

**Proposed**

State of California  
Air Resources Board

# **San Joaquin Valley Agricultural Burning Assessment**

**Resolution 21-4**

**February 25, 2021**

**Agenda Item No.: 21-1-6**

Whereas, sections 39600 and 39601 of the Health and Safety Code authorize the California Air Resources Board (CARB or Board) to adopt standards, rules and regulations and to do such acts as may be necessary for the proper execution of the powers and duties granted to and imposed upon the Board by law;

Whereas, the Legislature in Health and Safety Code section 39602 has designated CARB as the air pollution control agency for all purposes set forth in federal law;

Whereas, CARB is responsible for preparing the State Implementation Plan (SIP) for attaining and maintaining the National Ambient Air Quality Standards (NAAQS or standards) as required by the federal Clean Air Act (the Act) (42 U.S.C. section 7401 et seq.), and to this end is directed by Health and Safety Code section 39602 to coordinate the activities of all local and regional air pollution control and air quality management districts (districts) necessary to comply with the Act;

Whereas, sections 39515 and 39516 of the Health and Safety Code provide that any power, duty, purpose, function or jurisdiction of the Board may be delegated to the CARB Executive Officer as the Board deems appropriate;

Whereas, the districts have primary responsibility for controlling air pollution from non-vehicular sources and for adopting control measures, rules, and regulations to attain the standards within their boundaries, under sections 39002, 40000, 40001, 40701, 40702, and 41650 of the Health and Safety Code;

Whereas, CARB has responsibility for ensuring that the districts meet their responsibilities under the Act, under sections 39002, 39500, 39602, and 41650 of the Health and Safety Code;

Whereas, the San Joaquin Valley Air Basin (San Joaquin Valley) includes Fresno, Kings, Madera, Merced, San Joaquin, Stanislaus, Tulare, and western Kern Counties;

Whereas, the San Joaquin Valley Air Pollution Control District (District) was established under section 40002 of the Health and Safety Code as the air pollution control district responsible for carrying out these non-vehicular and attainment responsibilities in the San Joaquin Valley;

Whereas, pursuant to Health and Safety Code section 41856, CARB was directed to develop guidelines for the regulation and control of agricultural burning for each air basin in the State;

Whereas, on March 23, 2000, CARB adopted the Smoke Management Guidelines for Agricultural and Prescribed Burning (Regulation) requiring districts to adopt, implement, and enforce a Smoke Management Program consistent with the Regulation;

Whereas, on November 18, 2002, CARB approved the District's Revised Smoke Management System as meeting the requirements of the Regulation;

Whereas, the agricultural industry underpins the San Joaquin Valley economy and generates large amounts of woody biomass in the course of its operations;

Whereas, open burning is historically the most common and cost-effective disposal method for these agricultural materials not only in the San Joaquin Valley, but also across the State;

Whereas, the San Joaquin Valley faces immense air quality challenges, particularly in reducing fine particulate matter (PM2.5) pollution to protect the health of San Joaquin Valley residents, including from open burning of agricultural materials;

Whereas, in 2003, Senate Bill 705 (Florez, Chapter 481, Statutes of 2003) was enacted, adding sections 41855.5 and 41855.6 to the Health and Safety Code to prohibit the burning of specified categories of agricultural waste in the San Joaquin Valley;

Whereas, pursuant to section 41855.5 of the Health and Safety Code, the District was directed to stop issuing permits to burn specified categories of agricultural waste within the District by specified dates: field crops, prunings, and weed abatement commencing June 1, 2005; orchard removals commencing June 1, 2007; and other materials, vineyard removals, and surface harvested prunings commencing June 1, 2010;

Whereas, the District has amended its open agricultural burning rule (Rule 4103) to phase out burning of many crop categories and materials since 2005 in accordance with section 41855.5 of the Health and Safety Code;

Whereas, the District and the agricultural industry have made significant strides to advance technology and transition from open burning of agricultural materials to less polluting alternatives such as soil incorporation, though a multi-year drought and the closure of biomass plants impeded even greater transformation;

Whereas, section 41855.6 of the Health and Safety Code allows the District to postpone the prohibition commencement dates set forth in section 41855.5 of the Health and Safety Code for any crop category or material described if all of the following applies:

- a) The District determines that there is no economically feasible alternative means of eliminating the waste;
- b) The District determines that there is no long-term federal or State funding commitment for the continued operation of biomass facilities in the San Joaquin Valley or development of alternatives to burning;
- c) The District determines that the continued issuance of permits for that specific category or crop will not cause, or substantially contribute to, a violation of an applicable federal ambient air quality standard;
- d) CARB concurs with the District's determinations pursuant to section 41855.5 of the Health and Safety Code;

Whereas, in accordance with section 41855.6 of the Health and Safety Code, in 2005, 2007, 2010, 2012, and 2015, CARB concurred with the District's previous determinations that it was necessary to postpone burn prohibitions for certain crop categories and materials;

Whereas, the District prepared the 2020 Staff Report and Recommendations on Agricultural Burning (2020 Report), which includes new restrictions on specified crop categories, including vineyard removals; citrus orchard removals; residual rice stubble and rice stubble spot burning; raisin trays; and prunings of almond, walnut, and pecan crops;

Whereas, in the 2020 Report, in accordance with section 41855.6 of the Health and Safety Code, the District determined that:

- (a) For certain specified crop categories and materials, there is no economically feasible alternative means of eliminating the waste;
- (b) There is no long-term federal or State funding commitment for the continued operation of biomass facilities in the San Joaquin Valley or development of alternatives to burning; and
- (c) Continued issuance of permits for burn postponement categories or crops will not cause, or substantially contribute to, a violation of an applicable federal ambient air quality standard;

Whereas, because of these determinations, the 2020 Report includes a request for CARB concurrence with postponements for specified crop categories and materials;

Whereas, the 2020 Report was made available for public review on November 24, 2020, adopted by the District Governing Board following a public hearing on December 17, 2020, and forwarded to CARB for concurrence to postpone the burn prohibition for certain crop categories and materials as specified in the 2020 Report on December 18, 2020;

Whereas, CARB's concurrence with the District's 2015 recommendations expired December 31, 2020;

Whereas, CARB did not have sufficient time to assess the information in the 2020 Report prior to the previous concurrence expiring on December 31, 2020;

Whereas, to ensure an effective public process for considering the District's recommendations, on January 3, 2021, the CARB Executive Officer provided concurrence in certain cases to prevent economic loss to farmers for a limited period beginning January 3, 2021, and ending February 24, 2021;

Whereas, the 2020 Report includes a request for sustained State funding support of approximately \$15 million per year for alternative, cleaner methods of eliminating agricultural waste;

Whereas, the District is at the forefront of developing and deploying alternatives to agricultural burning;

Whereas, the District established the Alternatives to Open Agricultural Burning Incentive Program (Incentive Program) in November 2018, which provides grants to commercial agricultural operations located within the District to chip, shred, or mulch woody agricultural material as an alternative to the open burning of these materials;

Whereas, the District has executed \$18 million in grants under the Incentive Program since its launch, providing for the treatment of approximately 33,000 acres and avoidance of burning of 900,000 tons of agricultural materials;

Whereas, the 2020 Report includes recommendations for State bioenergy policy, including State incentives for developing advanced bioenergy conversion projects; a Clean Biomass Collaborative partnership with the District, CARB, the U.S. Environmental Protection Agency, and other entities; and a State strategy for addressing biomass plant challenges;

Whereas, CARB staff supports the District's efforts to reduce agricultural burning as described in its 2020 Report but recommends, as set forth in the Staff Recommendations San Joaquin Valley Agricultural Burning Assessment (Staff Recommendations) released for public review on February 5, 2021, the near-complete phase-out of agricultural burning by January 1, 2025;

Whereas, CARB Staff Recommendations provide several recommendations to assist the District to improve readiness to reduce burning at the pace needed to meet the 2025 target, including an acceleration of the ongoing transition to sustainable practices starting with large agricultural operations, which are better able to absorb the costs of alternatives such as soil incorporation, while allowing more time for smaller agricultural operations to adjust;

Whereas, CARB conducts its California Environmental Quality Act (CEQA) review according to a certified regulatory program approved pursuant to Public Resources Code section 21080.5 of CEQA;

Whereas, CARB staff has reviewed the proposed action and determined it is exempt from CEQA under CEQA Guidelines section 15308—Actions Taken by Regulatory Agencies for Protection of the Environment—because the proposed action would better protect the public from the health impacts due to exposure to air emissions from agricultural waste burning and would not generate significant adverse environmental impacts; and

Whereas, CARB staff has further determined the proposed action is exempt from CEQA under CEQA Guidelines section 15061(b)(3) because the action recommends actions already analyzed by the District, and the proposed delegation of authority to the CARB Executive Officer for further concurrences as described below does not create an environmental impact.

Now, therefore, be it resolved, that CARB commits to partner with the District to improve readiness to reduce burning at the pace needed to meet the 2025 target in the CARB Staff Recommendations of a near-complete phase-out of agricultural burning in the Valley, including by holding a summit on non-burning alternatives, developing outreach materials and programs, establishing a Clean Biomass/Bioenergy Collaborative across State agencies, pursuing additional incentive funding from State and federal sources, and encouraging the use of woody biomass in low-carbon biofuel uses.

Be it further resolved that the Board finds that partnerships among the District, CARB, other State and federal agencies, the agricultural industry, and Valley residents and other stakeholders will be key to improve the economic feasibility of alternative methods of eliminating agricultural waste so it is more accessible for all crop types and materials.

Be it further resolved that the Board finds that, to realize a near-complete phase-out of agricultural burning, there are opportunities at the federal and State level to develop long-term funding for these alternatives beyond current commitments.

Be it further resolved that the Board recognizes that incentive funding for alternatives should be prioritized to provide support for small farms to transition away from open burning.

Be it further resolved that the Board recognizes the need for a period of transition over the next six months to start addressing the economic feasibility of alternatives to open burning and develop additional State and Federal funding commitments for alternative methods of disposal.

Be it further resolved that the Board expects that the District's Smoke Management System will continue to operate in such a way as to avoid violations of air quality

standards throughout the transition to near-complete phase-out of agricultural burning.

Be it further resolved that the Board hereby concurs with the District's determinations under Health and Safety Code section 41855.6 for burn prohibition postponements, as set forth in the District's 2020 Report, through August 31, 2021.

Be it further resolved that the Board delegates the Executive Officer the authority to provide concurrence as necessary beyond this initial period through January 1, 2025, provided that the District implements the CARB Staff Recommendations as provided in [Attachment A](#) and any additional criteria included in this resolution.

Be it further resolved that the Board supports the District developing and making available to CARB by August 31, 2021, a transparent and measurable reduction plan with reduction benchmarks for near-complete phase-out of open burning.

Be it further resolved that the CARB Executive Officer shall provide annual status reports to the Board on the phase down and will return to the Board with recommendations in the event that implementation issues arise.

Be it further resolved that the Board reserves the right to withdraw its concurrence for any category of agricultural waste or crop if the Board determines that the criteria specified in section 41855.6 of the Health and Safety Code are not met.