

ODF Proposed Revisions to Smoke Management Rule Package

629-048-0150

Criteria for Future Listing of Smoke Sensitive Receptor Areas

To ensure continued accomplishment of the smoke management plan objectives, the board, in consultation with the Department of Environmental Quality, may determine listing of additional smoke sensitive receptor areas, if necessary, according to the following procedures:

(1) Not more than once per calendar year, the board may consider additional SSRA listings based on the following:

(a) The department may recommend consideration of a community for SSRA listing based on [*observations*] its experience of repeated smoke incidents as described in section (5) of this rule;

(b) The Department of Environmental Quality may recommend consideration of a community for SSRA listing based on [*mechanical monitoring data that document other*] evidence of airborne pollutants in the community at levels that make periodic [*violation of federal*] exceedance of ambient air quality standards a significant possibility; or

(c) The governing body of a city or county, as appropriate to the area being considered, may by official action of the body request consideration of a community for SSRA listing upon the occurrence of a verified smoke incident lasting more than four hours, two or more verified smoke incidents within one calendar year or repeated smoke incidents as described in section (5) of this rule.

(2) When considering whether to list a community as an SSRA, the Board will evaluate the evidence presented to it. Specifically, the board will consider information regarding:

(a) The frequency, duration and intensity of verified smoke incidents;

(b) Population of the community;

(c) The results, if any, of mechanical or systematic monitoring of pollutants, or other verifiable information regarding chronic air quality problems in the community under consideration;

(d) The nature and performance measurements of any local programs addressing other pollutants;

(e) Trends in prescribed burning activity on surrounding forestlands;

(f) Any local topographic or meteorological effects that may influence the frequency, duration or intensity of smoke incidents;

(g) Evaluation of the local and regional effect that listing the community as an SSRA will have on the smoke management plan's objectives of maintaining air quality and accomplishing necessary prescribed burning; and

(h) Any other information that is relevant to accomplishing the objectives of the smoke management plan.

(3) After considering the evidence presented to it, except as provided in section (4) of this rule, the board may do any of the following:

(a) Reject the recommendation or request;

(b) Accept the recommendation or request by defining the applicable boundaries of the community to be listed, directing the department to begin treating

the community as an SSRA and following a timely process to amend OAR 629-048-0140 accordingly; or

(c) Acknowledge that smoke incidents have occurred, but direct the department to gather additional information, conduct additional monitoring, make operational modifications or undertake any other effort aimed at reducing the likelihood of continuing smoke incidents in the community.

(4)(a) The board's choice of actions shall be limited to those described in either subsections (b) or (c) of this section, if it finds that all of the following circumstances exist:

(A) The community proposed for listing has incurred repeated smoke incidents as described in section (5) of this rule;

(B) The community is a city with a population in excess of 10,000 within the incorporated city limits, according to the most recently published population estimate of the Population Research Center, Portland State University; and

(C) There is a likelihood of continuing frequent use of prescribed burning as a forest management activity on forestland within 30 miles of the city limits.

(b) The board may install monitoring equipment in the community for a period of up to two years to gather information leading to a final determination whether to list the community as an SSRA; or

(c) The board may define the applicable boundaries of the community to be listed and direct the department to begin treating the community as an SSRA and follow a timely process to amend OAR 629-048-0140 accordingly.

(5) "Repeated smoke incidents" as used in this rule refers to any of the following combinations of verified smoke incidents resulting from lawfully conducted prescribed burning on forestland in any continuous period of three years or less:

(a) One heavy intensity smoke incident and one moderate or light intensity smoke incident, the latter lasting at least one hour;

(b) Two moderate intensity smoke incidents, both lasting at least one hour;

or

(c) Three or more smoke incidents of any combination of intensity for a combined duration of at least three hours (using the intensity parameters described in OAR 629-048-0110 for all of the above).

629-048-0210

Best Burn Practices; Emission Reduction Techniques

(1) "Best burn practices" as used in this rule refers to those practices designed to minimize emissions from prescribed burning or accomplish burning at times and under such conditions as to minimize the likelihood that emissions will have adverse effects to the [protection] air quality maintenance or visibility objectives (OAR 629-048-0120 and 629-048-0130). Additional practices not described in this rule may be necessary to ensure against the escape of fire or protection of forest resources.

(2) In general, best burn practices involve methods that ensure the most rapid and complete combustion of forest fuels while nearby, "non-target" fuels are prevented from burning, such as:

(a) Physical separation of "target" and "non-target" fuels;

(b) Burn prescriptions, particularly for broadcast burns, that recognize and utilize the natural differences in fuel moistures of larger and smaller pieces of woody material;
or

(c) Covering of piles sufficient to facilitate ignition and complete combustion, and then burning them at times of the year when all other fuels are damp, when it is raining or there is snow on the ground.

(3) Rapid combustion is well served by rapid ignition which may involve the use of petroleum accelerants (with appropriate safety precautions) and by maintaining an adequate air supply to the forest fuels being burned. Piles and windrows should be mostly free of soil, rocks and other non-combustible materials and should be loosely stacked to promote aeration. Where practicable, re-stacking or "feeding" the burn pile is encouraged to complete combustion and avoid smoldering.

(4) When piles are covered as a best burn practice and the covers are to be removed before burning, any effective materials may be used, as long as they are removed for re-use or properly disposed of. When covers will not be removed and thus will be burned along with the piled forest fuels, the covers must not consist of materials prohibited under OAR 340-264-0060(3), except that polyethylene sheeting that complies with the following may be used:

(a) Only polyethylene may be used. All other plastics are prohibited;

(b) The size of each polyethylene cover must not exceed 100 square feet. For small piles, covering only an area necessary to achieve rapid ignition and combustion, instead of the entire pile, is encouraged;

(c) The thickness of the polyethylene cover must not exceed 4 mil; and

(d) Layering or multiple covers (exceeding 100 square feet combined) within a pile is prohibited, unless authorized in writing, by the forester to meet ignition and combustion needs.

(5) The use of petroleum accelerants and polyethylene covers as "best burn practices" described in this rule is expressly intended as an exception to OAR 340-264-0060(3) as allowed by OAR 340-264-0060.

(6) In general, rapid mop-up of prescribed burning is not needed to meet the objectives of the prescribed burn and protect air quality, however, in instances of prescribed burning within an SSRA or when conditions change significantly from those forecasted or present at the time of ignition, rapid mop-up may become necessary to prevent excessive residual smoke or entry of smoke into an SSRA or other area sensitive to smoke. Burn plans required under OAR 629-043-0026(4), prescribed fire plans required by federal land management agency policy, or burn permits required under ORS 477.515, when appropriate, should address conditions that may require mop-up of the prescribed burn and to what extent.

(7) *[Prescribed burn operations with large tonnages (2000 tons or more) or burns that will occur over multiple days should be adequately planned to provide opportunities to cease lighting and hold the existing burn within smaller compartments to mitigate undesirable smoke effects or changes in the actual burn conditions from those that were forecasted.]*

(8) When local conditions for smoke dispersal appear to be better than forecasted, burn bosses and field administrators are encouraged to communicate such

information to the smoke management forecast unit, to further the objective of accomplishing burning during the most [*optimal*] favorable conditions.

629-048-0230

Burn Procedures

(1) Before any prescribed burning is initiated, burn bosses should have a well thought out plan that takes into account:

- (a) How weather will be monitored and changes in conditions will be communicated;
- (b) Resources necessary to accomplish ignition and ignition sequences;
- (c) Resources and methodology necessary to contain and control the fire and prevent its escape, including communications to access additional resources, if necessary; and
- (d) How the burn will be conducted to avoid smoke entering smoke sensitive receptor areas or other areas sensitive to smoke and to minimize smoke effects on other communities.

(2) The forester may require that a written burn plan be prepared for approval under OAR 629-043-0026 (4), prior to issuance of a burn permit. A prescribed fire plan is required under federal policy for all prescribed burning on federal lands.

(3) **Prescribed burn operations with large tonnages (2000 tons or more) or burns that will occur over multiple days should be adequately planned to provide opportunities to cease lighting and hold the existing burn within smaller compartments to mitigate undesirable smoke effects or changes in the actual burn conditions from those that were forecasted.**

(4) For prescription burn units on forestland subject to level 1 regulation, burn bosses must provide specific information to be transmitted to the smoke management forecast unit in a format acceptable to the forester, regarding unit location, method of burning, and fuel loading tonnages prior to the issuance of the forecast and instructions that will apply to the burn.

[(4)] (5) (a) Prior to ignition of any prescribed burning in a [*closed*] fire season (ORS 477.505), the burn boss must obtain a permit to burn from the forester as required by ORS 477.515 (not required for federal land management agencies). Federal land management agencies must follow agency policies that provide for an affirmative “go-no go decision” prior to ignition of any prescribed burning as documented and approved by the federal land management agency’s line officer.

(b) A permit to burn from the forester is also required for all prescribed burning on non-federal Class 1 forestland in western Oregon at any time of the year.

(c) Under ORS 477.515 (1)(a), the forester may waive the requirement for a burn permit in instances of burning other than described in subsections (a) and (b) of this section, so burn bosses should check with the forester locally to determine whether permits are required outside closed fire season.

[(5)] (6) Prior to ignition of any prescribed burning on forestland subject to level 1 regulation, the burn boss must obtain the current smoke management forecast and instructions and must conduct the burning in compliance with the instructions. Burn bosses must make provisions to be informed if the forecast or instructions are subsequently changed. Through communication among the burn boss, field administrator

and the smoke management forecast unit, based on information specifically relevant to the burn location, a burn boss may obtain a variance [to] from the instructions, but must document the time and method of communication and adhere strictly to the conditions of the variance.

[(6)] (7) For prescribed burn operations with large tonnages (greater than 2000 tons) or burns that will occur over multiple days, burn bosses may request at least two days in advance that a special forecast and instructions be issued to ensure adequate attention to meeting [program] smoke management plan objectives. Issuance of a special forecast and instructions will be solely within the discretion of the smoke management forecast unit based on workload and sufficient local information to support the forecast.

[(7)] (8) The smoke management forecast unit, in developing instructions, and each field administrator issuing burn permits are directed to manage the prescribed burning on forest land in connection with the management of other aspects of the environment in order to maintain a satisfactory atmospheric environment in smoke sensitive receptor areas. [Likewise,] This direction is to be applied [in] to situations [that are not defined as] in which prescribed burning may impact SSRAs [but are considered] or other areas sensitive to smoke.

[(8)] (9) Each burn boss or field administrator must validate that forecasted weather conditions are consistent with actual on-site conditions prior to ignition of burns. [If a burn boss determines, or is advised by a field administrator, that smoke or other pollutants in an SSRA, or other area sensitive to smoke is already adversely affected or would likely become so with additional burning, or upon notice from the forester through the Protection Division, or upon notice from the forester following consultation with the Department of Environmental Quality that air in the entire state or portion thereof is, or would likely become adversely affected by smoke, the affected burn boss must terminate ignition. Upon termination, any burning already under way should be completed, residual burning should be extinguished as soon as practicable, and no additional burning may be attempted until approval has been received from the forester.]

[(9)] (10) A burn boss is required to terminate ignition, in a manner that does not compromise worker safety or [fire control strategies] **the ability to prevent escape of the burn,** if either of the following occurs:

(a) The burn boss determines, or is advised by a field administrator, that smoke or other pollutants in a potentially affected SSRA, or other area sensitive to smoke is already adversely affected or would likely become so with additional burning; or

(b) The burn boss receives notice from the forester, through the smoke management forecast unit, or following consultation with the Department of Environmental Quality, that air in the entire state or portion thereof is, or would likely become adversely affected by smoke.

[(10)] (11) Upon termination of ignition required by section [(9)] (10) of this rule, any burning already under way should be completed, residual burning should be extinguished as soon as practicable, and no additional burning may be attempted until approval has been received from the forester.

629-048-0500

Enforcement

(1) Violations of the smoke management plan may be enforced either as violations of the fire prevention statutes and rules (ORS 477.980 to 477.993) or as violations of the forest practice rules (ORS 527.680 to 527.690 and 527.990).

(2) (a) When, in the judgment of the forester, a violation is related primarily to an act or omission that has caused or might cause fire to burn uncontrolled, [*in the judgment of the forester,*] enforcement under the provisions of the fire prevention statutes and rules is appropriate.

(b) When, in the judgment of the forester, a violation is related primarily to an act or omission that has caused or might cause deterioration of air quality, [*in the judgment of the forester,*] enforcement under the provisions of the Forest Practices Act and rules (specifically, OAR 629-615-0300) is appropriate.

(3) Enforceable standards within the smoke management plan include requirements to:

(a) Register burns prior to ignition (OAR 629-048-0230(3) and OAR 629-048-0300);

(b) Obtain approval for and follow a burn plan (OAR 629-048-0230(2) and OAR 629-043-0026(4));

(c) Obtain a burn permit and comply with any conditions included therein (OAR 629-048-0230(4) and ORS 477.515) ;

(d) Obtain and comply with daily smoke management instructions and updates (OAR 629-048-0230(5));

(e) Comply with restrictions regarding use of plastic covers on burn piles (OAR 629-048-0210(4));

(f) Cease burning when directed by the forester (OAR 629-048-0100(4) and OAR 629-048-0230(8));

(g) Report accomplishments (OAR 629-048-0320); and

(h) Pay fees (OAR 629-048-0310).

(4) [*While*] Section 118 of the federal Clean Air Act provides for enforcement of state air quality regulations against federal agencies[, *it*]. **It** will be the policy of the Board of Forestry, in the event of a failure of a federal land management agency to comply with the smoke management plan, that the forester will first inform the responsible agency of the failure and coordinate efforts to ensure timely correction of any breakdowns in procedure that may have resulted in the failure. **However, if this method does not appear in the judgment of the State Forester to result in necessary correction of procedures, or under other circumstances that in the judgment of the State Forester warrants, enforcement action may be taken as with any other responsible party.**