

SAN LUIS OBISPO COUNTY AIR POLLUTION CONTROL DISTRICT

RULE 502 - AGRICULTURAL AND PRESCRIBED BURNING

(Adopted 8/2/76; Revised 7/5/77, 1/10/89, July 23, 2003)

A. APPLICABILITY: The provisions of this Rule apply to all agricultural and prescribed burning conducted in San Luis Obispo County. The provisions in this Rule also implement the Smoke Management Guidelines of Article J, Subchapter 2 of Title 17 California Code of Regulations and the San Luis Obispo County Air Pollution Control District Smoke Management Program.

B. DEFINITIONS

1. "Agricultural Burning" is defined in Health and Safety Code section 39011 as follows:
 - a. "Agricultural burning" means open outdoor fires used in agricultural operations in the growing of crops or raising of fowl or animals, or open outdoor fires used in forest management, range improvement, or the improvement of land for wildlife and game habitat, or disease or pest prevention.
 - b. "Agricultural burning" also means open outdoor fires used in the operation or maintenance of a system for the delivery of water for the purposes specified in paragraph B.1.a.
 - c. "Agricultural burning" also means open outdoor fires used in wildland vegetation management burning. Wildland vegetation management burning is 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, trees, grass, or standing brush. Prescribed burning is the planned application of fire to vegetation to achieve any specific objective on lands selected in advance of that application. The planned application of fire may also include natural or accidental ignition.
2. "Agricultural Wastes" means unwanted or unmarketable materials produced wholly from agricultural operation, other than forest or range management operations, directly related: (a) to the growing and harvesting of crops or raising of animals if such crops or animals are grown for the primary purpose of making a profit or for a livelihood; or (b) to conducting agricultural research; or (c) to instruction in an educational institution. Agricultural wastes include, but are not limited to, grass or weeds growing in or adjacent to fields used in the growing of crops or animals, and paper fertilizer and pesticide sacks or containers when such sacks or containers have been emptied in the field, or materials not produced wholly from such operations, but which are intimately related to growing or harvesting of crops and which are used in the field, except as prohibited by District Regulations.

3. "Air Quality" means the characteristics of the ambient air as indicated by state ambient air quality standards which have been adopted by the state board pursuant to section 39606 of the Health and Safety Code and by National Ambient Air Quality Standards which have been established pursuant to sections 108 and 109 of the federal Clean Air Act pertaining to criteria pollutants and section 169A of the federal Clean Air Act pertaining to visibility.
4. "Ambient Air" means that portion of the atmosphere, external to buildings, to which the general public has access.
5. "ARB" or "State Board" means the Air Resources Board.
6. "Basinwide Air Quality Factor" means an air quality factor which equals the 4:00 am to 6:00 am two hour average soiling index (Coefficient of Haze *10) ending at 6:00 am PST. The basinwide council may use other particulate matter measurements as an indicator of air quality if appropriate for its program.
7. "Burn Plan" or "Project Burn Plan" means an operational plan for managing a specific fire to achieve resource benefits and specific management objectives. The plan includes, at a minimum, the project objectives, contingency responses for when the fire is out of prescription with the smoke management plan, the fire prescription (including smoke management components), and a description of the personnel, organization, and equipment. Usual formats are the Prescribed Fire Incident Reporting System (PFIRS) and the Vegetation Management Plan (VMP).
8. "Burn Project" means an active or planned prescribed burn or a naturally ignited wildland fire managed for resource benefits.
9. "Brush Treated" means material to be burned that has been felled, crushed or uprooted with mechanical equipment, or has been desiccated with herbicides, and that such material has been dried for the minimum drying times specified in Rule 502.
10. "Class I Area" means a mandatory visibility protection area designated pursuant to section 169A of the federal Clean Air Act.
11. "Combustible Refuse" means any solid or liquid combustible waste material containing carbon in a free or combined state.
12. "Combustion Contaminants" means solid or liquid particles discharged into the atmosphere from the burning of any kind of material containing carbon in a free or combined state.
13. "Days" means working calendar days unless otherwise stated.

14. "Designated Agency" means any agency designated by the Air Resources Board as having authority to issue agricultural burning permits. The U.S. Forest Service and the California Division of Forestry are so designated within their respective areas of jurisdiction.
15. "District" means the San Luis Obispo County Air Pollution Control District .
16. "Emission" means the act of passing into the atmosphere of an air contaminant or gas stream that contains an air contaminant, or the air contaminant so passed into the atmosphere.
17. "Fire Protection Agency" means any agency with the responsibility and authority to protect people, property, and the environment from fire, and having jurisdiction within the District.
18. "Forest Management Burning" means the use of open fires, as part of a forest management practice, to remove forest debris. Forest management practices include timber operations, silvicultural practices, and forest protection practices.
19. "Forty-eight Hour Forecast" means a prediction of the meteorological and air quality conditions that are expected to exist for a specific prescribed burn in a specific area 48 hours from the day of the prediction. The prediction should indicate a degree of confidence.
20. "Household Rubbish" means waste material and trash normally accumulated by a family in the course of ordinary day-to-day living; garden trash and prunings, paper, paper products and wood waste.
21. "Land Manager" means 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.
22. "Marginal Burn Day" means a day when limited amounts of agricultural burning, including prescribed burning, for individual projects in specific areas for limited times is not prohibited by the state board and burning is authorized by the District consistent with this Rule .
23. "National Ambient Air Quality Standards (NAAQS)" mean standards promulgated by the United States Environmental Protection Agency that specify the maximum acceptable concentrations of pollutants in the ambient air to protect public health with an adequate margin of safety, and to protect public welfare from any known or anticipated adverse effects of such pollutants (e.g., visibility impairment, soiling, harm to wildlife or vegetation, materials damage, etc.) in the ambient air.
24. "Ninety-six Hour Trend" means a prediction of the meteorological and air quality conditions that are expected to exist for a specific prescribed burn in a specific area 96 hours from the day of the prediction.

25. "No-Burn Day" means any day on which the Air Resources Board or the Air Pollution Control District prohibits burning. The San Luis Obispo County Air Pollution Control District may declare any permissive day designated by the State Air Resources Board to be a no-burn day if necessary to maintain suitable air quality.
26. "Open Burning in agricultural operations in the growing of crops or raising of fowl or animals" means:
 - a. 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.
 - b. In connection with operations qualifying under paragraph B.27.a:
 - 1) The burning of grass and weeds in or adjacent to fields in cultivation or being prepared for cultivation.
 - 2) 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.
27. "Open Outdoor Fire" means any combustion 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.
28. "Particulate Matter (PM)" means any airborne finely divided material, except uncombined water, which exists as a solid or liquid at standard conditions (e.g., dust, smoke, mist, fumes or smog).
29. "PM2.5" means particles with an aerodynamic diameter less than or equal to a nominal 2.5 micrometers.
30. "PM10" means particles with an aerodynamic diameter less than or equal to a nominal 10 micrometers (including PM2.5).
31. "Permissive-burn Day," or "Burn Day" means any day on which agricultural burning, including prescribed burning, is not prohibited by the state board and burning is authorized by the District consistent with this Rule.
32. "Planned" means wildfires that have consideration, preparation and design for management with properly submitted and approved smoke management plans.

33. "Pre-fire Fuel Treatment" means techniques that can reasonably be employed prior to prescribed burning in order to reduce the emissions that would otherwise be produced in a prescribed fire.
34. "Prescribed Burning" means the planned application of fire to vegetation on lands selected in advance of such application, and means any fire ignited by management actions to meet specific objectives. The term "prescribed burn" used throughout this Rule includes Forest Management, Range Improvement, Wildland Vegetation Management, Wildland/Urban Interface and all other managed wildland fires.
35. "Person" means any person, firm, association, organization, partnership, business trust, corporation, company, contractor, supplier, installer, user, owner, state or local governmental agency or public district, or any officer or employee thereof.
36. "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.
37. "Region" means two or more air districts within an air basin or adjoining air basins that sign a memorandum of understanding to implement a coordinated regional smoke management program pursuant to the requirements of Section C of this Rule.
38. "Residential Burning" means an open outdoor fire for the disposal of the combustible or flammable solid waste of a single-or two-family dwelling on its premises. Residential burning is not considered prescribed burning.
39. "Seventy-two Hour Outlook" means a prediction of the meteorological and air quality conditions that are expected to exist for a specific prescribed burn in a specific area 72 hours from the day of the prediction.
40. "Silvicultural" means the establishment, development, care and reproduction of stands of timber.
41. "Small Quantity" means smaller agricultural burns that are not prescribed fire, range improvement, forest management or wildland burns. These burns are usually for ten (10) tons or less of material and/or 100 acres or less in size and for the burning of weeds, slash, brush and chaparral, agricultural wastes or grape trimmings.
42. "Smoke Management Plan" means a document prepared for each fire by land managers or fire managers that provides the information and procedures required in section 80160 of the Health and Safety Code.
43. "Smoke Management Prescription" means measurable criteria that define conditions under which a prescribed fire may be ignited, guide selection of appropriate management responses, and indicate other required actions.

Prescription criteria may include, but are not limited to, minimizing smoke impacts, and safety, economic, public health, environmental, geographic, administrative, social, or legal considerations such as complying with Health and Safety Code section 41700, public nuisance statute.

44. "Smoke Management Program" means the program defined in this Rule.
45. "Smoke Sensitive Areas" are populated areas and other areas where a 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 I areas.
46. "State Ambient Air Quality Standards" means specified concentrations and durations of air pollutants which reflect the relationship between the intensity and composition of air pollution to undesirable effects, as established by the state board pursuant to Health and Safety Code section 39606.
47. "Timber Operations" means the cutting or removal of timber or other forest vegetation.
48. "Unplanned" means wildfires that do not have consideration, preparation and design for management and are without properly submitted and approved smoke management plans. Some of these are unwanted wildland fires.
49. "Wildfire" means an unwanted wildland fire.
50. "Wildland" means 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 United States Department of Agriculture (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. For CDF only, "Wildland" as specified in California Public Resources Code (PRC) section 4464(a) means any land that is classified as a state responsibility area pursuant to article 3 (commencing with section 4125) of chapter 1, part 2 of division 4 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.
51. "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 Code of Regulations, Section 1561.1), trees, grass, or standing brush.

52. "Wildland Fire" means any non-structural fire, other than prescribed fire, that occurs in the wildland. For CDF only, "Wildland Fire" as specified in PRC section 4464(c) means any uncontrolled fire burning on wildland.
53. "Wildland/urban Interface" means the line, area, or zone where structures and other human development meet or intermingle with the wildland.
54. "Wildlife or Game Habitat" means any area used or planned to be used for conservation or management of wild plants or animals.

C. GENERAL REQUIREMENTS

1. Burn Permits:

- a. No person shall knowingly start or allow agricultural or prescribed burning without a valid District permit issued by the District or a designated agency.
- b. If required, a separate burn permit shall also be obtained from the fire protection agency that has jurisdiction in the area of the proposed burn project.
- c. No agricultural or prescribed burning is to be conducted pursuant to such permits without obtaining District approval as detailed in Section C.3, Burn Authorization.
- d. Burning conducted pursuant to permits issued by the Air Pollution Control Officer (APCO) or a designated agency shall comply with all the conditions specified on the permits and in the burn prescription. Failure to abide by permit conditions is a violation of Section 41852 of the California Health and Safety Code and District Regulations.
- e. All permits issued for agricultural and prescribed burning by the APCO or designated agencies must contain the following words or words of similar import: "This permit is valid only on those days during which agricultural burning, including prescribed burning, is not prohibited by the State Air Resources Board or by the District pursuant to Section 41855 of the Health and Safety Code, and when burning the lands identified herein has been approved by the District".
- f. The APCO may issue special permits for agricultural or prescribed burning on no-burn days if denial of such permits would threaten imminent and substantial economic loss. In authorizing such burning, the District may limit the amount of material that can be burned in any one day to protect against air quality standard violations and smoke sensitive areas.

- g. Each applicant for permit shall supply all information as requested by the District to determine compliance with all applicable requirements.
- h. The issuing designated agency or the APCO may revoke an agricultural burning permit if it is found that the permit conditions, any State or Federal laws, or the provisions of this Rule have been violated. The designated agency or the APCO shall notify the permit holder in writing of the revocation and the reasons therefore. Service of the notification of revocation may be by personal delivery or certified mail. In the case of service by mail, service shall be deemed complete at the time of deposit of the notification in the United States post office, or a mail box, sub-post office, substation, or mail chute, or other like facility.
- i. Within ten (10) days after service of notice of revocation specified in Subsection C.1.h above, the permit holder may petition the Hearing Board in writing for a public hearing. The Hearing Board, after notice and a public hearing held within 30 days after filing the petition, may sustain or reverse the decision of the Control Officer or the designated agency.

2. Registration of Prescribed Burns and Reporting

- a. All persons who desire to conduct planned wildland, prescribed and range improvement burning in the District in any particular calendar year shall register their planned burn projects with the District including areas considered for potential naturally ignited wildland fires managed for resource benefits. Written annual burn registrations shall be submitted to the District no later than the close of business on January 15th of each year. Written updates and additions shall be submitted prior to burning. The burn registration shall include: the name and address of the permittee, including a contact person with phone number; a listing of all projects planned, with legal descriptions of their locations (township, range, section number); an estimate of the total acreage and/or tons of material to be burned; the scheduled month for each listed burn project; and a meteorological prescription addressing smoke management concerns.
- b. Burn registrations/smoke management plan applications are not required to be in a specific format but shall contain all the required information.

3. Burn Authorization System

The burn authorization system specifies the amount, timing, and conditions for burn projects on a daily basis within District boundaries.

- a. Prescribed, Wildland and Range Improvement Burn authorizations shall be given on a first come - first served basis. Burn authorization may be rescinded if meteorological conditions change such that adverse air quality

impacts, including complaints, are likely, or if burning by a fire protection agency to abate an imminent fire hazard is suddenly and unexpectedly required in the same area.

- b. General agricultural burning shall only be conducted on a burn day except as allowed under C.1.f.
- c. All smoke management conditions listed in the burn registration shall be met at the time of ignition and for the duration of the burn. A burn authorization does not relieve the burner from meeting the conditions of the burn registration plan for the specific burn.
- d. Burn authorization requests to the District for planned wildland, prescribed and range improvement burning shall be made by phone, fax, e-mail, or in person no later than 48 hours prior to the planned ignition. Prior to requesting a burn authorization from the District, burners may obtain a 48-hour forecast, 72-hour outlook, and a 96-hour trend for specific burns from the Air Resources Board duty meteorologist. These forecasts are not a substitute for a burn authorization, and contain no guarantee that a favorable forecast will necessarily lead to a burn authorization approval.
- e. For multi-day burns, the burner shall obtain daily authorization from the District prior to continuing with the burn.

4. General Agricultural Burn Projects

- a. Agricultural burners shall complete the District's Burn Registration/ Application and Permit form which shall contain, at a minimum, the following information:
 - 1) Location, types, and amounts of material to be burned;
 - 2) Expected date of the fire from ignition to extinction; and
 - 3) Identification of responsible personnel and telephone contacts.
- b. General agricultural burns shall be considered small quantity burns and the applicant need only submit the information contained in the Burn Registration/Application and Permit Form for General Agricultural Burns.
- c. General agricultural burns shall only be conducted on a burn day and shall be subject to the conditions of the burn permit. Before burning, the burner shall call the current burn forecast number for information on whether it is a burn day. Burn forecasts are generally available by 3:00 p.m. on the preceding day.
- d. If unacceptable smoke impacts occur to a smoke sensitive area from an authorized burn, and such impacts are observed by the burner or verified by District staff, then the burner shall promptly take such contingency actions necessary to abate the impact.

- e. Vegetation shall be in a condition to minimize the smoke emitted during combustion when feasible, considering fire safety and other factors. All agricultural waste shall be burned in place or stacked loosely, dried and be free of dirt and surface moisture. Minimum drying times, after cutting or uprooting are: six (6) weeks for trees and large branches, three (3) weeks for prunings and small branches, ten (10) days for wastes from field crops.
- f. No fire shall be started before the announcement of a burn day, before sunrise, or two hours before sunset.
- g. No additional material shall be added to a fire within two hours of sunset.
- h. No fire shall be started if the wind direction is toward a populated area that is within 2 ½ miles of the burn site.
- i. Only clean burning materials or devices may be used to ignite fires.
- j. Permission to burn may be revoked or suspended for fire prevention reasons during adverse weather conditions, or for a violation of any terms, condition, applicable rules or regulations.
- k. Material shall be piled, where possible, unless good silvicultural practices or ecological goals dictate otherwise.
- l. The following materials shall not be burned in agricultural burning: shop wastes, fencing materials, metal parts and pieces, construction or demolition debris, oil filters, tires, tar paper, plastic except for liners of paper sacks, buildings, wastes resulting from conversion of farm land to non-agricultural purposes, or anything not conforming to the definitions of agricultural waste, range improvement burning, forest management burning, or wildland vegetation management burning.

5. Smoke Management Plans for Planned Wildland, Prescribed and Range Improvement Burn Projects

- a. Submittal of a smoke management plan shall occur 14 days in advance of the burn. District approval of the smoke management plan shall be obtained at least 72 hours prior to the burn.
- b. Very Small Projects:
 - 1) Smoke management plans for very small projects shall contain, at a minimum, the following information:
 - i. Location, types, and amounts of material to be burned;

- ii. Expected date of the fire from ignition to extinction;
 - iii. Identification of responsible personnel, including telephone contacts; and
 - iv. Procedures for reporting of public smoke complaints and for public notification and education, including appropriate signage at burn sites.
- 2) Very small projects are defined as burn projects which do not meet the small, medium or large project definitions and are less than ten (10) acres or are estimated to produce less than one (1) ton of particulate matter.
 - 3) Fire agency burn projects at the urban-wildland interface that are less than ten (10) acres in size or estimated to produce less than one (1) ton of particulate matter shall be subject to the “Medium Project” requirements in section C.5.d.

c. Small projects

- 1) Smoke management plans for small projects shall contain, at a minimum, the following information:
 - i. All the information required for very small projects in section C.5.b;
 - ii. Identification and location of all potentially affected smoke sensitive sites in nearby areas.
- 2) Small projects are defined as burn projects which do not meet the medium or large project definitions, and are from ten (10) to 100 acres in size, or are estimated to produce particulate matter emissions ranging from one (1) ton to ten (10) tons.

d. Medium projects

- 1) Smoke management plans for medium projects shall contain, at a minimum, the following information:
 - i. All the information required for small projects in section C.5.b and c;
 - ii. Identification of meteorological conditions necessary for burning;
 - iii. The smoke management criteria the land manager or his/her designee will use for making burn ignition decisions;
 - iv. Projections, including a map, of where the smoke from burns is expected to travel, both day and night;

- v. Specific contingency actions, including fire suppression or containment plans, that will be taken if smoke impacts occur or meteorological conditions deviate from those specified in the smoke management plan; and
 - vi. An alternative to burning evaluation. Projects meeting National Environmental Policy Act and/or California Environmental Quality Act requirements will be considered to have complied with this provision.
- 2) Medium size projects are defined as burn projects which do not meet the large project definition and are greater than 100 acres in size or estimated to produce more than ten (10) tons of particulate matter, or are fire agency burn projects at the urban-wildland interface.

e. Large projects

- 1) Smoke management plans for large projects and projects near smoke sensitive areas shall contain, at a minimum, all requirements for medium plans and APCO approved monitoring provisions, which may include visual monitoring, ambient particulate matter monitoring or other monitoring.
- 2) Large projects are any of the following:
 - i. Projects greater than 250 acres;
 - ii. Projects that will continue burning or producing smoke overnight;
 - iii. Projects conducted near smoke sensitive areas; or
 - iv. Projects determined by the APCO to need large project protective measures as necessary to protect public health

f. The District may specify alternate thresholds to those specified in sections C.5.b, C.5.c, C.5.d and C.5.e, consistent with the intent of State law and as determined by the APCO as necessary to protect public health.

g. The land manager shall coordinate daily with the District or the Air Resources Board for multi-day burns that may impact smoke sensitive areas, to affirm that the burn project complies with the conditions specified in the smoke management plan, and/or whether contingency actions are necessary. If the burner or District staff observe unacceptable smoke impacts occurring to a smoke sensitive area from an authorized burn, then the burner shall promptly take such contingency actions as necessary.

6. Naturally-Ignited Burns for Resource Benefits

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

- a. After consultation with the appropriate land manager, the District determines, for smoke management purposes, that the burn can be managed for resource benefit; or
- b. For periods of less than 24 hours, the land manager made a reasonable effort to contact the District, or if the District is not available, the Air Resources Board.
- c. After 24 hours, the District has been contacted, or if the District is not available, the Air Resources Board has been contacted and concurs that the burn can be managed for resource benefit.

7. Naturally-Ignited Wildland Fires Managed for Resource Benefits

Smoke management plans shall be submitted within 72 hours of the start of the fire for naturally ignited wildland fires managed for resource benefits that are expected to exceed 500 acres in size. Upon notification by the District, smoke management plans for naturally ignited wildland fires managed for resource benefits that are expected to exceed ten (10) acres shall be submitted as required by the APCO.

8. Adherence with Approved Smoke Management Plans

The land manager or his/her designee conducting a prescribed burn shall ensure that all conditions and requirements stated in the approved smoke management plan are met on the day of the burn event and prior to ignition.

9. Post Burn Evaluation Requirements

The land manager shall submit a post-burn smoke management evaluation for fires greater than 250 acres or fires with adverse smoke impacts as determined by the APCO within thirty (30) days of project completion.

10. Vegetation Condition

Vegetation to be burned shall be in a condition that will minimize the smoke emitted during combustion when feasible, considering fire safety and other factors. The material shall be burned in place or stacked loosely, dried and be free of dirt and surface moisture when possible. Piled material shall be prepared so that it will burn with a minimum of smoke.

11. Fish and Game Certification

For burns done primarily for improvement of land for wildlife and game habit, the permit applicant shall file 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. Alternatively, the APCO may accept a wildlife biologist opinion contained in a land management plan approved by the appropriate State or Federal authority or certifications by the US Fish and Wildlife Service.