



# Summary and Status of Prescribed Burning Rulemaking

Docket No. 58-0101-1901

May 13, 2020

## DEQ Efforts

To facilitate conversations to further DEQ's understanding of current forest practices, prescribed fire uses in Idaho, and smoke management, DEQ staff began meeting with stakeholders in March. These conversations, and other information received directly from citizens, have clarified several topics and provided additional information for possible solutions to establishing an effective prescribed burning smoke management program for Idaho.

During March and April, DEQ staff met with small private forest owners, forest industry representatives, the Montana/Idaho Airshed Group Executive Board, the Nature Conservancy, and the Idaho Conservation League. DEQ also met with Idaho Department of Lands (IDL) staff to learn more about Idaho forest practices, the use and requirements of the Idaho Forest Practices Act (FPA) Notifications and Certificate of Compliance, requirements for slash hazard abatement, and the regulatory framework governing activities that result in prescribed fire use.

## Discussion Highlights

Highlights from our discussions are as follows:

- There is widespread support for using a non-regulatory best management practices (BMP) field guide in combination with a rule. The BMP must be clearly identified as non-regulatory. Acceptance of this concept is primarily contingent on establishing a Smoke Management Advisory Committee, whose members are appointed by DEQ's director. The advisory committee should include representatives from all stakeholder groups who meet annually to provide input into new or improved BMP implementation in Idaho.
- The existing DEQ rule (IDAPA 58.01.01.614.02.b) requires DEQ to develop a Smoke Management Plan that is applicable when permits and prescribed fire plans are not required. DEQ found that the majority of small private forest owners do not burn when an IDL burn permit is required. Instead, this group of burners waits until IDL determines fire safety concerns are low and permits are no longer required to be obtained prior to burning (this is identified as October 20 through May 10 by state statute but has been modified some years due to certain fire safety conditions). Permits issued by IDL focus on fire danger and not necessarily smoke management considerations from prescribed fire.
- Based on discussions with IDL, prescribed fire burn plans are not required for any type of burner when burning piled logging slash. All broadcast or understory type burning in Idaho requires the use of an IDL-approved prescribed fire burn plan; however, smoke management is not addressed consistently in all of these burn plans.

- Because most small private forest owners burn when an IDL burn permit is not required, and a prescribed fire burn plan is not required for slash pile burning, the majority of all prescribed burning occurring in Idaho does not meet the current rule requirement.
- Most small private forest owners who conduct burning for stand maintenance describe slash piles as built primarily by hand about 20 feet across and 10 feet tall. There was confusion when DEQ initially described pile size in cubic feet. Based on our discussions with the forest owners, describing pile size in number of feet across by number of feet tall is a better method. Before determining the size and number of piles burned per day that could be excluded from the requirement to specifically request to burn, understanding pile construction techniques, emission modeling, and potential air quality impacts need further evaluation.
- The concept of required burner training that includes smoke management topics is generally supported; however, additional discussion on proposed curriculum is needed to move this conversation forward as a rule proposal. Leveraging existing training and certification requirements is a preferred method to implement this requirement in Idaho. The National Wildfire Coordinating Group provides training opportunities to state and federal land managers in smoke management techniques that should fulfill any Idaho smoke management training needs for those burner types. Certified burn manager programs are popular in Florida, Texas and other states, where a large amount of private landowners use prescribed fire. Topics such as fire weather, fire behavior, firing tools and techniques, fuel moisture, burn planning, topography, burning laws and regulations, safety and equipment, and smoke management are all important training topics to ensure a knowledgeable and experienced burning community.
- The Idaho Prescribed Fire Council, currently in the development stages, could help facilitate public education about the need and purpose of prescribed fire and promote acceptance and understanding of prescribed fire smoke emissions. Potential for hands-on training for prescribed fire practitioners could also be a benefit provided by the council. Training on the safe and effective use of fire and proper pile building techniques could enable burners to feel comfortable burning in early October and late spring which would expand opportunities to burn as well.
- Based on input from small private forest owners, the use of the IDL Notification of Forest Practice and Certificate of Compliance for DEQ smoke management registration appears to be a promising option; however, private forest owners who conduct stand sanitation or forestland maintenance activity, where no commercial product is created, but slash material is collected and burned, do not always complete FPA notifications or compliances. For private forest owners and logging contractors not submitting an FPA notification, a DEQ registration may be necessary.
- The exceptional event process allowed under the Clean Air Act for air quality data influenced by unusual or naturally occurring events, including prescribed fire, is not widely understood by the stakeholders and should be explained further. For prescribed fires to be considered an exceptional event, Idaho must certify to EPA that it has adopted and is implementing a smoke management program or demonstrate that the burn manager responsible for the specific prescribed fire employed appropriate basic smoke management practices. Establishing a smoke management program for Idaho is the most appropriate action to protect public health and allow for the possible use of the exceptional event process, if appropriate. This option is most appropriate in Idaho

because multiple parties burn during the same time period and in the same region or airshed.

- IDL forestry and fire rules and their related activity recognize protecting public health and maintaining air quality as goals in forestland management. Burning of Slash (IDAPA 20.04.02.110) and Prescribed Fire (IDAPA 20.02.01.071) appear to commit the agency to implement smoke management considerations.

## Resources

During conversations, stakeholders identified several documents and other tools that should be made available to the rulemaking group. The information identified below contains hyperlinks for user convenience. Links will also be posted on the Docket No. 58-0101-1901 rulemaking web page along with this summary report. The information includes the following:

- Institutions with Sensitive Populations ([ISP](#)) [GIS shape file](#)
- Current airshed group [Impact Zones GIS file](#).
- Current [Nonattainment area GIS file](#)
- Combined GIS layers with [PM Advance Areas of Current Actions](#)
- DEQ [Penalty Policy document](#)
- Treatment of Data Influenced by Exceptional Events, [EPA Rule and Guidance](#)

## Next Steps

DEQ will continue to discuss prescribed fire and smoke management with stakeholders as needed and will work to develop the next draft version of any proposed rules and operating guide.

The department's next steps include reaching out to logging contractors and contacting local government officials who participated in this rulemaking effort. DEQ will also continue to follow up on prior conversations. DEQ plans on using an online survey tool to gather general information about prescribed fire use by small forestland owners and logging contractors in Idaho. A link to the survey will be posted on the Docket No. 58-0101-1901 rulemaking web page and distributed through established contacts.

## Next Rulemaking Meeting

The next rulemaking meeting has not been determined, but the plan is potentially holding an in-person meeting in July or August. DEQ will update the web page and will notify the rulemaking group once a date is identified.