

SAN JOAQUIN VALLEY UNIFIED AIR POLLUTION CONTROL DISTRICT

RULE 4103 - OPEN BURNING

(Adopted June 18, 1992; Amended December 17, 1992; Amended December 16, 1993; Amended June 21, 2001, Amended September 16, 2004)

1.0 Purpose

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

2.0 Applicability

This rule applies to open burning conducted in the San Joaquin Valley Air Basin, with the exception of prescribed burning and hazard reduction burning as defined in Rule 4106 (Prescribed Burning and Hazard Reduction Burning).

3.0 Definitions

3.1 Agricultural burning:

3.1.1 The open burning of vegetative materials produced wholly from agricultural operations.

3.1.2 The burning of grass and weeds in fence rows, ditch banks, and berms in non-tillage orchard operations and fields being prepared for cultivation.

3.1.3 The burning of materials not produced wholly from agricultural operations but which are essential to agricultural operations, except as prohibited by Section 5.5.4 of this rule. Examples are paper trays for drying raisins, paper hot caps, untreated grape stakes, and pesticide and fertilizer sacks burned in the field where they are emptied

3.2 Agricultural operations: the growing and harvesting of crops or the raising of fowl or animals, for the primary purpose of earning a living, or of conducting agricultural research or instruction by an educational institution.

3.3 Agricultural waste: vegetative materials produced wholly from agricultural operations, the operation or maintenance of a system for the delivery of water in agricultural operations, or materials described in definition 3.1.3.

3.4 Air quality: the characteristics of the ambient air as indicated by concentrations of the six criteria air pollutants for which Federal and State standards have been established pursuant to Section 108 and 109 of the Federal Clean Air Act [i.e., particulate matter, sulfur dioxide, nitrogen dioxide, ozone, carbon monoxide and

lead], by State air quality standards, and by visibility in mandatory Federal Class I areas, as specified pursuant to section 169A of the Federal Clean Air Act.

- 3.5 Allocation system: a system in the smoke management program that limits the amounts, timing, and locations of burning in order to minimize smoke impacts.
- 3.6 Ambient air: that portion of the atmosphere, external to buildings, to which the general public has access.
- 3.7 Ambient air quality standards: national ambient air quality standards (NAAQS) promulgated by the US Environmental Protection Agency.
- 3.8 Approved ignition devices: those instruments or materials that will ignite agricultural waste and other materials without the production of black smoke by the ignition device. This would include such devices as liquid petroleum gas, butane, propane, or diesel oil burners and flares where the device produces a flame and the flame is then used for ignition, or other devices approved by the Air Pollution Control Officer (APCO).
- 3.9 ARB or state board: the California Air Resources Board.
- 3.10 Campfire: a recreational fire in an authorized campfire area, less than 3 feet in diameter. The fuel must be clean, dry wood with no other debris, trash, garbage or refuse.
- 3.11 Contraband: any illegal material or prohibited good that has been confiscated within the San Joaquin Valley Air Basin by a law enforcement agency or fire department, including but not limited to explosives, pyrotechnics, and illegal drugs.
- 3.12 Fire hazard: a situation in which a fire could present a threat to the health and/or safety of a person or persons but which does not impose imminent fire danger.
- 3.13 Fire protection agency: any agency with the responsibility and authority to protect people, property, and the environment from fire, and having jurisdiction within the San Joaquin Valley Air Basin.
- 3.14 Imminent and substantial economic loss: the loss of a planting season or the irreparable harm of a crop.
- 3.15 Imminent fire hazard: a hazard that presents imminent danger to the health and/or safety of a person or persons and for which direct abatement by fire is necessary.
- 3.16 Metropolitan area: the sphere of influence of an incorporated city as defined by the Local Agency Formation Commission.

- 3.17 No-burn day: any day on which agricultural burning is prohibited by the ARB, the District, or by a public fire protection agency for purposes of fire control or prevention.
- 3.18 Open burning or open outdoor fire: the combustion of any combustible refuse or other material of any type outdoors in the open air, not in any enclosure, where the products of combustion are not directed through a flue. For the purposes of this rule, prescribed burning and hazard reduction burning are not considered to be open burning.
- 3.19 Permit: as used herein refers to a District Open Burn Permit.
- 3.20 Religious ceremonial fires: fires conducted to fulfill the doctrinal requirements of an organized religion.
- 3.21 Smoke management program: a District program that utilizes a daily allocation system for the purpose of limiting the amounts, timing, and locations of open burning to minimize smoke impacts. The smoke management program considers several factors including air quality, meteorological conditions expected during burning, locations of smoke sensitive areas, locations of materials to be burned, and types and amounts of materials to be burned.
- 3.22 Smoke sensitive areas: are populated areas and other areas where the District determines that smoke and air pollutants can adversely affect public health or welfare. Such areas can include, but are not limited to, towns and villages, campgrounds, trails, populated recreational areas, hospitals, nursing homes, schools, roads, airports, public events, shopping centers and mandatory Class 1 areas.
- 3.23 Toxic substances: substances identified by the manufacturer on the package or in a material safety data sheet as posing health hazards.

4.0 Exemptions

- 4.1 The requirements of this rule shall not apply to:
 - 4.1.1 Open outdoor fires used solely for the purpose of cooking food for human consumption, campfires, and religious ceremonial fires, where the combustible material is clean, dry wood or charcoal.
 - 4.1.2 The prevention of an imminent fire hazard declared by a fire agency that cannot be abated by any other means.

- 4.1.3 The setting of backfires necessary to save life, and/or in the defense of assets at risk pursuant to Section 4426 of the Public Resources Code.
- 4.1.4 The burning, in a respectful and dignified manner, of an unserviceable American Flag that is no longer fit for display.
- 4.2 The following activity is exempt from rule requirements, but may only be conducted pursuant to Air Pollution Control Officer (APCO) written authorization:
 - 4.2.1 A fire set by or authorized by any public officer authorized in the performance of his official duty to engage in fire protection activities provided that a burn plan, as described in Section 6.2.1, has been previously submitted to and approved by the APCO and such a fire is necessary for the instruction of employees in fire fighting methods.
- 4.3 The following activities are exempt from the no-burn day restrictions of Section 6.1.8, subject to APCO authorization and permit requirements. These activities are not exempt from the provisions of Sections 5.1 through 5.5:
 - 4.3.1 The burning of empty sacks which contained pesticides or other toxic substances, provided that the sacks are within the definition of agricultural burning in Section 3.1.3.
 - 4.3.2 The burning of paper raisin trays.
 - 4.3.3 Other agricultural burning, if the denial of such burning would threaten imminent and substantial economic loss, and which is conducted pursuant to the following provisions:
 - 4.3.3.1 The APCO may only authorize such burning when downwind metropolitan areas are forecast by the District to achieve the ambient air quality standards and/or a fire agency has not declared a no-burn day due to safety issues.
 - 4.3.3.2 The District shall limit the amount of acreage that can be burned on any one no-burn day in any one county to 200 acres.
 - 4.3.3.3 The granting of an exemption does not exempt the applicant from any other District or fire control regulations.
 - 4.3.3.4 Within fifteen (15) days of the granting of an exemption, the applicant shall return a signed application form that provides the reasons for requesting the exemption and shall pay the required District fee for said exemption.

- 4.3.4 The burning of contraband is exempt from the no-burn day restrictions of Section 6.1.8, but may only be conducted pursuant to APCO written authorization and the preparation of a burn plan as described in Section 6.2.2. Contraband burning is subject to the provisions of Section 5.7.

5.0 Requirements

- 5.1 Except as otherwise provided in this rule, no person shall set, permit, or use an open outdoor fire for the purpose of disposal or burning of 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.
- 5.2 The APCO 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 cause a public nuisance, impact smoke sensitive areas, or create or contribute to an exceedance of an ambient air quality standard.
- 5.3 The APCO shall restrict the time of day when burns are ignited and conducted, as necessary.
- 5.4 No open burning shall be permitted that will create a nuisance as defined in Section 41700 of the California Health and Safety Code.
- 5.5 Agricultural Burning

The following conditions are in addition to those requirements specified in Sections 5.1-5.4:

- 5.5.1 Agricultural waste 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.
- 5.5.2 Agricultural waste to be burned shall be ignited only with an approved ignition device.
- 5.5.3 Agricultural waste shall not be burned unless it is free of excessive dirt, soil, and visible surface moisture.
- 5.5.4 Agricultural waste does not include and shall not be burned unless it is free of such items as plastic, rubber, ornamental or landscape vegetation, shop wastes, construction and demolition material, garbage, oil filters, tires, tar paper, broken boxes, pallets, sweatboxes, packaging material, packing boxes or any other material produced in the packing or

processing of agricultural products, and pesticide and fertilizer containers (except sacks burned in the field where they were emptied).

- 5.5.5 Orchard or vineyard removal waste, or any other material, generated as a result of land use conversion from agricultural to nonagricultural purposes shall not be burned.
- 5.5.6 Agricultural waste shall not be burned unless it has been allowed to dry for the following minimum time periods:

Rice Straw	See Section 5.5.11.4
Prunings and Small Branches	Three (3) Weeks
Large Branches	Six (6) Weeks

- 5.5.7 Agricultural burning shall be monitored and attended as necessary to prevent smoldering.
- 5.5.8 No agricultural waste shall be burned except during daylight hours.
- 5.5.9 No agricultural waste shall be added to an existing fire after 5:00 p.m.
- 5.5.10 All burning shall be ignited as rapidly as practicable within applicable fire control restrictions.
- 5.5.11 Field crop burning:

The requirements of this section do not apply to vines and tree pruning burning.

- 5.5.11.1 No field crop burning shall commence before 10:00 a.m., or after 2:00 p.m., of any day, unless local conditions indicate that other hours are appropriate.
- 5.5.11.2 Rice, barley, oat, and wheat straw shall be ignited only by strip firing into-the-wind or by backfiring, except under a special permit issued by the District when and where extreme fire hazards are declared by the public fire protection agency to exist, or where crops are determined by the District not to lend themselves to these techniques.
- 5.5.11.3 All rice harvesting shall employ a mechanical straw spreader to ensure even distribution of the straw with the exception that rice straw may be left in rows, provided it meets drying time criteria, as specified in Section 5.5.11.4 prior to a burn. Rice

straw may also be left standing, provided it is dried and meets the crackle test criteria described in Section 5.5.11.5.

5.5.11.4 After harvesting, no rice straw shall be burned prior to the following drying periods:

5.5.11.4.1 Spread rice straw: three (3) days; or

5.5.11.4.2 Rowed rice straw: ten (10) days.

5.5.11.4.3 Section 5.5.11.4.1 and 5.5.11.4.2 shall not apply if the rice straw makes an audible crackle when tested just prior to burning with the test method described in Section 5.5.11.5.

5.5.11.5 When checking the field for moisture, a composite sample of straw from under the mat, in the center of the mat, and from different areas of the field shall be taken to insure a representative sample. A handful of rice straw from each area will give a good indication. Rice straw is dry enough to burn if a handful of straw selected as described above crackles when it is bent sharply.

5.5.11.6 After a rain exceeding fifteen hundredths (0.15) inch, notwithstanding Section 5.5.11.3, rice straw shall not be burned unless the straw makes an audible crackle when tested just prior to burning with the test method described in Section 5.5.11.5.

5.5.12 The APCO may require additional conditions based on the type and condition of the materials to be burned.

5.6 Ditch Bank and Levee Maintenance

The following conditions are in addition to those requirements specified in Sections 5.1-5.4 for burning on-site grown vegetative material for right-of-way clearing, levee, and ditch bank maintenance by a public entity or utility:

5.6.1 Trash and debris must be removed prior to burning.

5.6.2 The material has been prepared by stacking, drying, or other methods to promote combustion as specified by the District.

5.7 Contraband Materials

The following conditions are in addition to those requirements specified in Sections 5.1-5.4 for the disposal of contraband materials by burning:

- 5.7.1 No contraband confiscated outside the District may be transported into the District for disposal by burning. Only contraband confiscated within the San Joaquin Valley Air Basin boundaries may be disposed of by burning.
- 5.7.2 Prior to the burn, a written notification of the planned burn must be submitted to the APCO pursuant to Section 6.2.2 of the rule.
- 5.7.3 Fires shall only be set or allowed by a peace officer or public fire official in the performance of official duty.
- 5.7.4 To the extent possible, materials must be burned in areas and in conditions limiting the possibility of smoke impacts on nearby neighbors and/or other smoke sensitive areas.

5.8 Russian Thistle (*Salsola Kali*) (Tumbleweeds)

A District permit is required for the burning of tumbleweeds. Said permit is only valid on those days not designated as no-burn days and the APCO has authorized the burning as being within a particular day's burn system allocation for the region in which burn site is located.

5.9 Diseased Materials

A conditional burning permit is required for fires set for the purpose of disease or pest prevention. A conditional burning permit shall authorize the burning of only the identified diseased crop, animal, fowl, pest or infected material.

- 5.9.1 A conditional burning permit will be issued by the APCO, if all of the following criteria are met:
 - 5.9.1.1 The material to be burned is specifically described in the conditional burning permit.
 - 5.9.1.2 The applicant has not been cited for a violation of burning rules or regulations in the past 3 years, unless the violation was of a de minimis nature, as determined by the APCO and the county agricultural commissioner, and

5.9.1.3 The county agricultural commissioner has determined all of the following:

5.9.1.3.1 There is no economically feasible alternative means of eliminating the disease or pest other than burning, and

5.9.1.3.2 There is the presence of a disease or pest that will cause a substantial, quantifiable reduction in yield or poses a threat to the health of adjacent vines, trees, or plants in the field proposed to be burned, during the current or next growing season, or there is the presence of a disease or pest that will cause a substantial, quantifiable reduction in production of animals or fowl.

5.9.2 The holder of a conditional burning permit may not transfer, sell or trade the burning permit to any other individual.

6.0 Administrative Requirements

6.1 Open Burn Permits

6.1.1 No person shall knowingly set or permit open burning unless s/he has a valid Permit issued by the APCO and/or the designated agency having jurisdiction in the area where the open burning will take place.

6.1.2 A Permit applicant shall provide information as requested by the APCO and or designated agency. No Permit or authorization shall be deemed valid unless the applicant has provided the required information.

6.1.3 A Permit shall be valid only on the lands specified on the Permit.

6.1.4 No material shall be burned unless it is clearly described and quantified as material to be burned on a valid Permit.

6.1.5 Applications to burn orchard or vineyard removal waste must be reviewed and shall not be granted if the materials were generated in the process of land use conversion to nonagricultural purposes.

6.1.6 No burning shall be conducted pursuant to such a Permit without prior authorization for burning on a specified day from the District.

6.1.7 No burning shall be conducted contrary to the conditions specified on the Permit.

- 6.1.8 Except for burning conducted pursuant to Section 4.3, a permit shall only be valid on those days not designated as no-burn days and the APCO has authorized the burning as being within a particular day's burn system allocation for the region in which burn site is located.
- 6.1.9 Any Permit issued by a designated agency shall be subject to the rules and regulations of the District.

6.2 Burn Plans

6.2.1 Fire Suppression Training

The lead fire agency planning to conduct fire suppression training must submit a burn plan to the APCO for approval a minimum of 15 days prior to the date of the proposed burn. A burn plan is not required for training conducted at stationary fire training structures located at fire training facilities when used for the primary purpose of conducting fire training. The burn plan shall address the following:

- 6.2.1.1 The location of the fire training.
- 6.2.1.2 The fire agencies involved with the training, the number of personnel participating with the training, the name(s) and title(s) of personnel who are responsible for the training, and the approximate date the training will occur, including expected burn starting and ending times.
- 6.2.1.3 If a structure is involved with the fire training, the burn plan shall include an assessment for the presence and removal of asbestos containing materials within the structure(s), subject to the requirements of Rule 4002 and the National Emission Standards for Hazardous Air Pollutants (Subpart M, Part 61, Chapter 1, Title 40, Code of Federal Regulations).
- 6.2.1.4 Proposed contingencies to prevent a nuisance, per Rule 4102.

6.2.2 Contraband

A written notification from the law enforcement agency or fire agency conducting the burn shall be submitted to the APCO for approval a minimum of 15 days prior to the planned burn. In special circumstances, the APCO may waive the 15-day notice requirement. The notification shall provide the following information:

- 6.2.2.1 A description of the contraband, including its origin and the amount of material that will be destroyed by fire.
- 6.2.2.2 The date and location of the burn.
- 6.2.2.3 A description of alternative disposal methods other than burning and an explanation of why the contraband must be destroyed by the use of fire.
- 6.2.2.4 The law enforcement agency and/or fire protection agency involved with the burn.

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