BOARD OF SUPERVISORS - COUNTY OF MARIPOSA

RESOLUTION NO. 72-115

IT IS HEREBY RESOLVED, that the Board of Supervisors of the County of Mariposa, State of California, adopts the revised Mariposa County Implementation Plan, attached herein.

PASSED AND ADOPTED THIS 26th day of December, 1972 by the following vote:

AYES: Davis, Long, Moffitt, Richardson, Hurlbert.

NOES: None

ABSENT: None

NOT VOTING: None

[Signature]
William H. Moffitt

ATTEST:
Ray Starks, County Clerk and ex-officio Clerk of the Board of Supervisors

[Signature]
Deputy
Section 39298.8, Chapter 10, Part 1 of Division 26 of the Health and Safety Code, requires that each local and regional authority within each air basin adopt an implementation plan consistent with the guidelines. Local authorities may within each basin jointly adopt an implementation plan for their combined areas. The plan shall be adopted by regulation, and any violation of the provisions of the plan is a misdemeanor punishable by imprisonment in the county jail not exceeding six (6) months, or by a fine not exceeding five hundred dollars ($500), or both, and the cost of putting out the fire. Every day during any portion of which such offense occurs constitutes a separate offense.

Each local and regional authority shall upon adopting the implementation plan, submit a copy of the regulations along with the plan to the California State Air Resources Board.

The fire control agency designated by the Board and having jurisdiction over the site of the agricultural burn and the Air Pollution Control District shall enforce these Rules and Regulations.
RULES AND REGULATIONS
FOR THE CONTROL OF AGRICULTURAL BURNING
WITHIN THE MARIPOSA COUNTY AIR POLLUTION CONTROL DISTRICT

GENERAL DEFINITIONS

A. "Agricultural burning" means open outdoor fires used in agricultural operations in the growing of crops or raising of fowls or animals, forest management, or range improvement, or used in improvement of land for wildlife and game habitat.

B. "Open burning in agricultural operations in the growing of crops or raising of fowls or animals" means:

1. The burning in the open of materials produced wholly from operations in the growing and harvesting of crops or raising of fowls or animals for the primary purpose of making a profit, of providing a livelihood, or of conducting agricultural research or instruction by an educational institution; and

2. In connection with operations qualifying under Subdivision 1:
   a. This also includes, for the purpose of cultural practice burns, the burning of fence rows and ditch banks for weed control and weed abatement, and burning in nontillage orchard operations.
   b. The burning of material not produced wholly from such operations, but which are intimately related to the growing or harvesting of crops and which are used in the field, except as prohibited by district regulations. Examples are ways for drying raisins, and pesticide and fertilizer sacks which are emptied in the field.

C. "Range improvement burning" means the use of open fires to remove vegetation for a wildlife, game or livestock habitat or for the initial establishment of an agricultural practice on previously uncultivated land.

D. "Forest management burning" means the use of open fires, as part of a forest management practice, to remove forest debris. Forest management practices include timber operations, silvicultural practices or forest protection practices.
E. "Brush treated" means that the material to be burned has been felled, crushed or uprooted with mechanical equipment, or has been desiccated with herbicides.

F. "Timber operations" means cutting or removal of timber or other forest vegetation for the purpose of producing commercial forest products.

G. "Silvicultural" means the establishment, development, care and reproduction of stands of timber.

H. "Board" means the State Air Resources Board, or any person authorized to act on its behalf.

I. "Designated agency" means any agency designated by the Board as having authority to issue agricultural burning permits. The U.S. Forest Service and the California Division of Forestry are so designated within their respective areas of jurisdiction.

J. A "No-Burn" day means any day on which agricultural burning is prohibited by the Board.

K. A "permissive-burn" day means any day on which agricultural burning is not prohibited by the Board.

L. "District" means each county air pollution control district, regional air pollution control district or unified air pollution control district which may exist in the San Joaquin Valley Air Basin.

M. "Approved ignition devices" includes those instruments or materials that will ignite agricultural waste without the production of black smoke by the ignition device. This would include such items as liquid petroleum gas, butane, propane or diesel oil burners and flares, but does not include the use of tires, tar paper, oil, and other similar materials.

II. PROHIBITIONS--GENERAL

A. No person shall knowingly set or permit agricultural burning unless he has a valid permit from the fire control agency designated by the local Air Pollution Control Board to issue such permits in the area where the agricultural burn will take place.
1. Each fire control agency so designated by the Board shall issue agricultural burning permits subject to the Rules and Regulations of the Board and of the County Air Pollution Control District.

B. Each applicant for a permit shall provide information as required by the designated fire protection agency for fire protection purposes.

C. Each applicant for a permit shall provide information as required by the Air Pollution Control District.

D. Prior to the burn, notice of intent shall be given by the permittee to the fire control agency having jurisdiction over the site of the proposed burn.

E. No permit shall be valid for any day during a period in which agricultural burning is prohibited by the Board.

F. No permit shall be valid for any day in which burning is prohibited by the designated fire control agency having jurisdiction over the site of the burn for the purposes of fire control or prevention.

G. All agricultural wastes to be burned must be free of tires, rubbish, tar paper, construction debris, used pesticide containers, and all other nonagricultural wastes.

H. All agricultural wastes to be burned shall be loosely stacked in such manner as to promote drying and insure combustion with a minimum of smoke production.

I. All agricultural wastes to be burned shall be ignited only with approved types of ignition devices as defined herein.

J. The following types of agricultural waste materials to be burned shall be allowed to dry for the following minimum time periods or equivalent:

a. Rice Stubble: 4 days following harvest
b. Dry Cereals: 0 days
c. Prunings and Small Branches: 3 weeks
d. Large Branches and Trees: 6 weeks
2. Range improvement burning and forest management burning:
   a. As required by designated agency issuing the permit.

K. No material shall be burned except during daylight hours, and all burning shall be terminated by sunset of each day. No material shall be added to an existing fire after 3:00 p.m., Pacific Standard Time, (unless an exception has been granted). This item applies to agriculture waste burns only. Definition "B"

L. No agricultural burning shall be permitted which will create a nuisance as defined in Section 24243 of the California State Health & Safety Code.

M. All burning shall be ignited as rapidly as practicable within applicable fire control restrictions.

N. The Air Pollution Control Officer may restrict agricultural burning to selected permittees on designated Burn Days if the total tonnage to be ignited would discharge a volume of contaminants into the atmosphere sufficient to cause adverse conditions.

III PROHIBITIONS--RANGE IMPROVEMENT BURNING

A. Between January 1 and May 31, range improvement burning may be conducted by permit on a No-Burn Day, providing that more than 50 percent of the land has been brush treated.

Notwithstanding the provisions in Subdivision A of this Section, the Board may prohibit range improvement burning during the period designated by the district if in the opinion of the Board, such prohibition is required for the maintenance of suitable air quality.

B. If the burning is to be done primarily for improvement of land for wildlife and game habitat, no permit shall be issued unless the applicant has filed with the district a statement from the Department of Fish & Game certifying that the burn is desirable and proper.
IV PROHIBITIONS--FOREST MANAGEMENT BURNING

A. Unless good silvicultural practice dictates otherwise, material shall not be burned until it has been windrowed or piled where possible.

V EXCEPTIONS

A. Exception to Rule II-E and II-K: The Air Pollution Control Officer may grant an exception to allow burning on a No-Burn Day so designated by the Board, and in certain situations to allow burning to continue past sunset of each day if denial of such permit would threaten imminent and substantial economic loss.

The granting of an exception does not exempt the applicant from any other district or fire control regulation. The applicant shall submit in writing on the form provided, his reasons for the exception. The Air Pollution Control Officer may seek the advice of the County Agricultural Commissioner, the County Farm Advisor, or other informed sources.

B. Empty sacks which contain pesticides or other toxic substances, may be burned on a No-Burn Day providing the sacks are within the definition of "open burning in agricultural operations in the growing of crops or raising of fowls or animals."

C. Open burning in agricultural operations in the growing of crops or raising of fowls or animals at altitudes above 3,000 feet mean sea level is exempt from item II-E. Regulations.

D. Agricultural burning in areas at altitudes above 6,000 feet mean sea level is exempt from item II-E. Regulations.
C. No burning shall be conducted unless brush has been treated and unwanted trees felled whenever it is economically and technically feasible to do so, and drying times as specified in J-2 shall be adhered to,

IV PROHIBITIONS--FOREST MANAGEMENT BURNING

A. Unless good silvicultural practice dictates otherwise, material shall not be burned until it has been windrowed or piled where possible.

V EXCEPTIONS

A. Exception to Rule II-E and II-E: The Air Pollution Control Officer may grant an exception to allow burning on a No-Burn Day so designated by the Board, and in certain situations to allow burning to continue past sunset of each day if denial of such permit would threaten imminent and substantial economic loss.

The granting of an exception does not exempt the applicant from any other district or fire control regulation. The applicant shall submit in writing on the form provided, his reasons for the exception. The Air Pollution Control Officer may seek the advice of the County Agricultural Commissioner, the County Farm Advisor, or other informed sources.

B. Empty sacks which contain pesticides or other toxic substances, may be burned on a No-Burn Day providing the sacks are within the definition of "open burning in agricultural operations in the growing of crops or raising of fowls or animals."

C. Open burning in agricultural operations in the growing of crops or raising of fowls or animals at altitudes above 3,000 feet mean sea level is exempt from item II-E. Regulations.

D. Agricultural burning in areas at altitudes above 6,000 feet mean sea level is exempt from item II-E. Regulations
PENALTY

A. A violation of the provisions of these Rules and Regulations is a misdemeanor punishable by imprisonment in the county jail not exceeding six (6) months or by fine not exceeding five hundred dollars ($500), or both, and the cost of putting out the fire. Every day during any portion of which such violation occurs constitutes a separate offense.

ENFORCEMENT

In order to expedite enforcement procedures, the Legislature amended the Penal Code by adding Section 836.5

(a) A public officer or employee, when authorized by ordinance, may arrest a person without a warrant whenever he has reasonable cause to believe that the person to be arrested has committed a misdemeanor in his presence which is a violation of a statute or ordinance which such officer or employee has the duty to enforce.

(e) For the purpose of this section, "Ordinance" includes an order, rule, or regulation of any Air Pollution Control District.

If the citation powers are not specifically spelled out in existing District regulations, it is the recommendation of the Technical Advisory Committee that an ordinance be drafted as required by this legislation.

Enforcement Procedures

Open Burning

Complaint received or burning observed.

Investigation (Fire Protection Agency or Air Pollution Control District)

1. Determine responsible person.
2. Determine who ordered fire.
3. Ask for permit.
4. Determine section of regulations prohibiting such acts.

If Violation exists:

Action taken

1. Obtain all pertinent information for report--name, address, location of burn, material, wind direction, description of fire
and smoke, statements made by subject, witnesses, photos if possible.

2. Issue citation to appear (Section Penal Code 836.5)

3. If citation cannot be issued because of complexities of the violation or the magnitude of the violations, the following may be pursued:

   (1) Investigation: same as above.
   (2) Review file with Air Pollution Control Officer.
   (3) Ask District Attorney for complaint or injunctive action.

4. May issue official notice to cease and desist---subject to judgment of officer.

BURNING PERMIT

The California Division of Forestry will be the designated agency to issue permits. The Control District shall provide them with information on the local rules and regulations and policies relating to agricultural burning.

The Coordinating Council for the San Joaquin Valley Air Basin has developed a burning permit form. This form was developed with the assistance of various control districts and public fire protection agencies. This form incorporates the best features from various burning permits used in the valley as well as information on burning criteria for air quality control from the various districts.

This burning permit form shall be used by all control districts to regulate agricultural burning. The use of the same permit by all control districts would provide for uniform control and enforcement. From the economic viewpoint, this would place all agricultural operations on the same competitive basis.

Some of the local fire protection agencies may have special regulations which they would like to enforce. For these situations, the agency would issue the standard form as well as any form that they deem necessary.

The burning permit shall be prepared in quadruplicate to provide information to the various agencies of concern. The copies of the permits shall be distributed accordingly:
1. Original: To the Control District
2. Duplicate: To the Local Agency (Fire Protection)
3. Triplicate: To the Permittee
4. Quadruplicate: To the California Air Resources Board via Control District.

The permittee shall have his copy available for inspection at the burn site. This procedure will minimize any charges of burning without a valid permit. The copies to the Control District and the California Air Resources Board shall be submitted to them by the issuing agency on a weekly basis.

In order to provide for proper control of the agricultural burning, a separate permit shall be obtained for each burning operation as well as for each different burn site. A burning operation may extend over several days, but it must be the same type of material and on the same burn site.

The permit shall be issued for the length of time necessary to complete the burning operation, but in no case shall the permit be issued for more than thirty (30) days. The permittee shall contact the local fire protection agency prior to each day's burn to determine if it is an authorized burn day as well as informing them that a burn is about to take place.

The burning permit form is quite comprehensive and contains information required by the Control District and the Fire Control Agency. There is also information on the rules and regulations governing agricultural burning and conditions under which the permit is issued. Before any permit is issued, the permit must be completed and signed by the applicant.

The application for a burning permit shall be reviewed by the issuing agency. If the burn is likely to cause a nuisance, the permit shall not be issued until approval is obtained from the Control District. A nuisance might be caused if the location of the burn site and the direction of the prevailing winds will direct the air contaminants toward an adjacent residential area.

Each Control District shall adopt a rule making it illegal to burn or permit to burn without a valid permit. The rule should read: "No person shall knowingly
set or permit an open fire for agricultural burning unless he has a valid permit from a fire protection agency as designated by the Board."

The penalty for this act shall be adopted into the local Control District rules and regulations. It should read as follows: "Any person who violates the provisions of the rules and regulations is guilty of a misdemeanor, which is punishable by imprisonment in the county jail not exceeding six (6) months, or by fine not exceeding five hundred dollars ($500), or both, and the cost of putting out the fire."
COUNTY AIR POLLUTION CONTROL DISTRICT

(St. or P. O. Box ___), (City), CA (Zip)

Telephone ____________

PERMIT TERMS FOR AGRICULTURAL BURNING

"THIS PERMIT IS VALID ONLY ON THOSE DAYS WHICH ARE NOT PROHIBITED BY
THE STATE AIR RESOURCES BOARD PURSUANT TO SECTION 39238 OF THE HEALTH
AND SAFETY CODE."

1. The material burned shall be arranged to facilitate efficient
burning and shall be free of other material such as tires,
rubbish, tar paper, or construction debris.

2. Approved ignition devices and methods shall be used to ignite
the material. Specific ignition devices not approved are:
   a. ________________________________
   b. ________________________________
   c. ________________________________
   d. ________________________________

3. Burning hours shall be ________ to _________. Ignite only that
material which will normally burn within the next 24-hour period.

4. Material to be burned shall be dryed as required and shall be
free of visible moisture.

5. This permit is valid only on land owned or legally controlled by
permittee and shall be available for inspection at the burn site.

6. A report of burning (postage paid card) must be completed for
material burned each day and mailed within 48 hours. Failure to do
so is a violation of the terms of this permit.

7. This permit may be revoked or suspended for violation of any
conditions of said permit or when it is necessary for public safety.

I have read and understand the terms of this permit.

________________________, 19____

________________________
PERMITTEE
APPLICATION FOR PERMIT TO BURN

Dated: ________________________, 19____________

NAME: __________________________________________

Mailing Address: __________________________________

is hereby permitted to burn: __________________________

on land at/near: _________________________________

located in: ___________________ of Sec. _________, Twp. ________, R. ________, County of ________, State of California,

during the period: ___________________________ to ____________, 19__________, subject to the following terms:

1. The permittee shall comply with all fire laws, ordinances, and regulations.

2. The permittee shall notify the adjoining property owners and occupants of his intention to burn and the date such burning will take place. This notice must be given not less than 2 days prior to the start of such burning, except that co-tenants having rights or facilities on the permittee's property and adjoining the property owners shall be notified not less than 15 days prior to the start of burning.

3. Before any burning, there shall be a reasonable and appropriate firefighting break around the area of the proposed burn. Permittee shall at all times exercise all reasonable care and efforts to maintain control of the burn. Until the fire is completely extinguished, burning shall at all times be attended by an appropriate number of able-bodied adults equipped with adequate firefighting tools, as shall be reasonably necessary to control the burn.

4. This permit does not relieve the permittee of any duty to use reasonable and ordinary care to prevent damage to the property of others or injury to persons as prescribed by law.

5. The "SUGGESTED PRECAUTIONS FOR PROJECT TYPE BURNING" dated: ________________, 19__________, are made a part of this permit.

6. This permit is suspended during period shown above on all days for which the PREDICTED FIRE LOAD INDEX EXCEEDS ________________ as determined by the Forest Service at the Ranger Unit Hqts. and is suspended at all times of critical fire conditions as declared by the State Forest and posted at the Ranger Unit Hqts. or by proclamation of the Governor pursuant to Sec. 4128, Pub. Res. Code. Such suspension does not extend the above dates for burning.

7. Before burning, permittee will check with the forest fire station at ________________, telephone ________________, or issuing office of this permit at ________________, telephone ________________

8. Upon completion of the burning, the permittee shall notify the issuing agency (item 7) immediately after the fire is extinguished and the last watchman has been removed.

NOTE TO PERMITTEE: PLEASE READ THE REVERSE SIDE OF THIS FORM. IT CONTAINS INFORMATION ON THE LAWS AND RULES RELATING TO FIRE.

I have read and understand the terms of this permit.

Signed: ____________________________

Mailing Address: ___________________________

Telephone: ________________________________

STATE FORESTER

By: ________________________, Agent

Title: ________________________________

THIS SPACE FOR ADMINISTRATIVE USE ONLY

To be filled in when Permittee notifies agency of burn and Predicted Fire Load Index does not exceed terms of permit. (See 6, above)

Predicted Fire Load Index at time of notification: __________________________

Agency notified by: ____________________________ that burning would be started at: ________ AM or PM on: ____________, 19__________

Rec'd. AM or PM: ____________, 19__________

Agency notified by: ____________________________ that burning completed at: ________ AM or PM on: ____________, 19__________

Rec'd. AM or PM: ____________, 19__________

Ranger Unit Hqts.: ____________________________

Ranger Fire Dispatching Office: ____________________________

Assistant Ranger District: ____________________________

C.D.F. Zone: AM or PM: ____________, 19__________

Date: ____________________________

Ranger Fire Dispatching Office: ____________________________

Date: ____________________________

ORIGINAL (GOLDEN ROD) TO PERMITTEE, DUPLICATE (YELLOW) TO RANGER, TRIPPLICATE (GREEN) TO LOCAL FIRE
APPLICATION FOR PERMIT TO BURN

dated____________________, 19_____  

SUGGESTED PRECAUTIONS FOR PROJECT TYPE BURNING

having made application to burn on lands located in Sec._________ Twp._________ R._________ and having been inspected by the applicant (or his agent), ______________________________ in the company of the undersigned FOREST OFFICER ______________________________ in the company herein made to prevent damage to the property of others: _______________________________, the following suggested precautions are

These suggestions are to be considered the minimum precautions necessary to be taken by the permittee on his land to prevent damage to the property of others under average weather conditions for the period during which this burning operation is scheduled to take place. The permittee is cautioned that it is his responsibility to take any additional precautions that the judgment of a prudent man would dictate under the specific circumstances and conditions that exist at the exact time of the burning operation.

In addition to numbers 2, 3, 6, and 7 which are terms of the permit when issued, it is suggested that the following precautions be taken before burning is started:

1. Advance preparation of area, firebreaks, snag removal, etc.

2. Water and other fire fighting equipment and personnel shall be on hand.

3. Post signs warning of the burning operation.

4. Clearing of ditches and other obstructions along the edge of the burning area.

5. Clearing of slash piles and other flammable materials in the immediate vicinity of the burning area.

6. Loading of equipment and personnel.

7. Monitoring of weather conditions.

It is suggested that the following precautions be taken at the time of starting, during, and after the burning:

1. Fire fighting equipment and personnel desirable to be on hand at time of starting fire, patrol, mop-up, etc.

2. Clearing of ditches and other obstructions along the edge of the burning area.

3. Clearing of slash piles and other flammable materials in the immediate vicinity of the burning area.

4. Monitoring of weather conditions.

5. Loading of equipment and personnel.

6. Surveying of fire lines.

7. Monitoring of progress of the burning operation.

STATE FORESTER

These Suggested Precautions are made a part of Project

__________________________________________________________, Title

Type Burning Permit No.___________________________

Date____________________, 19_______  

Date of Inspection____________________, 19_______