs in the wildland.
- 3.18 Wildland:
 - 3.18.1 An area where development is generally limited to roads, railroads, power lines, and widely scattered structures. Such land is not cultivated; (i.e., the soil is disturbed less frequently than once in 10 years), is not fallow, and is not in the USDA Conservation Reserve Program. The

land may be neglected altogether or managed for such purposes as wood or forage production, wildlife, recreation, wetlands, or protective plant cover.

3.18.2 For California Department of Forestry and Fire Protection, “Wildland” from PRC 4464(a) means any land that is classified as a state responsibility area pursuant to Article 3 (commencing with Section 4125) of Chapter 1 of this part and includes any such land having a plant cover consisting principally of grasses, forbs, or shrubs that are valuable for forage. “Wildland” also means any lands that are contiguous to lands classified as a state responsibility area if wildland fuel accumulation is such that a wildland fire occurring on these lands would pose a threat to the adjacent state responsibility area.

3.19 Wildland/urban interface: the line, area or zone where structures and other human development meet or intermingle with the wildland.

4.0 Requirements

4.1 Except as otherwise provided in this rule and/or Rule 4103, no person shall set, permit, or use an open outdoor fire for the purpose of disposal or burning of lawn clippings or other garden wastes, ornamental shrubbery, household wastes, petroleum wastes; demolition or construction debris; residential rubbish; garbage or vegetation; tires; tar; trees; woodwaste; or other combustible or flammable solid, liquid or gaseous waste; or for metal salvage or burning of motor vehicle bodies.

4.2 The District shall allocate burning based on the predicted meteorological conditions and whether the total tonnage to be emitted would allow the volume of smoke and other contaminants to impact smoke sensitive areas, or create or contribute to an exceedance of an ambient air quality standard.

4.3 No burning shall be permitted which will create a nuisance as defined in section 41700 of the California Health and Safety Code.

4.4 All burning authorized pursuant to this rule shall be subject to any requirements, restrictions or prohibitions of the fire protection agency having jurisdiction over the burn site.

4.5 The vegetation shall be in a condition that will facilitate combustion and minimize the amount of smoke emitted during combustion.

4.6 Vegetation to be burned shall be ignited only with an APCO approved ignition device.

- 4.7 Vegetation shall not be burned unless it is free of excessive dirt, soil, and moisture.
- 4.8 Vegetation shall not be burned unless it is arranged or loosely stacked in such a manner as to promote drying and insure combustion with a minimum of smoke production.
- 4.9 Prescribed Burning

In addition to the requirements set forth in sections 4.1-4.8, the following requirements apply to prescribed burning:

- 4.9.1 A person who sets, permits, or otherwise conducts a prescribed fire is responsible for conducting a prescribed burn shall, prior to the burn, have taken and completed a prescribed-burning smoke management training class approved by the APCO. Persons responsible for projects less than 10 acres in size or projected to produce less than 1 ton of particulate matter shall be exempt from this requirement.
- 4.9.2 For a multi-day burn which may impact smoke sensitive areas, a land manager or his or her designee shall coordinate daily with the District or the ARB to affirm that the burn project remains within the conditions specified in the smoke management plan, or whether contingency plans must be implemented.
- 4.9.3 Wastes shall be windrowed or piled where possible, unless good silvicultural practice dictates otherwise.
- 4.9.4 The burn shall be ignited as rapidly as practicable within applicable fire control restrictions.
- 4.9.5 Prescribed smoke and fire conditions contained in the smoke management plan shall be met before any ignition of the burn. Ignition of a prescribed burn shall not occur on a no-burn day.
- 4.9.6 Unless good management practices dictate otherwise, no brush or unwanted trees shall be burned unless they have been felled, crushed, or uprooted with mechanical equipment, have been desiccated with herbicides, or are dead for a minimum of six (6) weeks prior to the burn.

5.0 Administrative Requirements

5.1 Permits for Hazard Reduction Burning

In addition to the requirements set forth in sections 4.1-4.8, the following requirements apply to hazard reduction burning:

- 5.1.1 No person shall knowingly set or permit hazard reduction burning unless s/he has a valid Permit by the APCO or his designee.
- 5.1.2 Each applicant for a Permit shall provide information requested by the APCO.
- 5.1.3 No vegetation shall be burned unless it is described on a valid Permit.
- 5.1.4 A Permit shall be valid only on those days during which burning is not prohibited by the ARB, by the District or by the designated agency having jurisdiction over the site of the proposed burning pursuant to section 41855 of the California Health and Safety Code and the District has authorized the burning as being within the day's burn system allocation for the region in which the burn site is located.

5.2 Smoke Management Plans for Prescribed Burning

- 5.2.1 Persons responsible for projects less than 10 acres in size or projected to produce less than 1 ton of particulate matter must submit smoke management plans to the District for review and approval. At a minimum, a smoke management plan must contain the following information and/or any additional information that may be required by the District:
 - 5.2.1.1 a legal description of the burn, including maps.
 - 5.2.1.2 a description of the type of fuels and the amount of fuels in tons or acres.
 - 5.2.1.3 the identity and mailing address of the responsible personnel, including telephone numbers for 24-hour contact.
- 5.2.2 Persons responsible for projects greater than 10 acres in size or projected to produce more than 1 ton of particulate matter must submit smoke management plans to the District for review and approval. At a minimum, a smoke management plan must contain the information required in section 5.2.1 and the following and/or any additional information that may be required by the District:

- 5.2.2.1 the distance and compass headings of smoke sensitive areas within five (5) miles including but not limited to schools, day care centers, hospitals, medical clinics, populated areas, highways.
 - 5.2.2.2 a description of the wind speed and direction necessary for burning.
 - 5.2.2.3 a description of the anticipated duration of project's smoke production from ignition to burn down.
- 5.2.3 Persons responsible for projects greater than 100 acres in size, or that are projected to produce more than 10 tons of particulate matter, or that will continue overnight, or that will be conducted near smoke sensitive areas, must submit smoke management plans to the District for review and approval. At a minimum, the smoke management plan must contain the information required in sections 5.2.1 and 5.2.2 and the following and/or any additional information that may be required by the District:
- 5.2.3.1 a description of the meteorological conditions the land manager or his/her designee will use for making burn ignition decisions to limit smoke impacts to smoke sensitive areas.
 - 5.2.3.2 a description of the smoke management criteria the land manager or his/her designee will use for making burn ignition decisions.
 - 5.2.3.3 a description of the per acre fuel loading, including the fuel type, existing fuel loading in tons per acre, and anticipated fuel consumption. Describe the fuel expected to be consumed such as duff, fines, 1-, 10-, 100-, and/or 1000-hour fuels, live fuels, etc.
 - 5.2.3.4 identification of potential impacts to smoke sensitive areas as determined by mapping the daytime and nighttime smoke paths, including upslope and downslope and/or diurnal drainage flow, for a distance of twenty-five miles from the burn site.
 - 5.2.3.5 identification of the population located in the potential smoke sensitive areas.
 - 5.2.3.6 a description of the Best Available Control Measures which were considered and the values or criteria that were used to determine the feasibility of these alternatives.

- 5.2.3.7 a description of how the public will be informed of the possible effects of smoke and the duration of the effects. Include copies of public information planned for release.
 - 5.2.3.8 a description of the type and frequency of the surveillance and/or monitoring that will be conducted to determine any smoke impacts to smoke sensitive areas.
 - 5.2.3.9 a description of the specific smoke contingency actions that will be taken in the event smoke impacts occur in smoke sensitive areas or meteorological conditions deviate from those specified in the smoke management plan.
 - 5.2.3.10 a description of what post-burn Best Available Control Measures will be implemented to limit the duration of smoke impacts to smoke sensitive areas.
 - 5.2.3.11 an evaluation of alternatives to burning to be considered. Projects that have met applicable National Environmental Policy Act (NEPA) and/or California Environmental Quality Act (CEQA) requirements will be considered to have complied with this provision. The smoke management plan shall reference the NEPA or CEQA document by title and if such document is not available in the District, shall provide a copy of the relevant section(s).
- 5.2.4 Smoke management plans for burn projects greater than 250 acres in size or projected to produce more than 25 tons of particulate matter, or as determined by the District, shall include the following information in addition to the information required in sections 5.2.1, 5.2.2 and 5.2.3:
- 5.2.4.1 monitoring shall be required. Monitoring may be visual monitoring, ambient particulate monitoring or other monitoring approved by the District. The type of monitoring required for a specific burn project shall be determined in consultation with the District and a description of the monitoring shall be included in the smoke management plan for that project.
 - 5.2.4.2 the requirements of Section 5.2.3.4 shall be met, provided that potential impacts to smoke sensitive areas for a distance of more than twenty-five miles from the burn site shall be identified if the potential for smoke impacts appears to exist.
 - 5.2.4.3 a description of the surveillance and air monitoring methods.
 - 5.2.4.4 a description of the smoke complaint handling procedures.

- 5.2.4.5 a description of the decision making process that will be used in implementing smoke mitigations procedures.
- 5.2.4.6 a description of the responsive impact mitigations up to and including a declaration of a wildfire and aggressive fire suppression.
- 5.2.4.7 a post-burn smoke management evaluation.
- 5.2.5 If smoke may impact smoke sensitive areas, smoke management plans must include appropriate monitoring, as determined in consultation with the District, for the following burn projects:
 - 5.2.5.1 projects greater than 250 acres;
 - 5.2.5.2 projects that will continue burning or producing smoke overnight;
 - 5.2.5.3 projects near smoke sensitive areas; or
 - 5.2.5.4 as otherwise required by the District.

5.3 Naturally ignited fires

- 5.3.1 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:
 - 5.3.1.1 after consultation with the District, the District decides, for smoke management purposes, that the burn can be managed for resource benefit; or
 - 5.3.1.2 for periods of less than 24 hours, a reasonable effort has been made to contact the District, or if the District is not available, the ARB;
 - 5.3.1.3 after 24 hours, the District has been contacted, or if the District is not available, the ARB has been contacted and concurs that the burn can be managed for resource benefits.
- 5.3.2 A “no-go” decision does not necessarily mean that the fire must be extinguished, but that the fire cannot be considered as a prescribed burn.
- 5.3.3 Smoke management plans shall be submitted to the District within 72 hours of the start of any naturally ignited wildland fires managed for resource benefits.

5.4 Department of Fish and Game Certification

If prescribed burning is to be done primarily for improvement of land for wildlife and game habitat, no Permit shall be issued unless the applicant has filed with the District a statement from the Department of Fish and Game certifying that the burn is desirable and proper. The Department of Fish and Game may specify the amount of brush treatment required along with any other conditions it deems appropriate.

5.5 Section 41852 of the California Health and Safety Code Permit

An APCO approved smoke management plan shall serve as a Permit for the purposes of section 41852 of the California Health and Safety Code and section 5.4 of this rule.

5.6 Registration of Prescribed Burning Projects

5.6.1 A burn applicant or agency shall register all planned prescribed burn projects greater than 10 acres or projected to emit more than 1 ton of particulate matter with the APCO annually or seasonally, including areas being considered for potential naturally ignited wildland fires managed for resource benefits, with updates as they occur.

5.6.1 The registration for prescribed burns shall include a description of the project burn location, number of acres to be burned, the amount and type of fuels expected to be consumed by each burn project and who will conduct the burn.

5.6.2 The registration for naturally ignited fires shall include the following:

5.6.2.1 the criteria that will be used to determine when a naturally ignited wildland fire will be allowed to be a prescribed burn shall be identified.

5.6.2.2 potential control lines for the burn project, such as rivers and creeks, rock outcroppings, non-vegetated areas, and roads.

5.7 Smoke Management Plan Review and Approval

- 5.7.1 An applicant agency or individual shall submit burn plans which include a smoke management plan to the District for review and approval at least thirty (30) days in advance of the proposed burning, except as provided for in Section 5.3.3.
- 5.7.2 The burn plan shall be reviewed for the application of Best Available Control Methodology and the potential of adverse air quality impacts on populated or sensitive areas.
- 5.7.3 The District shall approve or disapprove a smoke management plan and/or provide comments on the plan that may require revisions in order to minimize smoke impacts.
- 5.7.4 If written comments are not transmitted by the District to the submitting agency or individual within 30 days of receipt of the burn plan, the smoke management plan shall be deemed adequate and approved as submitted.
- 5.7.5 A District approval of a smoke management plan shall not constitute an approval of the burning, nor shall it serve to excuse the agency or individual from complying with law, nor shall it excuse any violation.