



Bay Area Air District

APPENDIX B

Proposed Amendments to Regulation 5: Open Burning

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REGULATION 5 OPEN BURNING

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REGULATION 5 OPEN BURNING

5-100 GENERAL

5-101 **Description:** This Regulation forbids open burning within the District with certain exceptions.

(Amended November 2, 1994)

5-102 Applicability: This Regulation applies to any person igniting, causing to be ignited, permitting to be ignited, or suffering, allowing, or maintaining any open burning fires within the District.

5-110 **Exemptions:** The following fires are exempt from this Regulation:

- 110.1 Fires set only for cooking of food for human beings.
- 110.2 Fires burning as safety flares or for the combustion of waste gases.
- 110.3 The use of flame cultivation when the burning is performed with LPG or natural gas-fired burners designed and used to kill seedling grass and weeds and the growth is such that the combustion will not continue without the burner.
- 110.4 Fires set for the purposes of fire training using one gallon or less of flammable liquid per fire.

(Amended 12/19/90; 11/2/94; 3/6/02; 7/9/08)

5-111 **Special Conditions for Allowable Fires:** The following special conditions must be met for fires allowed by subsections 5-401.1 through 401.17 unless specifically exempted, altered, or further restricted in that subsection, or unless otherwise waived in writing by the APCO prior to burning, and these conditions shall be complied with during any burning permitted under those subsections. In addition, a condition, requirement, or parameter stated in or imposed by a smoke management plan approved by the APCO may supersede any one of these conditions.

- 111.1 No burning shall take place before 10:00 a.m. local time on any day.
- 111.2 No additional materials or fuel shall be ignited, nor shall any material or fuels be added to any fire after two hours before sunset on any day.
- 111.3 No material or fuel shall be ignited, nor shall any material or fuel be added to any fire when the wind velocity is less than five (5) miles per hour except for crossfiring, or when the wind direction at the site shall be such that the direction of smoke drift is toward a populated area in order to minimize local nuisances caused by smoke and particulate fallouts.
- 111.4 Prior to ignition, all piled material shall have dried for a minimum of 60 days, and be managed to ensure that burning the material does not produce smoke after sunset on any day.
- 111.5 All material to be burned shall be reasonably free of dirt or soil.
- 111.6 Piled material shall be limited to a base area not to exceed 25 square yards and the height shall be at least 2/3 of the average width of the pile.
- 111.7 Ignition material shall be limited to those listed by the State Director of Forestry, as follows: orchard torches; drip torches; pressurized diesel torches; propane or LPG torches; commercial petroleum gel materials, pressurized or solid (napalm or blivets); commercial safety fuses; commercial type ignition grenades, e.g. Fenner, etc.; fuses; commercial fuse lighters and matches. All fires shall be ignited so as to burn as rapidly as possible within conditions of safety and minimum pollution.
- 111.8 Ignition shall be initiated at or near the top of the piled material. No additional material, except ignition material, shall be added to the fire.
- 111.9 Tonnage, volume or acreage of material burned on any given day and/or at any specified site is subject to limitations set by the APCO, but may not exceed any limits set by ~~the~~ CARB.

(Amended 12/19/90; 11/2/94; 3/6/02, 11/20/19)

5-112 **Limited Exemption, Recreational Fires:** A fire set for recreational purposes is exempt from the requirements of Section 301.

(Adopted July 9, 2008)

5-113	<p>Limited Exemption, Public Agency Wildfire Prevention Prescribed Burning: Any <u>public agency person</u> conducting a prescribed burn <u>as defined in Section 5-219 for the purpose of wildfire prevention</u>, pursuant to a smoke management plan approved by the APCO, is exempt from the operation fees requirement of Section 5-411. <u>A public agency seeking to rely on this exemption shall request that it be applicable upon submittal of the smoke management plan required by Section 5-401.15.</u></p>
	(Adopted November 20, 2019)
5-200	DEFINITIONS
5-201	<p>Agricultural Fire: A fire used for the purpose of initiating, continuing or maintaining agriculture as a gainful occupation. Fuels are limited to materials grown on the site and shall not include feed or fertilizer containers, finished or treated wood, plastic or rubber products, plumage, hides, fur, offal or fecal material or refuse from plant or animal processing other than from initial crop harvesting, pruning or attrition of fruit and nut trees, vines and cane crops.</p>
5-202	<p>APCO: As defined in Regulation 1, Section 1-203 – The Air Pollution Control Officer of the Bay Area Air Quality Management District or the designee thereof. [Formerly Section 5-218] Fire: Any combustion of combustible materials of any type outdoors.</p>
5-203	<p>Backfiring: A field crop burn ignition technique where the fire is ignited at the downwind side of the burn area, so that the fire must burn into the wind towards the fuel source. [Formerly Section 5-214] Flue: Any duct or passages for air, gases, or the like, such as a stack or chimney.</p>
5-204	<p>Calendar Day: Consecutive days that include every day on the calendar, including weekends and holidays. Gainful Occupation: Any occupation from which there is proof of gross profit or loss as evidenced by tax receipts, sales slips or other such documents.</p>
5-205	<p>CARB: Also known as ARB, as defined in Regulation 1, Section 1-204 – The Air Resources Board of the State of California. [Formerly Section 5-219] Deleted December 19, 1990</p>
5-206	<p>Contraband: Any illegal or prohibited good that has been confiscated by a public law enforcement agency, including but not limited to explosives, pyrotechnics and illegal drugs. [Formerly Section 5-210] Permissive Burn Day: Any day that is so declared by the APCO when, in his opinion, air pollution caused by open burning will not adversely affect ambient air quality or downwind population. In declaring such permissive burn days, the meteorological criteria established by the ARB for the San Francisco Bay Area Air Basin shall be used as a guideline.</p>
5-207	<p>District: As defined in Regulation 1, Section 1-212 – The Bay Area Air Quality Management District. [Formerly Section 5-220] Treated Brush: Material which has been felled, crushed or uprooted with mechanical equipment, or has been desiccated with herbicide.</p>
5-208	<p>Fire: Any combustion of combustible materials of any type outdoors. [Formerly Section 5-202] Hazardous Material: Any combustible or flammable material which may pose a fire or explosion hazard including but not limited to, natural vegetation or other native growth cleared away to create or maintain a firebreak around any building or structure on a property as required to comply with Section 4291 of the State Public Resources Code to reduce the risk of a wildfire.</p>
5-209	<p>Flue: Any duct or passages for air, gases, or the like, such as a stack or chimney. [Formerly Section 5-203] Public Fire Official: An officer of a public agency charged with the responsibilities of setting or allowing fires. Public fire official includes but is not limited to, local, state, and federal officers.</p>
5-210	<p>Forest: A vegetation type or plant community covering a tract of land, which is named and described as a series, habitat or unique stand according to the California Native Plant Society (CNPS) classification system set forth in the most current edition</p>

of *A Manual of California Vegetation* published by CNPS, and dominated by trees growing more or less closely together. For the purposes of this regulation, the dominant vegetation form must be described as a broadleaf deciduous, broadleaf evergreen, conifer, or mixed broadleaf-conifer forest. Forest does not include chaparral, scrub and grassland communities, or the eucalyptus series, as these vegetation types are described in the CNPS classification system. [Formerly Section 5-221] **Contraband:** Any illegal or prohibited good that has been confiscated by a public law enforcement agency, including but not limited to explosives, pyrotechnics and illegal drugs.

(Adopted 12/19/90; Amended 11/2/94)

5-211 **Gainful Occupation:** Any occupation from which there is proof of gross profit or loss as evidenced by tax receipts, sales slips or other such documents. [Formerly Section 5-204] **Deleted March 6, 2002**

5-212 **Hazardous Material:** Any combustible or flammable material which may pose a fire or explosion hazard including but not limited to, natural vegetation or other native growth cleared away to create or maintain a firebreak around any building or structure on a property as required to comply with Section 4291 of the State Public Resources Code to reduce the risk of a wildfire. [Formerly Section 5-208] **Stubble:** The remaining stalk, stem, or trunk of a herbaceous plant or cereal grass (primarily oats, wheat and hay) after harvest of a field crop.

(Adopted November 2, 1994)

5-213 **Liquefied Petroleum Gas (LPG):** A compressed fuel gas composed of one or more of the following flammable hydrocarbons: propane, n-butane, isobutane, propylene, and butylenes. **Prescribed Burning:** The planned, controlled application of fire to vegetation to achieve a specific natural resource management objective(s) on land areas selected in advance of that application. The fire is conducted within the limits of a plan and prescription that describes both the acceptable range of weather, moisture, fuel, and fire behavior parameters to achieve the desired effects. For the purposes of this regulation, prescribed burning also means any Forest Management fire, Range Management fire, Hazardous Material fire not related to Public Resources Code Section 4291, or any Crop Replacement fire for the purpose of establishing an agricultural crop on previously uncultivated land, that is expected to exceed 10 acres in size or burn piled vegetation cleared or generated from more than 10 acres of land. These specific fire types shall be regulated as Wildland Vegetation Management fires and subjected to all of the requirements applicable to subsection 5-401.15. In addition, prescribed burning includes any naturally ignited wildland fire managed for resource benefits that is subject to the applicable requirements in Section 5-408.

(Adopted 11/2/94; Amended 3/6/02)

5-214 **Mandatory Burn Ban:** Any period so declared to the public by the APCO during which burning wood or any solid fuels is illegal within District boundaries, as defined in Regulation 6, Rule 3: Wood-Burning Devices, Section 6-3-211. [Formerly Section 5-223] **Backfiring:** A field crop burn ignition technique where the fire is ignited at the downwind side of the burn area, so that the fire must burn into the wind towards the fuel source.

(Adopted November 2, 1994)

5-215 **Marshland:** A type of wetland ecosystem periodically or permanently inundated to a depth of up to 2 meters (6.6 feet) that supports a cover of low or tall emergent vegetation. Habitats within these water-land areas include diked, seasonally managed wetlands, unmanaged tidal wetlands, open bays, sloughs, and associated upland grasslands. [Formerly Section 5-222] **Stripfiring:** A field crop burn ignition technique where the fire is ignited in parallel strips by walking straight through the burn area into the wind.

(Adopted November 2, 1994)

5-216 **Open Burning:** The ignition and combustion of any material in an outdoor environment where the products of combustion are emitted directly into the atmosphere. **'X' or Crossfiring:** A field crop burn ignition technique where the fire is ignited in two semi-circle arch patterns that almost intersect in the middle of the burn area. The first fire is lit by walking into the wind from the downwind side. The second fire is lit by walking with the wind from the headwind side of the field. This technique is used during light (less than five miles per hour) and variable winds only.

(Adopted November 2, 1994)

5-217 **Permissive Burn Day:** Any day that is so declared by the APCO when, in their opinion, air pollution caused by open burning will not adversely affect ambient air quality or downwind population. In declaring such permissive burn days, the meteorological criteria established by CARB for the San Francisco Bay Area Air Basin shall be used as a guideline. [Formerly Section 5-206] **Property:** A single parcel of real property, as determined by the County Assessor. The term also includes contiguous parcels under the same ownership.

(Adopted November 2, 1994)

5-218 **Person:** As defined in Regulation 1, Section 1-221 – Any natural person, corporation, government agency, public officer, association, joint venture, partnership or any combination of such or such entities as are included in Section 39047, California Health and Safety Code. **APCO:** The Air Pollution Control Officer of the Bay Area Air Quality Management District or the designee thereof.

(Adopted November 2, 1994)

5-219 **Prescribed Burning:** The planned, controlled application of fire to vegetation to achieve a specific natural resource management objective(s) on land areas selected in advance of that application. The fire is conducted within the limits of a plan and prescription that describes both the acceptable range of weather, moisture, fuel, and fire behavior parameters to achieve the desired effects. For the purposes of this regulation, prescribed burning also means any Forest Management fire, Range Management fire, Hazardous Material fire not related to Public Resources Code Section 4291, or any Crop Replacement fire for the purpose of establishing an agricultural crop on previously uncultivated land, that is expected to exceed 10 acres in size or burn piled vegetation cleared or generated from more than 10 acres of land. These specific fire types shall be regulated as Wildland Vegetation Management fires and subjected to all of the requirements applicable to subsection 5-401.15. In addition, prescribed burning includes any naturally-ignited wildland fire managed for resource benefits that is subject to the applicable requirements in Section 5-408. [Formerly Section 5-213] **ARB:** The Air Resources Board of the State of California.

(Adopted November 2, 1994)

5-220 **Property:** A single parcel of real property, as determined by the County Assessor. The term also includes contiguous parcels under the same ownership. [Formerly Section 5-217] **District:** The Bay Area Air Quality Management District.

(Adopted November 2, 1994)

5-221 **Public Agency:** Any agency, political subdivision, or unit of local, state or federal government. [Formerly Section 5-225] **Forest:** A vegetation type or plant community covering a tract of land, which is named and described as a series, habitat or unique stand according to the California Native Plant Society (CNPS) classification system set forth in the most current edition of *A Manual of California Vegetation* published by CNPS, and dominated by trees growing more or less closely together. For the purposes of this regulation, the dominant vegetation form must be described as a broadleaf deciduous, broadleaf evergreen, conifer, or mixed broadleaf-conifer forest. Forest does not include chaparral, scrub and grassland communities, or the eucalyptus series, as these vegetation types are described in the CNPS classification system.

(Adopted November 2, 1994)

5-222 **Public Fire Official:** An officer of a public agency charged with the responsibilities of setting or allowing fires. Public fire official includes but is not limited to, local, state, and federal officers. [Formerly Section 5-209] **Marshland:** A type of wetland ecosystem periodically or permanently inundated to a depth of up to 2 meters (6.6 feet) that supports a cover of low or tall emergent vegetation. Habitats within these water land areas include diked, seasonally managed wetlands, unmanaged tidal wetlands, open bays, sloughs, and associated upland grasslands.

(Adopted March 6, 2002)

5-223 **Recreational Fires:** A fire used for social, cultural or other activities including, but not limited to, campfires, bonfires, ceremonial fires, handwarming fires, raku or pit pottery curing fires, or fires conducted as part of an unusual event such as fire walking provided only clean dry wood and fire starter is used, and the activity is not part of a business for gainful occupation. [Formerly Section 5-224] **Mandatory Burn**

(Adopted March 6, 2002)

~~**Ban:** Any period so declared to the public by the APCO when negative impact upon public health is anticipated from burning, as defined in Regulation 6, Rule 3: Wood-Burning Devices, Section 6-3-211.~~

(Adopted 7/9/08, Amended 11/20/19)

5-224

Stripfiring: A field crop burn ignition technique where the fire is ignited in parallel strips by walking straight through the burn area into the wind. [Formerly Section 5-215]

~~**Recreational Fires:** A fire used for social, cultural or other activities including, but not limited to, campfires, bonfires, ceremonial fires, handwarming fires, raku or pit pottery curing fires, or fires conducted as part of an unusual event such as fire walking provided only clean dry wood and fire starter is used, and the activity is not part of a business for gainful occupation.~~

(Adopted July 9, 2008)

5-225

Stubble: The remaining stalk, stem, or trunk of a herbaceous plant or cereal grass (primarily oats, wheat and hay) after harvest of a field crop. [Formerly Section 212]

~~**Public Agency:** Any agency, political subdivision, or unit of local, state or federal government.~~

(Adopted November 20, 2019)

5-226

Treated Brush: Material which has been felled, crushed or uprooted with mechanical equipment, or has been desiccated with herbicide. [Formerly Section 5-207]

5-227

Working Day: Any day the District is open for business. The District operates Monday through Friday, excluding weekends and holidays.

5-228

'X' or Crossfiring: A field crop burn ignition technique where the fire is ignited in two semi-circle arch patterns that almost intersect in the middle of the burn area. The first fire is lit by walking into the wind from the downwind side. The second fire is lit by walking with the wind from the headwind side of the field. This technique is used during light (less than five miles per hour) and variable winds only. [Formerly Section 5-216]

5-300

STANDARDS

5-301

Prohibition of Fires: Except as provided in this regulation:

- 301.1 A person shall not ignite, cause to be ignited, permit to be ignited, or suffer, allow, or maintain any fires within the District.
- 301.2 No burning shall take place within the District ~~on~~ other than on a permissive burn day, or in excess of any acreage burning allocation or limitation.
- 301.3 A person shall not violate any condition, requirement, or parameter stated in or imposed by a smoke management plan approved by the APCO, or any special condition or administrative requirement in this regulation.

(Amended 11/94; 3/6/02)

5-302

Mandatory Burn Ban for Recreational Fires: No person shall ignite, cause to be ignited, permit to be ignited, or suffer, allow, or maintain any recreational fires during Mandatory Burn Ban periods, as defined in Regulation 6, Rule 3: Wood-Burning Devices, Section 6-3-301.

(Adopted 7/9/08; Amended 11/20/19)

5-400

ADMINISTRATIVE REQUIREMENTS

5-401

Allowable Fires: The following fires may be allowed on permissive burn days:

- 401.1 Disease and Pest: Agricultural fires set for the purpose of disease and pest prevention. The fire must be set or allowed by the Agricultural Commissioner of the County in the performance of official duty. Prior reporting pursuant to Section 5-406 must be made to the APCO, by the person setting the fire.
- 401.2 Crop Replacement: Agricultural fires set for the purpose of establishing an agricultural crop in a location that formerly contained another type of agricultural crop or on previously uncultivated land. The fire must be set or

(Amended 12/19/90; 11/2/94; 3/6/02)

allowed by the public fire official having jurisdiction, in the performance of official duty, and must be necessary for the crop replacement to proceed.

2.1 Fires 10 acres or smaller: Small Crop Replacement fires are limited to a period beginning October 1 and ending April 30; however, upon the determination of the APCO that heavy winter rainfall has prevented such burning, the burn period may be extended to no later than June 30. Prior reporting pursuant to Section 5-406 must be made to the APCO by the person setting the fire.

2.2 Fires larger than 10 acres: Any Crop Replacement fire set for the purpose of establishing an agricultural crop on previously uncultivated land that is expected to exceed 10 acres in size or burn piled vegetation cleared or generated from more than 10 acres of land, is considered prescribed burning and is regulated as a Wildland Vegetation Management (Prescribed Burning) fire and subject to the requirements in subsection 5-401.15. Prescribed burns are permissible year-round, and must be conducted in accordance with a District-approved smoke management plan.

(Amended 12/19/90; 11/2/94; 3/6/02; 11/20/19)

401.3 Orchard Pruning and Attrition: Agricultural fires set for the purpose of disposal of periodic prunings and attrition losses from fruit trees, nut trees, vineyards and cane fruits. Fires must be set or allowed by the public fire official having jurisdiction, in the performance of official duty, and must be necessary to maintain and continue the growing of the fruit trees, vineyards and cane fruits as a gainful occupation. Fires are limited to a period beginning November 1 and ending April 30; however, upon the determination of the APCO that heavy winter rainfall has prevented such burning, the burn period may be extended to no later than June 30. When pruning is performed between February 15 and April 30 for integrated pest management purposes, the following minimum drying time periods shall apply: trees and branches over six inches in diameter: 30 days; for grape vines and branches less than or equal to six inches in diameter: 15 days. Prior reporting pursuant to Section 5-406 must be made to the APCO by the person setting the fire.

(Amended 3/15/81; 12/19/90; 11/2/94; 3/6/02)

401.4 Double Cropping Stubble: Agricultural fires set for the purpose of disposal of grain stubble from agricultural land from which both grain and vegetable crops are harvested during the same calendar year. Fires must be set or allowed by a public fire official having jurisdiction, in the performance of official duty, and must be necessary to remove the grain stubble and straw before a field vegetable crop can be planted. All material to be burned shall be free of visible surface moisture. No fires shall take place before 10:00 a.m. local time on any day. Fires are limited to a period beginning June 1 and ending August 31. Prior reporting pursuant to Section 5-406 must be made to the APCO by the person setting the fire.

(Amended 12/19/90; 11/2/94; 3/6/02)

401.5 Stubble: Agricultural fires set for the purpose of disposal of stubble and straw. Fires must be set or allowed by a public fire official having jurisdiction, in the performance of official duty, and must be necessary to maintain and continue the growing of field crops as a gainful occupation. Fire ignition techniques shall be limited to backfiring, stripfiring, and 'X' or crossfiring unless an alternate technique is approved by the APCO in writing where a specific field condition is determined not to lend itself to these techniques in a given year. All material to be burned shall be free of visible surface moisture. After 0.15 inches or more rainfall, the material must pass the "crackle" test pursuant to Section 5-601 prior to burning. No fires shall take place before 10:00 a.m. local time on any day. Fires are limited to a period beginning September 1 and ending December 31. Outside of Sonoma County, no more than 100 acres of any property shall be burned in a single day. Within Sonoma County, no person shall conduct a burn without receiving an acreage burning allocation from the APCO and no more than 500 acres total

of all properties shall be burned in a single day. In addition, no more than 100 acres of any property shall be burned in a single day. If by 12:00 p.m. local time the daily 500-acre burn acreage limitation has not been allocated, up to 200 acres of any property may be burned in a single day provided:

- 5.1 the additional acreage burning allocation has been approved verbally by the APCO; and
- 5.2 no more than two fields exceeding 100 acres total are burned simultaneously on the same property.

(Amended 12/19/90; 11/2/94; 3/6/02; Renumbered 11/20/19)

401.6 **Hazardous Material:** Any fire set for the purpose of the prevention or reduction of a fire hazard, including the disposal of dangerous materials. The fire must be set or allowed by any public fire official having jurisdiction, in the performance of official duty. The fire must, in the opinion of such officer, be necessary, and the fire hazard not able to be abated by any other means.

- 6.1 Fires 10 acres or smaller: Small Hazardous Material fires are not subject to the requirements of subsection 5-111.1. No fires involving piled material shall be ignited or take place before 9:30 a.m. local time on any day. Prior reporting pursuant to Section 5-406 must be made to the APCO by the person setting the fire.
- 6.2 Fires larger than 10 acres: Any Hazardous Material fire not related to Public Resources Code Section 4291 that is expected to exceed 10 acres in size or burn piled vegetation cleared or generated from more than 10 acres of land, is considered prescribed burning and is regulated as a Wildland Vegetation Management (Prescribed Burning) fire and subject to the requirements in subsection 5-401.15. Prescribed burns are permissible year-round, and must be conducted in accordance with a District-approved smoke management plan.
- 6.3 Public Resources Code Section 4291 fires: Hazardous Material fires conducted to dispose of materials generated to comply with an order or notice issued by a fire official pursuant to Section 4291 of the State Public Resources Code are permitted. Public Resources Code Section 4291 fires are not subject to the requirements of subsection 5-111.1. No fires involving piled material shall be ignited or take place before 9:30 a.m. local time on any day. Prior reporting pursuant to Section 5-406 must be made to the APCO by the person setting the fire. All of the following conditions must also be satisfied:
 - 3.1 only natural vegetation or other native growth may be burned;
 - 3.2 the amount of material to be burned shall be greater than 5 cubic yards cleared annually from a single property;
 - 3.3 the material is burned where it was grown without being moved to a different location unless approved by the APCO;
 - 3.4 the material is inaccessible for removal by vehicle and available alternatives to burning such as shredding, chipping, composting, disk ing, plowing, and harrowing are not feasible; and
 - 3.5 the material, if ignited accidentally, would result in a fire of such magnitude as to immediately threaten life or adjacent improved property or resources and require an excessive fire suppression effort.

(Amended 12/19/90; 11/2/94; 3/6/02; 11/20/19)

401.7 **Fire Training:** Fires set for the exclusive purpose of instruction of either public or industrial employees in fire fighting methods. The fire must be set or allowed by the public fire official having jurisdiction, in the performance of official duty, and must be, in the opinion of the public fire official~~his opinion~~, necessary. Notwithstanding contrary provisions of Section 5-111, a fire fighting agency may set one fire per quarter calendar year for the purpose of training volunteer or seasonal fire fighters. This may be done on a day other

than a permissive burn day if the APCO is notified in writing ~~or facsimile~~ at least ~~three working days~~~~two weeks~~ in advance. Fires may be conducted outside of the burn hour limits in subsections 5-111.1 and 111.2 if the APCO is notified in writing ~~or facsimile~~ at least ~~three~~~~seven~~ working calendar days in advance. Prior reporting pursuant to Section 5-406 must also be made to the APCO for other fire training by the person setting the fire.

(Amended 12/19/90; 11/2/94; 3/6/02)

401.8 **Flood Debris:** Agricultural fires set for the purpose of removing wood and vegetation debris deposited by floodwaters. The fire must be set or allowed by the public fire official having jurisdiction, in the performance of official duty, and must be necessary for the continuing or maintaining of agriculture as a gainful occupation. Fires are limited to a period beginning October 1 and ending May 31. Prior reporting pursuant to Section 5-406 must be made to the APCO by the person setting the fire.

(Amended 12/19/90; 11/2/94; 3/6/02)

401.9 **Irrigation Ditches:** Agricultural fires set for the purpose of controlling growth of vegetation in irrigation ditches and canals. The fire must be set or allowed by a public fire official having jurisdiction, in the performance of official duty, and must, in the opinion of such officer, be necessary to avoid interference with water flow or drainage into irrigated land. Prior reporting pursuant to Section 5-406 must be made to the APCO by the person setting the fire.

(Amended 12/19/90; 11/2/94; 3/6/02)

401.10 **Flood Control:** Fires set for the purpose of disposal of material which is lying or growing within natural channels or flood control channels. The fire must be set or allowed by a public official in charge of flood control activities. The fire must, in the opinion of such official, be a necessary incident to the clearing and maintenance of water courses and flood control channels for preventing or eliminating a flood hazard. Prior reporting pursuant to Section 5-406 must be made to the APCO by the person setting the fire.

(Amended 12/19/90; 11/2/94)

401.11 **Range Management:** Fires set for the purpose of range management and grazing. The fire must be set or allowed by the State Director of Forestry, or public fire official having jurisdiction, in the performance of official duty, and must be necessary to maintain and continue the grazing of animals as a gainful occupation. Brush to be burned shall be treated at least six months prior to burn if determined to be technically feasible by the State Director of Forestry or public fire official. Unwanted trees over 6 inches in diameter shall be felled prior to burn and dried for a minimum of six months. Feasibility shall be subject to the approval of the APCO.

11.1 **Fires 10 acres or smaller:** Small Range Management fires are limited to a period beginning July 1 and ending April 30. Subsections 5-111.1 and 5-111.6 may be waived by the State Director of Forestry or fire official when determined necessary in the public interest. Prior reporting pursuant to Section 5-406 must be made to the APCO by the person setting the fire.

11.2 **Range Management fires larger than 10 acres:** Any Range Management fire that is expected to exceed 10 acres in size or burn piled vegetation cleared or generated from more than 10 acres of land is considered prescribed burning and is regulated as a Wildland Vegetation Management (Prescribed Burning) fire subject to the requirements in subsection 5-401.15. Prescribed burns are permissible year-round, and must be conducted in accordance with a District-approved smoke management plan.

(Amended 12/19/90; 11/2/94; 3/6/02; 11/20/19)

401.12 **Forest Management:** Fires set for the purpose of removing forest debris and for forest management. The fire must be set or allowed by a public fire official having jurisdiction, in the performance of official duty, and must, in his opinion, be necessary.

12.1 **Fires 10 acres or smaller:** Small Forest Management fires are limited to a period beginning November 1 and ending April 30.

Subsections 5-111.1 and 5-111.6 may be waived by the fire official when deemed necessary in the public interest. All materials shall be piled or windrowed unless deemed poor practice by the fire official. Prior reporting pursuant to Section 5-406 must be made to the APCO by the person setting the fire.

12.2 Fires larger than 10 acres: Any Forest Management fire that is expected to exceed 10 acres in size or burn piled vegetation cleared or generated from more than 10 acres of land is considered prescribed burning and is regulated as a Wildland Vegetation Management (Prescribed Burning) fire subject to the requirements in subsection 5-401.15. Prescribed burns are permissible year-round, and must be conducted in accordance with a District-approved smoke management plan.

(Amended 12/19/90; 11/2/94; 3/6/02; 11/20/19)

401.13 Marsh Management: Fires set for the purpose of improvement of marshland for wildlife habitat. The fire must be declared necessary by the California Department of Fish and Wildlife. No such fire may be allowed on a given piece of land more than once in any 2-year period. The California Department of Fish and Wildlife shall provide the APCO such information as may be deemed necessary by the APCO to verify the necessity of each burn and land area burning frequencies. Any person seeking to set fires under this provision shall also comply with the requirements of Section 5-410 and receive written APCO approval of the smoke management plan prior to any burn. No fires shall take place before 10:00 a.m. or after 3:00 p.m. local time, nor shall any existing burning be allowed to continue after 3:00 p.m. local time on any day. Fires are limited to a Spring burning period beginning March 1 and ending April 15, and a Fall burning period beginning September 1 and ending October 15. Outside of the Suisun Resource Conservation District (SRCD), no person shall conduct a burn without receiving an acreage burning allocation from the APCO and no more than 100 acres of any property shall be burned in a single day. For fires conducted within the boundaries of the SRCD:

13.1 no person shall conduct a burn without receiving an acreage burning allocation from the APCO; and

13.2 total daily acreage to be burned shall be determined by the APCO, but in no case shall the total acreage burning allocation exceed 300 acres/day during the Fall burning period and 600 acres/day during the Spring burning period. In addition, no more than 100 acres of any property and no more than 100 acres of all properties designated by the same SRCD hundred-series ownerships shall be burned in a single day during the Fall or Spring burning period.

(Amended 3/15/81; 5/20/81; 8/3/83; 11/2/94; 3/6/02, 11/20/19)

401.14 Contraband: Fires set for the purpose of disposing of contraband. The fire mustmay only be set or allowed by any peace officer or public fire official, in the performance of official duty. The fire must, in the opinion of such officer or official, be necessary and the material not be able to be disposed of by any other means. Prior reporting must be made to the APCO by the person setting the fire pursuant to Section 5-406.

(Adopted 12/19/90; Amended 11/2/94)

401.15 Wildland Vegetation Management (Prescribed Burning): The planned, controlled application of fire to vegetation to achieve a specific natural resource management objective(s) on land areas selected in advance of that application. ~~Prescribed burning by a public agency, or through a cooperative agreement or contract involving a public agency.~~ Any prescribed burning shall comply with the requirements of Section 5-408 and receive written approval of the smoke management plan by the APCO prior to any burn and comply with the smoke management plan during the burn. Prescribed burns are permissible year-round. Fires may only be conducted on a permissive burn day.

(Adopted 11/2/94, Amended 11/20/19)

401.16 **Filmmaking:** Fires set as part of commercial film or video production activities for motion pictures and television. The fire shall be set or allowed by the public fire official having jurisdiction, in the performance of official duty. Any person seeking to set fires under this provision shall comply with the requirements of Section 5-409 and receive APCO approval in writing at least 10 working days prior to the burn. This fire may be done on other than a permissive burn day, as defined in Section 5-206~~17~~¹⁷, if approved by the APCO pursuant to subsection 5-409.2. *(Adopted November 2, 1994)*

401.17 **Public Exhibition:** Fires set as part of a planned civic event designed to educate or otherwise benefit the public. The fire shall be set or allowed by the public fire official having jurisdiction, in the performance of official duty. Any person seeking to set fires under this provision shall comply with the requirements of Section 5-409 and receive APCO approval in writing at least 10-working days prior to the burn. This fire may be conducted on other than a permissive burn day, as defined in Section 5-206~~17~~¹⁷, if approved by the APCO pursuant to subsection 5-409.2. *(Adopted 11/2/94; Amended 3/6/02)*

5-402 Deleted November 2, 1994

5-403 Agricultural Land Use: Debris from land clearing shall not qualify under subsections 5-401.1, 5-401.2, 5-401.3, 5-401.4 or 5-401.5 unless applicant certifies, under penalty of perjury, that said land is to remain in agricultural use for a gainful occupation for a period of one year subsequent to the burning, and that applicant has not caused or contributed to the need for the burning of the material for any reason other than the promotion of agricultural use of the land for a gainful occupation. However, the County Agricultural Commissioner may waive this Section by certifying that burning of the material under subsection 5-401.1 is, in their~~his~~ opinion, the only safe method of disposal. Failure to comply with the conditions of this Section shall be considered a violation of this Regulation. Each pile burned in violation shall be cited as a separate offense. *(Amended 11/2/94; 3/6/02)*

5-404 Emergency Waivers: A public officer authorized under subsections 5-401.1, 5-401.6 and 5-401.10 to grant permission for open burning may grant waivers from subsections 5-111.1 through 5-111.9 when, in their~~his~~ judgment, such emergency or summary action is necessary for the public safety. When such action is taken, the authorizing authority shall certify the following in a written report submitted to the APCO within 10 calendar days following the completion of burning: a description and quantity of the material burned and an explanation of the reasons for granting the permission. *(Amended 11/2/94; 3/6/02)*

5-405 Deleted March 6, 2002

5-406 Prior District Open Burn Notification; Disease and Pest, Crop Replacement, Orchard Pruning and Attrition, Double Cropping Stubble, Forest Management, Flood Debris, Fire Training, Flood Control, Irrigation Ditches, Range Management, Hazardous Material, and Contraband: The person setting the fire shall provide electronic, typewritten, legibly handwritten, or computer printed notification to the District prior to the burn on a District-approved form ~~or facsimile thereof~~. If notification is submitted by mail, the document must be postmarked at least 5 calendar days prior to the burn. The notification form must be completely filled out with accurate information to satisfy this requirement. For structural fire training, written notification shall also be made to the APCO at least 10 working days prior to the burn pursuant to the requirements of Regulation 11-2-401.3 (Asbestos Demolition, Renovation and Manufacturing). *(Adopted 12/19/90; Amended 11/2/94; 3/6/02)*

5-407 Deleted November 2, 1994

5-408 Wildland Vegetation Management (Prescribed Burning) Burn Requirements: Any person who seeks to conduct or conducts prescribed burning subject to subsection 5-401.15 shall comply with the following requirements:

408.1 Submit a smoke management plan to the APCO for review at least 30 calendar days prior to the proposed burning that is consistent with the most current USEPA guidance on wildland and prescribed fires (*Interim Air Quality Policy on Wildland and Prescribed Fires*, USEPA 1998, or any subsequent document that supersedes this document), and provides the following information:

- a. location and specific objectives of each proposed burn;
- b. acreage, tonnage, type, and arrangement of vegetation to be burned;
- c. directions and distances to nearby sensitive receptor areas;
- d. fuel condition, combustion and meteorological prescription elements for the project;
- e. projected burn schedule and expected duration of project ignition, combustion, and burn down (hours or days);
- f. specifications for monitoring and of verifying critical parameters including meteorological conditions and smoke behavior before and during the burn;
- g. specifications for disseminating project information to public;
- h. contingency actions that will be taken during the burn to reduce exposure if smoke intrusions impact any sensitive receptor area;
- i. certification by a qualified professional ~~resource ecologist, biologist, or forester~~ that the proposed burning is necessary to achieve the specific management objective(s) of the plan;
- j. a copy of the environmental impact analysis prepared for the plan that includes an evaluation of alternatives to burning, if such an analysis was required by state or federal law or statute;
- k. project fuel loading estimate (tons vegetation/acre) by vegetation type(s) and a description of the calculation method; and
- l. particulate matter emissions estimate including referenced emission factor(s) and a description of the calculation method used.

408.2 Permission to burn shall be governed by the acreage burning allocation issued by the APCO.

408.3 Receive an acreage burning allocation from the APCO prior to ignition.

408.4 For each day on which burning occurs, report the total acreage and tonnage of vegetation actually burned to the APCO no later than 12:00 p.m. local time the following day.

408.5 Within 30 calendar days following completion of the burn project, provide a written post-burn evaluation to the APCO that addresses whether the project objectives were met and describes actual smoke behavior.

Any fire official seeking to conduct prescribed burning in a geographical area considered for a potential naturally-ignited wildland fire managed for resource benefits that is expected to exceed 10 acres in size shall annually register each burn project in writing with the APCO by December 31 each year, with updates as they occur. Once a decision is made to manage the fire for resource benefits, the fire official shall provide a smoke management plan for the burn project to the APCO, upon request.

(Adopted 11/2/94; Amended 3/6/02; 11/20/19)

5-409 Filmmaking and Public Exhibition Burn Petitions: Any person seeking to conduct a fire pursuant to subsection 5-401.16 or 401.17 shall comply with the following requirements:

409.1 Submit an open burning petition to the APCO that provides the following information, as applicable:

- 1.1. date(s) and specific location(s) of each proposed burn;
- 1.2. type and quantity (tonnage, acreage, or volume) of each material to be burned;
- 1.3. the projected fuel use rate in BTU per hour, if known, calculated using the higher heating value of each fuel; and
- 1.4. the burn duration.

409.2 Permission to burn on other than a permissive burn day shall be subject to written approval of the open burning petition by the APCO.

409.3 Prior to ignition, notify the APCO on the day of each burn.
409.4 If the APCO grants written approval, such approval shall be available at the burn location for inspection by the APCO, upon request.

(Adopted 11/2/94; Amended 3/6/02; Renumbered 11/20/19)

5-410 Marsh Management Burn Requirements: Any person who seeks to conduct or conducts a fire pursuant to Subsection 5-401.13 shall:

410.1 In order to receive an acreage burning allocation, at least 30 calendar days prior to the proposed burning, submit a smoke management plan to the APCO for review using a District-approved form;

410.2 In securing the written necessity statement required by California Health and Safety Code Section 41861, submit to the California Department of Fish and Wildlife (DFW) and the APCO information that (1) identifies the non-burning alternatives considered by the property owner(s) given the recommendations or needed improvements described in existing Individual Ownership Management Plans, updated Individual Ownership Adaptive Management Habitat Plans, Wildlife Management Plans or other resource management plans as applicable; and (2) explains why water management practices and non-burn vegetation management practices cannot currently achieve the management objective(s) of the proposed fire and the property. Where DFW is conducting a burn on state lands, this information shall be submitted by DFW to the APCO prior to the proposed burning;

410.3 Prior to the proposed burning, submit the written statement required by Health and Safety Code Section 41861 to the APCO;

410.4 For each day on which burning occurs, report the total acreage of vegetation actually burned to the APCO by telephone no later than 12:00 p.m. local time the following day.

(Adopted 3/6/02, Amended 11/20/19)

5-411 Open Burning Operation Fees: The Open Burning Operation Fees contained in Regulation 3, Schedule V shall be paid prior to burning by any person subject to the requirements of (1) Section 5-406 Prior District Open Burn Notification; (2) Section 5-401.13 Marsh Management; (3) Section 5-401.15 Wildland Vegetation Management (Prescribed Burning); (4) Section 5-401.16 Filmmaking or Section 5-401.17 Public Exhibition; or (5) the acreage burning allocation pursuant to Section 5-401.5 Stubble.

(Adopted 6/19/13; Amended 11/20/19)

5-500 MONITORING AND RECORDS

5-501 Open Burning Records: Any person subject to Section 5-408 or 5-410 shall comply with the following requirements:

501.1 The person who conducts the fire shall maintain records on a daily basis that document and verify the actual acreage burned. Such documentation shall include the following information:

- 1.1 date and location of burn
- 1.2 a description of the method(s) or technique(s) used to verify the actual acreage burned
- 1.3 data collected that supports the burn acreage determination, and
- 1.4 type of vegetation and acreage actually burned.

501.2 Such records shall be retained for twelve months and made available to the APCO, upon request.

(Adopted 12/19/90; Amended 11/2/94; 3/6/02; Renumbered 11/20/19)

5-600 MANUAL OF PROCEDURES

5-601 Appraisal of Field Crop Fuel Moisture; The "Crackle" Test: Any person who wants to conduct an evaluation of fuel moisture in field crop stubble or straw remaining after harvest pursuant to subsection 5-401.5 shall satisfy the following criteria prior to burning:

601.1 Sampling: To ensure representative sampling, sample in accordance with the following requirements:

- 1.1 obtain samples from several different areas of the field

- 1.2 select some samples from underneath the straw mat including the bottom layer
- 1.3 a handful of sample material is considered a sufficient size to test.

601.2 Evaluation: The field is considered dry enough to burn, or passes the "crackle" test when:

- 2.1 each sample is tested just prior to burning
- 2.2 each sample tested makes an audible "crackle" when it is bent sharply.
- 2.3 If the sample does not pass the test, then the area from which the sample was selected cannot be burned until such material is considered dry enough to burn.

(Adopted 11/2/94; Renumbered 11/20/19)