

Agenda Item No.:	2
Work Plan Title & #:	Fire Protection Work Plan
IBI # & Title:	Smoke management Review
Presentation Title:	Smoke Management Program Rulemaking Adoption
Date of Presentation:	January 9, 2019
Contact Information:	Nick Yonker, Smoke Management Program Manager 503-945-7451, <a href="mailto:Nick.J.Yonker@Oregon.gov">Nick.J.Yonker@Oregon.gov</a> or Doug Grafe, Chief, Forest Protection Division 503-945-7204, <a href="mailto:Doug.Grafe@Oregon.gov">Doug.Grafe@Oregon.gov</a>

## **SUMMARY**

The purpose of this agenda item is to seek Board of Forestry (BOF) rule adoption for the Oregon Smoke Management Plan (SMP) OAR 629-048.

## **BACKGROUND AND ANALYSIS**

The SMP is administered by the Oregon Department of Forestry (ODF) to manage prescribed burning on private, federal and other public forestland to protect air quality and maintain forest productivity and health. ORS 477.013 requires the State Forester and the Department of Environmental Quality (DEQ) to approve a plan. The plan is to be developed by ODF in cooperation with federal and state agencies, landowners and organizations that will be affected by the plan.

Under OAR 629-048-0450(5) a review of the SMP will be conducted every 5 years. The primary purpose of this Smoke Management Review is to ensure the smoke management policy and program implementation is balanced in achieving the following two goals outlined in ORS 477.552:

- *“To improve the management of prescribed burning as a forest management and protection practice; and*
- *To minimize emissions from prescribed burning consistent with the air quality objectives of the federal Clean Air Act and the state of Oregon Clean Air Act Implementation Plan developed by the Department of Environmental Quality.”*

The BOF was informed that the Smoke Management Review was initiated at two separate meetings jointly held with the Environmental Quality Commission (EQC) in November of 2016 and November of 2017. At those meetings and accompanying tours, the BOF and EQC were informed on the current progress of the review and were able to experience through the field tour prescribed burning and witness the role of the Smoke Management Program.

For the purpose of this review ODF, in consultation with DEQ, developed a smoke management review committee comprised of 21 representatives from a broad range of interests including: elected officials, industrial, non-industrial, federal, association and tribal forest landowners; and air quality, environmental, public, and forest collaborative

interests (*Attachment 1*). This committee met five times in a number of locations throughout the state and included a tour of a prescribed burn project near Bend (see meeting schedule and agenda below).

May 24, 2017 in Salem – Review purpose on the policy of prescribed burning. Overview of Smoke Management Plan, charter/timeline/organization, committee feedback and perspective, prescribed burning benefits and air quality/human health presentations.

June 27, 2017 in Sisters – Tour a site in the West Bend Project to understand the need to burn near communities. Air quality monitoring follow-up, strengths and challenges of the Smoke Management Program.

July 27, 2017 in Salem – Presentation of smoke management in the past and present. Committee discussion to frame recommendations.

December 6, 2017 in Roseburg – Discuss priority rule change ideas and concepts. Presentation on program fee structure and agency recommendations outside the review process.

March 9, 2018 in Salem – Presentation of draft agency recommendations. Review of Agency recommendations and committee feedback.

DEQ and ODF gained extensive feedback through the smoke management review committee process and presented at the BOF's June 2018 meeting, an agency recommendation to initiate rule making. The BOF directed ODF to initiate rule making with one adjustment to the rules: to allow an exemption process for the one-hour intrusion threshold if certain criteria were met.

Consistent with Oregon administrative rule making processes, ODF and DEQ held public hearings at five locations in August 2018 and public comment was closed on September 14, 2018. *Attachment 2* provides the presiding officer's report on the rulemaking hearings. Informed by BOF direction, the smoke management review committee and public hearings, DEQ and ODF recommend the following rule changes in OAR 629-048 (*Attachment 3*). The following provides a summary of rule changes:

- Remove language to allow prescribed burning outside forest protection district boundaries using an agreement between ODF and DEQ (section 0001).
- Definitions update – update “smoke intrusion” creating a short-term (hourly) and long-term (24-hour) minimum smoke particulate threshold. Change name of “verified smoke incident” to “smoke incident” and update its definition. Add a definition for “vulnerable populations” related to health effects from smoke. Other minor changes (section 0005).
- Change objectives to match objective in ORS 477.552 to “minimize” smoke emissions. Update objective of “preventing” smoke into Smoke Sensitive

Receptor Areas (SSRAs) to “avoid intrusions”. Other minor objective changes (section 0010).

- Update wording in rule section on “Necessity of Prescribed Burning” to highlight importance in mitigating wildfire (section 0020).
- Add rule section on “Necessity of Safeguarding Public Health” similar to the existing section on “Necessity of Prescribed Burning” (section 0021).
- **Key Recommendation:** Change how smoke incidents and smoke intrusions will be characterized: (1) intrusion intensities (light, moderate, and heavy) will be discontinued; (2) intrusion magnitudes will be measured as particulate matter levels in micrograms per cubic meter vs. light scattering measured in Beta-scattering; (3) intrusions determined using a short-term (hourly) minimum threshold and a long-term (24-hour average) threshold; (4) intrusions determined based on total (all sources) particulate levels vs. based on above a previous three-hour average background level; and (5) add reporting requirements for different magnitude smoke events (section 0110).
- Add two rule sections for Special Protection Zone (SPZ) requirements and contingency plan requirements for communities that have exceeded or currently exceed National Ambient Air Quality Standards (NAAQS). Current SPZ requirements are in Department Directive. Edit language to fit with new intrusion definition and provide additional language clarity (section 0135 and 0137).
- For listing future SSRAs insert minor word changes based on the new smoke intrusion definition (section 0150).
- **Key Recommendation:** Add a communication plan to inform the public of the increased need for prescribed burning. Encourage smoke vulnerable SSRAs to notify their community that new smoke intrusion thresholds may increase smoke impacts, communicate how they will be informed of smoke impacts, and how to prepare for them. SSRA communities that develop approved smoke response plans may request an exemption from the one-hour intrusion threshold. Conditions for qualifying for an exemption are listed (section 0180).
- Add another alternative to burning example and update web links to burning alternative references (section 0200).
- Increase usage of polyethylene sheeting on burn piles (section 0210).
- Minor updates to “Burn Procedures” section (section 0230).
- Clarify minimum fees for burning (section 0310).
- Add evaluation of annual NAAQS exceedances from prescribed burning smoke (section 0450).

## **RECOMMENDATION**

The Board approves adoption of OAR 629-048 with the proposed attached changes.

## **NEXT STEPS**

January 24/25, 2019 – Environmental Quality Commission to consider Smoke Management Plan changes to be included into Oregon’s State Implementation Plan.

Late January – Submit rule to Secretary of State and Legislative Counsel for filing. Effective date March 1, 2019.

## **ATTACHMENTS**

1. 2017 Smoke Management Review Committee
2. Presiding Officer’s Public Hearing Report to Board
3. ODF/DEQ proposed rule changes to OAR 629-048