

TITLE 17. CALIFORNIA AIR RESOURCES BOARD

PUBLIC HEARING TO CONSIDER THE ADOPTION OF A REGULATION PERTAINING TO THE CONDITIONAL RICE STRAW BURNING PERMIT PROGRAM

The Air Resources Board (Board or ARB) will conduct a public hearing at the time and place noted below to consider the adoption of regulations to implement the Conditional Rice Straw Burning Permit Program (Program).

DATE: September 28, 2000

TIME: 9:30 a.m.

PLACE: Air Resources Board
Hearing Room, Lower Level
2020 L Street
Sacramento, CA 95814

This item will be considered at a two-day meeting of the Board, which will commence at 9:30 a.m., September 28, 2000, and may continue at 8:30 a.m., September 29, 2000. Please be advised that this item will not be considered until after 2:00 p.m. on September 28, 2000. However, this item may not be considered until September 29, 2000. Please consult the agenda for the meeting, which will be available at least 10 days before September 28, 2000, to determine the day on which this item will be considered.

This facility is accessible to persons with disabilities. If accommodation is needed, please contact ARB's Clerk of the Board at (916) 322-5594, or Telephone Device for the Deaf (TDD) at (916) 324-9531, or (800) 700-8326 for TDD calls from outside the Sacramento area, at least 14 days before the hearing.

INFORMATIVE DIGEST OF PROPOSED ACTION AND PLAIN ENGLISH POLICY STATEMENT OVERVIEW

Sections Affected: Proposed amendments to section 80100, title 17, California Code of Regulations (CCR). Proposed adoption of sections 80156, 80157, 80158, and 80159, title 17 CCR.

Description of the Proposed Regulatory Action

Since 1991, rice growers in the Sacramento Valley Air Basin (Basin) have been participating in a reduction of rice straw burning. This reduction in burning was established by the Connelly-Areias-Chandler Rice Straw Burning Reduction Act of 1991. Beginning in 2001, growers will be allowed to burn up to the lesser of

25 percent of each growers planted acreage or 125,000 total acres in the Basin. However, allocations up to this amount will be allowed for disease control purposes only.

Section 41865 of the Health and Safety Code (HSC) requires ARB to adopt regulations for the issuance of conditional rice straw burning permits in the Basin. Beginning in September 2001, the local air pollution control officers may grant conditional rice straw burning permits only if the county agricultural commissioner and the applicant have met specified conditions to verify that the applicant's field is significantly impacted by a rice disease. ARB regulations will establish a framework for disease verification and permit issuance. The permit program will be locally adopted, in accordance with these regulations, by the Sacramento Valley Basinwide Air Pollution Control Council (Basinwide Council) once the regulation is adopted.

At the September 28, 2000, meeting, the staff will recommend the adoption of the regulations establishing a Conditional Rice Straw Burning Permit Program in the Basin. The staff is recommending that the Board authorize the Basinwide Council to submit a program containing the elements required by this regulation. Staff further recommends that the Executive Officer be specifically authorized to consider approval of the Basinwide Council's submittal. The Board will discuss and consider staff's recommendation after hearing public comment.

AVAILABILITY OF DOCUMENTS AND AGENCY CONTACT PERSON

ARB staff has prepared a Staff Report: Initial Statement of Reasons (ISOR) for the proposed Conditional Rice Straw Burning Permit Program, which includes the full text of the proposed regulatory language, a summary of the environmental and economic impacts of the proposal, and reporting requirements.

Copies of the staff report may be obtained from ARB's Public Information Office, 2020 L Street, Sacramento, California 95814, (916) 322-2990. This notice and the staff report are available on the ARB Internet site at <http://www.arb.ca.gov/regact/rice/rice.htm>. To obtain these documents in an alternative format, please contact the Air Resources Board ADA Coordinator at (916) 323-4916, TDD (916) 324-9531, or (800) 700-8326 for TDD calls from outside the Sacramento area.

The staff has also compiled a record that includes all information upon which the proposal is based. This material is available for inspection upon request to the agency contact person identified below.

The ARB has determined that it is not feasible to draft the regulation in plain English due to the technical nature of the regulation; however, a plain English summary of the regulation is available from the agency contact person named in this notice, and is also contained in the ISOR for this regulatory action.

Telephone inquiries regarding this matter should be directed to the agency contact person, Paul Buttner, Planning and Technical Support Division, Air Resources Board, P.O. Box 2815, Sacramento, California 95812, (916) 324-8622.

COSTS TO PUBLIC AGENCIES AND TO BUSINESSES AND PERSONS AFFECTED

The determinations of the Board's Executive Officer concerning the cost or savings necessarily incurred by public agencies and private persons and businesses in reasonable compliance with the proposed regulatory action are presented below.

The Executive Officer has determined that the proposed regulatory action will not create costs or savings, as defined in CCR section 11346.5(a)(6), to any state agency or in federal funding to the State, costs or mandate to any school district whether or not reimbursable by the State pursuant to part 7 (commencing with section 17500), division 4, title 2 of the Government Code, or non-discretionary costs or savings to the state. However, the proposed regulatory action will create costs to local agencies from program mandates that are recoverable through local authority to levy permit fees, sufficient to pay for the mandates within the meaning of section 17556 of the Government Code. County agricultural commissioners will incur these costs for the review of conditional rice straw burn permit applications and inspection reports. ARB staff expects these costs to average approximately \$8,000 per year, for each county in the Basin with planted rice acreage.

In developing this regulatory proposal, ARB staff evaluated the potential economic impacts and/or benefits on private persons and businesses. The Executive Officer has determined that the proposed regulatory action will not have a significant adverse economic impact on businesses, including the ability of California businesses to compete with businesses in other states, or on private persons or businesses directly affected. Growers who may burn a maximum of 25 percent of their acreage for disease control purposes will realize an economic benefit. Burning of rice straw is the most cost-effective method currently available to dispose of the straw.

In accordance with CCR section 11346.3(b)(1), the Executive Officer has determined that the proposed amendments will have no significant impacts on the creation or elimination of jobs within the State of California, no significant impacts on the creation of new businesses and the elimination of existing businesses within the State of California, and no significant impacts on the expansion of businesses currently doing business within the State of California. A detailed assessment of the economic impacts of the proposed amendments can be found in the staff report.

The Board's Executive Officer has also determined, pursuant to Government Code section 11346.5(a)(3)(B), that the regulation will affect small business. Staff estimates that the majority of growers that will utilize the Conditional Rice Straw Burning Permit Program are small businesses. They will incur some cost to pursue a conditional rice straw burning permit. However, if their request is approved, they will benefit from the use of burning for disposal and disease control.

Before taking final action on the proposed regulatory action, ARB must determine that no alternative considered by the agency would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons or businesses than the proposed action. The Board's action to adopt a regulation is expressly required by HSC 41865(e). Staff recommends that the Board make a finding that no known alternative would be as effective and less burdensome.

SUBMITTAL OF COMMENTS

The public may present comments on this matter orally or in writing at the hearing, and in writing or by e-mail before the hearing. For consideration by ARB, written submissions must be addressed to and received by the Clerk of the Board, Air Resources Board, P.O. Box 2815, Sacramento, California 95812, or 2020 L Street, 4th Floor, Sacramento, California 95814, no later than 12:00 noon, September 27, 2000, or received by the Clerk of the Board at the hearing. To be considered by ARB, e-mail submissions must be addressed to rice00@listserv.arb.ca.gov and received no later than 12:00 noon, September 27, 2000.

ARB requests, but does not require, 30 copies of any written submission. Also, ARB requests that written and e-mail statements be filed at least 10 days prior to the hearing so that ARB staff and Board Members have time to fully consider each comment.

STATUTORY AUTHORITY AND REFERENCES

This regulatory action is proposed under the authority granted to ARB in sections 39600, 39601, 41856, 41859 and 41865 of the Health and Safety Code. This action is proposed to implement, interpret, or make specific sections 39011, 39025, 39053, 41850, 41852, 41853, 41854, 41855, 41856, 41857, 41858, 41859, 41861, 41862, 41863, and 41865 of the Health and Safety Code.

HEARING PROCEDURES

The public hearing will be conducted in accordance with the California Administrative Procedure Act, title 2, division 3, part 1, chapter 3.5 (commencing with section 11340) of the CCR. Following the public hearing, ARB may adopt the regulatory language as originally proposed or with nonsubstantial or grammatical modifications. ARB may also adopt the proposed regulatory language with other modifications if the modifications are sufficiently related to the originally proposed text that the public was adequately placed on notice that the regulatory language as modified could result from the proposed regulatory action. In the event that such modifications are made, the full regulatory text, with the modifications clearly indicated, will be made available to the public for written comment at least 15 days before it is adopted.

The public may request a copy of the modified regulatory text from ARB's Public Information Office, 2020 L Street, Sacramento, California 95814, (916) 322-2990.

CALIFORNIA AIR RESOURCES BOARD

Michael P. Kenny
Executive Officer

Date: August 1, 2000