

State of California  
AIR RESOURCES BOARD

**Notice of Public Availability of Modified Text  
and Supporting Documents and Information**

PUBLIC HEARING TO CONSIDER AMENDMENTS TO CALIFORNIA'S  
AGRICULTURAL BURNING GUIDELINES

Public Hearing Date: March 23, 2000  
Public Availability Date: June 20, 2000  
Deadline for Public Comment: July 6, 2000

At a public hearing held March 23, 2000, the Air Resources Board (the Board) considered amendments to California's Agricultural Burning Guidelines (Guidelines), which are set forth in section 80100 et seq. of title 17 of the California Code of Regulations. The proposed amendments provide more detailed direction to air pollution control and air quality management districts (air districts) in the regulation and control of agricultural burning, including prescribed burning. Prescribed burning is a subset of agricultural burning and is the intentional use of fire to meet specific land management objectives (e.g., to reduce flammable vegetative fuels on forest floors). As proposed, the amendments would not change what burning is done, but may change the timing, location, and amounts of vegetative burning that is authorized on any particular day.

The proposed amendments place primary emphasis on smoke management through improved planning, collaboration, and consultation between burners, including federal and State land management agencies, and air agencies. The proposed amendments contain three new basic provisions: requirements for a "burn authorization system"; requirements for a "smoke management plan"; and provisions for the use of a "marginal" burn day. The proposed amendments are described in detail in the Staff Report (Initial Statement of Reasons for Proposed Rulemaking) released on February 4, 2000.

At the public hearing, the Board approved the amendments to the Guidelines with certain modifications to the originally proposed regulatory language. Following is a summary of the modifications that were proposed to the Board on March 23, 2000:

- Proposed residential burning provisions were withdrawn;
- Additional time was provided to air districts to address ARB disapproval of a district smoke management program from 120 days to 180 days;
- A "degree of confidence" factor was added to the 48-hour burn day forecast;
- The burner notification process was revised for naturally-ignited wildfires; and,
- Changes were made to clarify language, and correct spelling and rule numbers.

In addition, as a result of public comments and testimony presented at the public hearing, the Board directed staff to make several modifications to the Guidelines. These modifications would include the following: (1) provide more specific criteria for exempting small amounts of crop waste burning from some requirements of the Guidelines (section 80145(b)), and (2) require that a prescribed burner attach any burn alternatives analysis done in fulfillment of other State or federal requirements to the smoke management plan, if that analysis is used to satisfy the alternatives analysis provision of the Guidelines (section 80160(c)(5)). These two modifications are described below.

Small Amounts Exemption. The Board directed the staff to revise the Guidelines to include more specific criteria for exempting an air district from the daily burn authorization system in cases where small amounts of crop waste burning would pose no adverse air quality impacts on the affected community.

In response, the staff has drafted new, clarifying language which is included in this notice for public comment. As proposed, the ARB Executive Officer could approve an alternative burn authorization system for a district provided specified criteria are met and he/she determines the alternative is likely to minimize smoke impacts to the public as required by the Guidelines.

The approval of an alternative system would be based on a staff evaluation to determine the effectiveness of the district program. The evaluation would include a review of adopted rules, historical data on the amount and types of agricultural burning, (excluding prescribed burning), complaints received and the complaints response system, the air quality record, community participation, and community response to the proposal. Also, the historical and prevailing use of meteorological data and judgment to match types, amounts, and duration of burning with meteorological conditions would be considered. Innovative programs, especially those beyond routine management, would also be noted.

There are other factors that could be included in these programmatic reviews if they are scheduled during a season with a high level of agricultural burning activity. At such a time, the reviewers could see the air district staff's actual operational procedures. These procedures need to include monitoring real-time air quality and visibility data and a continuous awareness of the actual and forecast meteorological conditions affecting smoke dispersion.

To evaluate the practical application of the proposed criteria, the staff conducted a programmatic review of the Lake County Air Quality Management District's (Lake County AQMD) smoke management program. The results of this effort are attached as Enclosure 1.

Burn Alternatives Analysis. The Guidelines require smoke management plans for burn projects that exceed an ARB-approved acreage/emissions threshold. As originally proposed, the Guidelines required the inclusion of an evaluation of the burn alternatives that the burner considered in developing the burn plan. During the 45-day comment period, several prescribed burners stated that, in many instances, applicable State and federal law (i.e. California Environmental Quality Act [CEQA] or National Environmental Policy Act [NEPA]) already require the analysis of alternatives as part of

their overall burn plan. In response, the staff proposed additional modifications at the public hearing that revised the pertinent language in the Guidelines that would allow a burner to use such an analysis if it met the requirements of the Guidelines, i.e., the burn plan analysis evaluated alternatives that included "no burn" fuel treatment options.

At the public hearing, testimony presented indicated that if such an evaluation of burn alternatives were done as part of CEQA or NEPA, it should be attached to the smoke management plan. In response, the staff has drafted new, clarifying language which is included in this notice for public comment.

By this notice, the modifications to the originally proposed regulations are being made available for public comment prior to final action by the Board's Executive Officer. Attached to this notice is Board Resolution 00-8 (Enclosure 2), which approves the regulatory amendments as modified. The text of the modified regulatory language is identified as Attachment B to the Resolution. The originally proposed amendments are shown in underlined regular text to show additions and strikeout to indicate deletions. The modifications to the original proposal are shown in **bold double-underline** to indicate additions, and ~~*italic and strike out*~~ to indicate deletions.

In accordance with section 11346.8 of the Government Code, the Board directed the Executive Officer to adopt the amendments to the Agricultural Burning Guidelines after making the modified regulatory language available to the public for a written comment period of 15 days. The Board further directed the Executive Officer to consider the comments received during this period; to make modifications as may be appropriate in light of any comments received; and to present the regulation to the Board for further consideration if warranted in light of the comments.

Written comments on the modifications to the Guidelines approved by the Board must be submitted to the Clerk of the Board, Air Resources Board, P.O. Box 2815, Sacramento, California 95812, no later than the deadline for public comment identified above, for consideration by the Executive Officer prior to final action. Only comments relating to the modifications described in this notice and set forth as Attachment B to the Resolution will be considered by the Executive Officer.

Since Attachment A (Proposed Amendments) to the Resolution was released on February 4, 2000 and distributed previously, it is not enclosed with this 15-day notice. However, Attachment A, this notice, and the other rulemaking documents are available from the Board's Internet site for rulemaking: <http://www.arb.ca.gov/regact/agburn/agburn.htm>. Copies of these documents may also be obtained through the Air Resources Board, Public Information Office, 2020 L Street, Sacramento, California 95814.

Inquiries regarding this matter may be directed to Arndt Lorenzen, Manager, Meteorology Section, Planning and Technical Support Division, P.O. Box 2815, Sacramento, California 95812, (916) 322-6040.