

Summary / Status of Prescribed Burning Rulemaking
February 11, 2020
Docket No. 58-0101-1901

Over the past several weeks, DEQ has reviewed the comments submitted in response to the November 25, 2019, meeting while also considering previously submitted comments and discussions related to this rulemaking effort.

Based on the comments and discussions, it is apparent that greater understanding of the needs, requirements, and abilities of the affected parties, including the Department, is necessary to develop an effective smoke management program for Idaho.

Therefore, DEQ thinks it makes sense to adjust our process while still continuing the rulemaking. DEQ will meet with affected entities to gather information, identify roadblocks, and further develop ideas/solutions.

The existing rule IDAPA 58.0101.614, which has been the regulatory structure since at least 1985, regulates prescribed burning in 2 ways: through interagency agreements and use of a Smoke Management Plan. The rule requires DEQ to seek interagency agreements to assure permits and prescribed fire plans provide adequate consideration for controlling smoke from prescribed fire burning. The rule also requires DEQ to develop a Smoke Management Plan that is applicable when permits and prescribed fire plans are not required. DEQ is currently not meeting this rule requirement and recognizes it is our responsibility that we do. This rulemaking effort is our attempt to do so.

Looking ahead, DEQ plans to conduct the following steps:

- Meet with private forest owners and logging contractors, and Idaho industry to better understand their needs, limitations, and processes.
- Engage with the Executive Board of the Montana/Idaho Airshed Group to better understand their needs and limitations.
- Engage with other stakeholders, environmental groups, and the newly developed Idaho Prescribed Fire Council to identify their needs and concerns.
- Continue our efforts with IDL to understand their rules and the combined implications.
- Identify other aspects of a comprehensive smoke management program, such as tools and training, and explore ways to implement them.

DEQ will not be negotiating the rule at these meetings.

DEQ is evaluating whether we will still be able to develop a proposed rule for presentation to the 2021 Legislature as was discussed in previous meetings. Given the approach DEQ is taking with meeting with groups individually, it is not likely we will be able to meet the required timeframes, which would have required conclusion of negotiated rulemaking by June 2020 and the proposed rule finalized by July 2020.

DEQ will meet with the full rulemaking group to report on our progress and what we have learned. In addition, DEQ will also develop the next version of the rule and likely the “how to” guide for review and discussion at future meetings.

Because of this fluid process, DEQ has not yet determined dates for future rulemaking meetings. DEQ will utilize the rulemaking website and email list serv, as usual, to report next meeting dates.