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BUTTE COUNTY AIR QUALITY MANAGEMENT DISTRICT STAFF REPORT

Addendum to Staff Report: Final Proposed Amendments to the Proposed Recodification and Amendment of Regulation III, Rule 300, *Open Burning Requirements, Prohibitions and Exemptions*

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In the initial proposed amendments to District Rule 300, the District proposed to amend and recodify the regulations in order to add provisions that make the regulation compliant with the requirements of California Health and Safety Code (HSC) § 41804. The amendments which were proposed included provisions intended to reduce the emissions from open burning, specifically targeting the reduction of smoke impacts in densely populated areas, such as a prohibition on residential open burning in the unincorporated areas of Butte County located within the Chico Sphere of Influence and stricter requirements for the Magalia/Upper Ridge area than those for the remaining unincorporated areas of Butte County.

District Staff released the staff report on February 19, 2010, and conducted four workshops and multiple rural community meetings throughout Butte County, including Fire Safe Councils and the Butte County Farm Bureau. At the public hearing on April 22, 2010, the District Board approved Staff's request to continue the hearing until June 24, 2010, in order to provide time for evaluating comments received from the public. Some of those comments Staff considered were:

- Removing the proposed restriction on the amount of pine needles and leaves to be burned in a residential burn pile;
- Redefining the proposed lot size for residential burning as a smaller lot size (e.g., ½ acre rather than less than one acre);
- Waiving the proposed drying time requirements for the burning of Manzanita;
- Waiving the proposed drying time requirement if burning is necessary for disease prevention or pest control;
- Removing the proposed prohibition on burning stumps in-place;
- Prohibiting the burning of poison oak;
- Reconsidering the Chico Sphere of Influence as a proposed demarcation line for an extension of the City of Chico ordinance which prohibits burning on residential lots; and,
- Revising or removing the proposed additional requirements for residential burning in the Magalia/Upper Ridge areas.

With the exception of redefining the lot size for residential burning as a smaller lot size, District Staff incorporated all of the aforementioned changes into the final proposed amendments to Rule 300. Other revisions were also considered in the process. The following substantive changes were made to the final proposed amendments are as follows, in order of appearance in the final proposed Rule:

- **Section 2.1 – Applicability:** Staff removed, “*for purpose of disposal,*” and added, “*to any person in possession of property or who exercises possessor rights on the property on which burning is performed.*” Staff made this change to emphasize that a property owner is held to be strictly liable for all burning conducted on his or her property, regardless of the original intent of the burn (whether for disposal or not);

- **Section 3 – Effective Date:** The effective date was changed from July 1 to November 1, 2010;
- **Section 4.6 – Filmmaking:** This was a new section added to the amended Rule in order to allow for the setting of fires as part of a commercial film or video production, provided that the fire is authorized in writing by the Air Pollution Control Officer. A request made by the public prompted the inclusion of this section;
- **Section 5.10 - Burn Season Month:** This definition was added because the term is used in Section 11.4 and it was not previously defined;
- **Section 5.48 – Smoke Impact Liability:** By request from a member of the public to clarify its meaning as used in Section 8.1.2, this definition was included to clarify that a person conducting, allowing, or using open burning is legally responsible for the smoke generated from that activity;
- **Section 6.4:** Removed the prohibition against burning tree stumps in place;
- **Section 8.2.3:** Exempts Manzanita and Scotch Broom from District drying time requirements and allows for exemption from drying time requirements as authorized by the Butte County Agricultural Commissioner for control of pests, as requested by members of the public;
- **Section 9.7 – Flood Debris:** Allows the setting of agricultural fires (provided that notice of intent to ignite is provided, as required in Section 9.5) for the purpose of disposing of wood and vegetative debris deposited as a result of flood waters. Although not requested by the agricultural community, previous flood events in Butte County are evidence of the benefit of including this provision in the Rule;
- **Section 11.2 – Burn Hours:** In response to feedback received from the public who were concerned about burn hours being limited, the previous option for residential burn hours to end at 4:00 p.m. was removed; residential burn hours are proposed to be the same as for all other types of burning – 8:45 a.m. to one hour before sunset. No material is to be added to the fire after 3:00 p.m.
- **Section 11.3.5 – Performance Standards:** The previously included options to limit the amount of pine needles and/or leaves in a pile were removed. After considering comments received from the public, staff agreed that the burden this restriction would have placed in communities such as Magalia exceeded the benefit of potential reduction in emissions. Public education regarding proper methods of burning, coupled with the requirement that a responsible person is in attendance at all times, will hopefully have the same desired emission reduction;
- **Section 11.3.8:** Staff included a prohibition against the burning of poison oak (residential burning only) in response to public comment;
- **Section 11.4 – Additional Requirements for the Magalia/Upper Ridge Area:** After several meetings with residents in the neighborhoods which were targeted by the additional requirements, Staff modified the proposed amendments to allow for either (1) no additional requirements or (2) the following proposed requirements: Residential

burning shall be prohibited in the months of January and February of each year; during the months of November, December, March, and April, residential burn hours shall be 10:00 a.m. to 4:00 p.m.; during the months of May and June burn hours shall be as stated on the fire agency-issued burn permit; and, during the months of March through June, residential burning shall only be authorized for those areas north of Wycliff Way/Perry Road from the 1st through the 15th of each burn season month, and south of Wycliff Way/Perry Road from the 16th through the last day of each burn season month; and,

- **Section 11.5 – Additional Requirements for the Chico Sphere of Influence:** In response to public comment, Staff included an option for the Board to elect to not impose any additional requirements within the Chico Sphere of Influence. This option was posed in lieu of District Staff modifying the Rule’s definition of the size of a residential lot from one acre to a smaller size, which was proposed out of concern with the Chico Sphere of Influence proposal.

In addition to the changes identified above, several non-substantive changes are proposed. The non-substantive changes include:

- **Section 4.5 – Disposal of an Unserviceable American Flag:** This section was moved from Section 8, General Burn Requirements, Conditions, and Practices, to Section 4, Exemptions, where it was deemed to be more appropriately located;
- **Section 7.4 – Exemptions:** Staff changed fire protection services to fire protection agencies in order to be consistent within the document. In Section 7.4.3 - Open burning for the disposal of an unserviceable American Flag was added to the list of types of burning that are allowed without benefit of a permit;
- **Section 9.5.1:** The burning of Flood Debris (as described in Section 9.7) was added to types of waste which require the permit holder to receive verbal authorization prior to ignition, and Land Clearing of five or more acres was moved from this section which describes agricultural burning to the non-agricultural burning section, Section 10.6, Land Clearing, as it is not considered to be agricultural burning; and,
- **Section 10.7 – Right of Way, Levee, Reservoir, and Ditch Clearing:** The requirement to receive verbal authorization prior to ignition and to receive authorization from the fire agency having jurisdiction over the site was added to the section in order to mirror the permit requirements.

The Table of Contents was modified to reflect the above changes and references to sections which had moved as a result of some of the additions and deletions were also modified so that they pointed to the appropriate locations within the document.