



Monterey Bay Air Resources District
BOARD OF DIRECTORS MEETING

STEVE MCSHANE, CHAIR

WEDNESDAY, NOVEMBER 17, 2021 - 1:30 P.M.

REMOTE MEETING ONLY VIA ZOOM

Link to meeting: <https://us02web.zoom.us/j/85664302809>

Webinar ID: 856 6430 2809

By phone, audio only (webinar ID required): 1-669-900-6833

On September 16, 2021, Governor Newsom signed AB 361. This legislation amends the Brown Act to allow meeting bodies subject to the Brown Act to meet via teleconference during a proclaimed state of emergency in accordance with teleconference procedures established by AB 361 rather than under the Brown Act's more narrow standard rules for participation in a meeting by teleconference. The Monterey County Health Officer has issued a recommendation for social distancing in legislative body meetings, so the first meeting after September 30, 2021, may be held without making findings. If the Board of Directors desires to continue to meet remotely via teleconference after that first meeting, the Board is required to make certain findings under AB 361 no later than 30 days after the first teleconference meeting held pursuant to AB 361, and every 30 days thereafter. Members of the public that wish to participate in a meeting may do so by joining the Zoom Webinar ID. Should you have any questions, please contact Sirie Thongchua, Executive Assistant, at 831-718-8028 or by email at sirie@mbard.org.

To Provide Public Comment via Zoom teleconference/video conference: During the meeting live verbal public comments may be made by members of the public joining the meeting via Zoom. Zoom access information is provided above. Use the "raise hand" feature (for those joining by phone, press *9 to "raise hand") during the public comment period for the agenda item you wish to address. Members of the public participating via Zoom will be muted during the proceedings and may be unmuted to speak during public comment after requesting and receiving recognition by the Chair. Please clearly state your full name for the record at the start of your public comment.

Before the Meeting: Persons who wish to address the Board for public comment of an item not on the agenda are encouraged to submit comments in writing to Sirie Thongchua, Executive Assistant, at sirie@mbard.org by 5:00 p.m. on Monday, November 15, 2021. Comments received will be distributed to the Board prior to the meeting.

Summary of Actions

1. CALL TO ORDER – **The meeting was called to order by Chair McShane at 1:30 p.m.**
2. PLEDGE OF ALLEGIANCE
3. ROLL CALL - **Present:** Chris Lopez, Jack Dilles, John Phillips, Kollin Kosmicki, Mary Ann Carbone, Mike LeBarre, Ryan Coonerty, Sam Storey, Steve McShane, Wendy Root Askew, Zach Friend.
4. PUBLIC COMMENT – **None.**
5. **Resolution No: 21-020: Adopted** a Resolution pursuant to AB 361 to find that as a result of the continuing COVID-19 pandemic state of emergency declared by Governor Newsom, holding Board of Directors’ meetings in person would present imminent risks to the health or safety of attendees.
Motion: *Adopt the Resolution. Action: Approve. Moved by Wendy Root Askew, Seconded by Chris Lopez.*
Vote: *Motion carried by unanimous roll call vote (summary: Yes = 11).*
Yes: *Chris Lopez, Jack Dilles, John Phillips, Kollin Kosmicki, Mary Ann Carbone, Mike LeBarre, Ryan Coonerty, Sam Storey, Steve McShane, Wendy Root Askew, Zach Friend.*
6. REPORTS BY COMMITTEE CHAIRS ON COMMITTEE MEETINGS
 - a. Budget, Personnel, and Nominating Committee
 - b. Advisory Committee
7. COMMENTS AND REFERRALS FROM CHAIR AND BOARD MEMBERS
8. REPORT FROM AIR POLLUTION CONTROL OFFICER

Richard Stedman, APCO, reported on the following:

Advisory Committee

- The Advisory Committee met on November 4th.
- Received a presentation on revisions to Rule 438. They unanimously recommend approval by the Board of Directors.
- Reviewed rolls and responsibilities of Advisory Committee members.

District Business

- After 5 years of service an air quality planner, Hanna Muegge, left the district to take a position with BAAQMD. Last Friday was her last day. We thank Hanna for her service and dedication and wish her the best in her new job.

Engineering

- I would like to thank our Engineering Supervisor Mary Giraudo for representing MBARD as the CAPCOA Engineering Managers Chair this year. Mary presided over their regular meetings and annual symposium. Thank you, Mary!
- Our asbestos team has successfully worked with the Santa Cruz County DA on two cases. For one case, we received \$15,000 in penalties and for the other case we will receive \$20,000 in penalties and \$5,000 in cost recovery.
- The asbestos abatement project at the Moss Landing Power Plant started and is expected to take several months which will be followed by demolition of the structures/components next to the two large stacks.
- We will have a short-term variance hearing on December 1. We are still in need of Hearing Board members, one medical professional and one public member. Please contact Sirie if you have suggestions.
- We have received no Marina odor complaints since the last Board meeting.

Planning and Air Monitoring

- The 2021-22 Woodstove Change Out Program launched on September 28. \$87,500 in local funds has been budgeted for this year's program. 17 applications have been received, with one low-income applicant. \$10,500 has been obligated.
- The Monterey Bay Electric Vehicle Incentive Program, which provides residents with an incentive to purchase new and used all-electric or plug-in electric vehicles is continuing with 81 applications received, \$105,800 obligated, and \$344,200 remaining.
- The San Lorenzo Valley Spare-the-Air Program will start this month. The STA Program notifies residents of deteriorating meteorological conditions in the SLV which could concentrate wood smoke. During a Spare the Air Alert, residents are asked to voluntarily choose devices that use fuels other than wood to heat their homes. The program will run through Spring when conditions for smoke dispersion improve.

Outreach

- UCSC Environmental Chemistry Course – As part our partnership with USCS, I will be providing a lecture to students at the university on November 30th.

CONSENT AGENDA

Motion: Approve items on the Consent Agenda. **Action:** Approve. **Moved by** Wendy Root Askew, **Seconded by** John Phillips.

Vote: Motion carried by unanimous roll call vote (**summary:** Yes = 11).

Yes: Chris Lopez, Jack Dilles, John Phillips, Kollin Kosmicki, Mary Ann Carbone, Mike LeBarre, Ryan Coonerty, Sam Storey, Steve McShane, Wendy Root Askew, Zach Friend.

9. **Accepted and Filed** Summary of Actions for the October 20, 2021, Board of Directors Meeting
10. **Received and Filed** Budget to Actual Report for the Four Months Ended October 31, 2021
11. **Accepted and Filed** Report of Summary of Mutual Settlement Program Actions for October 2021

REGULAR AGENDA

12. **Resolution No: 21-021: Adopted** a Resolution Approving Proposed Revisions to District Rule 438 (Open Outdoor Fires)

Motion: *Adopt the Resolution. Action: Approve. Moved by Mike LeBarre, Seconded by John Phillips.*

Vote: *Motion carried by unanimous roll call vote (summary: Yes = 11).*

Yes: *Chris Lopez, Jack Dilles, John Phillips, Kollin Kosmicki, Mary Ann Carbone, Mike LeBarre, Ryan Coonerty, Sam Storey, Steve McShane, Wendy Root Askew, Zach Friend.*

13. Adjournment – **The meeting adjourned at 2:03 p.m.**

Sirie Thongchua
Executive Assistant


Monterey Bay Air Resources District

Rule 438: Open Outdoor Fires

Board of Directors

November 17, 2021

Chris Duymich – Air Quality Planner



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Purpose

- Provide overview on Rule 438 History
- Inform the Board of current District proposed rule revisions.
- Review and discuss:
 - Proposed revisions and
 - Public and Advisory comments

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Historical Timeline

Rule 438's first iteration was adopted on April 16, 2003.

Subsequent Rule Revisions:

- September 15, 2004
- October 19, 2011
- September 19, 2012
- February 19, 2014

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Rule 438 - History

Rule 438: Open Outdoor Fires was developed due to requirements from:

- **California Health and Safety Code**

Sections:

 - 39011 – Definition of Agricultural Burning
 - 41800 – Prohibited Burning
 - ◊ Article 2: Non-Agricultural
 - ◊ Article 3: Agricultural
 - 41850 – Legislative Intent (Reasonably regulate - not prohibit)
- **California Code of Regulations, Title 17, Subchapter 2 (Ag. Burning Guidelines),**

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Governing Laws

California Health and Safety Code:

- **§ 41850 Legislative Intent**
 - "...agricultural burning* be reasonably regulated and not be prohibited."
 - "...state board and districts shall take into consideration, in adopting rules and regulations for the purpose of this article..."
- **§ 41852 Permit Required; Penalties:**
 - "No person knowingly shall set or permit agricultural burning unless he has a valid permit from the agency designated by the state board to issue such permits..."

* § 39011: "Agricultural burning" means open outdoor fires used in any of the following: Agricultural operations... forest management, range improvement... wildland vegetation management..."

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Burn Types in Rule 438

Agricultural, residential vegetative waste or wildland fuel burned under permissive burn day conditions.



Backyard Burns

Prescribed Fire*

Agricultural

*H&S § 39011 (c)(1): "...wildland vegetation management is the use of prescribed burning conducted by a public agency..."

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District Objective

- Protect public health by minimizing smoke impacts through good smoke management.
 - Avoid Smoke Impacts / Public Nuisance
 - Avoid Exceeding Air Quality Standards
- Support the open burning needs of federal, state and local fire agencies, landowners and ranchers.
- Educate burners in:
 - Difference between fire agencies and Air District
 - District's role
 - Permitting authority
 - Obtaining a burn permit
 - Burn Seasons,
 - Permit Types, Permit Suspensions and Bans

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Proposed Revisions

- Reorganization of certain text and/or subsections to improve rule continuity and clarification.
 - Aids with rule comprehension
 - Assists with enforceability
- New
 - Prohibition on burning of driftwood
 - Prohibitions, embedded in definitions, were established
 - Definitions added
 - Certain definitions expanded upon

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Driftwood Burning

- Produces more Dioxins than Firewood
- Dioxins are:
 - Chemically-related compounds: Persistent Organic Pollutants (POPs)
 - Bioaccumulate over time in the food chain and our bodies
 - Highly toxic – can cause:
 - Reproductive and Developmental Problems
 - Carcinogenic
 - Damage to Immune System
 - Interferes with Hormones
 - Half life: 7-11 years



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Additional Prohibitions

Section:

- 3.1.2 – Prohibition of burning driftwood
- 3.9 – Revocation or denial of a Smoke Management Permit
- 6.4.5 – The use of accelerants is prohibited in backyard burning
- 6.7.1 – Smoke or ash from backyard burns shall not cause a public nuisance...
- 6.7.3 – Burning of tree stumps or root balls is prohibited
- 6.7.4 – Vegetation greater than six-inches (6”) in diameter that continues to burn beyond the designated burn hours does not relieve the permittee from smoke impact liability.

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Definitions Added

- **Accelerant:** Any ignitable or flammable liquid used to aid the spread of fire.
- **Adult:** In the state of California, the age at which a person is considered an adult, with all the attendant rights and responsibilities of adulthood, is when he or she reaches 18 years of age.
- **Conservation Burn Kiln:** A specially manufactured, fireproof metal container used to convert woody materials into biochar.
- **Disposal:** The process of reduction of material through the means of fire.
- **Driftwood:** Pieces of untreated natural wood which have been in the ocean prior to washing ashore.
- **Fire Protection Agency:** An agency with the responsibility and authority to protect people, property, and the environment from fire, and having jurisdiction within a district or region.

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Definitions Edited

- **Approved Ignition Device:** definition expanded to include liquid petroleum gas, butane, diesel oil burners, or flares,
- **Burn Barrel** definition renamed “Burn Barrel/Container”
- **Mechanized Burning** definition expanded to include Air Curtain Burners, Air Curtain Incinerators and Trench Burners,
- **Warning Fire:** Minimum ambient outdoor temperature requirement established at 50° F and pile size limitations of 2x2 in residential areas and 4x4 in rural areas,
- **Waste** definition expanded to include the following types of waste: all interior and exterior house and trim paints, enamels, varnishes, lacquers, stains, primers, sealers, roof coatings, wood preservatives, shellacs, paint thinners and other paints or paint-like products or any solvents, metals; motor oils, motor solvents,
- **Woody Waste from Development** definition was renamed “Development Burn”.

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Comments

Advisory Committee:

- Does the driftwood prohibition apply only to saltwater?
- Is the definition of burn season appropriate considering wildfire season grown longer over time?
- Recommendation that Rule 438 be revised to require all burners to provide notification to their neighbors prior to burning.

Public:

- Supportive of the idea of taking control of contributing factors of GHG.
- In favor of any rule prohibiting burning on the beaches.
- Beach fires:
 - Generate unnecessary smoke in the area,
 - Are often conducted on the open sand not within a fire ring,
 - Present a risk of hot materials that can be encountered,
- A reduction in wood burning overall is good for the environment, air quality, and surrounding community.

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Questions?

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