

State of California
AIR RESOURCES BOARD

**Final Statement of Reasons for Rulemaking,
Including Summary of Comments and Agency Responses**

**PUBLIC HEARING TO CONSIDER THE ADOPTION OF REGULATIONS
PERTAINING TO THE CONDITIONAL RICE STRAW BURNING PERMIT PROGRAM**

Public Hearing Date: September 28, 2000
Agenda Item No.: 00-9-3

I. GENERAL

This rulemaking was initiated by a Notice of Public Hearing to consider the adoption of a regulation establishing the Conditional Rice Straw Burning Permit Program required by section 41865 of the Health and Safety Code. The hearing notice was released and made available to the public on August 11, 2000. A Staff Report (Initial Statement of Reasons for the proposed regulation) was also made available for public inspection on August 11, 2000. The Staff Report, which is incorporated by reference herein, contained the text of the regulation as proposed by the staff, along with an extensive description of the rationale for the regulation. The proposed regulation would add sections 80155, 80156, 80157, 80158, and 80159 to the California Code of Regulations (CCR), title 17. It also included proposed amendments to section 80101, title 17, CCR.

At the public hearing conducted on September 28, 2000, the Air Resources Board (the Board or ARB) heard public testimony and considered the adoption of the regulation setting forth the Conditional Rice Straw Burning Permit Program. At this hearing, the staff presented the regulation proposed in the Staff Report released on August 11, 2000. After public testimony, the Board adopted the regulation via Resolution 00-32, which is incorporated by reference herein, and closed the public record.

Also at the September 28, 2000 hearing, staff proposed to modify section 80101 of title 17, CCR. Title 17, CCR, section 80101 had been amended on March 23, 2000, as part of amendments to California's agricultural burning regulations. These amendments had not yet been submitted to the Office of Administrative Law (OAL) and, therefore, were not legally effective when the Board adopted the regulation pertaining to the Conditional Rice Straw Burning Permit Program on September 28, 2000. For purposes of clarity, the previously amended agricultural burning regulations contained in section 80101 were identified by underline for the existing proposed additions and strikethrough for the existing proposed deletions. The new additions for the creation of the Conditional Rice Straw Burning Program were shown in double-underline and proposed deletions were shown in double-strikethrough. (We note that the

amendments to the agricultural burning regulations were approved by OAL on March 14, 2001, and are now in effect). Several grammatical, nonsubstantive changes were made to the final regulation order in accordance with title 1, CCR, section 100.

Mandates

The Board has determined that this regulatory action will result in a mandate for county agricultural commissioners in the Sacramento Valley. However, the Board finds that these costs are not reimbursable pursuant to part 7 (commencing with section 17500), division 4, title 2 of the Government Code, because Health and Safety Code section 41865(g) authorizes county agricultural commissioners to recover their costs through applicant fees.

Alternatives and Reports

The Staff Report released and made available to the public on August 11, 2000 did not include any proposed alternatives designed specifically to lessen the adverse economic impact on small businesses, nor were any identified and proposed by the public during the 45-day comment period prior to the September hearing. However, the initial proposed regulation reflected much public comment gathered during workshops and focused meetings prior to the 45-day comment period. Modifications to the preliminary draft proposal before the comment period officially began did lessen the resulting regulation's impact on small businesses.

The Board has further determined that no alternative considered by the agency, or that has otherwise been identified and brought to the attention of the agency, would be more effective in carrying out the purpose for which the regulatory action was proposed, or would be as effective and less burdensome to affected private persons, than the action taken by the Board.

Finally, in accordance with section 11346.3(c) of the Government Code, the Board has determined that the regulatory requirements applicable to the rice industry are necessary for public health and welfare.

II. SUMMARY OF COMMENTS

The ARB received six written comment letters during the 45-day comment period, and oral testimony was provided by three individuals at the public hearing on September 28, 2000. Five of the comment letters were in support of the regulation. The remaining letter, indicating neither support nor opposition, addressed a rice straw topic that was unrelated to the regulation. Set forth below is a summary of all individuals and organizations that provided written comments during the 45-day comment period and/or oral testimony at the public hearing on September 28, 2000. No comments were submitted by the Office of Small Business Advocate or the Trade and Commerce Agency.

45-day Comment Submittals

The following six organizations, industry groups, environmental organizations, local air districts, county agricultural commissioners offices, State departments, and concerned individuals submitted written comments during the 45-day comment period:

American Lung Association of California
Glenn County Agricultural Commissioner and Air Pollution Control District
Agri Ventures
California Department of Food and Agriculture
California Rice Commission
Sacramento Valley Basinwide Air Pollution Control Council

Oral Testimony at the September Hearing

Representatives of the following organizations, industry groups, local air districts, and county agricultural commissioner offices presented oral testimony at the hearing on September 28, 2000. Organizations identified with an asterisk (*) also submitted written comments during the 45-day comment period, as indicated above.

Agri Ventures*
California Rice Commission*
Colusa County Agricultural Commissioner and Air Pollution Control District

Comment Summary

All comments were in support of the regulation with the exception of written and oral comments from Agri Ventures. Their comments, indicating neither support nor opposition, addressed a rice straw topic that was unrelated to the regulation. Therefore, no further modifications were proposed.