

STAFF REPORT

Agenda Item No.:	2
Work Plan Title & #:	Wildfire Risk Management Issue 7
Objective # & Title	Obj. 3 - Smoke Management Plan Implementation
Date of Presentation:	November 2, 2007
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SUMMARY

This agenda item completes formal Oregon administrative rule making for a major portion of the revised Oregon Smoke Management Plan (SMP) and summarizes public comment on the proposals. Following discussion, staff will seek the Board's approval to adopt the rules.

Following the Board of Forestry's meeting on June 6, 2007, Department of Forestry staff have continued to finalize the rules. Public hearings were conducted at 5 locations across the state. These comments were reviewed and changes made where the comments warranted.

With the failure of HB 3468, which would have provided General Fund and Harvest Tax funding support, a consensus fee structure was developed to provide total support of the program through burn fees.

CONTEXT

ORS 477.013 requires the State Forester and the Department of Environmental Quality to protect air quality through a plan for smoke management, and the DEQ is required to submit an updated state implementation plan in 2007 to the federal Environmental Protection Agency. The rule proposal that is the subject of this agenda item comes from a broad review of the existing smoke management plan, and staff work (in consultation with DEQ) together with advice from the Smoke Management Advisory Committee in an effort to update the plan and maintain compliance with federal law.

Previous staff reports, including the agenda item for the January 3, 2007, meeting have detailed the history of the Smoke Management Program and the review process leading to the development of a work plan, proposed legislation and the rule package.

BACKGROUND AND ANALYSIS

Attachment 1 shows the rule proposal prepared by staff with changes made to these rules subsequent to the discussion at the Board's June 6 meeting. Public hearings were conducted during late July and August 2007. Hearings were conducted in Portland, Florence, Medford,

Bend, and La Grande. Summaries of these hearings are included in Attachment 2. Sixteen written comments were submitted prior to the close of the comment period. These comments are included in Attachment 3. Staff analyses of oral and written comments are included as Attachment 4.

Many of the comments related to Smoke Sensitive Receptor Areas (SSRA) and the criteria for initiating evaluation of communities for addition to the SSRA list. Comments for and against immediate addition of Florence to the SSRA list were received. The proposed rules establish a method to evaluate a community for addition to the list and this can be used to objectively evaluate the addition of Florence when the rules are adopted. Some felt the criteria that would initiate evaluation of a community for addition could too easily trigger an evaluation. OAR 629-048-0250 provides a balance between the competing values. While the criteria might initiate a review early, conducting an evaluation is preferable to waiting too long to begin the review.

A number of comments were received relating to the Smoke Management fund; limiting the size of the fund and increasing oversight of that fund. OAR 629-048-0450, Periodic Evaluation and Adaptive Management, was edited to clarify the Smoke Management Advisory Committee's role in monitoring the fund and fees. An arbitrary cap on the balance in the fund could result in shortfalls if future needs and revenues could not be anticipated and, therefore, was not added to the rule.

Other comments related primarily to editorial changes. Most of these are incorporated into the rules package where they would correct grammar or clarify wording.

RECOMMENDATION

The Department recommends the Board approve the final rules OAR 629-048-0001 through 629-048-0500, 629-043-0040 and 629-043-0041, and direct the State Forester to follow established procedures to adopt, amend and delete the administrative rules shown in Attachment 1.

NEXT STEPS

Approval of this recommendation will allow staff to promulgate the rules and to submit them to the Environmental Quality Commission for their concurrence and incorporation into the State Implementation Plan.

The majority of the rules would be effective January 1, 2008, but those that affect registration and accomplishment reporting, for lands under "level 2 regulation," will become effective January 1, 2009. The DEQ anticipates action on its State Implementation Plan to be before the Environmental Quality Commission in the spring of 2008.

ATTACHMENTS

- (1) Revised Draft OAR Chapter 629, Division 48 Smoke Management Rules
- (2) Summary of Public Hearing Comments
- (3) Written Comments Submitted to ODF
- (4) Staff Analysis of Comments