

**AIR POLLUTION CONTROL DISTRICT
COUNTY OF SAN DIEGO**

**REPEAL OF RULES 101, 102, 103, 104,
105, 106, 107, 108, 109, 110, 111, AND 112
AND
ADOPTION OF NEW RULE 101 – BURNING CONTROL**

WORKSHOP REPORT

A notice of workshop for repeal of existing Rule 101 through Rule 112 and adoption of new Rule 101 was mailed to local fire districts, economic development corporations, local chambers of commerce in San Diego County, U.S Environmental Protection Agency (EPA), California Air Resources Board (ARB), and other interested parties. The workshop was held on May 9, 2002. Oral and written comments were received. The comments and District responses are as follows:

1. WORKSHOP COMMENT

What is the District's opinion regarding the burn-hour limitations, and is it only applicable to crash fire rescue training? Is firefighting training for the burning of standing brush or buildings also to be allowed?

DISTRICT RESPONSE

The exemption specified in Subsection (b)(3) allows firefighting training to be conducted after sunset regardless to whether the training is for standing brush or buildings. This exemption has been modified to also include aviation firefighting training.

2. WORKSHOP COMMENT

Why does the proposed definition of "Prescribed Burning" place restrictions on the individual landowner who may want to develop his/her own Smoke Management Plan? The definition requires an individual landowner who wants to conduct prescribed burning to be a public agency or have a cooperative agreement or contract with a public agency. This places an unnecessary burden on the landowner.

DISTRICT RESPONSE

The District agrees. The definition of "Prescribed Burning" has been revised.

3. **WORKSHOP COMMENT**

Has the one-day training day in a 30-day period been eliminated?

DISTRICT RESPONSE

Yes, it has been eliminated.

4. **WRITTEN COMMENT**

Will the District accept an e-mailed Smoke Management Plan?

DISTRICT RESPONSE

The District previously accepted Smoke Management Plans to be reviewed in a "screening" mode (i.e., to look over a plan to see if all elements have been adequately addressed). However, it is often difficult to attach maps of sufficient quality and resolution to be useful for plan review and approval. It is also important to have the signature page included in an approved Smoke Management Plan. The District will not accept electronic signatures for this purpose. Therefore, the District will continue to require that Smoke Management Plans be delivered by hand or conventional mail.

5. **WRITTEN COMMENT**

The County of San Diego, in conjunction with the California Department of Forestry and Fire Protection (CDF), recently adopted the Consolidated Fire Code (San Diego Ordinance 9397). To reduce the possibility of the outbreak of an uncontrollable fire, this ordinance extends the brush clearance requirement from 30 feet to 100 feet. During fire season, CDF only allows fire hazard reduction burning from 8:00 a.m. to 10:00 a.m., and since the new ordinance will likely increase the amount of clearing and burning, there is a need to allow fire hazard reduction burning prior to 8:00 a.m.

DISTRICT RESPONSE

The District agrees. Burning hours covered under Subsection (d)(6) have been revised. The District has defined acceptable burn hours for winter and summer seasons based upon the observance of Daylight Savings Time.

6. WRITTEN COMMENT - EPA

Open burning of military ordinance material is prohibited except where burning is the only safe means of disposal. However, open detonation of military ordinance material is allowed at any time by exemption from the rule. This appears to be inconsistent.

DISTRICT RESPONSE

The District agrees. Subsections (a)(5) and (b)(1)(v) have been deleted, and Subsection (d)(1)(iii) has been revised.

7. WRITTEN COMMENT-EPA

Open burning shall not be conducted unless the Air Pollution Control Officer (APCO) has declared a permissive burn day and burning is not prohibited by a fire protection agency. We believe enforceability is limited by excessive Director's discretion to declare a permissive burn day.

DISTRICT RESPONSE

The District agrees. Subsection (d)(3)(i) has been modified and will include meteorology criteria for burn decisions made by the APCO.

RULE 101. BURNING CONTROL

...

(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:

(Moved from (d)(2)(iv))

(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, ~~including the disposal of flammable vegetative materials that the local fire protection agency determines cannot be abated by an economically, ecologically, and logistically viable option, provided all of the following conditions are met:~~

(Moved to (d)(1)(ix))

~~(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.~~

(v) Disposal of waste infected with an agricultural pest or disease hazardous to agricultural operations ~~when~~, and such burning must be upon the order of the San Diego County Agricultural Commissioner.

...

(10) Suspension of Burn Permits.

~~The designated agency or the Air Pollution Control Officer may suspend in writing,~~
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 ~~declares~~ notifies the permittee the burn is prohibited for purposes of fire control or prevention.

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

...

(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 ~~is~~ 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.

...