

Attachment B

Staff's Proposed Modifications to Title 17 Smoke Management Guidelines for Agricultural and Prescribed Burning March 23, 2000

The ARB staff is proposing the following additional changes to the proposed amendments of the Agricultural Burning Guidelines. The *italic and strike-out* indicates deletions, and the **bold double underline** indicates additions to the following sections:

Significant Changes

Section 80101(l) is amended to read:

(l) “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 shall indicate a degree of confidence.**

This change has been made to provide burners with additional information about the confidence level associated with the prediction. This will facilitate the decision-making ability of burners to plan and allocate resources to a particular burn.

Section 80102(d) is amended to read:

~~(d) These Guidelines also limit residential burning to burn days and daylight hours unless other considerations specified in section 80145(e)(4) indicate that burning should be done during other hours.~~

The regulation is designed to address agricultural burning. Residential burning falls into the non-agricultural burning category in the Health and Safety Code. In addition, many districts already have programs to address residential burning on the local level. Therefore, the staff is proposing to delete residential burning from these Guidelines and to work with CAPCOA to determine how best to address residential burning on a statewide basis.

Section 80130(c) is amended to read:

(c) The ARB Executive Officer may, on a district-by-district basis, alter the frequency or contents of the reports required pursuant to ~~subdivision~~ **subsections** (a) and (b) of this section, based on information needed to conduct or evaluate smoke management programs. **The Executive Officer shall provide a justification and reasonable schedule for implementing any revisions.**

This change has been made to clarify that the districts will have sufficient lead-time to gather the necessary data and implement the revised reporting requirements.

Attachment B

Section 80140(h) is amended to read:

- (h) If a program is disapproved, the ARB shall return the program to the air district(s) for amendment. The air district(s) shall amend the program to address ARB concerns within ~~120~~ **180** days.

This change has been made to provide additional time for the districts to amend programs.

Section 80140(i) is amended to read:

- (gi) If the ~~plan~~ program or modification amendment of such ~~plan~~ program is rejected disapproved, or if ~~no~~ timely ~~plan~~ a program or amendment is not submitted by the specified date, ~~or if the plan program is economically or technically not feasible~~, the state board ARB, after a public hearing held in the basin affected, shall adopt an alternative ~~plan~~ program.

The deleted clause is an inappropriate and unnecessary criterion as it is unlikely that a district would adopt a program that is not economically or technically feasible.

Section 80145(b) is amended to read:

- (b) **A burn authorization system is not required for small amounts of daily agricultural burning, excluding prescribed burning, if an air district demonstrates, based on historical data, that those small amounts of burning do not cause or contribute to air quality problems. If requested in writing by a district, the Executive Officer may approve an alternative burn authorization system for agricultural burning (excluding prescribed burning), provided the Executive Officer determines that the alternative system is likely to minimize smoke impacts on smoke sensitive areas, avoid cumulative smoke impacts, and prevent public nuisance. In making such determination, the Executive Officer shall consider the rules and regulations of the district relating to agricultural burning, historical data on the amount, types, location, and impacts of agricultural burning in the district (excluding prescribed burning), the effectiveness of the smoke management program in place in the district, and other documentation provided by the district. The decision, along with the reasons for the decision, shall be in writing.**

This change has been made to clarify the approval process for alternative burn authorization systems.

Section 80145(g) is amended to read:

- (g) Procedures for authorizing burning, including a procedure for authorizing individual prescribed burns ~~no more than~~ 24 hours prior to ignition of the fire, **recognizing that any burn decision made 24 hours in advance is always subject to**

Attachment B

change if meteorological conditions or conditions affecting smoke dispersion are different from those anticipated.

The phrase “no more than” was struck to ensure that burners have a reasonable assurance of a burn decision in sufficient time to mobilize resources. Note, however, that conditions must still be favorable on the day of the burn and the prescriptions within the smoke management plan concerning meteorological conditions on the day of the burn must still be met.

Section 80145(o)(5) is amended to read:

(o) Rules and regulations or, until April 1, 2003, other enforceable mechanisms that:

...

(5) Regulate hours of ignition and burning. ~~Residential burning should be limited to burn days and daylight hours unless local conditions indicate that smoke impacts are not expected to occur if burning is done during other hours, or coordination with local fire agencies requires burning during other hours;~~

See reason for section 80102(d)

Section 80150(a)(2) is amended to read:

(a) The district smoke management program shall include rules and regulations or, until April 1, 2003, other enforceable mechanisms that:

...

(2) Require burning hours to be set so that no **field** crop burning shall commence before 10:00 a.m. or after 5:00 p.m. of any day, unless local conditions indicate that other hours are appropriate.

The term “field” had been inadvertently dropped from the current version of the regulation. The ARB staff did not intend to include any substantive revision to this section, with the exemption of allowing flexibility for the districts to authorize burning in hours outside of the 10:00 am to 5:00 p.m. window, if local conditions are appropriate.

Section 80160(c)(5) is amended to read:

(c) Require that smoke management plans for burn projects greater than 100 acres in size or estimated to produce more than 10 tons of particulate matter contain, at a minimum, the information contained in subdivision (b) and the following additional information:

...

(5) An evaluation of alternatives to burning considered; **if an analysis of alternatives has been prepared as part of the environmental documentation required for the burn project pursuant to the National Environmental Policy Act (NEPA) or the California Environmental**

Attachment B

Quality Act (CEQA), as applicable, the analysis shall be attached to the smoke management plan in satisfaction of this requirement; and

This change, proposed by the staff to clarify that such an evaluation does not have to be duplicated if an approved NEPA or CEQA analysis has been conducted, was further modified in response to testimony to require that such an analysis be attached to the smoke management plan.

Section 80160(d) is amended to read:

- (d) If smoke may impact smoke sensitive areas, require smoke management plans to include appropriate monitoring, **which may include visual monitoring, ambient particulate matter monitoring or other monitoring approved by the district, as required by the district for the following burn projects:**
- (1) projects greater than 250 acres;
 - (2) projects that will continue burning or producing smoke overnight;
 - (3) projects conducted near smoke sensitive areas; or
 - (4) as otherwise required by the district.

This change has been made to clarify that monitoring is not limited to ambient particulate matter monitoring.

Section 80160(h) is amended to read:

- (h) Require that 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:
- (1) After consultation with the district, the district decides, for smoke management purposes, that the burn can be managed for resource benefit;
 - or
 - (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;
 - (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 benefit.

A “no-go” decision does not necessarily mean that the fire must be extinguished, but that the fire cannot be considered as a prescribed fire.

This change has been made to reflect the practical limitations of reaching district or ARB representatives on short notice and to ensure that reasonable attempts are made.

Section 80160(j) is amended to read:

- (j) Require the land manager or his/her designee conducting a prescribed burn to ensure that **all** conditions **and requirements** stated in the smoke management plan are met on the day of the burn event and prior to ignition.

Attachment B

This change has been made to ensure that all requirements stated in the smoke management plans must be met.

Miscellaneous Editorial and Other Non-Substantial Changes

1. Nonsubstantive changes have been made to the following sections to reflect alphabetical numbering as “subsection” and numerical numbering as “paragraph”:
80101(a)(2), 80101(r)(2), 80120(a), 80130(b), 80130(c), 80140(j), 80145(h), 80145(j), 80150(c)(1), and 80160(c).
2. Section 80140(l)
(l) After an air district smoke management program is approved by the ARB and the ARB finds that changes are necessary, the ARB shall discuss the findings with the air district and, in consultation with the district, **establish** an appropriate schedule for revising the smoke management program.

“Establish” was added as a verb to make a complete sentence.