

REGULATION III - OPEN BURNING

Rule 300 General Definitions.

- A. Agricultural Operation. As defined for open burning; the growing and harvesting of crops, or the raising of fowl or animals for the primary purpose of making a profit, or providing a livelihood, or the conduct of agricultural research or instruction by an educational institution, and includes the burning of grass and weeds in or adjacent to fields in cultivation or being prepared for cultivation. Agricultural operations include forest management, range improvement, wildland vegetation management, or disease or pest prevention. (Section 39011)
- B. Agricultural Wastes. As defined in open burning:
1. Unwanted or unsellable material produced wholly from agricultural operations.
 2. Materials not produced wholly from agricultural operations, but which are intimately related to the growing or harvesting of crops and which are used in the field, such as fertilizer and pesticide sacks or containers are emptied in the fields, except as prohibited in this Regulation. This does not include such items as shop wastes, demolition materials, garbage, oil filters, tires, pallets, waste oil, etc.(Title 17,80100)
- C. APCD. The Air Pollution Control District of Tuolumne County.
- D. APCO. The Air Pollution Control Officer of the Air Pollution Control District of Tuolumne County, or designated representative.
- E. Approved Ignition Devices. Those instruments or materials that will ignite open fires without the production of black smoke, including such items as liquid petroleum gas (L.P.G.), butane, propane, or diesel oil burners, flares, or other similar material as approved by the APCO. Tires, tar, tar paper, oil and other similar materials are not approved.
- F. ARB. The California Air Resources Board, or any person authorized to act on its behalf.
- G. Brush Treated. The material to be burned has been felled, crushed or uprooted with mechanical equipment, has been desiccated with herbicides, or is dead.
- H. Designated Agency. Any agency designated by the ARB as having authority to issue agricultural burning permits. The U.S. Forest Service

and the California Department of Forestry are so designated within their respective areas of jurisdiction. (Title 17,80100)

- I. No-Burn Day. Any day on which Agricultural burning is prohibited by the State board or by a District.
- J. Open Out-Door Fire. As used in this Regulation means: Combustion of any combustible material of any type, outdoors in the open air, where the product of combustion is not directed through a flue.
- K. Permissive Burn Day. Any day on which Agricultural burning is not prohibited by the State board.
- L. Person. Any person, firm, association, organization, partnership, business trust, corporation, company, contractor, supplier, installer, operator, user or owner, any government agency or public district or any officer or employee thereof.
- M. Prescribed Burning. Prescribed Burning is defined in this rule as the planned application of fire to vegetation on lands selected in advance of such application, where any of the purposes of the burning are specified in the definition of agricultural burning as set forth in Section 39011.
- N. Section. As used in these Rules and Regulations, unless some other code is specifically mentioned, all section references are to the California Health and Safety Code.
- O. Silviculture Practices. The establishment, development, care and reproductive of stands of timber.
- P. Timber operations. The cutting or removal of timber or other forest vegetation.

Rule 301 Compliance.

- A. Enforcement. This Regulations shall be enforced by the APCO under the authority of Section 40001, 40702 and 40752, and by all officers empowered by Section 40120.
- B. Criminal and Civil Penalties. A violation of this Regulation, or of Section 41800 or 41852, is a misdemeanor punishable in accordance with Sections 42400, 42400.1 and 42400.2, and is subject to civil penalties in accordance with Sections 42401, 42402, 42402.1, 42402.2 and 42403. In addition, the cost of putting out any unauthorized open outdoor fires may be imposed pursuant to Section 42400.5 on any person violating Section 41800 or 41852.

- C. Administrative Civil Penalties. In lieu of any other civil and criminal penalties, administrative civil penalties of up to \$500.00 per violation may be assessed pursuant to this Subsection and Section 42402.5 for violations of this Regulation or of Section 41800 or 41852.
1. The APCO shall give written notice to the person against whom administrative penalties are proposed to be assessed. The notice shall identify the proposed penalty amount and the nature of the alleged violation. The notice shall also advise the recipient that he or she may review the APCO's evidence pertaining to the alleged violation, and may within 10 days of receipt of the notice make a written request for an administrative hearing pursuant to this Subsection. If a hearing is not requested within 10 days, the APCO may issue an order assessing the penalty on the violator.
 2. Upon a timely request, an administrative hearing shall be conducted pursuant to the following procedures:
 - a. The hearing shall be conducted by the APCO, provided that an alternative Hearing Officer shall be appointed by the APCO for good cause.
 - b. The person who has requested the hearing shall be given reasonable notice of the time and place of the hearing. The person shall have an opportunity to present oral or written evidence and argument. A tape recording or transcript shall be made of the hearing.
 3. Following the hearing, the hearing officer shall render a written notice of decision. The notice of decision shall be delivered or sent certified mail to the person who requested the hearing. The decision shall state whether the hearing officer has determined the person has committed a violation as charged, and shall state the basis for that determination. If the hearing officer determines that the person has committed a violation, the notice of decision shall include an order assessing an administrative penalty in accordance with this Subsection. The order shall also notify the person of his or her appeal rights under this Subsection.
 4. Within 10 days of receipt of a notice of decision and order, a person may appeal the decision and order to the District's Hearing Board. The appeal need not be formal, but it shall be in writing and signed by the appellant or his or her authorized agent, and shall state the grounds for the appeal. Any party may, at the time of filing the appeal or within 10 days thereafter, present written

evidence and a written argument to the Board. The Board may grant oral arguments upon application made at the time written arguments are filed. The Board shall decide the appeal on any oral or written argument, briefs, and evidence that has been received. The Board may sustain, modify by reducing the amount of the fine assessed, or reverse the decision of the Hearing Officer. A copy of the Board's decision shall be delivered or mailed to the appellant and the APCO.

5. Penalty Schedule. The following schedule shall provide guidelines for the setting of administrative penalties imposed pursuant to this subsection. The penalty may be varied, up to \$500 per violation, in light of exacerbating or mitigating circumstances.
 - a. Rule 302.1 permit requirement; \$50 - 100 for first offense. \$200 - 500 for second offense.
 - b. Rule 303.1 burn/no burn day; \$50 - 100 for first offense, \$200 - 500 for second offense.
 - c. Rule 310.1 prohibited material; \$100 - 500 for first offense, \$500 for second offense.
 - d. Multiple violations--\$250 for first offense, \$500 for second offense.

6. The filing of a complaint for civil or criminal penalties pursuant to Sections 42400 et seq. shall preclude assessment of administrative civil penalties for the same violation. The final assessment of administrative civil penalties pursuant to this subsection shall preclude any subsequent complaint for criminal or civil penalties for the same violations pursuant to Sections 42400 et seq.

Rule 302 Burning Permits.

302.1 Requirements.

- A. No person shall knowingly set or permit open outdoor fires unless that person has been issued a valid permit by the APCO or a designated agency. (Section 41852).
- B. A permit shall not be issued unless information is provided as required by the APCO or a designated agency, including:
 1. Name and address of the applicant.

- 2. Location of proposed burn.
 - 3. Acreage or estimated tonnage, and type of material to be burned.
 - 4. Any other information the APCO or the designated agency may deem pertinent.
- C. Each permit issued shall bear a statement of warning containing the following words or words of like or similar import: " THIS PERMIT IS VALID ONLY ON THOSE DAYS DURING WHICH AGRICULTURAL BURNING IS NOT PROHIBITED BY THE STATE AIR RESOURCES BOARD OR THE AIR POLLUTION CONTROL DISTRICT PURSUANT TO SECTION 41855 OF THE HEALTH AND SAFETY CODE." (Section 41854).
- D. The designated agency shall forward the permit information received from applicants to the APCO within 48 hours for permit review.
- E. A designated agency shall not issue an APCD permit to itself or to another designated agency.

302.2 Exception.

Residential and Recreational open burning as described in Rule 310.2 E and F are exempt from burning permits from the APCO. This does not exempt persons from permits required by other agencies in compliance with the Public Resources Code or other ordinances.

Rule 303 Burn or No-Burn Day.

303.1 Prohibition.

No person required to comply with this Rule shall knowingly permit open outdoor fires on days when such burning is prohibited by ARB, the APCO, or the fire agency with appropriate jurisdiction.(Section 41854)

303.2. Permissive Burn or No-Burn Days.

- A. A notice as to whether the following day is a permissive-burn day, or no-burn day, or whether the decision will be announced the following day, shall be provided by the ARB by 3:00 p.m. daily for each of the air basins. If the decision is made by the following day it shall be announced by 7:45 a.m. Such notices shall be based on the Meteorological Criteria for Regulating Agricultural Burning, Article 3, Sections 80180 through 80320 of these Agricultural Burning Guidelines.

- B. Agricultural burning is prohibited on no-burn days, except as specified in Section 80102, subdivisions (d) and (e), and as may be permitted by a provision in an implementation plan adopted pursuant to Section 80150(c)(5).
- C. Upon request from a permittee through a designated agency, seven days in advance of a specific range improvement burn, forest management burn, or wildland vegetation management burn, at any elevation below 6,000 ft. (msl), a permissive-burn or no-burn notice will be issued by the ARB up to 48 hours prior to the date scheduled for the burn. Without further request, a daily notice will continue to be issued until a permissive-burn notice is issued.
- D. Notwithstanding subdivision (c) of Section 80110, the ARB may cancel permissive-burn notices that have been issued more than 24 hours in advance if the cancellation is necessary to maintain suitable air quality.
- E. A permissive-burn or no-burn advisory outlook will be available up to 72 hours in advance of burns specified in subdivision (c) of Section 80110.

303.3 Exception.

The APCO may issue a special permit to authorize the use of open outdoor fires on No-Burn Days, when denial of such a permit would threaten imminent and substantial economic loss. In authorizing such burning a District shall limit the amount of acreage which can be burned in any one day and only authorize burning downwind of metropolitan areas forecasted by the Air Resources Board to achieve the ambient standards. (Section 41862)

Rule 304 Burning Management Requirements. (Title 17 - Section 80150)

- A. Material to be burned shall be arranged so that it will burn with a minimum of smoke.
- B. Except for large trees (diameter of six or more inches), only the amount that can be reasonably expected to completely burned within the following twenty-four hours shall be ignited in any one day.
- C. All outdoor fires shall be ignited only with approved ignition devices.
- D. Material to be burned shall be ignited as rapidly as practicable within applicable fire control restrictions.
- E. Mitigating measures shall be taken when smoke is drifting into a nearby populated area or creating a public nuisance.

- F. No material shall be burned unless it is free of tires, rubbish, tar paper, plastic, demolition and construction debris; is reasonably free of dirt, soil, and moisture; and is loosely stacked in such a manner to promote drying and insure combustion with a minimum of smoke.
- G. Any other conditions that the APCO may deem pertinent.

Rule 305 Minimum Drying Times.

305.1 Requirements.

As specified in Title 17, 80160; to lower the moisture content of the material being burned, the elapsed time between cutting and burning shall be:

- A. A minimum of three days for green straw and stubble.
- B. Sufficient time for agricultural waste such as orchard prunings, small branches, vegetable tops, and seed screenings to assure rapid and complete combustion with a minimum of smoke.
- C. A minimum of six weeks for trees, stumps, and large branches greater than six inches in diameter.
- D. A minimum of 6 months, if economically and technically feasible for brush. (Applicable to Range Improvement Burning only.)
- E. Material to be windrowed and piled when required. (Applicable to Forest Management Burning only.)

305.2 Exception.

The APCO may, by permit, authorize shorter drying times if the denial of such a permit would threaten imminent and substantial economic loss.

Rule 306 Agricultural Burning.

306.1 Definition.

Agricultural Burning is defined in this rule as any open outdoor fire used in agricultural operations or in operation or maintenance of a water delivery system for agricultural operations. Burning of material other than material produced from an agricultural operation is not allowed by this rule.

306.2 Agricultural Burning Requirement.

- A. Agricultural burning is allowed by complying with the following Rules:

1. Rule 302 Burning Permit
 2. Rule 303 Burn or No-Burn Day
 3. Rule 304 Burning Management
 4. Rule 305 Minimum Drying Times
- B. Burning conducted by a Public Agency or through a cooperative agreement or contract involving a public agency, shall comply with Rule 307, instead of this Rule.
- C. No burning shall be conducted for the improvement of land for wildlife or game wildlife or game habitat until the person who desires to conduct the burning files with the APCO a written statement from the Department of Fish and Game that certifies that the burning is desirable and proper. If the Department of Fish and Game wishes to conduct the burn itself, it shall, on its own behalf, issue and file the statement. (Section 41861)

306.3 Exception.

The burning of empty sacks or containers which contained pesticides or fertilizers is exempt from 306.2, provided that the sacks or containers are within the definition of Agricultural Waste, Rule 300 (B).(Title 17, 80100)

Rule 307 Wildland Vegetation Management Burning.

307.1 Definition.

Wildland Vegetation Management Burning is defined in this rule as the use of prescribed burning conducted by a public agency or through a cooperative agreement or contract involving a public agency to burn land predominately covered with chaparral (as defined in the California Administrative Code, Title 14, Section 1561.1), trees, grass or standing brush.

307.2 Wildland Vegetation Management Burning Requirements.

- A. This rule applies to all burning which meets the definition as stated in Rule 307, regardless of whether such burning also meets another definition within this regulation.
- B. The APCO may regulate total acreage or tonnage that may be burned each day within the district.
- C. The APCO may regulate burning or require mitigation when the meteorological conditions could otherwise cause smoke to create or contribute to an exceedance of a state or federal ambient air quality standard or cause a public nuisance.

- D. All open outdoor fires shall be ignited as rapidly as practicable with the applicable fire control restrictions and only with approved ignition devices as defined in Rule 300.E.
- E. Vegetation burned under this rule shall be free of tires, rubbish, tar paper or construction debris, and reasonably free of dirt and soil.
- F. Vegetation will be in a condition to facilitate combustion and minimize the amount of smoke emitted during combustion.
- G. Wildland Vegetation Management burning must comply with the requirements:
 - 1. Rule 302 Burning Permit
 - 2. Rule 303 Burn or No-Burn Day
 - 3. Rule 307.3 Burn Plan

307.3 Burn Plan.

The following information will be provided to the APCO for review and approval at least 14 days in advance of the proposed burn:

- A. Location and specific objectives of the proposed burn.
- B. Acreage or tonnage, type, and arrangement of vegetation to be burned.
- C. Directions and distance to nearby sensitive receptor areas.
- D. Fuel condition, and combustion and meteorological prescription elements developed for the project.
- E. Projected schedule and duration of project ignition, combustion and burn down.
- F. Specifications for monitoring and verifying critical project parameters.
- G. Specification for disseminating project information.
- H. Other information requested by the APCO.

307.4 Exceptions.

- A. The APCO may exempt project burns smaller in area or tonnage than threshold levels established by the District.

- B. The APCO may exempt projects located in zones as established by the District.

Rule 308 Forest Management Burning

308.1 Definition.

Forest Management Burning is defined as the use of open outdoor fires, in forest management, for forest debris removal or for timber operation, silvicultural or forest protection practices.

308.2 Forest Management Burning is allowed by complying with the following Rules:

- A. Rule 302 Burning Permit
- B. Rule 303 Burn and No-Burn Day
- C. Rule 305 Minimum Drying Times
- D. Rule 307.2 Wildland Vegetation Management Burning Requirements
- E. Rule 307.3 Burn Plan
- F. Rule 307.4 Exceptions

Rule 309 Range Improvement Burning

309.1 Definition.

Range Improvement Burning is defined as the use of open fires to remove vegetation for a wildlife, game, or livestock habitat or for the initial establishment of an agricultural practice on previously uncultivated land.

309.2 Range Improvement Burning is allowed by complying with the following Rules:

- A. Rule 302 Burning Permit
- B. Rule 303 Burn and No-Burn Day
- C. Rule 305 Minimum Drying Times
- D. Rule 307.2 Wildland Vegetation Management Burning Requirements
- E. Rule 307.3 Burn Plan
- F. Rule 307.4 Exceptions

309.3 Range Improvement Burning if done primarily for wildlife and game habitat must also comply with Rule 306.2 (C), Fish & Game Certification.

Rule 310 Miscellaneous Burning

310.1 Prohibition

Except as otherwise provided in this Regulation, no person shall use open outdoor fires for the purpose of disposal or burning of petroleum wastes, plastics, construction or demolition debris, tires, tar, trees, wood waste, or other combustible or flammable solid or liquid waste; or for metal salvage or burning of motor vehicle bodies. (Section 41800)

310.2 Exceptions.

A. Land Development Clearing.

1. The APCD finds it more economically desirable to dispose of wood waste from trees, vines, and bushes on property being developed for commercial or residential purposes by burning instead of burial at a sanitary landfill.
2. This material shall be allowed for disposal by burning in compliance with the following Rules:
 - a. Rule 302 Burning Permit
 - b. Rule 303 Burn and No-Burn Day
 - c. Rule 304 Burning Management
 - d. Rule 305 Minimum Drying Times
3. Any other required permits as issued by other agencies shall be obtained and shall be valid.

B. Ditch and Road Maintenance.

1. The use of open outdoor fires for right-of-way clearing by a public entity, or utility, or for levee, ditch, or reservoir maintenance shall be allowed in compliance with the following Rules:
 - a. Rule 302 Burning Permit
 - b. Rule 303 Burn and No-Burn Day
 - c. Rule 304 Burning Management
 - d. Rule 305 Minimum Drying Times

2. Any other required permits as issued by other agencies shall be obtained and shall be valid.

C. Hazard Reduction.

1. The burning of vegetation such as, vines, bushes and waste from trees produced by fire safe clearing on property where grown will be allowed when this burning is done in compliance with State and local law ordinance to reduce a fire hazard. (Section 41802)
2. The burning shall be done in compliance with the following Rules:
 - a. Rule 302 Burning Permit
 - b. Rule 303 Burn and No-Burn Day
 - c. Rule 304 Burning Management
 - d. Rule 305 Minimum Drying Times
3. Any other required permits as issued by other agencies shall be obtained and shall be valid.
4. If a fire officer with jurisdiction determines that a condition exists in which a fire hazard will have an imminent effect on life, or property, or where other authorized officials determine that a health hazard exists and that there is no alternative to burning, all other provisions of this Regulation shall be waived.

D. Fire Suppression and Training.

Nothing in these Rules and Regulations shall be construed as limiting the authority of any public fire official granted under provisions of law to:

1. Set or permit a fire when such fire is, in his opinion, necessary for the instruction of public employees, and/or volunteer firemen, or on property used for industrial purposes, when instructing employees in the methods of fighting fires.
2. The burning shall be done in compliance with Rule 302, Burning Permit Requirements, and prior approval of the APCO.
3. Set or cause to be set backfires necessary to save lives, or valuable property pursuant to Section 4426 of the Public Resources Code. (Section 41801)

E. Residential Maintenance.

The burning of residential rubbish, that which originates from a single or two family dwelling, limited to untreated wood, paper, cardboard, tree trimmings, leaves, lawn clippings, and plants shall be allowed under the following conditions:

1. Burning shall be allowed only on the premises where the material originated.
2. Burning is allowed by complying with the following Rules:
 - a. Rule 303 Burn and No-Burn Day
 - b. Rule 304 Burning Management
 - c. Rule 305 Minimum Drying Times
3. Any other required permit as issued by other agencies shall be obtained and shall be valid.

F. Recreational Activity.

The use of open outdoor fires in recreational activities shall be allowed under the following conditions:

1. Material to be burned shall be limited to charcoal, untreated wood, or cooking fuels.
2. Burning shall be managed in compliance with Rule 304, Burning Management.
3. Any other required permit as issued by other agencies shall be obtained and shall be valid.

G. Mechanized Burner Requirements.

The APCO may authorize, by permit, open outdoor fires for the purpose of disposing agricultural wastes, or wood waste from trees, vines, bushes, or other wood debris free of non-wood materials, in a mechanized burner such that no air contaminant is discharged for a period or periods aggregating more than 30 minutes in any eight hour period which is:

1. As dark or darker in shade as that designated No.1 on the Ringlemann Chart, as published by the United States Bureau of Mines, or

2. Of such opacity as to obscure an observer's view to a degree equal to or greater than does smoke described in subsection A of these rules.

In authorizing the operation of a mechanized burner, the APCO may make the permit subject to whatever conditions he determines are reasonably necessary to assure conformance with the standards prescribed in this Regulation. (Section 41812)

H. Non-Industrial Wood Waste by City or County.

The disposal by a city or county of non-industrial wood waste from trees, vines and brush at sites located above 1500 feet elevation mean sea level will be allowed. Burning under this subdivision requires a permit from the Air Pollution Control Officer, approval by the Air Resources Board, and is further subject to the conditions specified in Section 41803, 41804 and 41804.5 of the Health and Safety Code.