

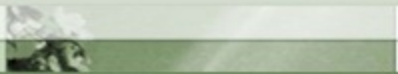
# The Regulation of Open Pile Burning

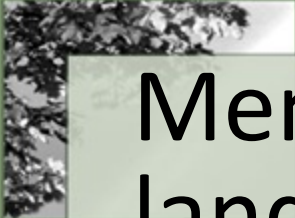


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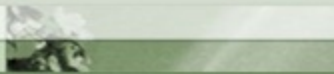
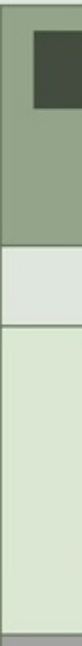


# Mendocino's wildfire and related regulatory landscape

- US Forest Service, Cal Fire, and Local Responsibility Area Fire Departments contain and/or suppress wildfires.
  - Air District measures & reports Particulate Matter (PM<sub>2.5</sub>μg) at its regulatory monitors, deploys temporary PM<sub>2.5</sub> monitors in populated areas near wildfires, and issues Air Quality Advisories & Alerts with County Public Health when unhealthy levels are reached so the public can make informed personal protective decisions. District works with assigned USFS Air Resource Advisors & forecasts smoke impacts.
  - With federal, state, regional and local agencies responding, it is complicated!
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# Mendocino's open burning and related regulatory landscape

- Burn permits are currently issued by the Air District throughout the County, by Cal Fire in State Responsibility Areas, and by some Fire Depts. in Local Responsibility Areas
  - Smoke Management Plans (SMPs) are issued by the Air District and required by the state to reduce smoke impacts to the public from large burns of standing or piled vegetation exceeding area or emission thresholds
  - District's mandates to enforce its burn regulations and report emissions from burning are currently impeded by regulatory landscape
  - APCO asked the Air District's attorney, Christiana Darlington, for a legal analysis of authority to regulate burning in Mendocino County
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# Authority to regulate open burning

- Districts adopt and enforce rules and regulations to achieve and maintain the state and federal ambient air quality standards in all areas affected by stationary emission sources under their jurisdiction.
  - State law generally prohibits outdoor burning outside of the agricultural context
  - County has adopted 9.33.010 et seq that mirrors state law and supports District actions in regulating burning
  - Health and Safety Code 41804.5 allows County to obtain special permit from District to organize and perform wood waste burns.
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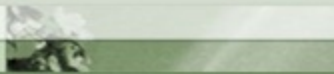


# Non Agricultural Burning

- Nonagricultural burning is generally prohibited, except;
    - (a) Burning for the disposal of the combustible or flammable solid waste of a single- or two-family dwelling on its premises;
    - (b) Open outdoor fires used only for cooking food for human beings or for recreational purposes;
    - (c) The burning, in a respectful and dignified manner, of an unserviceable American flag that is no longer fit for display
    - Additionally, CARB adopted a regulations known as an Airborne Toxic Control Measure (ATCM) to reduce Emissions of Toxic Air Contaminants from Outdoor Residential Waste Burning of “disallowed combustibles” within enclosed or partially enclosed vessels, such as incinerators or burn barrels, or in pits or piles on the ground.
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## Other Non-Agricultural Burning, Cont.

- Clearing of natural land for development
  - Removal of crops or orchards to convert land to other uses
  - Ditch, levee, right of way clearance
  - Series of emergency reasons that fires can be set by fire agencies, and training exercises for fire agencies, which are the only nonagricultural activities are explicitly exempted from needing District permits
  - District issues permits for all non-agricultural burning activities, which is a power that cannot be delegated
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# Agricultural Burning Definition under State Law

- The state defines “Agricultural burning” as open outdoor fires used in any of the following:
- (a) Agricultural operations in the growing of crops or raising of fowl or animals, or open outdoor fires used in forest management, range improvement, or the improvement of land for wildlife and game habitat, or disease or pest prevention.
- (b) The operation or maintenance of a system for the delivery of water for the purposes specified in subdivision (a).
- (c) Wildland vegetation management burning.
- (1) For purposes of this subdivision, wildland vegetation management burning is the use of prescribed burning conducted by a public agency, or through a cooperative agreement or contract involving a public agency, to burn land predominantly covered with chaparral, trees, grass, or standing brush.
- (2) For purposes of this subdivision, prescribed burning is the planned application and confinement of fire to wildland fuels on lands selected in advance of that application to achieve any of the following objectives:
  - **(A) Prevention of high-intensity wildland fires through reduction of the volume and continuity of wildland fuels. (*emphasis added*)**
  - (B) Watershed management.
  - (C) Range improvement.
  - (D) Vegetation management.
  - (E) Forest improvement.
  - (F) Wildlife habitat improvement.
  - (G) Air quality maintenance.
- (3) The planned application of fire may include natural or accidental ignition.






# The Regulation of Agricultural burning

- Agricultural Burning is generally governed by California Air Resources Board regulations that were adopted in 2001 (17 CCR 80100)
  - These are referred to as the “Smoke Management Guidelines”, which require Air Districts to adopt “Smoke Management Programs”, under which property owners or land managers who want to burn on their land can apply for a “Smoke Management Plan” (SMP) for their planned burn project that is issued by a district.
  - Plans have specific state requirements for projects over 10, 100 and 250 acres in size, or that emit over certain thresholds of pollutants.
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# Sharing Management of Ag Burn Permitting with Fire Agencies

- The issuance of CAL FIRE agricultural burn permits, however, are “subject to the rules and regulations of the District” under State Regulation.
  - Mendocino AQMD and the local CAL FIRE unit are beginning discussions that the District hopes will lead to an agreement on permit language and administrative processes to best serve the community.
  - Air Districts are tasked with the responsibility of preparing permits, with consultation from designated agencies, which currently include small fire agencies in Mendocino that may not have the capacity at this time to do such work.
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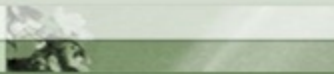


# Cal Fire and Residential Burning (non- Ag) Permits

- CAL FIRE can also issue burn permits for non-agricultural burning in State Responsibility Areas (and Local Responsibility Areas if a contract is in place for them to provide such services pursuant to an agreement with the local agency)
  - Permits are relating to the burning of brush, stumps, logs, fallen timber, fallows, slash, grass-covered land, brush-covered land, forest-covered land, or other flammable material.
  - This authority, however, does not usurp or remove the requirement for air districts to continue to satisfy its mandates to issue permits for non-agricultural burning.
  - Often these Cal Fire permits do not refer to District open burning regulations or smoke management related information, such as requirements for how and what to burn to be in compliance with local Air District regulations.
  - The District will be working with CAL FIRE to create a process by which both of their statutory mandates are met and administrative ease for residents is achieved, without delegating authorities vested by the state to each agency.
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# Improvements Planned for Rule 2

- Revamp Organization of Rule into sections on agricultural and non-agricultural burning
  - Clarify role of fire agencies
  - Identify clear distinction between ag burning and larger residential burn projects
  - Update fee structure to adequately cover costs to District related to program
  - Remove some little used sections of the Code relating to multiple site permit process that does not afford administrative benefit
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# Administrative Improvements Achieved, and Planned Next Steps for Further Improvement

## ■ Achieved:

- On-line AQ burn permit application, payment and issuance system
- PFIRS state-wide database for land managers, fire agencies & District to communicate on SMPs and ignition requests
- Email notifications for approval of ag SMP ignition requests outside PFIRS

## ■ Planned:

- Investigation of feasibility of uniform burn permitting and payment model in County, per current Board??
  - Propose restructuring Regulation 2 to include distinctions between ag & non-ag burning & legal differences of authority to better align it with state law
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# Planned Next Steps for Further Improvement Administrative Improvements

- Revamp Organization of Reg 2 into sections on agricultural and non-agricultural burning & legal differences of authority to better align it with state law
- Clarify authorities and roles of fire agencies
- Identify clear distinction between ag burning and larger residential burn, or gap, projects



Thank you !

