State of California
AIR RESOURCES BOARD

Resolution 00-32

September 28, 2000

Agenda Item No.: 00-9-3

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

WHEREAS, section 41865(i) of the Health and Safety Code allows rice growers, after September 1, 2001, to burn up to the lesser of 25 percent of each individual grower's planted acreage or 125,000 acres in the Sacramento Valley Air Basin as required for the control of qualifying rice diseases, in accordance with an established conditional rice straw burning permit program;

WHEREAS, sections 41865(e) and (h) of the Health and Safety Code requires the Board to adopt regulations for a conditional rice straw burning permit program to enable Sacramento Valley air pollution control districts to issue rice straw burning permits, provided that there are not economically and technically feasible alternative means of eliminating the disease(s);

WHEREAS, section 41865(h) of the Health and Safety Code requires that, after September 1, 2001, conditional permits for the burning of rice straw in the Sacramento Valley Air Basin may only be issued by air pollution control officers if the following specific terms and conditions are met:

1. The fields proposed for burning are specifically described.
2. The applicant has not violated any provisions of Health and Safety Code section 41865 within the previous three years.
3. During the growing season, the county agricultural commissioner has independently determined the significant presence of a pathogen in an amount sufficient to constitute a rice disease.
4. The county agricultural commissioner makes a finding that the existence of the pathogen will likely cause a significant, quantifiable reduction in yield in the field to be burned during the current or next growing season.

WHEREAS, a Conditional Rice Straw Burning Advisory Group was established by the Board and the California Department of Food and Agriculture (CDFA) to assist the Board in developing the regulations, as required by section 41865(e) of the Health and Safety Code;

WHEREAS, the Conditional Rice Straw Burning Advisory Group has recommended, and ARB staff has concurred, that the Sacramento Valley Basinwide Air Pollution Control Council (Basinwide Council) should be responsible for developing and adopting the conditional rice straw burning permit program in accordance with the Board's direction;

WHEREAS, the Board's staff has prepared regulations that establish a basic framework for establishing a conditional rice straw burning permit program in accordance with the specified criteria and consideration of their economic and technical feasibility, including the probable effect on agricultural production in the affected air basin;

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

WHEREAS, the staff has held public workshops and consultative meetings with the air districts, the CDFA, the county agricultural commissioners, interested business and industry representatives, environmental organizations, University of California researchers, and the public in developing the proposed regulations;

WHEREAS, the staff has prepared an "Initial Statement of Reasons for Rulemaking" (staff report) that describes the basis and rationale for the elements of the proposed regulations and has made that staff report available for public comment at least 45 days in advance of the Board Hearing;

WHEREAS, pursuant to the California Environmental Quality Act and Public Resources Code section 21159, the Board's staff has completed an environmental assessment of the regulations and has determined that they do not pose significant adverse environmental impacts;

WHEREAS, the Board has considered the impact of the proposed regulations on the economy of the State; and

WHEREAS, based upon the recommendations of the Conditional Rice Straw Burning Advisory Group, the staff report, oral and written public testimony, and other documents in the record, the Board finds that:

1. The regulation provides a framework for a flexible local program to be adopted and implemented by the Basinwide Council.

2. The adoption of disease significance thresholds for use by county agricultural commissioners to evaluate most disease situations for the first two years of the program will result in uniform program implementation throughout the Sacramento Valley Air Basin and a broad assessment of disease incidence in the region for that time period.

3. The inspection and reporting methods approved for use, in accordance with these regulations, have been developed, evaluated, tested, and recommended by the Conditional Rice Straw Advisory Group.

4. The inspector training program required by these regulations has been developed and tested by University of California educators and recommended by the Conditional Rice Straw Advisory Group.

5. The responsibilities of the county agricultural commissioners to review, evaluate, and approve or disapprove applicants' inspection reports are appropriately assigned as required by section 41865(f) of the Health and Safety Code.

6. The county agricultural commissioners may recover their costs for the execution of their program responsibilities in accordance with section 41865(g) of the Health and Safety Code.

7. Progress in developing disease-resistant rice and alternative means of reducing and eliminating rice disease should be encouraged and continuously evaluated.

8. Compliance with the proposed regulation will minimize rice straw burning to the maximum extent currently feasible and, when conducted in accordance with the Board's Agricultural Burning Guidelines in title 17 California Code of Regulations (CCR) sections 80100 et seq., will not pose significant adverse environmental impacts and may reduce smoke-related health impacts from agricultural burning.

9. No alternative proposed to or considered by the Board would be more effective in carrying out the purposes for which the regulation is proposed, or would be as effective and less burdensome to affected private persons or public agencies.

10. The cost of compliance with the proposed regulations is not expected to have a significant impact on California employment and should have no significant impact on the ability of the California rice industry to compete in the national market.

11. The regulation reasonably satisfies the statutory requirement to develop and adopt regulations to permit rice straw burning for disease control purposes in accordance with section 41865(e) of the Health and Safety Code.

NOW, THEREFORE, BE IT RESOLVED, that the Board hereby adopts the proposed regulations, consisting of amendments to section 80100 and new sections 80156 through 80159 of title 17 of the CCR, as set forth in Attachment A hereto.

BE IT FURTHER RESOLVED, that the Board directs the Executive Officer to review the conditional rice straw burning permit program submitted by the Basinwide Council and consider its approval in accordance with the criteria and process set forth in these regulations.

BE IT FURTHER RESOLVED, that the Board directs the Executive Officer, in consultation with CDFA, to conduct an annual review process to determine whether economically and technically feasible alternative means of eliminating rice diseases are available, and to report to the Board by September 1, 2003 and at least every two years thereafter, on the status of rice disease incidence in the Sacramento Valley Air Basin.

BE IT FURTHER RESOLVED, that the Board expresses its appreciation to the Conditional Rice Straw Advisory Group for its assistance in developing these regulations, to the Basinwide Council for its willingness to adopt and administer the conditional permit program, to CDFA and the county agricultural commissioners for their participation in the development of the program and commitment to their responsibilities in its implementation, and to University of California researchers for their time and expertise.

BE IT FURTHER RESOLVED, that the Board directs the Executive Officer to submit the adopted regulation to the Office of Administrative Law with a request that this regulation become effective upon filing with the Secretary of State in order to facilitate expeditious implementation of the regulations.

I hereby certify that the above is a true and correct copy of Resolution 00-32, as adopted by the Air Resources Board.

Marie Kavan

Marie Kavan, Clerk of the Board

Resolution 00-32

September 28, 2000

Identification of Attachment to the Resolution

Attachment A: Adoption of a Proposed Regulation Pertaining to the Conditional Rice Straw Burning Permit Program, as set forth in Appendix A to the Staff Report (released August 11, 2000), consisting of amendments to section 80100 and new sections 80156 through 80159 of title 17 of the CCR, as set forth in Attachment A hereto.