

**BAY AREA AIR QUALITY MANAGEMENT DISTRICT
939 ELLIS STREET
SAN FRANCISCO, CA 94109**

CEQA INITIAL STUDY

BACKGROUND

Project

Proposed amendments to BAAQMD Regulation 3: Fees and Regulation 5: Open Burning

Lead Agency

Bay Area Air Quality Management District
939 Ellis Street
San Francisco, CA 94109

Contact Person

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Project Location

This proposed amendments apply within the area covered by the Bay Area Air Quality Management District. The District includes all of seven counties - Alameda, Contra Costa, Marin, San Francisco, San Mateo, Santa Clara, and Napa - and portions of two others - southwestern Solano and southern Sonoma.

Project Description

The proposal consists of amendments to existing District Regulations 5 and 3. Regulation 5 was originally adopted as the BAAQMD's first regulation in 1957. The regulation (then called Regulation 1) was primarily intended to regulate open burning of trash, a common practice in the Bay Area at the time. The regulation was subsequently amended several times and was expanded to cover a much broader range of burning activities. In 1980, the regulation was recodified as Regulation 5. Regulation 3 establishes a fee schedule for air quality permits and other District activities.

The proposed Regulation 5 amendments would primarily affect Marsh Management fires and Wildland Vegetation Management fires. The amendments apply requirements for Wildland Vegetative Management fires to four other types of fires: (1) Forest Management fires, (2) Range Management fires, (3) Hazardous Material fires other than those required to comply with section 4291 of the California Public Resources Code (which requires creation of firebreaks by means that can include burning), and (4) Crop Replacement fires

for the purpose of establishing an agricultural crop on previously uncultivated land. These four fires would also be subjected to the new fees if the fire is expected to exceed 10 acres in size or burn piled vegetation cleared or generated from more than 10 acres of land. These four fires are considered prescribed burning under the revised Agricultural Burning Guidelines in Title 17 Subchapter 2 of the California Code of Regulations (the "new Guidelines"), which were adopted by the California Air Resources Board and recently became effective.

For Marsh Management fires, the proposal would require, effective June 1, 2002, all marsh or tule burners to (1) submit a smoke management plan at least 30 days prior to a proposed burn and receive APCO approval of the plan before burning; (2) receive an acreage burning allocation from the APCO prior to burning, instead of from the Solano County Sheriff's Dispatch; and (3) report the acreage and tonnage actually burned to the APCO no later than 12:00 p.m. the day after burning occurs. In addition, persons conducting these burns would be required to submit a written determination of the necessity of the burn from the California Department of Fish and Game (DFG) to the ACPO for verification at least 30 days prior to proposed burning. Effective June 1 2002, DFG would be able to authorize the burn only after the APCO verifies that the necessity determination was made.

For Wildland Vegetation Management fires, the proposal would require prescribed burners to (1) provide additional, more specific information in prescribed burn plans submitted to the District; (2) prior to ignition, receive an acreage burning allocation from the APCO on each day of a burn; (3) effective June 1, 2002, report the acreage and tonnage actually burned to the APCO no later than 12:00 p.m. the day after burning occurs; and (4) submit a post-burn evaluation of the burn project within 30 days after completion.

In addition, effective June 1, 2002, any fire official who would conduct a naturally-ignited wildfire managed for resource benefits (a type of prescribed burning) that is expected to exceed 10 acres must annually register the project in writing with the APCO prior to December 31, with updates as they occur; provide a smoke management plan to the APCO upon request, and satisfy the prescribed burning fee requirements in proposed Schedule R.

Effective June 1, 2002, each marsh burner and prescribed burner would also be required to maintain specified records that document and verify actual acreage burned on a daily basis. These records must also be maintained for at least twelve months and be made available to the APCO upon request.

The Regulation 5 proposal also revises the definition of prescribed burning to include any Forest Management fire, Range Management fire, Hazardous Material fire that is not related to section 4291 of the State Public Resources Code, and any Crop Replacement fire for the purpose of establishing an agricultural crop on previously uncultivated land if the fire is expected to exceed 10 acres in size or burn piled vegetation generated from more than 10 acres of land. In effect, this revision would subject the above fires to the same requirements as Wildland Vegetation Management fires.

Additional Regulation 5 amendments proposed would: (1) modify compliance standards to include certain existing requirements not clearly enforceable in other provisions of the regulation; (2) restrict and clarify existing burn hours for all

allowable fires; (3) require a person to attempt to cease burning upon District staff notification of complaints received; (4) require tree trunks and stumps to be cut or split before burning to prevent overnight smoldering; and (5) conditionally allow fire training burns at night and public exhibition burns on no-burn days. These proposed amendments are intended to improve the clarity and enforceability of the regulation, address open burning issues identified since 1994 when the regulation was last revised, and minimize the potential adverse impacts caused by excessive smoke from open burning activities in the District.

The proposed amendments to Regulation 3 add a new fee schedule for certain open burning activities. Proposed Schedule R is intended to recover a portion of the District's projected cost to develop, implement and administer our new smoke management program for prescribed burning. The proposed open burning fees would primarily apply to Marsh Management fires (i.e., marsh or tule burning) and Wildland Vegetation Management fires (i.e., prescribed burning). Any Forest Management fire, Range Management fire, Hazardous Material fire that is not related to section 4291 of the State Public Resources Code, and any Crop Replacement fire for the purpose of establishing an agricultural crop on previously uncultivated land would also be subjected to the new fees if the fire is expected to exceed 10 acres in size or is estimated to produce more than 1-ton of particulate matter emissions.

The proposed amendments would affect public and private landowners that conduct marsh burning, prescribed burning, or other allowable open burning activities. Some local, state, and federal public fire protection and resource management agencies in the District would also be affected. Some examples of the public agencies affected by the proposed amendments include the Suisun Resource Conservation District, the California Departments of Fish & Game, Forestry & Fire Protection, Parks & Recreation, the National Park Service, U. S. Fish & Wildlife Service, Bureau of Land Management, county fire departments and local fire districts.

This initial study is being conducted to determine if the proposed amendments to Regulation 5 and Regulation 3 may have a significant effect on the environment. The study that follows includes an assessment that identifies and evaluates this proposal's potential adverse environmental impacts. The study also provides documentation of the factual basis for a formal finding of the potential impacts and the type of CEQA document that will be prepared for this proposal.

Environmental Setting

The BAAQMD is classified as a non-attainment area for the California and federal ambient air quality standards for ozone, and a non-attainment area for the California ambient air quality standard for PM₁₀. The environmental setting for this rule is fully described in the final EIR prepared for the Bay Area 1991 Clean Air Plan.

Other Approvals Required

None

Environmental Factors Potentially Affected

A check beside an impact category below indicates that, for the category, this project involves at least one impact that is a "Potentially Significant Impact" as indicated by the checklist on the following pages.

- | | | |
|--|---|---|
| <input type="checkbox"/> Aesthetics | <input type="checkbox"/> Agriculture Resources | <input type="checkbox"/> Air Quality |
| <input type="checkbox"/> Biological Resources | <input type="checkbox"/> Cultural Resources | <input type="checkbox"/> Geology / Soils |
| <input type="checkbox"/> Hazards/Hazardous Mat'l | <input type="checkbox"/> Hydrology/Water Quality | <input type="checkbox"/> Land Use/Planning |
| <input type="checkbox"/> Mineral Resources | <input type="checkbox"/> Noise | <input type="checkbox"/> Population/Housing |
| <input type="checkbox"/> Public Services | <input type="checkbox"/> Recreation | <input type="checkbox"/> Transportation/Traffic |
| <input type="checkbox"/> Utilities/Service Systems | <input type="checkbox"/> Mandatory Findings of Significance | |
| <input checked="" type="checkbox"/> No Potentially Significant Impacts | | |

DETERMINATION

On the basis of this initial evaluation:

- I find the proposed project **COULD NOT** have a significant effect on the environment, and a **NEGATIVE DECLARATION** will be prepared.

- I find that although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because revisions in the project have been made by the project proponent. A **MITIGATED NEGATIVE DECLARATION** will be prepared.

- I find the proposed project **MAY** have a significant effect on the environment, and an **ENVIRONMENTAL IMPACT REPORT** is required.

- I find the proposed project **MAY** have a “potentially significant impact” or “potentially significant unless mitigated” impact on the environment, but at least one effect (1) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and (2) has been addressed by mitigation measures based on the earlier analysis as described on attached sheets. An **ENVIRONMENTAL IMPACT REPORT** is required, but it must analyze only the effects that remain to be addressed.

- I find that, although the proposed project could have a significant effect on the environment, there **WILL NOT** be a significant effect in this case because all potentially significant effects (1) have been analyzed adequately in an earlier EIR pursuant to applicable standards, and (2) have been avoided or mitigated pursuant to that earlier EIR, including revisions or mitigation measures from the EIR that are imposed upon the proposed project.

Douglas E. Tolar
Air Quality Specialist II

Date

ENVIRONMENTAL IMPACT CHECKLIST

(Note: All answers are explained on attached sheets.)

	Potentially Significant Impact	Less Than Significant With Mitigation	Less Than Significant Impact	No Impact
1. Aesthetics. Would the proposal:				
a. Have a substantial adverse effect on a scenic vista?	_____	_____	_____	_____X_____
b. Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?	_____	_____	_____	_____X_____
c. Substantially degrade the existing visual character or quality of the site and its surroundings?	_____	_____	_____	_____X_____
d. Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?	_____	_____	_____	_____X_____
2. Agriculture Resources. Would the proposal:				
a. Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?	_____	_____	_____	_____X_____
b. Conflict with existing zoning for agricultural use, or a Williamson Act contract?	_____	_____	_____	_____X_____
c. Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use?	_____	_____	_____	_____X_____
3. Air Quality. Would the proposal:				
a. Conflict with or obstruct implementation of the applicable air quality plan?	_____	_____	_____	_____X_____

	Potentially Significant Impact	Less Than Significant With Mitigation	Less Than Significant Impact	No Impact
b. Violate any air quality standard or contribute substantially to an existing or projected air quality violation?	_____	_____	_____	<u> X </u>
c. Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors)?	_____	_____	_____	<u> X </u>
d. Expose sensitive receptors to substantial pollutant concentrations?	_____	_____	_____	<u> X </u>
e. Create objectionable odors affecting a substantial number of people?	_____	_____	_____	<u> X </u>

4. Biological Resources. Would the project:

a. Have a substantial adverse effect, either directly or through habitat modification, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?	_____	_____	_____	<u> X </u>
b. Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?	_____	_____	_____	<u> X </u>
c. Have a substantial adverse effect on federally-protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?	_____	_____	_____	<u> X </u>

	Potentially Significant Impact	Less Than Significant With Mitigation	Less Than Significant Impact	No Impact
d. Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?	_____	_____	_____	<u> X </u>
e. Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?	_____	_____	_____	<u> X </u>
f. Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?	_____	_____	_____	<u> X </u>

5. Cultural Resources. Would the project:

a. Cause a substantial adverse change in the significance of a historical resource as defined in §15064.5?	_____	_____	_____	<u> X </u>
b. Cause a substantial adverse change in the significance of an archaeological resource pursuant to §15064.5?	_____	_____	_____	<u> X </u>
c. Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?	_____	_____	_____	<u> X </u>
d. Disturb any human remains, including those interred outside of formal cemeteries?	_____	_____	_____	<u> X </u>

6. Geology and Soils. Would the project:

a. Expose people or structure to potential substantial adverse effects, including the risk of loss, injury, or death involving:				
i. Rupture of known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? (Refer to the Division of Mines and Geology Special Publication 42)	_____	_____	_____	<u> X </u>

	Potentially Significant Impact	Less Than Significant With Mitigation	Less Than Significant Impact	No Impact
ii. Strong seismic ground shaking?	_____	_____	_____	<u> X </u>
iii. Seismic-related ground failure, including liquefaction?	_____	_____	_____	<u> X </u>
iv. Landslides?	_____	_____	_____	<u> X </u>
b. Result in substantial soil erosion or the loss of topsoil?	_____	_____	_____	<u> X </u>
c. Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction, or collapse?	_____	_____	_____	<u> X </u>
d. Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property?	_____	_____	_____	<u> X </u>
e. Have soils incapable of adequately supporting the use of septic tanks or alternative waste water disposal systems where sewers are not available for the disposal of waste water?	_____	_____	_____	<u> X </u>

7. Hazards and Hazardous Materials. Would the project:

a. Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?	_____	_____	<u> X </u>	_____
b. Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?	_____	_____	_____	<u> X </u>
c. Emit hazardous materials or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?	_____	_____	_____	<u> X </u>

	Potentially Significant Impact	Less Than Significant With Mitigation	Less Than Significant Impact	No Impact
d. Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would create a significant hazard to the public or the environment?	_____	_____	_____	<u> X </u>
e. For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area?	_____	_____	_____	<u> X </u>
f. For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area?	_____	_____	_____	<u> X </u>
g. Impair the implementation of, or physically interfere with, an adopted emergency response plan or emergency evacuation plan?	_____	_____	_____	<u> X </u>
h. Expose people or structures to a significant risk of loss, injury, or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?	_____	_____	_____	<u> X </u>

8. Hydrology and Water Quality. Would the project:

a. Violate any water quality standards or waste discharge requirements?	_____	_____	_____	<u> X </u>
b. Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net reduction in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted)?	_____	_____	_____	<u> X </u>

	Potentially Significant Impact	Less Than Significant With Mitigation	Less Than Significant Impact	No Impact
c. Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on- or off-site?	_____	_____	_____	<u> X </u>
d. Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site?	_____	_____	_____	<u> X </u>
e. Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff?	_____	_____	_____	<u> X </u>
f. Otherwise substantially degrade water quality?	_____	_____	_____	<u> X </u>
g. Place housing within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map?	_____	_____	_____	<u> X </u>
h. Place within a 100-year flood hazard area structures which would impede or redirect flood flows?	_____	_____	_____	<u> X </u>
i. Expose people or structures to a significant risk of loss, injury, or death involving flooding, including flooding as a result of the failure of a levee or dam?	_____	_____	_____	<u> X </u>
j. Inundation by seiche, tsumani, or mudflow?	_____	_____	_____	<u> X </u>
9. Land Use and Planning. Would the project:				
a. Physically divide an established community?	_____	_____	_____	<u> X </u>

	Potentially Significant Impact	Less Than Significant With Mitigation	Less Than Significant Impact	No Impact
b. Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to, the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?	_____	_____	_____	<u> X </u>
c. Conflict with any applicable habitat conservation plan or natural community conservation plan?	_____	_____	_____	<u> X </u>

10. Mineral Resources. Would the project:

a. Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?	_____	_____	_____	<u> X </u>
b. Result in the loss of availability of a locally-important mineral resource recovery site delineated on a local general plan, specific plan, or other land use plan?	_____	_____	_____	<u> X </u>

11. Noise. Would the project result in:

a. Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?	_____	_____	_____	<u> X </u>
b. Exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels?	_____	_____	_____	<u> X </u>
c. A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?	_____	_____	_____	<u> X </u>
d. A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?	_____	_____	_____	<u> X </u>

	Potentially Significant Impact	Less Than Significant With Mitigation	Less Than Significant Impact	No Impact
e. For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?	_____	_____	_____	<u> X </u>
f. For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels?	_____	_____	_____	<u> X </u>

12. Population and Housing. Would the project:

a. Induce substantial growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?	_____	_____	_____	<u> X </u>
b. Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere?	_____	_____	_____	<u> X </u>
c. Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?	_____	_____	_____	<u> X </u>

13. Public Services. For any of the following public services, would the project require the construction of new or physically-altered governmental facilities to maintain acceptable service ratios, response times, or other performance objectives, thereby producing significant environmental impacts:

a. Fire protection?	_____	_____	_____	<u> X </u>
b. Police protection?	_____	_____	_____	<u> X </u>
c. Schools?	_____	_____	_____	<u> X </u>
d. Parks?	_____	_____	_____	<u> X </u>
e. Other public facilities?	_____	_____	_____	<u> X </u>

Potentially Significant Impact	Less Than Significant With Mitigation	Less Than Significant Impact	No Impact
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14. Recreation.

- | | | | | |
|--|-------|-------|-------|--------------|
| a. Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated? | _____ | _____ | _____ | <u> X </u> |
| b. Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment? | _____ | _____ | _____ | <u> X </u> |

15. Transportation and Traffic. Would the project:

- | | | | | |
|--|-------|-------|-------|--------------|
| a. Cause an increase in traffic which is substantial in relation to the existing traffic load and capacity of the street system (i.e., result in a substantial increase in either the number of vehicle trips, the volume-to-capacity ratio on roads, or congestion at intersections)? | _____ | _____ | _____ | <u> X </u> |
| b. Exceed, either individually or cumulatively, a level of service standard established by the county congestion management agency for designated roads or highways? | _____ | _____ | _____ | <u> X </u> |
| c. Produce a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks? | _____ | _____ | _____ | <u> X </u> |
| d. Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersection) or incompatible uses (e.g., farm equipment)? | _____ | _____ | _____ | <u> X </u> |
| e. Result in inadequate emergency access? | _____ | _____ | _____ | <u> X </u> |
| f. Result in inadequate parking capacity? | _____ | _____ | _____ | _____ |
| g. Conflict with adopted policies, plans, or programs supporting alternative transportation (e.g., bus turnouts, bicycle racks)? | _____ | _____ | _____ | <u> X </u> |

Potentially Significant Impact	Less Than Significant With Mitigation	Less Than Significant Impact	No Impact
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16. Utilities and Service Systems. Would the project:

- | | | | | |
|---|-------|-------|-------|--------------|
| a. Exceed the wastewater treatment requirements of the applicable Regional Water Quality Control Board? | _____ | _____ | _____ | <u> X </u> |
| b. Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects? | _____ | _____ | _____ | <u> X </u> |
| c. Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects? | _____ | _____ | _____ | <u> X </u> |
| d. Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed? | _____ | _____ | _____ | <u> X </u> |
| e. Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments? | _____ | _____ | _____ | <u> X </u> |
| f. Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs? | _____ | _____ | _____ | <u> X </u> |
| g. Comply with federal, state, and local statutes and regulations related to solid waste? | _____ | _____ | _____ | <u> X </u> |

Potentially Significant Impact	Less Than Significant With Mitigation	Less Than Significant Impact	No Impact
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17. Mandatory Findings of Significance.

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|---|-------|-------|-------|--------------|
| a. Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal, or eliminate important examples of the major periods of California history or prehistory? | _____ | _____ | _____ | <u> X </u> |
| b. Does the project have impacts that are individually limited, but cumulatively considerable? (“Cumulatively considerable” means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects.) | _____ | _____ | _____ | <u> X </u> |
| c. Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly? | _____ | _____ | _____ | <u> X </u> |

DISCUSSION OF ENVIRONMENTAL IMPACTS

Proposed Amendments to Regulation 3: Fees and Regulation 5: Open Burning

Introduction

This section of the Initial Study explains the reasons for checking the particular items checked in the checklist. Explanations are provided both for those items involving some potential impact and those for which no impact is anticipated.

Background

This project consists of amendments to existing Regulation 5: Open Burning, which prohibits open burning activities in the District with certain exceptions. The project also consists of amendments to existing Regulation 3 that establishes fees to be charged for certain activities.

Current BAAQMD Requirements

The District first regulated open burning in 1957 under Regulation 1 because of its considerable contribution to Bay Area air pollution. In 1980, after several revisions and as the number of other District regulations increased, Regulation 1 was recodified as Regulation 5. The last revisions to Regulation 5 were adopted in 1994.

Currently, Regulation 5 generally prohibits open burning within the District except for specific exceptions that conditionally allow fires on permissive burn days at certain times of the year. The exceptions or allowable fire types include both agricultural and non-agricultural fires.

For each day of the year, the District issues either a permissive burn day or no-burn day notice. District staff in the Meteorology and Data Analysis Section of the Technical Services Division makes this determination based on the meteorological conditions forecasted and criteria for the San Francisco Bay Area Air Basin. The criteria are based on the ability of smoke to rise and dissipate without causing ground level impacts. The burn day forecast is usually available by 3:00 p.m. for the following day. However, if conditions are warranted for a delayed burn decision, the forecast is made by 7:30 a.m. the following day. A permissive burn or no-burn day notice is issued for three forecast zones in the District, the North, South and Coastal Sections. In addition, for burns above elevations of 2000 feet in a section with a no-burn decision, a permissive burn day will be declared if specific meteorological criteria are met.

The District currently charges no fees for open burning and pays for its burn forecast program and its Regulation 5 enforcement activities out of general funds.

State Regulation

Assembly Bill (AB) 16 (Ketchum), Chapter 1579 of the Statutes of 1970, directed the California Air Resources Board (ARB) to establish guidelines for the control and regulation of agricultural burning by the air districts in California (see California Health and Safety Code Sections 41850 *et seq.*). Originally, agricultural burning was defined as open outdoor fires used in agricultural operations in the growing of crops or the raising of fowl or animals. In 1971, pursuant to AB16, the ARB established Agricultural Burning Guidelines for the burning of waste produced during agricultural operations (these Agricultural Burning Guidelines can be found in sections 80100 *et seq.* of Title 17 of the California Code of Regulations). The Agricultural Burning Guidelines have been modified many times since 1971. Major changes include amending the definition of agricultural burning to include open burning for the improvement of wildlife and game habitat and again for wildland vegetation management. The Agricultural Burning Guidelines were also amended to improve the quality of data reported by air districts and to improve management of smoke from rice straw burning in the Sacramento Valley (the Sacramento Valley Basinwide Agricultural Burning Plan).

State law prohibited agricultural burning without a permit issued by the agency designated by the California Air Resources Board to issue permits for the area in which the burning is to take place.

On March 23, 2000, ARB adopted amendments to the State's Agricultural Burning Guidelines. ARB staff developed the new Guidelines, which are now titled "Smoke Management Guidelines for Agricultural and Prescribed Burning," for several reasons:

- Increases in prescribed burning are planned by land management agencies on public and private lands throughout California over the next two decades. Though significant increases may occur in many areas in California, only minor increases above current levels are expected in the Bay Area. The planned increases are intended to correct unhealthy wildland ecosystems and reduce the risk of catastrophic wildfires in areas with excessive vegetative fuel loads, which are the unintentional result of past fire suppression policies and strategies. More effective smoke management is needed to minimize or prevent the potential public health and air quality impacts posed by these increases.
- Smoke emissions from wildfires and increased prescribed burning threaten California's ability to meet requirements for health-based air quality standards for fine particulate matter (PM_{2.5}), coarser particles (PM₁₀) and new federal regional haze requirements that call for improvements in visibility in designated Class 1 Areas (national parks, monuments, wilderness areas, etc.).
- Closer communication and collaboration between prescribed burners, CARB and local air districts is needed to prevent short-term, high-impact smoke episodes caused by prescribed burning activities.
- Population growth and increased urbanization of rural areas and agricultural lands have increased the potential for smoke impacts from prescribed burning and agricultural burning. Combined with the expected

increases in prescribed burning on neighboring public lands and in urban-wildland interface areas, more intensive management of these fires is needed to reduce the potential for smoke impacts.

The effective date of the amended Guidelines is March 14, 2001. One of the major changes requires local air districts to develop and implement a smoke management program that meets specific requirements of the Guidelines. This new program is also expected to be consistent with federal EPA's *Interim Air Quality Policy on Wildlands and Prescribed Fire*. The policy is designed to prevent or minimize smoke impacts from prescribed burning activities, and help the State meet federal requirements associated with EPA's national air quality standards for particulate matter and regional haze program, while at the same improving the quality of wildland ecosystems through the use of prescribed burning.

These Amendments

The District is exempt from the state smoke management guidelines because the legislation governing the state guidelines grandfathered existing open burning programs through California Health and Safety Code section 41864. That section grandfathers any program, such as the BAAQMD program, "in effect for five or more years prior to September 19, 1970." However, the District committed to satisfying the prescribed burning provisions of the new Guidelines in order to ensure statewide consistency, to ensure consistency with federal requirements and policy, to address within the Bay Area the same concerns that prompted revision of the state guidelines, and to address compliance or enforcement issues identified since 1994, when Regulation 5 was last amended.

The primary environmental effect of these amendments is to reduce potential adverse impacts from prescribed burning in the Bay Area. This prescribed burning is expected to have environmental benefits through improving wildlife habitats, improving the health of ecosystems by removing destructive non-native vegetation, and reducing risks of uncontrolled fires.

1. Aesthetics

Open burning activities do have the potential to impact aesthetics. However, the proposed amendments are not expected to change the total amount or types of open burning that are presently occurring or are expected to occur in the District. Fire agencies currently plan increases in the amount of prescribed burning. However, the amendments will, through a system to regulate acreage burned and to ensure compliance with conditions on burning, mitigate some of the adverse impacts from the increase in prescribed burning. Though increased burning could affect scenic vistas, the effect of these amendments would be to minimize those impacts. Thus, no scenic vistas, scenic resources, or any existing visual character or quality will be adversely impacted by this proposal.

There will be no new source of light or glare created. As such, no aesthetics impacts are anticipated.

2. Agriculture Resources

The proposed amendments will not affect farming operations since they do not alter existing requirements for agricultural burning. No prime, unique, or important farmland will be impacted and there will be no conflicts with existing zoning for agricultural use or a Williamson Act contract. There will also be no changes that might result in the conversion of farmland to non-agricultural use. Based on these considerations, no agriculture resources impacts are anticipated due to the proposed amendments.

3. Air Quality

The proposed amendments are expected to have a beneficial air quality impact by reducing potential smoke impacts through enhanced smoke management measures, which will also help the District attain and maintain ambient air quality standards for particulate matter and satisfy the upcoming requirements of the federal regional haze rule. As a result, no significant air quality impacts are expected. The proposed amendments will not adversely change the air quality impacts from open burning activities in the District. The proposal will not (1) conflict with or obstruct implementation of an applicable air quality plan; (2) violate any air quality standard or contribute to an existing or projected air quality violation; (3) result in a cumulative net increase of any criteria pollutant; (4) expose sensitive receptors to substantial pollutant concentrations; and (5) create objectionable odors affecting a substantial number of people. The proposed amendments will also not diminish an existing air quality rule or future compliance requirement.

4. Biological Resources

The proposed amendments are not expected to change the amount or types of open burning in the District or affect planned increases in prescribed burning. The imposition of fee requirements and additional administrative requirements for prescribed burning could have some potential to affect the manner in which prescribed burning is conducted. For example, new fees imposed through the amendments to Regulation 3 would increase the costs of prescribed burning and might have some potential to cause agencies and landowners to curtail or eliminate prescribed burning.

Under certain circumstances, CEQA can apply where economic impacts contribute to or cause physical impacts (see Cal. Public Resources Code §21082.2, subd. (c), and CEQA Guidelines §§ 15064, subd (e),. and 15131). But the fee increases lead to these impacts only if potential burners decide to curtail

prescribed burning rather than pay the fees. This means that the impacts are indirect.

In addition, however, these impacts are not adverse impacts under CEQA because they only reduce the beneficial impacts of prescribed burning for wildlife, ecosystems, and fire safety. They can only be seen as adverse when measured against the prescribed burning program that one might speculate would occur in the absence of fees. But CEQA requires that projects be measured against the existing environment. Some scaling back of prescribed burning would still produce net benefits for wildlife, ecosystems, and fire safety. If that scaling back also produces benefits for air quality, the overall benefits may well exceed those of a program that involved more prescribed burning but with adverse impacts on air quality.

In any case, the fee proposal is statutorily exempt from CEQA requirements pursuant to Public Resources Code section 21080, subd. (b)(8) and CEQA Guidelines, § 15273 because the proposed fees will be used to meet operating expenses of the District (in this case, for the BAAQMD's new smoke management program for prescribed burning). For all of these reasons, there are no adverse impacts under CEQA that must be addressed in the CEQA analysis for the proposed regulation and fee amendments.

For all of these reasons, no adverse impacts on plant or animal life are expected.

5. Cultural Resources

Impacts in this category are not anticipated because no construction is expected from implementation of the proposed amendments.

6. Geology and Soils

The proposed amendments will have no impacts on geology and soils because no construction is expected. As a result, no geologic or soil impacts are anticipated.

7. Hazards and Hazardous Materials

The proposed amendments do have the potential to affect hazards and hazardous materials. Under certain conditions vegetation creates a fire hazard and when it does, resource managers may burn this "hazardous material" for the purpose of fire hazard reduction and as a means of disposal. Under Regulation 5, this type of burning is considered a Hazardous Material fire. Because the amendments allocate a maximum acreage that can be burned as Hazardous Material fires each day so as to reduce potential smoke impacts, hazardous material may exist longer without being abated, that is until the meteorological conditions are conducive for an acreage burning allocation. However, as any

delay is anticipated to be an infrequent event, and hazardous material can be prevented from catching fire by other practices, such as by mechanical means or wetting, impacts are anticipated to be less than significant. In any case, these impacts can only be seen as adverse when measured against the burning that one might speculate would occur in the absence of the additional requirements. The hazard reduction burning, though delayed, would still reduce hazards. If the acreage allocations also produce benefits for air quality, the overall benefits may well exceed those that would occur in the absence of the administrative requirements for this type of burning.

The amendments will not expose people or structures to a significant risk of loss, injury, or death due to wildland fires in the urban wildland interface. Under the proposed amendments, fires that are intended to create a firebreak as required by Section 4291 of the California Public Resources Code are not subject to the acreage allocations that apply to the other hazardous material fires discussed above.

8. Hydrology and Water Quality

No construction is expected to result from the proposed amendments, so no impacts on drainage, groundwater, or risks to structures are anticipated. In addition, the open burning activities affected by the proposed amendments will not change the amount or types of open burning occurring or expected to occur in the District, or use any abatement equipment that might transfer air emissions to other media such as water. As a result, the proposed amendments are not expected to affect hydrology or water quality.

9. Land Use and Planning

No effect on land use planning is expected from the proposed amendments because they will not change the amount or types of open burning that are presently occurring in the District or the increases in prescribed burning that would have an impact on land planning issues. The proposed amendments also do not determine the way that agricultural or forest wastes are handled. Thus, no community would be physically divided, no conflict will be created with any applicable land use plan, policy, or regulation, and no conflict would be created with any applicable habitat or natural community conservation plan. Therefore, no significant impacts in this category are anticipated.

10. Mineral Resources

The proposed amendments will have no impacts on mineral resources because they are not expected to result in any construction. They will also not result in the loss of availability of any locally-important mineral resource or mineral resource recovery site. As such, no impacts on mineral resources are anticipated.

11. Noise

No effects on noise standards, exposure of people or workers to noise levels, or permanent and temporary noise level increases are expected from the proposed amendments since the proposal will not result in any construction. Therefore, no noise or vibration impacts are anticipated.

12. Population and Housing

No effect on population or housing is expected since the proposed amendments in no way affect population growth or related housing development.

13. Public Services

The public agencies affected by the proposed amendments are not expected to require any new or additional public services as a consequence of the proposed amendments. No effects on the need for public services such as police, fire, schools, or public roadway maintenance are expected either. Therefore, no significant impacts in this category are anticipated.

14. Recreation

The proposed amendments will not cause a decrease or increase in the use of parks and recreational facilities and they do not directly include recreational facilities or require construction or expansion of recreational facilities. The proposed amendments related to prescribed burning activities were developed to reduce potential smoke impacts in recreational areas and to augment efforts by state and federal resource management agencies to reduce wildfires and to improve air quality. Based on these considerations, no impacts in this category are anticipated due to the proposed amendments.

15. Transportation and Traffic

No construction is expected and no changes in transportation or pedestrian and vehicular circulation are anticipated from the proposed amendments.

16. Utilities and Service Systems

The proposed amendments will not change the amount or types of open burning that presently occur or are expected to occur in the District. No construction is expected from the proposed amendments. As such, there will be no impacts on water supplies, water treatment facilities, wastewater treatment facilities or related requirements, storm water drainage facilities, landfill capacities and any solid waste statute or requirement. Therefore, no impacts in this category are anticipated due to the proposed amendments.

17. Mandatory Findings of Significance

The proposed amendments are intended to enhance the District's open burning program through smoke management measures that were developed to continue to allow necessary open burning activities on days with appropriate meteorological conditions to reduce the potential smoke impacts and after due consideration of available alternatives to burning so that only minimal ecological impacts occur. Thus, the proposed amendments will not: (1) degrade the quality of the environment; (2) substantially reduce the habitat of fish or wildlife species; and (3) impact the range of a rare or endangered plant or animal. They will also not eliminate important examples of the major periods of California history or prehistory. The proposed amendments have no cumulative effects and will not cause substantial adverse effects on human beings.

Based on these considerations, no impacts related to mandatory findings are anticipated due the proposed amendments.