



Comments Relating to 2-08-07 Version of Smoke Management Rules OAR Chapter 629, Division 48 – Smoke Management

Oregon Board of Forestry
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First, I would like to thank the Board for recognizing our concerns voiced at the January 3rd meeting and instructing staff to develop performance based alternatives for the Boards consideration relating to SSRA criteria.

Primary Comments

While the primary revisions were to address SSRA criteria, this version seems to have a greater emphasis to “other airborne pollution” considerations. We are also concerned with the option for DEQ to request SSRA designation based what appears to be solely on “other” airborne pollutants. While we have always supported community protection it is unclear if smoke emissions are included in this broad category.

629-048-0150 (1)(b) “The DEQ may recommend consideration of a community for SSRA listing based on mechanical monitoring data that document other airborne pollutants in the community at levels that make periodic violation of the federal air quality standards a significant possibility”.

Additional references to other airborne pollution include:

629-048-0150 (b) “...document other airborne pollutants...”

629-048-0150 (c) “...systematic monitoring of pollutants...” and “...chronic air quality problems in the community...”.

629-048-0150 (d) “...addressing other pollutants...”

629-048-0230 (9) (a) “...burn boss determines, or is advised by a field administrator, that smoke or other pollutants...”

629-048-0400 (1) “... or potential for smoke or other airborne pollutants...”

While it may not be intended, with the new “other pollution” references mentioned above, it seems as if ODF has taken on new responsibility for broader air quality concerns rather than DEQ. **ORS 477.013 Smoke Management Rules**, the governing statute, currently makes no requirement for monitoring other pollutants, only to consider them when permitting burning.

SSRA's (DA's) have been decided based on prescribed burning smoke intrusions or community non-attainment, normally from wood stove heating, historically. If this new reference does not include prescribed burning smoke we would want to re-evaluate all SSRA's under the new criteria specific to "other airborne pollutants". We would then think DEQ should be responsible for quantifying the level of "other background pollutants" in the air in addition to smoke if/when visual estimations of intensity and duration are to be used **629-048-0110 (4)**. As you can see it would be difficult to visually determine the loss in sight distance due to only one pollutant or could a light intensity intrusion or incident be called a moderate or heavy because of "other pollutants"?

Designating a community for SSRA protection was intended to eliminate the chronic and history of repeated smoke incidents. Currently 629-048-0150 (5) describes the "Repeated Smoke Incidents" which will be the initiating factor for SSRA consideration. While it does provide latitude for a variety of incident intensities it does represent a small number of occurrences happening over a three year period or less. This could represent a moderate incident and two years later experience another similar exposure or possible consideration of residual smoke from an initial burn qualifying over a single operation. We do not feel that these frequencies represent "**chronic**" program failures. We would request consideration for the same numbers of occurrences, but noting them per year, over a two year period. It is our position that this series of incidents is more representative of chronic program failures warranting further protection safeguards.

The new language also seems to give DEQ more of an active role in Smoke Management. In a number of different sections there is now language stating, "the DEQ may recommend this" or "in consultation with the DEQ, ODF may do this". It may have always been implied and exercised but it seems as if responsibility for decisions may be shifting more to DEQ. We would hope for ODF to retain operational decision making authority in accomplishing program goals while continuing with joint policy authority with DEQ.

The legislature originally established the ODF Smoke Management Program to focus on meeting the necessary accomplishments of forestry burning while minimizing the harmful effects to communities from those activities. I have added a short graph below depicting recent differences in registration versus accomplishments to help illustrate current trends. Without considering the various reasons for low accomplishments (generally weather related), the most concerning aspect is that 220,000 acres were registered for treatment that have not been accomplished.

	<i>Restricted Area Acres Registered</i>	<i>Restricted Area Acres Burned</i>	Completion
2002	87,696	56,713	64.67%
2003	80,420	46,017	57.22%
2004	153,182	92,378	60.31%
2005	99,552	63,343	63.63%
2006	118,283	58,752	49.67%
Total			
	539,133	317,203	
Average			
	107,827	63,441	58.84%

Reviewing yet another series of revisions reminded me of our initial Review Committee meeting. It was widely recognized and important to remember for everyone, the process wasn't initiated because the Program was broken, quite the contrary. All the recommendations were intended to make a highly successful program even better.

Specific Comments-Recommendations

1.) 629-048-0005 Definitions

(22) "Prescribed Burning" - Add "...planned management activity, regulated by the State Forester, on forestland..." Would help clarify for this Rule an ability to distinguish a legally approved RX burn.

2.) 629-048-0150(2)(c) – "Systematic monitoring" and "chronic" air quality problems are mentioned for the first time. The terms are undefined and where does the "verifiable information" come from? The Rules need to ensure these methods do not include non-verified complaints, personal beliefs or perceptions.

3.) 629-048-0150(3)(c) Acknowledge that smoke incidents have occurred, but direct the department to gather additional information, conduct additional monitoring to confirm the need for additional community protection, make operational modifications or undertake any other effort aimed at reducing the likelihood of continuing smoke incidents in the community.

4.) 629-048-0150 (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 each of two successive years [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).

5.) 629-048-0310 – We cannot offer complete support for the current 2-8-07 version, even if our stated concerns were addressed, without a known fee structure. We continue to support legislative efforts to restore general funds for the program that will also affect eventual rate determinations.

Returning to a consistently administered and interpreted program is widely supported but will cause an initial discrepancy of impacts, operationally and financially between landowners in different districts. One example would be the difference in burning for silvicultural reasons and past practices locally reducing or eliminating fees for hazard reduction. I believe that successful restoration of general funds, as recommended by the Review Committee, will be the cornerstone for upgrading technology, improving forecasts for public protection as well as bridging the financial impacts to a flat rate per acre system.

Thank you for your time and consideration of our comments here today. As previously mentioned, several of our members may offer additional comments, recommendations, concerns or varying degrees of support for the rules today or most likely during the field hearings process.