

Agenda Item No.:	3
Work Plan Title & #:	Fire Protection Work Plan
IBI # & Title:	Smoke Management Review
Presentation Title:	Smoke Management Program Permission for Rulemaking
Date of Presentation:	June 6, 2018
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SUMMARY

The purpose of this agenda item is to seek Board of Forestry (BOF) permission to start rulemaking 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 forestry burning on private, federal and other public land 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 program 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 an advisory review committee comprised of 21 representatives from a broad range of interests including industrial, nonindustrial, federal, county, elected officials, collaboratives, protective associations, air quality, environmental, tribal, and public (attachment 1). This

advisory committee met five times in a number of locations throughout the state and included a tour of a prescribed burn project near Bend. See a short summary of each meeting 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 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 issues needing to be addressed in the Smoke Management Plan.

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 recommendations and committee feedback.

The committee's work was completed March 9 2018. DEQ and ODF gained extensive feedback through the committee process and have agreed to the following rule language changes (attachment 2). 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. 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).
- Add rule section on “Necessity of Safeguarding Public Health” similar to the existing section on “Necessity of Prescribed Burning” (section 0021).
- Adjust how smoke incidents and smoke intrusions would 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) 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 (section 0135 and 0137).
 - For listing future SSRAs insert minor word changes based on the new smoke intrusion definition (section 0150).
 - Add a communication plan section to engage with the public and communities that experience frequent smoke events on the function of the smoke management program. Provides components of local smoke communication plans to ensure awareness and open communications when smoke incidents and intrusions occur (section 0180).
 - Add another alternative to burning example and update web links to burning alternative references (section 0200).
 - Allow increased usage of polyethylene sheeting on burn piles (section 0210).
 - Minor updates to “Burn Procedures” section (section 0230).
 - Clarification on minimum fees for burning (section 0310).
 - Add an evaluation of annual NAAQS exceedances from prescribed burning smoke (section 0450).

RECOMMENDATION

The Board approves initiating the rulemaking process for OAR 629-048 with the proposed attached changes.

RULE REVIEW TIMELINE

May 11, 2018 in The Dalles – ODF/DEQ presents a summary of proposed rules to EQC as an information item.

June 6, 2018 in La Grande – ODF/DEQ presents proposed rules to BOF to seek permission to initiate rule making process.

June 20, 2018 – Notice of Proposed Rulemaking and Fiscal Impact Statement sent to Secretary of State. Notify legislators and interested parties.

July 15 – 30, 2018 – Conduct public hearings concurrently with DEQ.

September 5, 2018 – ODF submits final rule draft with public comments to BOF for final consideration and approval.

September 13, 2018 – DEQ submits State Implementation Plan (final rule draft and Department Directive) to EQC for final consideration and approval.

September 15, 2018 – Submit rule to Secretary of State and Legislative Counsel for filing. Effective date October 1, 2018.

ATTACHMENTS

1. Review Committee members
2. ODF/DEQ proposed rule changes to OAR 629-048.