

REGULATION VI. BURNING CONTROL

RULE 101. BURNING CONTROL

Adopted and effective 9/25/02

The purpose of this rule is to require that open burning in San Diego County be conducted in a manner that minimizes emissions and smoke, and is managed consistent with state and federal law.

(a) APPLICABILITY

This rule is applicable to any person conducting or allowing any open burning including, but not limited to:

- (1) Agricultural Burning
- (2) Prescribed Burning
- (3) Disposal of Russian Thistle (*Salsola Kali* or “tumbleweed”)
- (4) Fire Prevention or Fire Suppression Training
- (5) Fire Hazard Reduction Burning
- (6) Testing of materials, equipment, or techniques related to research or development of new or improved methods to abate or suppress fire
- (7) Residential Burning

(b) EXEMPTIONS

- (1) The provisions of this rule shall not apply to:
 - (i) The setting of backfires when conducted by a fire protection agency or when necessary to save life or property, in accordance with Public Resources Code Section 4426.
 - (ii) Recreational, ceremonial, and cooking fires, provided that clean dry fuel (limited to wood or charcoal), natural gas, propane, or cooking fuel is used and the fire is set in such manner as not to create a nuisance as defined in Rule 51.
 - (iii) Fireworks displays.
 - (iv) Pyrotechnics used for creation of special effects.
 - (v) Fires set in the remediation of oil spills pursuant to Government Code Section 8670.7.

(2) Subsections (d)(4) and (d)(5) shall not apply to authorized residential burning in the Eastern Section of the Air Pollution Control District of San Diego County.

(3) Fires set for Firefighter Training and Aviation Firefighting Training are not subject to the burning hour restrictions in (d)(6).

(4) Prescribed burning under an approved Smoke Management Plan may be conducted outside the burning hour restrictions in (d)(6) with daily consultation and approval by the Air Pollution Control Officer.

(c) **DEFINITIONS**

For the purposes of this regulation, the following definitions shall apply:

(1) **“Agricultural Burning”** means open burning of vegetation produced wholly from the growing and harvesting of crops in agricultural operations; including the burning of grass and weeds in fence rows, ditch banks, and berms in non-tillage orchard operations, fields being prepared for cultivation, agricultural wastes, and the operation or maintenance of a system for the delivery of water for agricultural operations.

(2) **“Agricultural Operation”** means any operation occurring on a ranch or farm directly related to the growing of crops, or raising of fowl or animals for the primary purpose of making a profit or for a livelihood, or conducting agricultural research or instruction by an educational institution.

(3) **“Agricultural Waste”** means unwanted or non-salable materials produced wholly from agricultural operations directly related to the growing of crops or raising animals for the primary purpose of making a profit or for a livelihood. The term does not include items such as diseased or dead animals, animal fur, feathers, pesticide and fertilizer containers, manure, plastic, rubber, ornamental or landscape vegetation, shop wastes, construction and demolition material, garbage, oil filters, discarded home and industrial appliances, tires, tar paper, broken boxes, pallets, sweat boxes, packaging or processing of agricultural products, orchard or vineyard waste, or any material generated as a result of land use conversion to nonagricultural purposes.

(4) **“Air Pollution Control Officer (APCO)”** means the same as defined in Rule 2.

(5) **“Approved Ignition Devices”** means those devices, instruments, or materials approved by a designated agency or the Air Pollution Control Officer that will ignite open fires without the production of black smoke by the ignition device, including, but not limited to, liquid petroleum gas, butane, propane, pressurized diesel fuel oil burners, and flares. Tires, tarpaper, oil, and other similar materials are not approved ignition devices.

(6) **“ARB”** means the California Air Resources Board.

(7) **“Aviation Firefighting Training”** means a series of fires ignited with aviation fuel and/or any other fuel consistent with published Federal or State training requirements, conducted for the purpose of training firefighters on proper response and extinguishment techniques for fires involving hazards unique to aviation.

(8) **“Backfire”** means a burn ignition technique where an auxiliary fire is ignited at the downwind side of a burn area and intended to burn into the wind towards the fuel source.

(9) **“Class I Area”** means the same as defined in Rule 20.1.

(10) **“Contraband”** means any property which is unlawful to produce or possess.

(11) **“Designated Agency”** means any agency designated by the ARB as having authority to issue agricultural burning, including prescribed burning, permits. The U.S. Department of Agriculture (USDA) Forest Service and the California Department of Forestry and Fire Protection (CDF) are so designated within their respective areas of jurisdiction.

(12) **“Eastern Section of the Air Pollution Control District of San Diego County”** means the same as defined in Rule 2.

(13) **“Firefighting Training”** means a series of fires ignited with liquid fuel and/or other fuel consistent with published Federal or State requirements conducted for the purpose of training firefighters on proper response and extinguishment techniques for fires.

(14) **“Fire Protection Agency”** means any agency with the responsibility and authority to protect people, property, and the environment from fire.

(15) **“Fire Hazard Reduction Burning”** means the burning of flammable vegetation that has been removed and cleared away from buildings or structures in compliance with local ordinances to reduce fire hazard pursuant to California Public Resources Code Section 4291.

(16) **“Infectious Waste”** means a waste generated from a type of microorganism, such as, bacteria, mold, parasite, or virus that normally causes, or significantly contributes to the cause of increased morbidity or mortality of human beings or animals.

(17) **“Land Manager”** means any federal, state, local, or private entity that administers, directs, oversees, or controls the use of public or private land, including the application of fire to the land.

(18) **“National Ambient Air Quality Standards”** means the same as defined in Rule 20.1.

(19) **“No-burn Day”** means any day on which the District prohibits open burning.

(20) **“Open Burning”** means the ignition and subsequent burning, or ignition, decomposition and subsequent burning of solid, liquid, or gaseous materials, outside of a combustion chamber with or without a visible flame and not vented through a chimney or flue. A burn barrel is considered open burning.

(21) **“Open Outdoor Fire”** means any fire ignited in the open, including in a burn barrel, or in any device other than a multiple-chamber incinerator, as defined in Rule 2.

(22) **“Permissive-burn Day,” or “Burn Day”** means any day on which the District does not prohibit agricultural burning and prescribed burning.

(23) **“Prescribed Burning”** means planned open burning to achieve the specific objectives identified by a land manager on lands selected in advance for removal of:

- (i) (i)vegetation from land predominantly covered with chaparral, trees, grass, or standing brush; or
- (ii) forest vegetation or debris for the purposes of forest protection; or
- (iii) brush, weeds, or vegetation to promote a healthier environment for plant or animal species or to re-establish native plant species; or
- (iv) disease and pest prevention.

(24) **“Residential Burning”** means an open outdoor fire for the disposal of the combustible or flammable solid waste from a single- or two-family dwelling on its premises. Residential burning does not include hospital waste, tires, tarpaper, paint cans, plastics, pallets, construction or demolition debris, paper, oily waste materials, flammable solid or liquid waste, feathers, animal fur, diseased or dead animals, organic fertilizer, and non-combustible containers.

(25) **“San Diego Air Basin”** means, for the purpose of burn permit decision making, all of San Diego County, except for that portion in the Salton Sea Air Basin. Burn decisions for this excepted portion in the Salton Sea Air Basin are specified by the ARB.

The eastern portion of San Diego County is geographically in the Salton Sea Air Basin. For purposes of outdoor burning, those portions of San Diego County included in the Salton Sea Air Basin must abide by the burn day declaration made for the Salton Sea Air Basin. When the ARB declares a Marginal Burn Day in the Salton Sea Air Basin, the District will declare a No Burn Day for that portion of San Diego County included in the Salton Sea Air Basin. This decision is made daily by the ARB and is conveyed to the public through the District’s Agricultural Burn forecast system.

The San Diego Air Basin is defined as follows: except that portion which lies east of a line beginning at the U.S.-Mexico border and running north along the range line common to R. 7 E and R. 6 E, San Bernardino Base and Meridian; to the southeast corner of T. 16 S, R. 6 E; then west along the township line common to T. 16 S and T. 17 S to the southwest corner of T. 16 S, R. 6 E; then north along the range line common to R. 6 E and R. 5 E to the southeast corner of T. 14 S, R. 5 E; then west along the township line common to T. 14 S and T. 15 S to the point of intersection with the east boundary of Cuyamaca Park; then north along the east boundary of Cuyamaca Park to the point of intersection with the range line common to R. 5 E and R. 4 E; then north along this range line to the point of intersection with the south boundary of the San Felipe Land Grant; then east and north along the land grant boundary to the easternmost corner; then continuing west and north along the land grant boundary to the point of intersection with the range line common to R. 5 E and R. 4 E; then north along this range line to the point of intersection with the township line common to T. 10 S and T. 9 S; then west along this township line to the point of intersection with the range line common to R. 4 E and R. 3 E; then north along this range line to the San Diego-Riverside County boundary.

(26) **“Smoke Management Plan”** means a document prepared for each fire by a land manager that provides the information and procedures required in such plans by Title 17, of the California Code of Regulations Section 80160.

(27) **“Smoke Sensitive Areas”** means areas where the Air Pollution Control Officer determines that smoke and air pollutants can adversely affect public health or welfare. Such areas can include, but are not limited to, cities, towns, villages, campgrounds, trails, populated recreational areas, hospitals, nursing homes, schools, roads, airports, public events, shopping centers, and mandatory Class I areas.

(28) **“State Ambient Air Quality Standards”** means the same as defined in Rule 20.1.

(29) **“Western Section of the Air Pollution Control District of San Diego County”** means the same as defined in Rule 2.

(30) **“Wildland”** means an area where development is generally limited to roads, railroads, power lines, and widely scattered structures. Such land is not cultivated (i.e., the soil is disturbed less frequently than once in ten years), is not fallow, and is not in the United States Department of Agriculture (USDA) Conservation Reserve Program. The land may be neglected altogether or managed for such purposes as wood or forage production, wildlife, recreation, wetlands, or protective plant cover.

For CDF only, “Wildland” as specified in California Public Resources Code Section 4464(a) means any land that is classified as a state responsibility area pursuant to Article 3 (commencing with Section 4125) of Chapter 1, Part 2 of Division 4 of that Code and includes any such land having a plant cover consisting principally of grasses, forbs, or shrubs that are valuable for forage. “Wildland” also means any lands that are contiguous to lands classified as a state responsibility area if wildland fuel accumulation is such that a wildland fire occurring on this land would pose a threat to the adjacent state responsibility area.

(31) **“Wildland Fire”** means any non-structural fire, other than prescribed fire, that occurs in the wildland.

(d) **STANDARDS**

(1) Prohibited Open Burning

A person shall not conduct or allow open burning for:

(i) Residential burning in the Western Section of the Air Pollution Control District of San Diego County.

(ii) Disposal or reduction of materials generated as a result of land use conversion for non-agricultural purposes.

(iii) Disposal of military ordnances or propellants by detonation unless the open detonation is conducted on permissive burn days, providing such burning is conducted in compliance with Subsection (d)(3)(ii) and the local fire protection agency having jurisdiction determines immediate detonation is the only safe means of disposal.

(iv) The setting of backfires except those set by a fire protection agency or when necessary to save life or property, in accordance with Public Resources Code Section 4426.

(v) Disposal of containers used for pesticides, fertilizers, or other chemicals, and other similar materials.

(vi) The disposal of drugs and illegal contraband.

(vii) Salvage of metal or motor vehicle parts or bodies.

(viii) Disposal of waste including, but not limited to, hospital or infectious waste, diseased or dead animals, animal fur, feathers, manure, rubber, ornamental or landscape vegetation, shop waste, oil filters, discarded home and industrial appliances, tires, tar paper, broken boxes, paint cans, plastics, pallets, sweat boxes, construction or demolition debris, paper, oily waste materials, flammable solid or liquid waste, and non-combustible containers.

(ix) Fire hazard reduction burning unless the local fire protection agency determines the materials cannot be abated by an economically, ecologically, and logistically viable option; and unless all of the following conditions are met:

(A) Only vegetation is burned;

(B) The amount of material to be burned shall be cleared from a single property and cut and piled in a safe manner as specified by the designated agency having jurisdiction;

(C) The material is burned on the property where it has grown without being moved offsite.

(2) Written Permits Required

A written permit from a designated agency or the Air Pollution Control Officer must be obtained prior to the following types of open burning:

- (i) Agricultural burning.
- (ii) Prescribed burning.
- (iii) Disposal of Russian Thistle (*Salsola Kali* or “tumbleweed”), and such burning must be authorized by a fire protection agency, the San Diego County Agricultural Commissioner, or the Air Pollution Control Officer.
- (iv) Fire hazard reduction burning.
- (v) Disposal of waste infected with an agricultural pest or disease hazardous to agricultural operations, such burning must be upon the order of the San Diego County Agricultural Commissioner.
- (vi) Fires set for the purpose of training public or industrial employees in the methods of fighting fires.
- (vii) Firefighting training involving the burning of existing structures conducted in compliance with all requirements of Rule 361.145, National Emission Standard for Asbestos.
- (viii) Aviation Firefighting Training.
- (ix) Residential burning located in the Eastern Section of the Air Pollution Control District of San Diego County.
- (x) Right-of-way clearing by a public entity or utility or for levee and ditch bank maintenance by such entities.
- (xi) Fires set for the purpose of researching or testing fire retardant properties of materials (or enclosures) or the efficacy of fire suppression techniques or devices.

(3) A person shall not conduct or allow open burning unless:

- (i) The Air Pollution Control Officer has declared the day a permissive burn day and such burning is not prohibited by a fire protection agency. The Air Pollution Control Officer will base the declaration of a permissive/prohibited burn day as follows.

A permissive-burn day will be declared when the following meteorological criteria are met:

(A) Above 3,000 feet mean sea level (msl)*:

(1) Near 4:00 a.m., the inversion top is less than 3,000 feet msl or the temperature difference through the inversion is less than seven degrees Fahrenheit; and

(2) The expected daytime resultant wind speed between 3,000 and 6,000 feet msl is at least five miles per hour.

(B) Below 3,000 feet msl*:

(1) The maximum mixing depth is expected to be at least 1,500 feet msl; and

(2) The expected daytime resultant wind direction in the marine layer has a westerly component; and

(3) The expected daytime resultant wind speed in the marine layer is at least five miles per hour.

*In place of the standard 3,000 feet msl threshold, the elevation may be specified in increments of 500 feet on a day-to-day basis as determined from vertical temperature soundings.

(ii) A written open burning permit has first been obtained from a designated agency or the Air Pollution Control Officer; and

(iii) For prescribed burning, all conditions of the District Smoke Management Program (described in Subsection (e)) are met.

(4) Open burn permits pursuant to this rule shall be valid for a maximum of fifteen (15) consecutive days, unless the designated agency or the Air Pollution Control Officer authorizes, in writing, a longer period.

(5) A person shall not conduct or allow open burning unless the designated agency is notified on the day of the burn prior to the ignition of any fire set in accordance with this rule.

(6) Open burning pursuant to this rule shall be conducted during daylight hours specified by the designated agency or the Air Pollution Control Officer. Criteria for daylight burns are as follows: During winter months, no ignition shall be allowed before 8:00 a.m., local time. This definition of winter months shall coincide with those days when the local time is set to Pacific Standard Time (i.e., last Sunday in October through first Saturday in April). During summer months, no ignition shall be allowed before 7:00 a.m., local time. This definition of summer months shall coincide with those days when the local time is set to Pacific Daylight Time (i.e., first Sunday in April

through last Saturday in October). No material shall be added to the fire that would cause it to burn beyond sunset of each day. All fires subject to this rule shall be extinguished at sunset of each day. The designated agency or the Air Pollution Control Officer may allow fires set by or under the supervision of governmental agencies administering formal prescribed burning programs to burn beyond sunset, provided it is impractical to extinguish such fires at sunset and burning beyond sunset will not result in a nuisance as defined in Rule 51.

(7) A person shall ignite the material to be burned as rapidly as practicable within applicable fire control regulations using only approved ignition devices.

(8) Additional requirements for agricultural burning:

(i) The material to be burned shall be sufficiently dry to allow for maximum combustion efficiency.

(ii) A person shall not conduct or allow the open burning of agricultural waste unless it has been allowed to dry for the following minimum times:

(A) Trees and large branches (4" or more in diameter): 60 days.

(B) Prunings and small branches (less than 4" in diameter): 30 days.

(C) Field crop waste and other similar agricultural wastes: 15 days.

(D) For all other agricultural wastes not specifically listed above: 10 days. However, the designated agency or the Air Pollution Control Officer may stipulate other drying times for any of the above items where such drying times can be reasonably expected to substantially reduce smoke, which would otherwise be produced. The designated agency or the Air Pollution Control Officer, upon written request, may grant an exception to the drying time limits if vegetation is pest infested and requires immediate treatment by order of the San Diego County Agricultural Commissioner.

Drying time starts from the date the material was felled or cut.

(iii) A person shall not conduct or allow the open burning of agricultural waste unless it is reasonably free of dirt, soil, and visible moisture and arranged so that it will burn with a minimum amount of smoke.

(9) Open burning shall be prohibited when meteorological conditions, as determined by the Air Pollution Control Officer, would result in the burn causing or contributing to an exceedance of a state or national ambient air quality standard or causing a public nuisance.

(10) Suspension of Burn Permits.

Burn permits issued in accordance with this rule shall be automatically suspended for any of the following reasons:

(i) The Air Pollution Control Officer declares a “no-burn day.” (Note that pursuant to Subsection (d)(3), open burning is never allowed on no-burn days.)

(ii) The designated agency having jurisdiction over the site of the burn notifies the permittee the burn is prohibited for purposes of fire control or prevention.

(iii) The designated agency or the Air Pollution Control Officer notifies the permittee that a fire would result in excessive smoke drifting into a smoke sensitive area.

(iv) When the Air Pollution Control Officer announces smog alerts or health advisories.

(11) A person shall not conduct or allow residential burning (when otherwise allowed) unless the material is reasonably free of dirt, soil, and visible moisture and arranged so that it will burn with a minimum amount of smoke.

(e) DISTRICT SMOKE MANAGEMENT PROGRAM

The District Smoke Management Program provides for the continuation of agricultural burning, including prescribed burning, as a resource management tool while minimizing smoke impacts on the public. The District's Smoke Management Program sets forth procedures and other requirements mandated by Title 17, California Code of Regulations, Section 80145.

The Air Pollution Control Officer may revise and update the Smoke Management Program to reflect changes in required forms, daily forecast procedures and dissemination protocols, and other communication requirements between land managers and the District.

(1) When prescribed burning will be set under a Smoke Management Plan, the land manager shall register all planned burn projects annually, including areas for potential naturally-ignited wildland fires managed for resource benefits, with updates as they occur. Copies of all forecasted burns and annual summaries of activities for the past year, including emissions information, shall be made available to the Air Pollution Control Officer upon request. If the Smoke Management Plan is for range improvement and the burn is conducted primarily for improvement of land for wildlife and game habitat, the land manager shall file a statement from the Department of Fish and Game with the Air Pollution Control Officer as part of his/her Smoke Management Plan certifying that the burn is desirable and proper.

(2) The land manager conducting a prescribed burn shall 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, and must contact the Air Pollution Control District at least 24 hours prior to ignition to obtain authorization.

(3) The land manager shall conduct or allow prescribed burning only when the fires are set by, under the jurisdiction of, or pursuant to the orders or requirements of a fire protection agency.

(4) Prior to conducting or allowing prescribed burning for any project greater than ten acres or estimated by the land manager to produce more than one ton of particulate matter with aerodynamic diameter of 10 microns or less, the land manager shall have a Smoke Management Plan approved in writing by the Air Pollution Control Officer. At a minimum, the Smoke Management Plan shall contain the following information:

- (i) Location, types, and amounts of material to be burned;
- (ii) Expected duration of the fire from ignition to extinction;
- (iii) Identification of responsible personnel, including telephone contacts;
and
- (iv) Identification and location of all smoke sensitive areas.

(5) Prior to conducting or allowing prescribed burning for any project greater than 100 acres, or estimated by the land manager to produce more than 10 tons of particulate matter with aerodynamic diameter of 10 microns or less, the Smoke Management Plan shall contain, at a minimum, the following information:

- (i) Location, types, and amounts of material to be burned;
- (ii) Expected duration of the fire from ignition to extinction;
- (iii) Identification of responsible personnel, including telephone contacts;
- (iv) Identification and location of all smoke sensitive areas;
- (v) Identification of meteorological conditions necessary for burning;
- (vi) The smoke management criteria the land manager or his/her designee will use for making burn ignition decisions;
- (vii) Projections, including a map, of where the smoke from the burn is expected to travel, both day and night;
- (viii) Specific contingency actions (such as fire suppression or containment) that will be taken if smoke impacts occur or meteorological conditions deviate from those specified in the Smoke Management Plan;
- (ix) Alternatives to burning; and

(x) Discussion of public notification procedures as required in Title 17, California Code of Regulations, Section 80160, including appropriate signage at burn sites, and reporting of public smoke complaints.

(6) The land manager shall specify in the Smoke Management Plan appropriate smoke monitoring, which may include visual, ambient particulate matter, or other monitoring approved by the Air Pollution Control Officer, if a prescribed burn of any of the following types may impact a smoke sensitive area:

- (i) Projects greater than 250 acres;
- (ii) Projects that will continue burning or produce smoke overnight; or
- (iii) Other projects as determined by the Air Pollution Control Officer.

(7) The land manager shall coordinate daily with the designated agency and the Air Pollution Control Officer for multi-day burns which may impact smoke sensitive areas to affirm that the burn project remains in compliance with conditions specified in the Smoke Management Plan.

(8) The land manager shall submit to the Air Pollution Control Officer a post-burn smoke management evaluation for fires greater than 250 acres.

(9) The Air Pollution Control Officer shall prioritize the issuance of burn permits related to Subsections (e)(4), (e)(5), and (e)(6) if such action is necessary to maintain suitable air quality.