

Negotiated Rule Draft No. 2
Docket No. 58-0101-1901, Dated November 14, 2019

This draft includes revisions based on negotiated rulemaking meetings, review of written comments received, and collaboration between the Idaho Department of Environmental Quality and the Idaho Department of Lands.

The revisions in Section 006 are highlighted in yellow. Sections 627 through 636 were redrafted, reorganized, and inserted as clean text with no formatting or highlighting.

Written comment deadline for this draft – January 8, 2020

Rules for the Control of Air Pollution in Idaho
IDAPA 58.01.01

006. GENERAL DEFINITIONS.

(BREAK IN CONTINUITY)

~~XX. **Burn Boss.** The individual who is onsite throughout the entire prescribed fire and who has the overall responsibility for the entire burn.~~

~~XX. **Burn Manager.** The individual responsible for a prescribed burn from ignition through completion.~~

~~XX. **Broadcast Burning.** A prescribed burn where fire is applied to wildland fuels within well-defined boundaries for the purpose of fuel hazard reduction and/or resource management.~~

~~XX. **Pile Burning.** A prescribed burn used to dispose of wildland fuels that result from fuel and/or resource management activities which were piled by hand or machine.~~

~~XX. **Recognized Smoke Management Group.** A membership group of prescribed burners created to accomplish wildland fuel and resource management objective burning while protecting public health and welfare. The group implements smoke management principles and meets the requirements of Sections 627 through 636.~~

91. Prescribed ~~Fire Management~~ Burning. The controlled application of fire to wildland fuels in either their natural or modified state under such conditions of weather, fuel moisture, soil moisture, etc., as will allow the fire to be confined to a predetermined area and at the same time produce the intensity of heat and rate of spread required to accomplish planned objectives, including: ~~(5-1-94)~~

- a. Fire hazard reduction; (5-1-94)
- b. The control of pests, insects, or diseases; (5-1-94)
- c. The promotion of range forage improvements; (5-1-94)
- d. The perpetuation of natural ecosystems; (5-1-94)

- e. The disposal of slash and woody debris resulting from a logging operation, the clearing of rights of way, a land clearing operation, or a driftwood collection system; (5-1-94)
- f. The preparation of planting and seeding sites for forest regeneration; and (5-1-94)
- g. Other accepted natural resource management purposes. (5-1-94)

(BREAK IN CONTINUITY)

~~112. **Smoke Management Plan.** A document issued by the Director to implement Sections 606 through 616, Categories of Allowable Burning. (5-1-94)~~

113. Smoke Management Program. A program or system whereby wherein meteorological information, fuel conditions, fire behavior, smoke movement and atmospheric dispersal conditions are used as a basis for to scheduling the location, amount and timing of open burning operations so as, including prescribed burning, to minimize the impact of such burning on identified smoke sensitive areas and populations and to ensure smoke impacts do not cause or contribute to a violation of the National Ambient Air Quality Standards (NAAQS) in order to protect public health. (5-1-94)

(BREAK IN CONTINUITY)

~~614. **PRESCRIBED BURNING.**~~

~~The use of open outdoor fires to obtain the objectives of prescribed fire management burning is an allowable form of open burning when the provisions of Section 614 are met. (5-1-94)~~

~~**01. Burning Permits or Prescribed Fire Plans.** (5-1-94)~~

~~a. Whenever a burning permit or prescribed fire plan is required by the Department of Lands, U.S.D.A. Forest Service, or any other state or federal agency responsible for land management, any person who conducts or allows prescribed burning shall meet all permit and/or plan conditions and terms which control smoke. (5-1-94)~~

~~b. The Department will seek interagency agreements to assure permits or plans issued by agencies referred to in Subsection 614.01.a. provide adequate consideration for controlling smoke from prescribed burning. (5-1-94)~~

~~**02. Smoke Management Plans for Prescribed Burning.** (5-1-94)~~

~~a. Whenever a permit or plan is not required by the Department of Lands, U.S.D.A. Forest Service, or any other state or federal agency responsible for land management, any person who conducts or allows prescribed burning shall meet all conditions set forth in a Smoke Management Plan for Prescribed Burning. (5-1-94)~~

~~b. The Department will develop and put into effect a Smoke Management Plan for Prescribed Burning consistent with the purpose of Sections 600 through 616. (5-1-94)~~

~~**03. Rights-of-Way Fires.** The open burning of woody debris generated during the clearing of rights of way shall be open burned according to Sections 38-101 and 38-401, Idaho Code, IDAPA 20 Title 16 and Sections 606 through 616 of these rules. (5-1-94)~~

(BREAK IN CONTINUITY)

Sections 627 through 636 were redrafted, reorganized, and inserted to replace those sections from the Preliminary Draft Rule (Draft No. 1). Due to the extensive revisions, these sections were inserted as clean text with no formatting or highlighting.

627. PRESCRIBED BURNING.

Sections 627 through 636 establish the requirements for prescribed burning.

628. PRESCRIBED BURNER TYPES.

01. Major Burner. Any person, as defined in 006, conducting any prescribed burning that, on a statewide basis, burns two thousand two hundred fifty (2,250) tons or more of material per year.

02. Minor Burner. Any person, as defined in 006, conducting any prescribed burning that, on a statewide basis, burns less than two thousand two hundred fifty (2,250) tons of material per year.

a. Broadcast Burning. Any minor burner conducting broadcast burning as defined in 006.

b. Large Volume Pile Burning. Any minor burner conducting pile burning, as defined in 006, that has a daily total volume of one thousand two hundred cubic feet (1,200 ft³) or more.

c. Small Volume Pile Burning. Any minor burner conducting pile burning, as defined in 006, that has a daily total volume less than one thousand two hundred cubic feet (1,200 ft³).

629. RECOGNIZED SMOKE MANAGEMENT GROUPS.

01. Recognition. To become a recognized smoke management group, the group must annually demonstrate to the Department how their policies and procedures meet or exceed the requirements identified in Subsections 629.04, 630.02, 631, 632.02, 633.02, 634, and 636.

02. Notification. The Department will notify the group and post on the Department's website a list of qualifying recognized smoke management groups, the rule section(s) satisfied by the group's policies and procedures, and any limitations.

03. Membership. Burners may choose to join a recognized smoke management group to fulfill rule requirements. A burner is considered a member in good standing with a recognized smoke management group if the burner complies with the applicable policies and procedures of the group.

04. Collaboration. Through a collaborative process, the recognized smoke management group and the Department shall agree on final burn decisions.

630. REGISTRATION.

All burners shall adhere to the following applicable registration requirements.

01. Major Burners, Member of a Recognized Smoke Management Group. Register planned burns with, and be a member in good standing of, a recognized smoke management group, as defined in Section 006, or comply with 630.02.

02. Major Burners, Not a Member of a Recognized Smoke Management Group.

Register planned burns as follows:

a. No later than thirty (30) calendar days before the first proposed ignition on the forms provided by the Department, submit information on the burn type, location, acreage, and fuel characteristics for all burns planned for the calendar year to the Department. Additional information necessary for the Department to make a burn decision under Sections 627 through 636 shall be submitted upon request.

b. Details of individual registered planned burns may be amended until five (5) business days before the proposed ignition (e.g., fuel characteristics and burn type).

c. New planned burns may be added to a burner's registration until thirty (30) calendar days before the proposed ignition.

03. Minor Burners: Broadcast and Large Volume Pile Burning. At least thirty (30) calendar days before each proposed ignition, using the forms provided by the Department, submit information on the burn type, location, pile size, number of piles or acreage, and fuel characteristics. Additional information necessary for the Department to make a burn decision under Sections 627 through 636 shall be submitted upon request.

631. ANNUAL COORDINATION, MAJOR BURNERS.

All major burners shall coordinate annually with the Department. This coordination is in addition to registering and requesting to burn.

632. REQUEST TO BURN.

All burners shall adhere to the following applicable request to burn requirements.

01. Major Burners, Member of a Recognized Smoke Management Group. Submit a request to burn to, and be a member in good standing of, a recognized smoke management group, as defined in Section 006, or comply with 632.02.

02. Major Burners, Not a Member of a Recognized Smoke Management Group.

a. Submit a request to burn to the Department by noon Mountain time at least one (1) business day before proposed ignition.

b. Provide burn manager's name and training information as required by Subsection 636.04, planned burn unique identifier, and location. Additional information necessary for the Department to make a burn decision under Sections 627 through 636 shall be submitted upon request.

03. Minor Burners, Broadcast and Large Volume Pile Burning.

a. Submit request to burn to the Department by noon Mountain time at least one (1) business day before proposed ignition.

b. Provide burn manager's name and training information as required by Subsection 636.04, planned burn unique identifier, and location. Additional information necessary for the Department to make a burn decision under Sections 627 through 636 shall be submitted upon request.

633. BURN DECISION

01. Burn Decision Criteria. The Department will evaluate the following before issuing a burn decision:

a. The forecasted meteorological and ambient air quality conditions to ensure the proposed burns will not cause or contribute to an exceedance of any National Ambient Air Quality Standard (NAAQS);

b. The proximity and potential impact of the proposed burns to communities and institutions with sensitive populations;

c. The proximity and potential impact of the proposed burns to Mandatory Class 1 Areas; and

d. Additional smoke management factors necessary for the Department to make a burn decision under Sections 627 through 636.

02. Notification of Burn Decision. The Department will post the burn decision and any specific conditions under which burning is approved on its website. Burn managers, as defined in Section 006, who are burning for members in good standing of a recognized smoke management group, as defined in Section 006, will be notified of the burn decision by their recognized smoke management group.

634. SMOKE MANAGEMENT PRACTICES. For each approved burn, except minor burners conducting small volume pile burning, the burn manager, as defined in 006, shall implement the following.

01. Smoke Dispersion Forecast. Obtain and review a smoke dispersion forecast specific to the burn location and ignition time. Evaluate whether smoke dispersion conditions still support conducting the burn.

02. Test Burn. Conduct a test burn and confirm adequate vertical and horizontal smoke dispersion.

03. Recordkeeping.

a. Record on-site weather conditions.

b. Record smoke conditions observed during and after the burn and smoke impacts on any populated area as a result of the burn.

c. Retain records of smoke dispersion forecast, on-site weather conditions present during ignition, and smoke condition observations for two (2) years and provide to the Department upon request.

635. UNPLANNED FIRE EVENT

To identify and coordinate management action strategies based on the level of smoke impacts on public health and welfare, all federal, state, or local governmental entities managing a wildfire of more than fifty (50) acres shall notify the Department within forty-eight (48) hours of the decision to manage any portion of a wildfire under a strategy other than full suppression.

636. GENERAL PROVISIONS.

01. Designated Burn Day Prescribed burning shall only be conducted when the Department designates that day as a burn day, and the burn is conducted in accordance with any specific conditions under which burning is approved.

02. Communication with Major Burners and Minor Burners, Broadcast and Large Volume Pile Burning. For the purpose of receiving information directly from the Department, the burner shall submit, and implement, a communication plan to the Department.

03. Limitations on Burning.

a. When required by the conditions of the burn decision, the burn manager shall cease new ignitions such that the fire burns down if smoke is adversely impacting institutions with sensitive populations.

b. When contacted by the Department, the burn manager shall cease new ignitions such that the fire burns down if required to do so.

04. Smoke Management Training. All burn managers, as defined in Section 006, must complete Department-approved prescribed burning smoke management training and complete refresher training at least every five (5) years.

05. Advisory Committee. The Department will assemble an advisory committee consisting of representatives from groups such as the general public, environmental organizations, forest and rangeland organizations, health organizations, Idaho Department of Lands, federal land management agencies, Idaho Department of Environmental Quality, recognized smoke management groups, and others that meets annually to discuss prescribed burning smoke management issues.