

State of California
AIR RESOURCES BOARD

Resolution 82-16

April 21, 1982

Agenda Item No.: 82-9-1

WHEREAS, Sections 39600 and 39601 of the Health and Safety Code authorize the Air Resources Board (the "Board") to adopt standards, rules and regulations necessary for the proper execution of the powers and duties granted to and imposed upon the Board by law;

WHEREAS, Section 41850 of the Health and Safety Code provides that agricultural burning be reasonably regulated and not be prohibited;

WHEREAS, Sections 41855, 41856, 41857, and 41858 of the Health and Safety Code direct the Board to promulgate guidelines for the regulation and control of agricultural burning for each of the air basins established by the State Board;

WHEREAS, Section 41859 of the Health and Safety Code states that the Board shall continuously review the Guidelines and may modify, repeal or alter such Guidelines if scientific and technological data indicate that such changes are warranted, and that before adopting any such changes, the State Board shall hold a public hearing and shall consider the criteria set forth in Section 41857;

WHEREAS, Government Code Section 11349.7 requires State agencies to review, and revise where necessary, existing regulations, based on standards of necessity, clarity, consistency, authority and reference;

WHEREAS, existing Agricultural Burning Guidelines have been promulgated in accordance with the provisions of the Health and Safety Code, and have been reviewed in accordance with the requirements of Government Code Sections 11340 et seq.;

WHEREAS, the Agricultural Burning Guidelines can be made more responsive to the needs of the districts and others by:

a) Requiring designated agencies to transmit burn permit information to the districts; and

b) Requiring districts outside the Sacramento and San Joaquin Valley Air Basins to submit permissive-burn day statistics and no-burn day reports on an annual basis rather than a quarterly basis;

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

WHEREAS, the Board finds that the regulations set forth in Attachment A hereto would have no adverse environmental, economic or feasibility impacts, and therefore no alternatives and/or mitigation measures are required;

WHEREAS, the revisions to the Agricultural Burning Guidelines contained in Attachment A are appropriate to effectuate the purposes of Government Code Section 11349.7; and

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

NOW, THEREFORE, BE IT RESOLVED that the Board hereby amends Sections 80100 through 80320 of Title 17, California Administrative Code, entitled "Agricultural Burning Guidelines," as set forth in Attachment A hereto.

BE IT FURTHER RESOLVED that the Executive Officer is directed to evaluate the practical effects of the amended regulations and to recommend to the Board any further revisions which may be deemed appropriate.

I hereby certify that this is a true and correct copy of Resolution 82-16, as adopted by the Air Resources Board.


Harold Holmes, Board Secretary

Attachment A

80100. Definitions.

1) The definitions should be alphabetized for clarity and easy reference.

2) Section 80100(d) should be amended for clarity in response to public comment as follows:

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

3) Section 80100(i) should be amended for clarity in response to public comment as follows:

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

80102. Exceptions.

1) Section 80102(a) should be amended for clarity as follows:

(a) Open burning in agricultural operations in the growing of crops or raising of fowl or animals, as defined in Section 80100(g)(1) and (2), or disease or pest prevention, at altitudes above 3,000 feet mean sea level (msl); ~~except in the Tahoe Basin;~~ is exempt from these Agricultural Burning Guidelines, except in the Tahoe Basin.

2) Section 80102(b) should be amended for clarity as follows:

(b) Agricultural burning as defined in Section 80100(a) and Section 80100(g), in areas at altitudes above 6,000 feet (msl), except in the Tahoe Basin, is exempt from these Agricultural Burning Guidelines, except in the Tahoe Basin.

80110. Permissive-Burn or No-Burn Days.

1) Section 80110(a) should be amended for clarity as follows:

(a) ~~Commencing no later than December 1, 1974, a~~ A notice as to whether the following day is a permissive-burn day, or a no-burn day, or whether the decision will be announced the following day, shall be provided by the State Board at 1500 by 3:00 p.m. daily for each of the air basins. If the decision is made the following day it shall be announced by 0745- 7:45 a.m. Such notices shall be based on the Meteorological Criteria for Regulating Agricultural Burning, adopted March 17, 1971, as revised June 21, 1972, February 20, 1975, April 27, 1978, and October 12, 1979 Article 3, Sections 80180 through 80320 of these Agricultural Burning Guidelines.

80120. Burning Permits.

1) Section 80120(g) should be amended for necessity, as reflected in public comments, to require burn report submittals from designated agencies as follows:

(g) Permits issued by designated agencies shall be subject to these Agricultural Burning Guidelines and to the rules and regulations of the district. Designated agencies shall submit to the districts permit information as required under Title 17, California Administrative Code, Section 80130 at a time interval consistent with district reporting requirements to the State Board.

80130. Burning Report.

1) Section 80130(a) should be amended for necessity as reflected in public comments to reduce the frequency and the detail of the reports of burning on permissive-burn days for districts outside of the boundaries of the Sacramento and San Joaquin Valley Air Basins as follows:

(a) A report of burning pursuant to these Guidelines during each quarter of a calendar year shall be submitted to the State Board by ~~the district~~ each district within the boundaries of the Sacramento and San Joaquin Valley Air Basins within 20 days of the end of the quarter. The report shall include the date of each burn, the type of waste burned, and the estimated tonnage or acreage of waste burned. ~~In the future if in the judgment of the State Board, quarterly reports are no longer necessary; the State Board may require reports at less frequent intervals.~~

(b) A report of burning pursuant to these Guidelines during each calendar year shall be submitted to the State Board by each district outside the boundaries of the Sacramento and San Joaquin Valley Air Basins within 30 days of the end of the calendar year. The report shall include the estimated tonnage or acreage of each type of waste burned during the calendar year.

2) Section 80130(b) should be amended for necessity as reflected in public comments to reduce the frequency of the reports of burning on no-burn days for districts outside of the boundaries of the Sacramento and San Joaquin Valley Air Basins as follows:

~~(b)(c)~~ A report of permits issued pursuant to subdivision (d) of Section 80120 during each quarter of a calendar year shall

be submitted to the State Board by the districts within the boundaries of the Sacramento and San Joaquin Valley Air Basins within 20 days after the end of the quarter. The report shall include the number of such permits issued, the date of issuance of each permit, the person or persons to whom the permit was issued, an estimate of the amount of wastes burned pursuant to the permit, and a summary of the reasons why denial of such permits would have threatened imminent and substantial economic loss. ~~In the future if in the judgment of the State Board, quarterly reports are no longer necessary, the State Board may require reports at less frequent intervals.~~

(d) A report of permits issued pursuant to subdivision (d) of Section 80120 during each calendar year shall be submitted to the State Board by the districts outside of the boundaries of the Sacramento and San Joaquin Valley Air Basins within 30 days of the end of the calendar year. The report shall include the number of such permits issued, the date of issuance of each permit, the person or persons to whom the permit was issued, an estimate of the amount of wastes burned pursuant to the permit, and a summary of the reasons why denial of such permits would have threatened imminent and substantial economic loss.

(e) In the future if in the judgment of the State Board, the frequency of reports required pursuant to subdivisions (a), (b), (c), and (d) of this section are no longer necessary, the State Board may require reports at less frequent intervals.

DIGEST OF REGULATORY ACTION
PURSUANT TO GOVERNMENT CODE SECTION 11346.7(c)

Pursuant to Government Code Section 11340 et seq. (AB 1111), the Air Resources Board (ARB) has adopted certain amendments to its Agricultural Burning Guidelines, Title 17, California Administrative Code, Sections 80100 through 80320. These amendments are based on the criteria of necessity, clarity, authority, and reference, as set forth in AB 1111.

Substantive amendments, based on the criteria of necessity, have been adopted in three areas, as follows: (1) Section 80120(g) - Designated agencies, which are authorized under existing law to issue burn permits, are now expressly required to submit certain burn permit information to the air pollution control districts (APCDs) in their regions. Such information transmittals were not expressly required prior to the adoption of this amendment and, in some instances, this made it difficult for affected APCDs to obtain needed information from the designated burn permit agencies; (2) and (3) Sections 80130(a) and (b) - These amendments change from quarterly to annual district reporting requirements to the ARB for permissive burn and no-burn permits in air basins outside the Sacramento-San Joaquin Valley Air Basins. Because of the extensive data collected in the past, and the relatively small amount of agricultural burning in these areas, sufficient information can be obtained from annual reports, and quarterly reports are no longer deemed necessary.

Clarifying, nonsubstantive amendments, such as alphabetizing definitions, have been adopted to Title 17, California Administrative Code, Sections 80100, 80100(d), 80100(i), 80102(a), 80102(b), and 80110(a).

Amendments to legal reference and authority citations have been adopted for each section of the guidelines to update and better reflect the statutes underlying these regulations.

State of California
AIR RESOURCES BOARD

PUBLIC HEARING TO CONSIDER ADOPTION OF REVISIONS TO THE "AGRICULTURAL BURNING GUIDELINES", TITLE 17, CALIFORNIA ADMINISTRATIVE CODE, SECTIONS 80100 THROUGH 80320

Scheduled for Consideration: April 21, 1982
Agenda Item Number: 82-9-1

FINAL SUMMARY AND STATEMENT OF REASONS FOR PROPOSED RULEMAKING

Government Code Section 11340 et seq. (Assembly Bill 1111) requires California administrative agencies, including the Air Resources Board (the "Board"), to conduct a review of regulations administered by them in accordance with the standards set forth in Government Code Sections 11349 and 11349.1 for necessity, clarity, consistency, authority and reference.

Pursuant to this law, the ARB staff conducted a thorough review of the regulations contained in the Agricultural Burning Guidelines, Title 17, California Administrative Code, Sections 80100 through 80320, and prepared a written report on its review and recommendations. That report was sent to the Office of Administrative Law (OAL) in October 1981.

The staff review consisted of: (1) requests for public comment sent to approximately 5,000 individuals throughout the state; (2) staff evaluation of the responses received; (3) independent staff analysis of the Agricultural Burning Guidelines; and (4) subsequent staff recommendations for revisions.

On April 21, 1982, the Board held a public hearing to consider adoption of certain proposed revisions to the Agricultural Burning Guidelines. The Board adopted all of the revisions then proposed by staff and one additional nonsubstantive amendment which staff also recommended in response to a written comment received prior to the Board hearing. The adopted revisions fall into three categories, described as follows.

(A) Necessity: The staff originally proposed five revisions for necessity in the report submitted to OAL. Three of these proposals were submitted to and adopted by the Board at the April 21, 1982 hearing. The three adopted revisions are as follows: (1) Section 80120(g) was amended to specifically require designated agencies which have authority for granting burn permits to submit their burn permit information to the appropriate air pollution control district; (2) and (3) Sections 80130(a) and 80130(b) were amended to change the reporting requirement periods from quarterly to annually for districts outside the Sacramento and San Joaquin Valley Air Basins for both permissive burn day and no-burn day reports.

Two other proposed substantive revisions contained in the staff report submitted to OAL in October of 1981 were not considered at the Board hearing in April of 1982. These proposed revisions were to: (1) modify the permissive-burn day criteria for the burning of almond and walnut orchard prunings in the north section of the San Joaquin Valley Air Basin, and this proposed revision was adopted (Section 80260(e)(5)) following an Executive Officer Hearing in November of 1981; and (2) revise the boundaries for applying meteorological criteria within the North Coast Air Basin (Section 80180). At this time, the ARB staff believes that further discussions with affected parties are required before specific proposed revisions of the boundaries of the North Coast Air Basin are presented to the Board.

(B) Clarity: Six revisions for clarity were adopted by the Board, all of which were submitted in the staff report to OAL. These revisions are primarily changes in wording which help to make the meaning of these regulations clearer and easier to understand (Sections 80100, 80100(d), 80100(i), 80102(a), 80102(b), and 80110(a)). One example is the alphabetizing of definitions.

(C) Authority and Reference: The Board adopted all of the revisions proposed by staff to Sections 80100 through 80320 regarding legal authority and reference citations at the end of each section.

All of the revisions to Title 17, California Administrative Code, Sections 80100 through 80320, adopted by the Board at the April 21, 1982 hearing, are set forth in Attachment A to Resolution 82-16.

COMMENTS, OPPOSING CONSIDERATIONS AND AGENCY RESPONSE

A. Written Comments

Following the notice of a board hearing to consider the proposed revisions to the Agricultural Burning Guidelines, three letters (attached) were received by the Board which contained comments and proposals for amendments to the guidelines. The issues raised and the agency's responses are set forth below.

1. Issue: A letter from John B. English, Director, Air Pollution Control for the County of Santa Barbara, contained two comments regarding ARB staff proposals for revisions to the Agricultural Burning Guidelines, as follows:

(a) The amendment to Section 80120(g) requiring designated agencies to submit burn permit information to the district should require the transmittal of all information listed on the ARB "Permissive Burn Day Data Forms"; and

(b) Quarterly reporting in areas outside the Sacramento-San Joaquin Valley should be retained.

Agency Response

(a) The intent of the proposed change to Section 80120(g) is to require designated agencies to submit all information to the districts which the districts need in reporting to the ARB. Districts outside the Sacramento and San Joaquin Valley Air Basins are not required to submit to the ARB permissive burn day data sheet information. Nevertheless, all districts retain the authority to collect such daily information, pursuant to Title 17, California Administrative Code, Section 80101(b). Furthermore, the Board adopted a non-substantive amendment to the proposed revision to Section 80120(g) requiring that designated agencies provide districts with all information required pursuant to Section 80130 concerning both permissive burn and no-burn permits.

(b) The Santa Barbara district is the only one to recommend retention of quarterly reports outside the Sacramento-San Joaquin Valley Air Basins. Under Title 17, California Administrative Code, Section 80101(b), any local or regional authority may establish stricter requirements than those set forth in the guidelines, thus preserving a district's prerogative to require quarterly submittals of permissive burn day data for district use. However, the ARB itself no longer needs such information on a quarterly basis for districts outside the Sacramento-San Joaquin Valley Air Basin.

2. Issue: A letter from Kenneth Corbin, Air Pollution Specialist for the County of Siskiyou, contained two requests for amendments to the guidelines as follows:

(a) Amend Section 80120 to allow a district to exempt agricultural burning from permit requirements during a period from December 1 through March 31; and

(b) Amend Section 80240 criteria for designation of burn/no-burn days for the Rogue River National Forest to parallel the criteria specified by the Oregon Department of Forestry.

Agency Response

(a) SB 738 authorizes exemptions from the permit requirements of Health and Safety Code Section 41852 for a district, or a portion of a district, where agricultural burning does not significantly affect air quality. However, the bill requires that the Board, not the districts, determine whether such exemptions should be granted. Therefore, amending the guidelines to allow a district to exempt burn permit requirements on its own volition would violate SB 738. ARB staff has been working with districts of the Mountain Counties Air Basin in an effort to facilitate the implementation of SB 738, and those districts which believe that the permit exemptions authorized in SB 738 are appropriate for their areas of jurisdiction are invited to submit a request for exemption to the ARB for hearing.

(b) The ARB staff was not previously informed of a problem regarding the designation of burn/no-burn days in the Rogue River National Forest, and the necessity for a change in existing regulations requires further study. Generally, a program which is at least as restrictive as the guidelines would be permissible, and the ARB staff will discuss proposals for changes in the meteorological criteria with representatives of the affected areas. ARB staff has contacted Mr. Corbin and explained the staff's concerns in this area. After discussing the matter with ARB staff, Mr. Corbin stated satisfaction with our currently proposed amendments.

3. Issue: A letter from Twyla Thompson, Acting Chairman for the Sacramento Valley Air Basin Control Council, recommended that the proposals for reducing the frequency and detail of the quarterly agricultural burning

reports outside the Sacramento-San Joaquin Valley Air Basins apply to districts within the Sacramento Valley Air Basin as well.

Agency Response: Both the Sacramento and San Joaquin Valley Air Basins are predominantly agricultural in nature. Their combined agricultural acreage is approximately 84 percent of the total for the state. Both particulate and hydrocarbon emissions from agricultural burning are significant factors affecting ambient air quality for these air basins. Therefore accurate reporting on a daily basis is required for emissions inventories which, in turn, provide the bases for air quality maintenance planning. In addition, such information is needed for daily burn/no-burn day designations. Therefore, ARB staff believes that quarterly burning reports with daily permissive burn day data sheets for the Sacramento and San Joaquin Valley Air Basins are necessary and should not be eliminated or reduced at this time.

This issue was also discussed during oral testimony at the hearing. Staff comments regarding the issue are contained in the response to testimony by Earnie Vickrey, Air Pollution Control Officer for Yuba County.

B. Oral Testimony

At the April 21, 1982, public hearing for consideration of adopting amendments to the Agricultural Burning Guidelines, three persons presented oral testimony. Their testimony is summarized and responded to in the following comments.

1. Issue: Mr. Earl Withycombe, Consultant to the Mountain Counties Air Basin Technical Advisory Committee, testified regarding SB 1704. This bill provides for prescribed burning in the implementation of Chaparral Management Programs. Mr. Withycombe stated that Section 80160(b)(6) of the Agricultural Burning Guidelines, which requires that trees over six inches in

diameter be felled and dried six months prior to being burned, could not be complied with during prescribed burning of large acreage sites.

Agency Response: ARB staff noted that there are several other concerns from both state and local agencies regarding the Chaparral Management Program. Therefore, staff proposed that all recommendations in this area be considered at one time rather than in a piecemeal fashion. Mr. Withycombe agreed, and staff will pursue this matter further with the affected parties.

2. Issue: Mr. Earnie Vickrey, Air Pollution Control Officer for Yuba County, citing Ms. Twyla Thompson's letter, expressed dissatisfaction with the current format and time table for reporting permissive burn day data in the Sacramento Valley Air Basin.

Agency Response: The Board directed the staff to investigate the possibility of further changes in the format and/or method of burn data reporting in the valley. Mr. Vickrey agreed that a discussion between ARB staff and the staffs of affected valley districts would be the best way to resolve concerns about the reporting format.

3. Issue: Mr. Roland Brooks, Madera County Air Pollution Control District (San Joaquin Valley Air Basin), stated that his district wished to retain the present reporting procedures. He added that the district utilized the designated agencies (fire districts) reporting data and that he agreed that reporting the data to the ARB on a time schedule consistent with ARB requirements was appropriate.

Agency Response: Since Mr. Brooks' statement was supportive of the ARB program, the agency has no specific response except to thank him for his testimony.

Memorandum

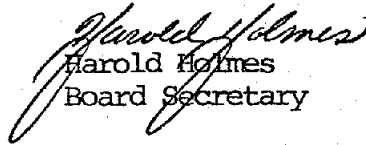
To : Huey D. Johnson
Secretary
Resources Agency

Date : May 10, 1982

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

From : Air Resources Board

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


Harold Holmes
Board Secretary

attachments

~~Resolution 82-16~~
Resolution 82-18

RECEIVED BY
Office of the Secretary

MAY 10 1982

Resources Agency of California

AIR RESOURCES BOARD

1102 Q STREET

P.O. BOX 2815

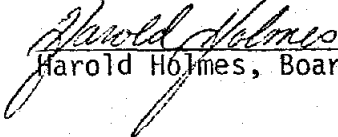
SACRAMENTO, CA 95812



Re: Public Hearing to Consider Adoption of Revisions
to the "Agricultural Burning Guidelines", Title 17,
California Administrative Code, Sections 80100
through 80320

I certify that the record in the above-referenced proceeding
was closed April 21, 1982, and that the enclosed is a complete true
and correct copy of the rulemaking file in that proceeding.

Enclosures


Harold Holmes, Board Secretary

RECEIVED BY
Office of the Secretary

MAY 10 1982

Resources Agency of California

State of California
AIR RESOURCES BOARD

Response to Significant Environmental Issues

Item: Public Hearing to Consider Adoption of Revisions to the
"Agricultural Burning Guidelines", Title 17, California
Administrative Code, Sections 80100 Through 80320

Agenda Item No: 82-9-1

Public Hearing Date: April 21, 1982

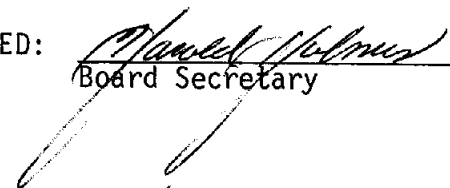
Response Date: April 21, 1982

Issuing Authority: Air Resources Board

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

Response: N/A

CERTIFIED:


Board Secretary

Date:

4/30/82

RECEIVED BY
Office of the Secretary

MAY 10 1982

Resources Agency of California