

**SOUTH COAST AIR QUALITY MANAGEMENT DISTRICT**

**Draft Staff Report for**

**Proposed Amended Rule 208 – Permit and Burn Authorization for Open Burning**

**Proposed Amended Rule 444 – Open Burning**

**Deputy Executive Officer**

**Planning, Rule Development, & Area Sources**

Elaine Chang, DrPH

**Assistant Deputy Executive Officer**

**Planning, Rule Development, & Area Sources**

Laki Tisopulos, Ph.D., P.E.

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**Author:** Heather Farr, Air Quality Specialist

**Reviewed By:** David De Boer, Program Supervisor  
John Olvera, Sr. Deputy District Counsel

**Technical Assistance:** Joe Cassmassi, Planning & Rules Manager  
Kevin Durkee, Air Quality Specialist  
Naveen Berry, Planning & Rule Manager  
Pamela Perryman, Air Quality Specialist  
Rick Gluck, Air Quality Inspector II  
Robert Carson, Air Quality Inspector III  
Sheri Fairbanks, Air Quality Specialist  
Tracy Goss, Program Supervisor

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## **EXECUTIVE SUMMARY**

Rule 444 – Open Burning, defines the scope and extent of the South Coast Air Quality Management District (AQMD) open burning program and its purpose, which is to ensure that open burning is conducted in a manner that minimizes emissions and visible smoke. Rule 208 – Permit and Burn Authorization for Open Burning, is the companion rule that requires persons wishing to conduct open burning to obtain written permits prior to the activity.

The proposed amendments for these rules are as follows:

### **PAR 208**

- Adds language to specify that open burning shall not be conducted in a manner inconsistent with the conditions of the written permit issued by the fire agency or AQMD.

### **PAR 444**

- Adds 13 definitions; amends 8 definitions;
  - Adds – Air Quality Index, Approved Ignition Fuels, Burn Authorization Number, Burn Management Plan, Burn Project, Emergency Burn Plan, Field Crop, Heavy Fuel, Imminent Fire Hazard, Light Fuel, Sensitive Receptor Locations, Source/Receptor Area and Wildland.
  - Amends – Agricultural Operations, Agricultural Wastes, Approved Ignition Devices, Fire Hazard, Marginal Burn Day, No Burn Day, Permissive Burn Day, and Prescribed Burn.
  - Deletes – Burn Implementation Plan.
- Adds the requirement of Air Quality Index standards to determine permissive burn days, marginal burn days, and no burn days;
- Adds time requirements for requesting burn authorization number request;
- Allows the Executive Officer to issue site-specific permit conditions for any burn project;
- Prohibits open burns within 1,000 feet of sensitive receptor locations for agricultural burns;
- Requires the use of untreated wood, charcoal or approved ignition fuels for pyrotechnics, used in the creation of special effects for filming;
- Prohibits completely burning existing structures for fire prevention/suppression training;
- Requires agricultural wastes from field crops that are green when cut to be dried for 4 weeks prior to burning;

- Requires Burn Management Plans for agricultural burn projects, including training burns, greater than 10 acres or projects that produce more than one ton of particular matter (PM);
- Prohibits the transportation of agricultural waste, for the purpose of burning, from one property to another;
- Requires Smoke Management Plans to be updated annually;
- Adjusts the allowed Maximum Daily Burn Acreage for Agricultural and Prescribed Burning to reflect the decrease in the number of burn days in a season;
- Requires Annual Post Burn Evaluation Reports;
- Requires fire protection agencies to submit copies of burn permits to the AQMD quarterly;
- Removes the exemption from receiving authorization for training burns and for the burning of Russian thistle (tumbleweed);
- Requires fees to be assessed for the filing and evaluation of plans and reports, upon amendment of Rule 306;
- Adds an exemption for open burning as an emergency measure to protect crops from freezing, and
- Restructures and clarifies the exemption language, including requirements for private and public fire agency training burns.

## **REGULATORY BACKGROUND**

Rule 444 – Open Burning, was adopted October 8, 1976, along with Rule 208 – Permit and Burn Authorization for Open Burning, to reduce visible emissions and minimize public nuisance from smoke emissions. These rules were written for the Los Angeles County Air Pollution Control District but incorporated elements of all the four counties (Los Angeles, Orange, Riverside and San Bernardino Counties) that the rules affected at the time. Rule 444 has been amended on three previous occasions. An October 1981 amendment added a provision allowing for training fires of 30 minutes or less in duration when they would otherwise be precluded due to adverse meteorological conditions. The rule was amended again in October 1987 to incorporate the newly adopted vegetative management burning requirements of the California Code of Regulations, Title 17 – Smoke Management Guidelines for Agricultural and Prescribed Burning. Finally, a December 2001 amendment incorporated modifications to Title 17, corrected deficiencies identified by EPA in a 2000 federal register notice of limited disapproval, and incorporated provisions of the revised 1997 and 1999 control measure WST-03 that set limitations to open burning when the California one-AQMP ozone standard is predicted to be exceeded.

Rule 208 – Permit and Burn Authorization for Open Burns has been amended twice, in 1990 and 2001. The last amendment added a provision requiring written permits for

open burning by local fire protection agencies or the Executive Officer. It also specified that the burn authorization from the Executive Officer would be required for each day of burning.

## **PURPOSE AND APPLICABILITY**

The purpose of these rules is to ensure open burning in the AQMD is conducted in a manner that minimizes emissions and that smoke is managed consistent with state and federal law in order to protect public health and safety. The amendments are intended to improve the tracking of any open burning within the AQMD, improve enforceability and reduce exposure to particulate emissions.

## **LEGISLATIVE AUTHORITY**

The California Legislature created the AQMD in 1977 (The Lewis-Presley Air Quality Management Act, Health and Safety Code Section 40400 et seq.) as the agency responsible for developing and enforcing air pollution control rules and regulations in the South Coast Air Basin (Basin). The AQMD obtains authority to adopt, amend, or repeal rules and regulations from Health and Safety Code §§39002, 40000, and 40001.

## **AFFECTED INDUSTRIES**

The proposed amendments would apply to any persons conducting open burning, including but not limited to agricultural operations, fire training operations, and forestry operations.

## **SUMMARY OF PROPOSED AMENDMENTS**

### **PAR 208 – Permit and Burn Authorization for Open Burning**

The proposed amendments to Rule 208 states that “a person shall not conduct or allow any open burning contrary to the site-specific permit conditions.” This is a clarification and seeks to strengthen enforceability of the rule.

### **PAR 444 – Open Burning**

#### *Definitions*

The proposed amendments to Rule 444 include thirteen new definitions to enhance clarity of the various provisions of the rule: Air Quality Index, Approved Ignition Fuels, Burn Authorization Number, Burn Management Plan, Burn Project, Emergency Burn Plan, Field Crop, Heavy Fuels, Imminent Fire Hazard, Light Fuels, Sensitive Receptor Locations, Source/Receptor Area, and Wildland.

“Air Quality Index (AQI)” is defined as a value established by the federal Environmental Protection Agency (EPA) to measure the level of the five major air pollutants, ground-level ozone, PM, carbon monoxide, sulfur dioxide, and nitrogen dioxide which are regulated by the Clean Air Act. The values range from 0 to 500 and are divided into six

categories, higher values indicate greater levels of pollution and are associated with greater health concerns. A value of 0 to 50 is listed as good, 51 to 100 is listed as moderate, 101 to 150 is listed as unhealthy for sensitive groups, 151 to 200 is listed as unhealthy for all segments of our population, 201 to 300 is listed as very unhealthy and over 300 is listed as hazardous. Sensitive groups include children who are active outdoors; adults involved in moderate or strenuous outdoor activities; individuals with respiratory disease, such as asthma; and individuals with unusual susceptibility to ozone.

“Approved Ignition Fuels” is defined as pipeline quality natural gas, liquefied petroleum gas, or a petroleum liquid having an API gravity of at least 30. API gravity is a measure of the gravity or density of liquid petroleum products; devised jointly by the American Petroleum Institute and the National Institute of Standards and Technology. The higher the API gravity is, the less dense the fuel. These authorized ignition fuels burn hotter, produce less smoke and thus reduce emissions. These fuels were defined to simplify the rule language.

“Burn Authorization Number” is defined as the number that is assigned to a burn project upon being granted approval by the Executive Officer. There is added language for clarification.

“Burn Management Plan” is a document required for agricultural operations with burning projects that are greater than 10 acres or that would produce more than one ton of PM. The information required includes: project location, types, and amounts of material to be burned; expected duration of the fire from ignition to extinction; identification of responsible personnel, including telephone contacts; identification and location of all smoke sensitive areas; and where the particulate emissions tonnage is selected as the criteria for determining the project size, calculation of the particulate emissions tonnage.

“Burn Project” is an active or planned prescribed burn, agricultural burn, fire prevention/suppression training, a naturally ignited wildland fire managed for resource benefits, or any other burn approved by the Executive Officer. The definition was added to clarify the rule language.

“Emergency Burn Plan” is a document prepared by an agricultural operator for open burning as an emergency measure to protect crops from freezing. The definition was added for clarification.

“Field Crop” is crop which is grown for agricultural purposes. Field Crops include: alfalfa, barley stubble, cotton, flower straw, hay, lemon grass, oat stubble, peanuts, rice stubble, safflower, sugar cane, wheat stubble, or other field crops, as determined by the Executive Officer. This was defined to clarify the rule language that references field crop burning.

“Heavy Fuels” are defined as materials that burn slowly, sustain heat, and are difficult to extinguish. Heavy fuels include large downed woody materials such as logs and branches. In this context, fuel refers to combustible materials that are available to burn on an area of land. Common fuels range from light fuels (grass and field crops), to heavy

fuels (brush and large downed logs, and slash), and materials in between (chaparral, manzanita, chemise, scrub oak). Each fuel has its own burn characteristics and burn intensity. Heavy Fuels are defined in order to accommodate a longer timeframe for training burns, since they require more time to ignite and extinguish. Training burns involving heavy fuels will be limited to six hours cumulatively in a 24 hour period.

“Imminent Fire Hazard” is defined as one presenting an impending danger to health and safety and for which the direct abatement by fire is necessary, as declared by a fire protection agency. Imminent Fire Hazards differ from a prescribed burn by the immediate or urgent need to alleviate the threat.

“Light Fuels” are defined as materials that burn quickly with a short period of intense heat such as grass and field crops. Training burns involving light fuels will be limited to a four hour cumulative burn time in a 24 hour period.

“Sensitive Receptor Location” is defined to include schools, daycare centers, hospitals, and convalescent homes, and other locations where children, chronically ill individuals, or other sensitive persons could be exposed. This mirrors the definition as it appears in the *Risk Assessment Procedures for Rules 1401 and 212*.

“Source/Receptor Areas” a source area is defined as that area in which contaminants are discharged and a receptor area is defined as that area in which the contaminants accumulate and are measured. Any of the areas can be a source area, a receptor area, or both a source and receptor area. The definition was added to clarify the meaning of Source/Receptor Areas which are referenced in several places in the Rule. This definition mirrors the definition in Rule 701. Rule 701 also refers to a map of the Source/Receptor Areas which is an attachment to Rule 701.

“Wildland” is defined in order to clarify the rule language. The following definition for wildland mirrors Title 17 of the California Code of Regulations Subchapter 2: Smoke Management Guidelines for Agricultural and Prescribed Burning:

- (A) “Wildland” means an area where development is generally limited to roads, railroads, power lines, and widely scattered structures. Such land is not cultivated (i.e., the soil is disturbed less frequently than once in 10 years), is not fallow, and is not in the United States Department of Agriculture (USDA) Conservation Reserve Program. The land may be neglected altogether or managed for such purposes as wood or forage production, wildlife, recreation, wetlands, or protective plant cover.
- (B) For the California Department of Forestry and Fire Protection (CDF) only, “Wildland” as specified in California Public Resources Code (PRC) section 4464(a) means any land that is classified as a state responsibility area pursuant to article 3 (commencing with section 4125) of chapter 1, part 2 of division 4 and includes any such land having a plant cover consisting



principally of grasses, forbs, or shrubs that are valuable for forage. “Wildland” also means any lands that are contiguous to lands classified as a state responsibility area if wildland fuel accumulation is such that a wildland fire occurring on these lands would pose a threat to the adjacent state responsibility area.

Eight definitions are proposed for amendment. They are: agricultural operations, agricultural wastes, approved ignition devices, fire hazard, marginal burn day, no burn day, permissive burn day, and prescribed burn.

“Agricultural Operations” was changed to clarify that open burning by agricultural operation is restricted to persons who run a business for profit and does not include small or hobby agricultural operations.

“Agricultural Wastes” was changed to clarify that chemically treated wood, or materials containing asbestos are not considered to be agricultural wastes and thus should not be burned. Chemically treated wood and asbestos are both extremely harmful when burned in open fires. Among the chemicals used as wood preservative are toxic compounds such as chromated copper arsenate, creosote, ammoniacal copper arsenate, and pentachlorophenol.

“Approved Ignition Devices” is changed to improve clarity.

“Fire Hazard” is changed to clarify that the hazard “could” present a threat, removing the language “represents” which is a more concrete term. Also, the language “if not immediately abated” is struck from the definition of “fire hazard” to distinguish it from “imminent fire hazard.”

“Permissive Burn Day”, “Marginal Burn Day”, and “No Burn Day” definitions are strengthened and simplified by the addition of the AQI requirements. The proposed amended definition of a permissive burn day is defined as an AQI of 100 or less. The proposed amended definition of a no burn day is defined as an AQI of greater than 150. The proposed amended definition of a marginal burn day is defined as 150 or less through out the basin and 100 or less in the source/receptor area. The addition of AQI makes the requirements of the California one hour Ozone Health Advisory Episodes redundant, therefore those requirements are proposed for deletion.

“Prescribed Burn” was amended to include training burns that consume greater than 10 acres. The clarification was added to require training burns greater than 10 acres to submit Smoke Management Plans, a Title 17 requirement.

One definition is proposed for deletion:

“Burn Implementation Plan” is proposed for deletion as is the corresponding rule requirement. The Smoke Management Plan is sufficient to cover the information required.

### ***Forecasting***

The proposed rule adds the criterion of the AQI for forecasting burn days. The AQI incorporates the five major air pollutants regulated by the Clean Air Act; ground-level ozone, PM, carbon monoxide, sulfur dioxide, and nitrogen dioxide. The forecasting of calling “marginal”, “permissive”, and “no burn” days will have to meet new criteria of the federal 8-hour ozone and federal 24-hour PM<sub>2.5</sub> standards. These new federal criteria are factored into the calculation of the AQI. Staff forecasts are made on a daily basis and broadcasts of the information are made on the internet, by e-mail, and are available by phone. Additionally, the information is disseminated to media (radio, newspaper and television). The AQMD can also provide 3 day forecasts to assist the public in scheduling open burns, including public and private fire training exercises.

A historical examination and comparison of air quality modeling results and recorded air quality data indicate that using the AQI criteria to forecast burn days will limit the number of forecasted annual burn days as follows:

Table 1: Days of Restricted Burning Due to Air Quality \*

Year	Current Requirement			Proposed Requirement		
	Permissive	Marginal	No-Burn	Permissive	Marginal	No-Burn
2005	232	54	79	191	66	108
2006	238	67	60	199	81	85
2007	226	55	84	189	71	105
<b>Average</b>	<b>232</b>	<b>59</b>	<b>74</b>	<b>193</b>	<b>73</b>	<b>99</b>

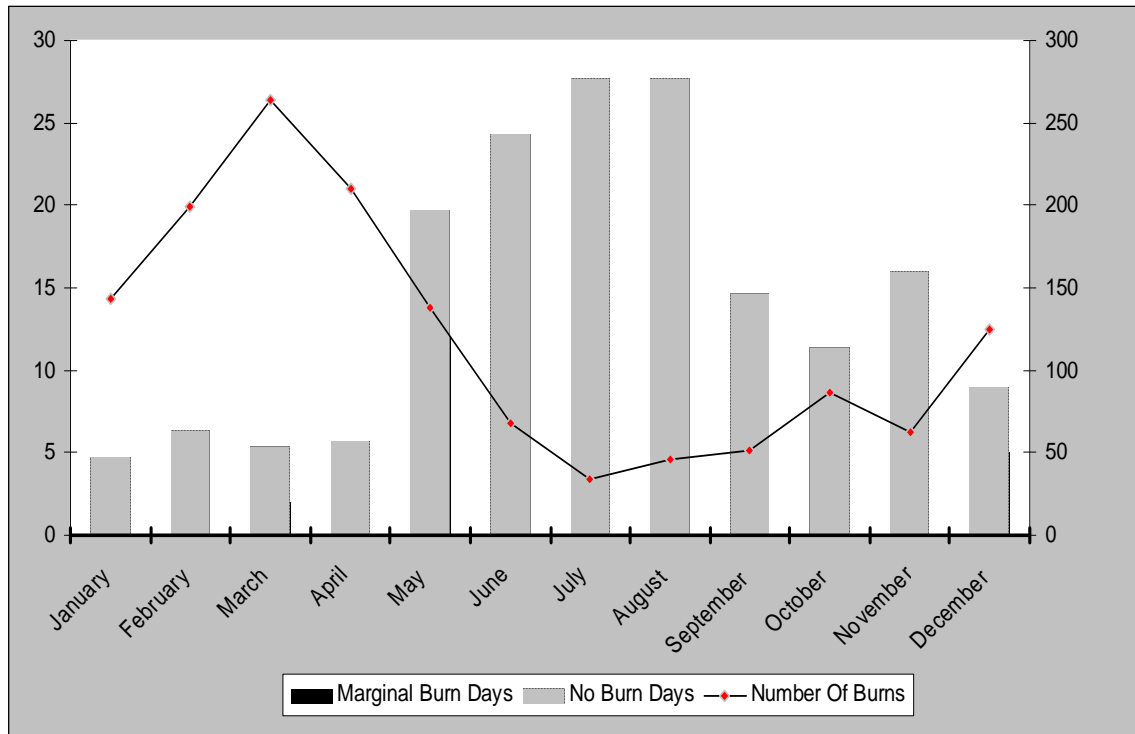
\* Based on measured SSI PM 2.5 and 8-Hour Ozone in South Coast Air Basin against new standards and predicted meteorological conditions.

Forecast predictions are accurate 90 percent of the time and usually vary based on weather patterns, mixing heights, and surface pressure gradients.

Chart 1 demonstrates the monthly distribution of restricted burn days using the air quality and meteorological data from 2005 – 2007. The restricted burn days are plotted in reference to the number of burns that took place during that same period. This chart demonstrates that most of the open burning that takes place in the basin occurs during the winter months, when it is safer to conduct open burning. Furthermore, public fire agencies typically issue advisories to not conduct any open burns during the summer months. Therefore, the increased number of no burn and marginal burn days during this period is not expected to have a significant impact on open burn practices as they exist today.

It should be noted that Chart 1 does not account for current and future improvements in air quality. The restricted burn days represented in Chart 1 are based on past air quality forecasts. The air quality has improved and is expected to continue to improve in the coming years, especially for PM<sub>2.5</sub>. This is expected to result in fewer reductions in no burn and marginal burn days, especially in areas where the majority of prescribed burns currently are conducted..

CHART 1: Marginal and No Burn Days under PAR 444



***REQUIREMENTS AND PROHIBITIONS***

***Burn Authorization Number***

The rule language was altered (subparagraph (d)(1)(C)) to reference the burn authorization number. The original language required authorization from the Executive Officer whereas in practice, the authorization is granted by issuing a burn authorization number. The rule language was altered to clarify this requirement. Additional clauses were also added to ensure staff is notified by 4:00 p.m. on the day prior to the burn. Staff does not respond to calls for burn authorization numbers on Sundays. Individual who wish to burn on Monday must leave a message with the burn coordinator by 4:00 p.m. Sunday. The burn coordinator will issue the burn authorization number Monday morning. In addition, rule language was added to allow the delay of a burn authorization number until staff has been able to inspect the proposed burn project.

***Site-Specific Permit Conditions***

Language is proposed to allow the Executive Officer to issue site-specific permit conditions for any burn project (subparagraph (d)(1)(D)). This is expected to improve rule enforceability.

***Pyrotechnics***

Language is proposed pertaining to the use of pyrotechnics for special effects (subparagraph (d)(2)(G)) requiring the fuel to be untreated wood, charcoal or approved ignition fuels. Approved ignition fuels are defined as pipeline quality gas, liquefied petroleum gas, or a petroleum liquid having an API gravity of at least 30. These authorized ignition fuels burn hotter, produce less smoke and thus reduce emissions.

Untreated wood and charcoal were included to allow for their use during filming. Untreated wood and charcoal are already exempted in subparagraph (h)(5)(B) for preparing foods or generating warmth. Open burning for filming is limited to 30 minutes; hence staff concluded the potential emissions would be de minimus.

The issue of possibly controlling fireworks displays was investigated. A number of entities employing fireworks displays for entertainment were contacted for information regarding frequency and duration of shows and costs. Staff found the number of complaints for this activity had greatly diminished (one in 2005, and none in 2006) after Disneyland implemented a compressed-air, aerial pyrotechnics launching system in 2004. Disneyland also implemented an interim low-smoke substitute for black powder and is finalizing the development and marketing of an ultra-low smoke substitute for black powder. They are currently working towards the goal of securing the manufacture of the product which is not available commercially. Due to the lack of complaints, the commercial unavailability of the ultra-low smoke substitute for black powder, the low frequency of shows by other individual entities, and the cost of the launch system, staff determined further regulation of these activities is not currently warranted.

### ***Sensitive Receptors***

Under the Requirements and Prohibitions paragraph for agricultural burning, the proposal prohibits open burns if the location is within 1,000 feet of a sensitive receptor location. This provision is intended to protect the health of residents of these locations. Alternatives to burning are dependent on the materials disposed. Certain materials can be reduced by mechanical means. Chipping entails several steps including: uprooting the materials, mechanically chipping; and transporting to a biomass facility or landfill. The waste must be acceptable to the biomass facility. Also for chipping, a number of pieces of equipment are required including but not limited to: tub grinder, excavator, tractor, front-end loader and a transporter. Grinding is a mechanical means of reducing the agricultural waste and can be accomplished with a tub or roller grinder.

### ***Fire Suppression Training***

A prohibition was added to explicitly prohibit the complete burning of an existing structure for fire prevention/suppression training (subparagraph (d)(3)(F)). The intent of this restriction is to limit the training to burning within the structure but not the burning of the structure itself. Many cities allow burning inside structures for fire training purposes; however this should not be construed as an alternative to proper demolition for cost saving purposes.

Staff has witnessed and documented several of these types of training burns. The structures used for the training are either abandoned buildings slated for demolition or containerized props used to simulate a building or a home. Materials are set on fire within the structure and after several minutes elapse, the structure fills with smoke. The trainees enter the structure and extinguish the flames. In the training that staff witnessed, the fire was completely extinguished within 10 minutes. There were no piles left smoldering for extended periods of time. If such training were to exceed the 30 minute limit requirement in the Rule, then the training would not be exempt from the provisions in subparagraphs (d)(1)(A), (d)(1)(B), (d)(1)(D) or clause (d)(1)(C)(ii) as stated in paragraph (h)(2)(A). In order for the training to be exempt, the training should not last longer than 30 minutes and the structure should still be true after the training is completed.

### ***Time requirements***

The language regarding open burning other than field crops (subparagraph (d)(4)(B)) was altered to improve clarity.

### ***Agricultural Burning***

Additional requirements for agricultural burning (paragraph (d)(7)) are proposed so that wastes from field crops that are cut in a green condition must be dried for a minimum of 4 weeks. Drier materials burn hotter and thus produce less smoke. Additional requirements are proposed for agricultural burns (subparagraph (d)(7)(D)). The proposed language requires a Burn Management Plan be submitted for burns greater than 10 acres or for projects that would produce more than one ton of PM emissions. The proposed rule language specifies the minimum information to be contained in the Burn Management Plan. Currently, prescribed burns of greater than 10 acres or producing more than one ton of PM emissions must have a Smoke Management Plan. Smoke Management Plans provide the AQMD with information such as location, types and amounts of material to be burned, duration of the fire, contact information, and PM emissions (when PM emission tonnage is the criteria for determining the project size). This same type of information will be required for Burn Management Plans. This information assists the staff in preparing the annual report on burning activities for CARB.

### ***Transportation of Agricultural Waste***

A restriction was added prohibiting the transport of agricultural waste for burning from one property to another (paragraph (d)(6)). The transportation restriction addresses materials such as Russian thistle which spreads seeds, and thus the plant, when the purpose of burning it is to destroy this invasive plant and reduce its spread. This provision also improves rule enforceability.

### ***Prescribed Burning***

The proposal also requires Smoke Management Plans to be updated annually (subparagraph (d)(8)(B)). This will assist the AQMD in air quality planning and emission estimates. AQMD must submit burn data information to CARB annually and this change will help make the information more accurate. Additionally, the proposal clarifies that the criteria for Smoke Management Plan consideration of alternatives to burning, including environmental, economic and logistical data, and emission reduction techniques (clause (d)(8)(C)(v)). Also, the proposed amended language regarding prescribed burning on *marginal burn days* (subparagraph (d)(8)(E)), removes language regarding the California 1-hour ozone standard. Marginal burn days are defined using the AQI making the reference to the California 1 hour ozone standard redundant.

### ***MAXIMUM DAILY BURN ACREAGE***

The proposal adjusts the allowed Maximum Daily Burn Acreage for Agricultural and Prescribed Burning to reflect the decreased number of burn days in a season. Based on the air quality and meteorological conditions from 2005 to 2007, it is projected that the number of Marginal and No Burn Days would have been 73 and 99, respectively under the proposed Rule requirements. The number of Permissive Burn Days would have been 193 days. Using the previous criteria to forecast the number of burn days, the number of Marginal and No Burn Days was 59 and 74 respectively from the same period. The number of Permissive Burn Days was 232 days. Under the proposed amendment to the Rule, the burn season is expected to be reduced by 16.8%. Therefore, the proposed amended Rule 444 scales up the Maximum Daily Burn Acreage, accordingly. The Maximum Daily Burn Acreage allowed for all areas within the AQMD, excluding the Coachella Valley, will be 175 acres for prescribed wildland, range burning, and agricultural burning. The Maximum Daily Burn Acreage allowed for the Coachella Valley will be 6 acres for prescribed wildland and range burning, and 41 acres for agricultural burning.

### ***ADMINISTRATIVE REQUIREMENTS***

#### ***Annual Reporting***

The proposed amendment requires Post Burn Evaluation reports to be submitted annually by any person or persons required to have a Smoke Management Plan or a Burn Management Plan. The proposed reports include the type of material burned, the total acreage burned, the total tons of material burned, the estimated fuel loading in tons per acre burned, and the total of the estimated PM emissions. Since this information is currently estimated in the Smoke Management and Burn Management Plans, the Annual Post Burn Evaluation reporting requirement will provide staff with more accurate information on the open burning occurring within the AQMD.

#### ***Permits***

The proposed amendment requires fire protection agencies to submit copies of all burn permits issued for open burns in the AQMD to the Executive Officer quarterly. The

original amendment required individuals to obtain written permits from both the AQMD and the appropriate fire protection agency. After considering input from various local fire protection agencies at the Public Workshop, staff concluded that the AQMD currently does not have sufficient resources to manage issuing dual permits in a timely manner. The dual permit requirement was intended, in part, to improve tracking of open burning occurring in the AQMD. Since most fire protection agencies already submit copies of their written permits to the Executive Officer; the amendment will make this a requirement.

### ***FEES***

Staff is proposing to assess fees as of July 1, 2009, in accordance with the provisions of Rule 306 – Plan Fees. The proposed fees shall be assessed for filing and evaluating Smoke Management Plans (SMP) and Burn Management Plans (BMP), and for evaluating Post Burn Evaluation Reports (PBER) and Emergency Burn Plans (EBP). The fees will recover some of the cost burden associated with implementing Rule 444 - Open Burning.

The fees for Smoke Management Plans and Burn Management Plans would include filing fees and plan evaluation fees. The current cost for plan filing and evaluation under Rule 306 is \$112.30 for plan filing and \$112.30 per person per hour for plan evaluation based on the total actual and reasonable time incurred. If an inspection is required to approve the plan, then the inspection fee (\$89.80 per hour) will also apply. Staff estimates that the cost evaluating a Smoke Management Plans and Burn Management Plans will be from \$224.60 to \$561.50 per plan, which includes evaluation time and a potential inspection. The range reflects the difference in evaluation time, with larger projects requiring additional staff time for review. Staff intends to include an exemption for Rule 444 in Rule 306(i)(1) for the \$393.05 initial plan evaluation fee. In addition, if the plan is a renewal which does not require further analysis, then the plan could be renewed annually for \$112.30.

Staff is also proposing a fee for the evaluation of the Annual Post Burn Evaluation Reports and Emergency Burn Plans. Staff is currently evaluating the time that will be required to evaluate the reports and estimates that the fee will be from \$56.15 to \$112.30, based on a half hour to 1 hour evaluation.

TABLE 2: FEE STRUCTURE

Plan	Fee Type	Fee Amount *	Expected Time	Min fee	Max fee
BMP and SMP	Filling fee	112.30		112.30	112.30
	Evaluation fee	112.30 / hour	1 – 2	112.30	224.60
	Inspection fee	112.30 / hour	0 – 2	0	224.60
Total				<b>224.60</b>	<b>561.50</b>
APBER and EBP	Evaluation fee	112.30 / hour	0.5 - 1	<b>56.15</b>	<b>112.30</b>

\* There is a Small Business Discount available of 50% for the above fees.

All of the above fees are estimates and will be adjusted based on the evaluation conducted prior to amending Rule 306. Staff is also evaluating basing the fees on the acres that are proposed in the Burn Management Plans and Smoke Management Plans, similar to those included in San Joaquin Valley Unified Air Pollution Control District's open burn program.

Refer to the socioeconomics report for a more consolidated analysis of the proposed fees.

## ***EXEMPTIONS***

### ***Imminent Fire Hazard***

New language is proposed to exempt certain open burning requirements in the event of an imminent fire hazard (paragraph (h)(1)). The language pertaining to Public Resources Code 4462 is removed, thus broadening the exemption. This exemption is intended to give fire protection agencies greater flexibility in addressing situations that present an immediate danger to property or the health and/or safety of people. The imminent fire hazard is distinguished from a prescribed burn by the need for an urgent action to alleviate a threat.

### ***Fire Prevention/Suppression Training***

The rule language has been restructured to clarify the exemptions and change some of the exemption for fire prevention/suppression training (subparagraphs (h)(2) and (h)(3)). The exemption from obtaining a burn authorization number was removed for all training burns. In order to better track open burning, burn authorization numbers will now be required for all open burning.

The language has been altered to more clearly enumerate the different exemptions and limitations for training conducted by fire protection agencies **not** conducted within a structure, training conducted by fire protection agencies conducted within a structure, and training conducted by **non**-fire prevention agencies.



Several additional requirements and a new exemption are proposed for training exercises performed by fire protection agencies, not within a structure, to be exempt from acquiring a permit and to be conducted on restricted days. The cumulative burn time must not exceed four hours in a 24 hour period for training involving light fuels, six hours in a 24 hour period for training involving heavy fuels, and approved ignition fuels must be used (subparagraph (h)(2)(A)). The amendment also proposes to extend the same exemption that is afforded training burns, to burns conducted for research.

One additional requirement is proposed for training conducted by non-fire prevention agencies to be exempt from acquiring a permit. The total burn time must not exceed a total cumulative time of four hours in a 24-hour period.

### ***Russian Thistle***

The exemption for Russian thistle (*Salsola kali* or tumbleweed) from obtaining a burn authorization number (subparagraph (d)(1)(C)) for each day for each open burning event, is proposed to be removed. This will allow staff to track the open burning of this invasive material. Staff has been working with local fire agencies to review permits issued by the agencies for burning of tumbleweeds. Many burn piles with Russian thistle are mixed materials. The intent of the rule has been to allow the in-place burning of Russian thistle in order to limit the spread of an invasive species and not to include other materials. Removing the exemption will require burners to notify the Executive Officer and receive authorization prior to ignition. Staff would then be able to better monitor and inspect the burn piles prior to issuing a burn authorization number. In addition to the mitigation of open burning of other non-permitted material, staff would be able to obtain more accurate burn data relative to emissions from Russian thistle. Staff is committed to working cooperatively with local fire agencies to ensure that only the Russian thistle is allowed to be consumed in this open burning, and that all other materials not allowed to be burned under Rule 444, must be disposed of by alternative means.

### ***Recreational and Ceremonial Burning***

The proposed language clarifies the exemption under the ceremonial fire exemption to include burning conducted according to Title 4, Chapter 1, Section 8, of the United States Code.

## **EFFECT ON EMISSIONS**

While the proposed amendments to Rule 444 may result in emission reduction benefits, such benefits are not easily quantifiable. The proposal will restrict burns on particular days but not eliminate them. The proposal would result in minimizing impact of health damaging particulates on sensitive receptors.

## **COMPARATIVE ANALYSIS**

Health and Safety Code § 40727.2 requires a comparative analysis be conducted relative to the proposed amendments and other similar regulations. However, the proposed

amendments to Rules 444 and 208 do not conflict with any existing AQMD or federal requirements.

## **CALIFORNIA ENVIRONMENTAL QUALITY ACT**

The SCAQMD has reviewed the proposed project pursuant to the CEQA Guidelines §15002 (k)(1), the first step of a three-step process for deciding which document to prepare for a project subject to CEQA. Proposed amended Rule 208 clarifies an existing compliance expectation, which is administrative in nature. Proposed amended Rule 444 adds and modifies definitions, and utilizes the Air Quality Index (AQI) to determine permissive, marginal, and no burn days. As a result, the number of restricted burn days will increase, even though the allowed number of acres to be burned and, thus, the particulate matter emissions will not change. Additional requirements include prohibiting open burns within 1,000 feet of sensitive receptor locations, using approved ignition fuels for pyrotechnics in creating special effects for filming, prohibits the complete burning of existing structures for fire prevention/suppression training, requiring a Burn Management Plans for certain agricultural burn projects, and assessing fees for the filing and evaluation of plans and reports. Other amendments include modifying time limits for existing requirements or activity, such as plan submittals, authorization requests and field crop cutting. A number of the amendments are administrative in nature. Other amendments will either be a benefit to the environment or not change the current impacts from the open burning program, thus, it can be seen with certainty that the proposed project has no potential to adversely impact air quality or any other environmental area, it is exempt from CEQA pursuant to state CEQA Guidelines §15061(b)(3) – Review for Exemption. The Notice of Exemption will be filed with the county clerks of Los Angeles, Orange, Riverside and San Bernardino counties immediately following the adoption of the proposed project.

## **SOCIOECONOMIC ASSESSMENT**

A draft socioeconomic impact assessment has been prepared for the proposed amendments and is available.

## **DRAFT FINDINGS UNDER THE CALIFORNIA HEALTH AND SAFETY CODE**

Before adopting, amending, or repealing a rule, the California Health and Safety Code requires the AQMD to adopt findings of necessity, authority, clarity, consistency, non-duplication, and reference, as defined in Section 40727. The draft findings are as follows:

### **Necessity**

A need exists to amend current Rule 444 to accomplish the following:

- Improve data collection for emission estimates;

- Protect the health of persons present at sensitive receptors;
- Provide rule consistency; and
- Improve rule clarity.

**Authority**

The AQMD Governing Board has authority to amend existing Rules 208 and 444 pursuant to the California Health and Safety Code Sections 39002, 40000, 40001, and 40702.

**Clarity**

Proposed Amended Rules 208 and 444 are written or displayed so that their meaning can be easily understood by the persons directly affected by it.

**Consistency**

Proposed Amended Rules 208 and 444 are in harmony with and not in conflict with or contradictory to existing statutes, court decisions or state or federal regulations.

**Non-duplication**

Proposed Amended Rules 208 and 444 will not impose the same requirements as any existing state or federal regulations. The amendments are necessary and proper to execute the powers and duties granted to, and imposed upon, AQMD.

**Reference**

By adopting Proposed Amended Rules 208 and 444, the AQMD Governing Board will be implementing, interpreting or making specific the provisions of the California Health and Safety Code § 39002 (Local and State Agency Responsibilities), 40000 (Local/State Responsibilities), 40001 (Rules to achieve ambient air quality standards), 40702 (Adoption of Rules and Regulations), and 80100 through 80330 (Title 17: Smoke Management Guidelines for Agricultural and Prescribed Burning).

**PUBLIC COMMENTS AND RESPONSES**

A public workshop was held on September 16, 2008 to present information and to obtain comments on the proposed modification to Rules 208 – Permit for Open Burning & 444 – Open Burning. The timeline for public comments and workshops is listed in Table 3. Oral and written comments received before, during and following the public workshop were reviewed by staff, and a summary of the comments, followed by staff responses is provided below.

Table 3: Time Line for Public Comments and Workshops

Item	Date
Release of Proposed Amended Rules 208 & 444 and Preliminary Draft Staff Report	August 22, 2008
Open Public Comment Period	August 22, 2008
Public Workshop	September 16, 2008
Close of Public Comment Period	September 24, 2008

1. **Comment:** The reduced number of burn days will lead to more fuel for wild fires and therefore the proposed amendment will result in more emissions not less.

**Response:** Staff adjusted the Maximum Daily Burn Acreage to accommodate more open burning on Permissive Burn Days. The intent of the amendment is not to reduce the amount of prescribed burning conducted by land managers, but to direct the open burning to days with better air quality and better dispersion. The total acres that are allowed to be burned annually will remain the same under the amendment, but the burning will be restricted to days with better air quality and better dispersion. Based on estimates, the AQMD anticipates approximately 193 days that open burning will be allowed.

Further, there are several other options if land managers feel that a prescribed burn must take place to prevent a larger wildfire. Rule 444 subparagraph (d)(8)(E) allows the Executive Officer to authorize prescribed burning on marginal burn days, provided a Smoke Management Plan has been approved. In addition, paragraph (e)(3) allows for prescribed burns to exceed the maximum daily burn acreage if the burn is required to reduce a fire hazard that jeopardizes public health or safety, provided a satisfactory Smoke Management Plan has been submitted. Lastly, land managers have recourse with the Hearing Board. The Hearing Board can provide a temporary exemption from the requirements of Rule 444 if the land managers can demonstrate that a burn is necessary. Request forms

and instructions can be found on the AQMD website to apply for an emergency variance. This has been done in the past on numerous occasions with great success.

It should also be noted that the projected increase in restricted burn days delineated in this staff report is based on historical data. Air quality has improved and will continue to improve as the AQMD achieves emission reductions. As the air quality improves (e.g. PM<sub>2.5</sub>) the number of permissive burn days will increase, especially in the regions that conduct the most open burns.

2. **Comment:** Concern was expressed that even though there will be an increase in the Maximum Daily Burn Acreage allowed, limitations in manpower and machinery limit the amount that land managers can burn.

**Response:** The number of permissive burn days has been decreased by 16.8%. In order to maintain the same annual acreage that is allowed for open burning, the allowed maximum daily burn acreage was adjusted accordingly. The allowable maximum daily burn acreage increased by 25 acres (from 150 acres to 175 acres). Staff feels that this increase is nominal and is within the capacity of the land managers.

3. **Comment:** The land managers expressed concern that the fees will lead to less prescribed burning and less training; therefore, more dangerous wild fires will occur which is a danger to public safety.

**Response:** The fees included in this staff report are for illustration purpose, and the actual fees will be determined during the amendment process for Rule 306 – Plan Fees. The Public Hearing to consider the proposed amendments to Rule 306 is expected to be held in May or June 2009. The affected parties will have the opportunity to work with staff during the Rule 306 amendment process, all comments and concerns will be carefully considered.

Staff has removed the rule language that requires fees when obtaining written permits. The fees that remain are for Smoke Management Plans, Burn Management Plans, Annual Post Burn Evaluation Reports and Emergency Burn Plans. These fees are proposed to recover the cost for filing and evaluating these plans and reports. For the land managers, the fees incurred will be for the Smoke Management Plan and the Annual Post Burn Evaluation Reports. Staff estimates that these fees will be a maximum of \$673.80 annually (for *initial* Smoke Management Plan review and the Annual Post Burn Evaluation Report). In subsequent years, if the plans are for the same project, staff estimates that the fees will be a maximum of \$228.60 annually. Although the fees are not finalized at this time, staff reviewed and revised the estimated fees that were in the Preliminary Draft Staff Report for PAR 444. Staff proposes to exempt Rule 444 from the initial plan review fee and scale back the evaluation time for reviewing the projected plan.

The South Coast AQMD receives approximately 28 Smoke Management Plans per year and expects to receive 28 Annual Post Burn Evaluation Reports. The annual revenue from the fees for the land managers is estimated to be between \$6,400 - \$18,886. These fees will not cover the cost burden of running the open burn program, which includes numerous inspections, travel time, staffing the burn line, and issuing and reviewing permits. The proposed fees will recover the costs associated with plan review.

The proposed fees are very reasonable and compare very favorably to the fees levied by the San Joaquin Valley Unified Air Pollution Control District (SJVUAPCD) and other APCDs. The fees at the SJVUAPCD are \$5.40 per blackened acre for broadcast burning and \$3.24 per treated acre for pile burning. During the rule making process, SJVUAPCD estimated that they would need to generate \$100,000 to cover the cost of running their burn program. Under the current fee structure, they generate on average \$30,000 - \$60,000 annually, which does not cover the cost of running their burn program.

The revenue generated provides for improvements in the air quality for more than 16 million residents living within the AQMD's jurisdiction. Those revenues have historically relied almost exclusively on stationary sources. In the spirit of equity, there has been an effort to recover costs associated with area wide sources. While these fees may not recover the entire cost of the open burn program, they do strive toward a more equitable revenue structure.

4. **Comment:** The prohibition from burning within 1,000 feet from a sensitive receptor will adversely affect land managers conducting hazard or fuel reduction near structures.

**Response:** This prohibition was included to prevent *agricultural burning* from being conducted within 1,000 feet of a sensitive receptor. Staff changed the rule language and moved the requirement under the additional requirements for agricultural burning (paragraph (d)(7)).

5. **Comment:** The land managers commented that they need longer than the 2 hours cumulatively for training burns conducted in a 24 hour period, especially for large scale multi-flanked training exercises. The land managers expressed a need for 6 – 8 hours for training or for training to be allowed until 1300 hours. For training burns during vegetation management, the training should be allowed until the burn project is completed.

**Response:** Staff considered this request and has revised the proposed rule language. The proposed rule amendment will establish a time limit on training conducted by fire prevention agencies combusting light fuels to a cumulative of 4 hours in a 24 hour period and training combusting heavy fuels to a cumulative of 6 hours in a 24 hour period. Staff encourages training exercises during all prescribed burns that are conducted under an approved Smoke Management Plan.

However, staff is concerned that large scale burns could be used for vegetation management and masked as training burns, thus exempting the burns from many of the requirements in the rule. Staff feels the 4 – 6 hour training burn limits will serve as a tool to distinguish training burns from vegetation management.

6. **Comment:** There was concern expressed over the uncertainty associated with the fees.

**Response:** Staff included a more detailed fee structure for the proposed plan evaluation fees based on the current Rule 306 – Plan Fees that reflect staff’s best estimates at this time. These estimates will be further refined during the amendment process of Rule 306, which is expected to commence immediately after the amendment of Rule 444 and be completed by May or June 2009. There will be an opportunity to participate in the process of amending Rule 306 in the coming months. All parties that potentially will be impacted by the fees will be notified of the rule making process and all concerns will be carefully considered.

7. **Comment:** In a written comment letter received from a representative of the Department of Forestry and Fire Protection (DFFP) suggested that the AQMD should fund alternatives to fuel treatment, contribute to vegetation management plans, fund a biomass plant, restore damaged habitat, and fund or participate in fire safe inspections or education programs. Or, as an alternative, drop the fees for wildland treatments.

**Response:** The fees that are currently being proposed are not fees directed at wildland treatments, the fees are for cost recovery associated with filing and reviewing required plans and reports. Staff may in the future consider a cost for wildland treatments such as the SJVUAPCD and other APCD fees per blackened acre for the land managers. Staff acknowledges the potential air quality impact of the suggested alternatives to open burning, but they are not relevant to this rule making process. Staff does encourage the DFFP to pursue the aforementioned alternatives and offers support from the AQMD. Staff agrees to establish a working group in order to facilitate these pursuits and looks forward to working with the land managers to seek alternatives to open burning, and apply for grant opportunities as a project team.

8. **Comment:** Concern was expressed by a representative from the Riverside Unit of the DFFP regarding the proposal to require permits from both the AQMD and the appropriate fire protection agency. Their concerns included the logistics of individuals obtaining permits, coordination between the two entities, enforcement and potential circumvention to avoid the fee proposed for the permits. They also recommend that the AQMD encourage mandatory trash collection which could significantly reduce the illegal burning that is currently taking place.

**Response:** After consideration of the impact of issuing permits and potentially inspecting each burn project, staff has concluded that with current

staffing resources, it will be very challenging to issue permits for every open burn conducted within the AQMD. As a result, staff has eliminated the proposed requirement that permits are obtained from both the AQMD and the applicable fire protection agency and has deleted the reference to the permit fee. In lieu of this requirement, staff will require the applicable fire protection agencies to submit copies of the written permits they issue on a quarterly basis. Most agencies are already submitting copies of their permits to the AQMD; the proposed amendment will make this a requirement. The revised staff proposal will retain the current Rule language that provides a choice between obtaining a permit from either the AQMD or the fire protection agency.

The original intent of the permit fee was not to generate revenue but to discourage open burning, especially tumbleweed burning that often includes other wastes. Staff agrees that mandatory trash pick-up could also lead to fewer open burns and therefore have positive air quality implications. Staff encourages Riverside DFFP to work with their local municipality, and the AQMD will be happy to assist in anyway possible.

9. **Comment:** The following comments were received from representatives of refineries within the AQMD. The proposed amendment will further limit the number of burn days available to conduct training, having the potential to lead to less training exercises and hence increasing the danger to the public. It is difficult to schedule training exercises with the current number of restricted burn days. Refineries should be allowed the same exemption from the AQI as fire protection agencies. Further, the proposed amendments restrict training burns to 2 hours cumulatively within a 24 hour period which are too restrictive. Refineries require at least 4 hours of training within a 24 hour period. Also, refineries should not have to wait for an inspection (section (d)(1)(C)(ii)) prior to being issued authorization to burn. Lastly, training conducted at refineries should be exempt from section (d)(1)(D) which requires site specific permit conditions be met, since permits are not required for the training burns.

**Response:** In regard to scheduling difficulties that result from the 16.8% decrease in permissible burn days, staff has committed to working with the refineries to allow them more lead time for scheduling by issuing 3 day forecasts instead of the current 1 day forecast. This advanced notice will help with their scheduling issues. Staff has used this approach successfully in the past with fire protection agencies.

As to the exemption that is afforded to fire protection agencies allowing them to conduct training burns on marginal burn or no burn days, the AQMD strives to maintain a level playing field. There are some exemptions in the case of widespread risk to human health and property. Staff acknowledges that there are significant hazards associated with refineries, but the exemption that is afforded to the fire protection agencies is due to the relative risk associated with the size and scope of wildfires and fires within structures in densely populated areas. Even



though one of the letters stated that there is not a significant air quality impact from training burns, the AQMD historically had the worst air quality in the nation and must consider all air quality impacts. At this time, staff will not alter the rule language to allow for training burns, conducted by non-fire protection agencies, to be conducted on marginal or no burn days.

Staff has considered the proposed requirement to restrict training burns to 2 hours cumulatively in a 24 hour period. Based on the numerous comments received regarding this proposal, this requirement will be adjusted to allow 4 hours cumulatively in a 24 hour period for training burns.

As for the requests that training burns be exempted from possible delays resulting from an inspection, staff included an exemption to clause (d)(1)(C)(ii) for training burns. Staff also included an exemption to subparagraph (d)(1)(D) for site specific permit conditions since training burns do not require permits, and also increased the cumulative burn time for training to a maximum of four hours in a day, as requested.

10. **Comment:** Will fire prevention agencies be required to obtain a Burn Authorization number for conducting training burns using liquid petroleum gas?

**Response:** One of the major purposes for the currently proposed rule amendment was to better track open burning within the AQMD. Rule 444 will require that all open burning that falls under the regulation to obtain burn authorization numbers, including training burns using liquid petroleum gas.

11. **Comment:** Concern was expressed that tying the Air Quality Index to burn days is a moving target. Changes to the AQI standards could lead to major changes in the number of permitted burn days without any opportunity for the affected parties to comment on the changes.

**Response:** The AQI was established by the Federal EPA and is based on national air quality standards designed to protect public health. The EPA reviews these standards every few years. The EPA has a thorough amendment process and seeks and considers all public comments so there is an avenue for public input to changes in the AQI. Further, even if Rule 444 was not tied to the AQI, the rule would still be amended to reflect changes to the appropriate national air quality standards.

Further, current forecasting already includes the new federal ozone standard. The primary change in using the AQI will be to include PM<sub>2.5</sub> which primarily affects urban areas.

12. **Comment:** The definition of wildland should include 'trees'.

**Response:** The proposed definition mirrors the definition in Title 17. PAR 444 will remain consistent with Title 17. The definition incorporates article 3

(commencing with section 4125) of chapter 1, part 2 of division 4, which does mention trees.

13. **Comment:** A resident in a community that is affected by a neighboring sweat lodge commented that her elderly parents have been adversely affected by smoke associated with the smoke that used to engulf her parents on a regular basis. She strongly recommended putting major restrictions on wood burning in the City and County of Los Angeles, CA to protect the health of the residents.

**Response:** The AQMD understands the concerns of residents being exposed to airborne smoke; however, Rule 444 does exempt ceremonial fires in order to be sensitive to religious and cultural activities. Staff is encouraged that the local fire department was able to address her concerns and put an end to the burning in her case. The AQMD has a complaint line (1-800-CUTSMOG) for nuisance air quality complaints.

14. **Comment:** The Fire Academy at Rio Hondo College commented that they should be exempt for fire related training as it pertains to burn day requests and approvals on no burn days. They would like to be exempt from obtaining a burn authorization number prior to conducting training burns, since delays in receiving approval will have serious consequences on their ability to schedule burns.

**Response:** The intent of the current rule amendment process is to better track all open burning that occurs in the AQMD. Under this proposal, any open burning that falls under the rule will require burn authorization. Training activities will be exempt from clause (d)(1)(C)(ii) which allows for a delay in authorization if an inspection is deemed necessary. As for being exempt from subparagraph (d)(1)(A), which would allow for burning on marginal and no burn days, this exemption is afforded to public fire protection agencies. Staff will conduct a review of Rio Hondo College to determine if it is a public fire protection agency or a private entity. Such a review is a rule interpretation and is not relevant to this rule making process. Staff will work with Rio Hondo College to resolve this matter.

15. **Comment:** Will the increased number of restricted burn days fall primarily in the summer?

**Response:** Typically, air quality is the worse in the summer months; hence stricter standards will have a larger impact on those months. Under the amended Rule 444, there will be an increase in restricted burn days in the summer, in addition to an increase in restricted burn days throughout the year. Under the amendment, the burn season will approximately be reduced from a 232 day burn season to a 193 day burn season. Staff has addressed this decrease to the burn season by increasing the Maximum Daily Burn Acreage for Agricultural and Prescribed Burning. See the response to comment 1 for a more thorough explanation.

16. **Comment:** The Alliance of Motion Picture and Television Producers (AMPTP) commented that the rule language is confusing insofar as the current version of the Proposed Rule appears to require Executive Officer authorization of open burning for “use of pyrotechnics for the creation of special effects during filming of motion pictures, videotaping of television programs or other commercial filming or video productions activities” in section (b)(5) and (d)(2)(G), while exempting the very same activity for the provisions of the proposed rule in section (h)(5)(G).

**Response:** For clarification, open burning used for pyrotechnics in the creation of special effects during filming are only exempt from Rule 444 provided the effect is limited to 30 minutes. If an effect must last longer than 30 minutes, then those activities are not exempt from the provisions of the Rule and would require Executive Officer authorization, hence the rule language will not be modified. Further, the addition of the requirement (subparagraph (d)(2)(G)) that the fuel must be “untreated wood, charcoal or Authorized Ignition fuel” means that in order to use fuels other than those mentioned, a variance would have to be requested.

17. **Comment:** AMPTP requested two text changes in the proposed rule. The first request is for section (h)(5)(G)(i) to be amended to read “each fire effect is limited to 30 minutes” to clarify that the intent is to exempt all fire effects less than 30 minutes in duration, in any given day. The second request is that Section (h)(5)(G)(ii) be amended to read “natural gas, propane, untreated wood, charcoal or any other approved ignition fuel”. Given the exemption for unlimited use of natural gas, propane, untreated wood and charcoal contained in Section (h)(5)(B), utilizing the same fuels for an effect limited to no more than 30 minutes should be permitted.

**Response:** The language in clause (h)(5)(G)(i) will be amended to clarify that the intent of the exemption is that *each* fire effect is limited to no more than 30 minutes in duration. Staff also considered the request to exempt charcoal and untreated wood for use in special effects during film making. The rule does currently exempt open burning of these materials for the preparation or warming of food and generating warmth at a social gathering. The rule language will be modified to allow for an exemption for the burning of untreated wood and charcoal for creating special effects provided the burning is less than 30 minutes in duration.

18. **Comment:** The AQMD should recognize fire prevention agencies have sophisticated modeling tools and monitoring that could address air quality issues. The agencies should be granted latitude to demonstrate with their models that the burning will not exceed federal standards and allow burning on marginal days.

**Response:** The AQMD would welcome the input from the land managers to be taken into consideration in the burn day decision. However, the authority to

issue a burn day decision rests with the AQMD as the delegated representative of the California Air Resources Board for Areas 40 the South Coast Air Basin, Area 53 the Mojave Desert Air Basin and the Riverside County portion of Area 55.