

## ODF proposed rule changes to OAR 629-048

(underline=new language, cross-out=deletions)

### 1. Regulation of Prescribed Burning Outside District Boundaries

#### 629-048-0001

##### Title, Scope and Effective Dates

(1) OAR 629-048-0001 through 629-048-0500 are known as the Smoke Management Rules.

(2) The Smoke Management Rules apply to prescribed burning of forest fuels for forest management purposes within any forest protection district in Oregon as described by OAR 629-041-0500 to 629-041-0575. In addition, the Rules apply to forestland outside any forest protection district in Oregon as described by ORS 527.620 (7) at the discretion of the Oregon Department of Forestry and Department of Environmental Quality defined in a joint agreement.

(3) Except as otherwise specified in these rules, the smoke management rules are effective ~~January 1, 2008-[date]~~

Stat. Auth: ORS 477.013, 477.562 (as amended by ch. 213, OL 2007, Enrolled HB 2973), 526.016, 526.041  
Stats. Implemented: ORS 477.013, 477.515, 477.562 (as amended by ch. 213, OL 2007, Enrolled HB 2973)  
Hist.: DOF 4-2007, f. 12-31-07, cert. ef. 1-1-08

### 2. Updating Definitions

#### 629-048-0005

##### Definitions

Unless otherwise defined below, terms used in this rule division shall have the meaning provided in ORS 477.001:

(1) "Alternatives to burning" means any forest management activity that reduces the volume of material, rather than actually being burned.

~~(42)~~ "Board" means the State Board of Forestry.

~~(23)~~ "Burn boss" means the person, authorized by the owner (may include the owner) or a federal land management agency to conduct and make decisions regarding the practices involved in conducting a prescribed burning operation and who is responsible for compliance with all requirements under this rule division and related laws.

~~(34)~~ "Burn registration" means the act or product of notifying the forester to the required level of detail, of intent to conduct a prescribed burning operation as required by OAR 629-048-0300.

~~(45)~~ "Class I Area" means Crater Lake National Park-national parks and certain wilderness areas designated by Congress in 1977 as federal Class I Areas that are subject to visibility protection under the Environmental Protection Agency's Regional Haze Rule and the federal Clean Air Act. Class I Areas in Oregon include: Crater Lake National Park, Diamond Peak Wilderness, Eagle Cap Wilderness, Gearhart Mountain Wilderness, Hells Canyon Wilderness, Kalmiopsis Wilderness, Mountain Lakes Wilderness, Mount

Hood Wilderness, Mount Jefferson Wilderness, Mount Washington Wilderness, Strawberry Mountain Wilderness and Three Sisters Wilderness.

(56) "Class 1 forestland" has the same meaning as given in ORS 526.324 to "timber class" and includes all forestland primarily suitable for the production of timber.

(67) "Class 2 forestland" has the same meaning as given in ORS 526.324 to "timber and grazing class" and includes all forestland primarily suitable for joint use for timber production and the grazing of livestock, as a permanent or semi-permanent joint use, or as a temporary joint use during the interim between logging and reforestation.

(78) "Class 3 forestland" has the same meaning as given in ORS 526.324 to "agricultural class" and includes all forestland primarily suitable for grazing or other agricultural use.

(89) "Department" means the State Forestry Department.

(910) "Eastern Oregon" means the eighteen Oregon counties lying east of Multnomah, Clackamas, Marion, Linn, Lane, Douglas, and Jackson Counties.

(11) "Emission reduction technique" means any forest management activity that allows for a lower volume of particulate to be produced from a given volume of burning.

(4012) "Emissions" means the gaseous and particulate combustion products in smoke resulting from burning forest fuels.

(4413) "Federal land management agency" means the United States Department of Agriculture's Forest Service; the United States Department of the Interior's Bureau of Land Management, National Park Service, Fish and Wildlife Service, or Bureau of Indian Affairs; or any other federal agency that may conduct prescribed burning within a forest protection district.

(4214) "Field administrator" means an employee of the State Forestry Department, a forest protective association, or federal land management agency who has, among other responsibilities, an official role in determining whether a prescribed burn should proceed, continue or be suspended.

(4315) "Forester" means the State Forester or authorized representative including but not limited to fire wardens appointed under ORS 477.355.

(4416) "Forest fuels" means any flammable woody material, grass or other plant matter that may constitute a wildfire hazard or that is intended for disposal by prescribed burning, but does not include products that have had secondary processing such as boards, posts or paper.

(4517) "Forest protection district" means an area of forestland designated by the State Forester for protection from fire pursuant to ORS 477.225. Detailed descriptions of the forest protection districts may be found in OAR 629-041-0500 to 629-041-0575.

(4618) "Ground level" means at or close to the surface of the earth such that smoke at "ground level" could be inhaled by persons going about their normal business, in or out of doors. It does not include smoke that passes overhead when prescribed burning is conducted in accordance with the smoke management forecast and instructions.

(4719) "Level 1 regulation" means the program of requirements that apply to all forestland managed by a federal land management agency statewide, and all class 1 forestland in western Oregon within a forest protection district (OAR 629-048-0100(2)). These requirements include burn registration at least seven days in advance (OAR 629-048-0300), fee administration (OAR 629-048-0310), compliance with smoke

management forecast instructions (OAR 629-048-0230), and reporting of accomplishments (OAR 629-048-0320).

(~~4820~~) "Level 2 regulation" means the program of requirements that apply to all non-federal forestlands in eastern Oregon, and all class 3 forestland in western Oregon within a forest protection district (OAR 629-048-0100(3)). These requirements include burn registration (OAR 629-048-0300) and reporting of accomplishments (OAR 629-048-0320).

(~~4921~~) "Mop-up" means action, usually involving the application of water or other means to eliminate heat, remove fuel or reduce the supply of oxygen, sufficient to make a fire safe or reduce residual smoke.

(~~2022~~) "Other areas sensitive to smoke" means specific recreation areas not listed as SSRAs in OAR 629-048-0140 but that are intended to receive consideration for focused forecasting attention for limited times during periods of heavy use by the public such as coastal beaches on holidays, ~~Class I Areas during peak summer use~~, and other areas during special events. ~~All Oregon and Washington Class I areas shall be considered areas sensitive to smoke during the visibility protection period (July 1 to September 15), defined in the Oregon Visibility Protection Plan (OAR 340-020-0040, Section 5.2).~~

(~~2423~~) "Prescribed burning" means the use of fire ignited as a planned management activity on forestland to meet specific objectives involving the reduction or removal of forest fuels. Prescribed burning does not include impromptu fires ignited for purposes such as warming fires, burn-out or backfire operations used in wildfire suppression, or lightning ignited "wildland fire use" as practiced by federal land management agencies.

(~~2224~~) "Regional haze" means air pollution transported over long distances into Class I Areas that reduces visibility in those areas.

(~~2325~~) "Residual smoke" means smoke produced after the initial fire has passed through the fuel.

(~~2426~~) "Smoke intrusion" means the verified entrance of smoke from prescribed burning into a smoke sensitive receptor area at ground level.

(~~2527~~) "Smoke management forecast unit" means any or all of the persons appointed or assigned by the State Forester to develop and interpret weather forecasts and produce smoke management instructions, usually operating from the department headquarters in Salem.

(~~2628~~) "Smoke sensitive receptor area or SSRA" means an area designated for the highest level of protection under the smoke management plan, as described and listed in OAR 629-048-0140.

(~~2729~~) "Underburning" means low intensity prescribed burning to maintain forest health through reduction of fuels in the understory of a forest stand while maintaining the overstory stand characteristics.

(~~2830~~) "Verified smoke incident" means an entrance of prescribed burning smoke into a community, other than an SSRA, investigated by the forester to:

(a) Validate claims that smoke did, in fact, enter the area described, at ground level;

(b) Determine if the smoke or a portion of it, in fact, derived from forest management prescribed burning from a legally conducted operation; and

(c) If (a) and (b) of this section were affirmed, determine the intensity and approximate duration of the smoke incident as described in OAR 629-048-0110.

(2931) "Western Oregon" means the eighteen Oregon counties lying west of Hood River, Wasco, Jefferson, Deschutes and Klamath Counties.

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### 3. Class I Area Visibility Protection.

#### 629-048-0130

##### Visibility Objectives

(1) It is the intent under the smoke management plan to comply with the Oregon Visibility Protection Plan (OAR 340-200-0040, Section 5.2).

(2) It is the intent under the smoke management plan to operate in a manner consistent with the Oregon Regional Haze Plan, including the Enhanced Smoke Management Program (ESMP) criteria contained in the plan, for the purpose of protecting Class I Area visibility. These ESMP criteria include:

- (a) Actions to minimize emissions;
- (b) Evaluation of smoke dispersion;
- (c) Alternatives to fire;
- (d) Public notification;
- (e) Air quality monitoring;
- (f) Surveillance and enforcement;
- (g) Program evaluation;
- (h) Burn authorization; and
- (i) Regional coordination.

(3) When prescribed burning is conducted outside any Class I Area ~~during the visibility protection period (July 1 to September 15)~~, an objective of the smoke management plan is to minimize any smoke that impairs visibility inside the Class I Area. In addition to compliance with smoke management instructions issued in the daily forecast and compliance with all conditions of the burn permit required under ORS 477.515, burn bosses and field administrators are encouraged to closely observe local conditions at the burn site to avoid the main smoke plume entering a Class I Area at ground level.

(4) When prescribed burning is conducted inside a Class I Area, the smoke management plan objective is to use best practices along with tight parameters for burn site conditions that will vent the main smoke plume up and out of the Class I Area and minimize residual smoke.

~~(5) When prescribed burning is conducted outside the visibility protection period in proximity to, but outside and upwind of Class I Areas, in addition to compliance with smoke management instructions issued in the daily forecast and compliance with all conditions of the burn permit required under ORS 477.515, burn~~

~~bosses and field administrators are encouraged to closely observe local conditions at the burn site to avoid the main smoke plume entering a Class I Area at ground level.~~

~~(65) The Class I Areas in Oregon are include Crater Lake National Park, Diamond Peak Wilderness, Eagle Cap Wilderness, Gearhart Mountain Wilderness, Hells Canyon Wilderness, Kalmiopsis Wilderness, Mountain Lakes Wilderness, Mount Hood Wilderness, Mount Jefferson Wilderness, Mount Washington Wilderness, Strawberry Mountain Wilderness and Three Sisters Wilderness.~~

#### 4. Alternatives/ERTs Tracking

629-048-0200

##### Alternatives to Burning

(1) When planning forest management prescriptions and particularly final harvests (prior to reforestation), owners are strongly encouraged to use practices that will eliminate or significantly reduce the volume of prescribed burning necessary to meet their management objectives. Some practices to consider include, but are not limited to:

(a) Maximizing the cost-effective use of woody material for manufacture of products;

(b) Where cost-effective, using wood or other biomass for energy production or mulch;

(c) Lopping and scattering limbs and other woody material, or operating heavy machinery over the wood to maximize contact with the soil in order to speed its breakdown; or

(d) Re-arranging woody materials, as necessary to accomplish reforestation through the slash (from a fire prevention standpoint, this may not be desirable in areas of heavy fuel concentrations or where soil moistures are not conducive to breakdown of fuels).

(2) When prescribed burning is determined to be necessary to achieve forest management objectives, owners are encouraged to use emission reduction techniques as described in OAR 629-048-0210.

(3) Prior to registration, forestland managers are strongly encouraged to consult the ~~The~~ following information on the use of alternatives are recommended reading for forestland managers who frequently engage in prescribed burning:

(a) "Non-burning Alternatives to Prescribed Fire on Wildlands in the Western United States" at <http://www.wrapair.org/forums/fej/tasks/FEJFtask3.html> (Western Regional Air Partnership, February, 2004); ~~and~~

(b) The Oregon Forest Industry Directory website provides information on potential markets for woody material at [www.orforestdirectory.com/](http://www.orforestdirectory.com/); and

(c) "Oregon Forest Biomass Supply Estimate by County" by Philip S. Cook and Jay O'Laughlin (Western Governors' Association, January 24, 2011), on the Woody Biomass Utilization Database at Oregon Department of Energy's website: [www.oregon.gov/energy/RENEW/Biomass/Pages/Bioenergy\\_map.aspx](http://www.oregon.gov/energy/RENEW/Biomass/Pages/Bioenergy_map.aspx)

~~(b) "Annual Emission Goals for Fire Policy" (Western Regional Air Partnership, April, 2003).~~

(4) As described in 629-048-0450(2)(c), the department shall **complete** an annual report summarizing the use of alternatives to burning.

**629-048-0210**

**Best Burn Practices; Emission Reduction Techniques**

(1) "Best burn practices" as used in this rule refers to those practices designed to minimize emissions from prescribed burning or accomplish burning at times and under such conditions as to minimize the likelihood that emissions will have adverse effects to the air quality maintenance or visibility objectives (OAR 629-048-0120 and 629-048-0130). Additional practices not described in this rule may be necessary to ensure against the escape of fire or protection of forest resources.

(2) In general, best burn practices involve methods that ensure the most rapid and complete combustion of forest fuels while nearby, "non-target" fuels are prevented from burning, such as:

(a) Physical separation of "target" and "non-target" fuels;

(b) Burn prescriptions, particularly for broadcast burns, that recognize and utilize the natural differences in fuel moistures of larger and smaller pieces of woody material; or

(c) Covering of piles sufficient to facilitate ignition and complete combustion, and then burning them at times of the year when all other fuels are damp, when it is raining or there is snow on the ground.

(3) Rapid combustion is well served by rapid ignition which may involve the use of petroleum accelerants (with appropriate safety precautions) and by maintaining an adequate air supply to the forest fuels being burned. Piles and windrows should be mostly free of soil, rocks and other non-combustible materials and should be loosely stacked to promote aeration. Where practicable, re-stacking or "feeding" the burn pile is encouraged to complete combustion and avoid smoldering.

(4) When piles are covered as a best burn practice and the covers are to be removed before burning, any effective materials may be used, as long as they are removed for re-use or properly disposed of. When covers will not be removed and thus will be burned along with the piled forest fuels, the covers must not consist of materials prohibited under OAR 340-264-0060(3), except that polyethylene sheeting that complies with the following may be used:

(a) Only polyethylene may be used. All other plastics are prohibited;

(b) The size of each polyethylene cover must not exceed 100 square feet. For small piles, covering only an area necessary to achieve rapid ignition and combustion, instead of the entire pile, is encouraged;

(c) The thickness of the polyethylene cover must not exceed 4 mil; and

(d) Layering or multiple covers (exceeding 100 square feet combined) within a pile is prohibited, unless authorized in writing by the forester to meet ignition and combustion needs.

(5) The use of petroleum accelerants and polyethylene covers as "best burn practices" described in this rule is expressly intended as an exception to OAR 340-264-0060(3) as allowed by 340-264-0060.

(6) In general, rapid mop-up of prescribed burning is not needed to meet the objectives of the prescribed burn and protect air quality, however, in instances of prescribed burning within an SSRA or when conditions change significantly from those forecasted or present at the time of ignition, rapid mop-up may become necessary to prevent excessive residual smoke or entry of smoke into an SSRA or other area sensitive to smoke. Burn plans required under OAR 629-043-0026(4), prescribed fire plans required by federal land

management agency policy, or burn permits required under ORS 477.515, when appropriate, should address conditions that may require mop-up of the prescribed burn and to what extent.

(7) When local conditions for smoke dispersal appear to be better than forecasted, burn bosses and field administrators are encouraged to communicate such information to the smoke management forecast unit, to further the objective of accomplishing burning during the most favorable conditions.

(8) As described in 629-048-0450(2)(c), the department shall complete an annual report summarizing the use of emission reduction techniques.

## 5. Large Tonnage Smoke Monitoring and Burn Plan Deadline

### 629-048-0230

#### Burn Procedures

(1) Before any prescribed burning is initiated, burn bosses should have a well thought out plan that takes into account:

(a) How weather will be monitored and changes in conditions will be communicated;

(b) Resources necessary to accomplish ignition and ignition sequences;

(c) Resources and methodology necessary to contain and control the fire and prevent its escape, including communications to access additional resources, if necessary; and

(d) How the burn will be conducted to avoid smoke entering smoke sensitive receptor areas or other areas sensitive to smoke and to minimize smoke effects on other communities.

(2) The forester may require that a written burn plan be prepared for approval under OAR 629-043-0026(4), prior to issuance of a burn permit. A prescribed fire plan is required under federal policy for all prescribed burning on federal lands.

(3) Prescribed burn operations with large tonnages (2000 tons or more) or burns that will occur over multiple days should be adequately planned and monitored to provide opportunities to cease lighting and hold the existing burn within smaller compartments to mitigate undesirable smoke effects or changes in the actual burn conditions from those that were forecasted.

(4) For prescription burn units on forestland subject to level 1 regulation, burn bosses must provide specific information to be transmitted to the smoke management forecast unit in a standard format acceptable to the forester, regarding unit location, method of burning, and fuel loading tonnages by 5:00 p.m. 10:00 a.m. the day of the burn. on the day before the burn. If additional burning is deemed possible after 10:00 a.m. in consultation with the forecast unit, the plan deadline may be extended.

(5)(a) Before ignition of any prescribed burning in a fire season (as designated by the forester under ORS 477.505), the burn boss must obtain a permit to burn from the forester as required by ORS 477.515 (not required for federal land management agencies). Federal land management agencies must follow agency policies that provide for an affirmative "go-no go decision" before ignition of any prescribed burning as documented and approved by the federal land management agency's line officer.

(b) A permit to burn from the forester is also required for all prescribed burning on non-federal Class 1 forestland in western Oregon at any time of the year.

(c) Under ORS 477.515(1)(a), the forester may waive the requirement for a burn permit in instances of burning other than described in subsections (a) and (b) of this section, so burn bosses should check with the forester locally to determine whether permits are required outside fire season.

(6) Before ignition of any prescribed burning on forestland subject to level 1 regulation, the burn boss must obtain the current smoke management forecast and instructions and must conduct the burning in compliance with the instructions. Burn bosses must make provisions to be informed if the forecast or instructions are subsequently changed. Through communication among the burn boss, field administrator and the smoke management forecast unit, based on information specifically relevant to the burn location, a burn boss may obtain a variance from the instructions, but must document the time and method of communication and adhere strictly to the conditions of the variance.

(7) For prescribed burn operations with large tonnages (greater than 2000 tons) or burns that will occur over multiple days, burn bosses may request at least two days in advance that a special forecast and instructions be issued to ensure adequate attention to meeting smoke management plan objectives. Issuance of a special forecast and instructions will be solely within the discretion of the smoke management forecast unit based on workload and sufficient local information to support the forecast.

(8) The smoke management forecast unit, in developing instructions, and each field administrator issuing burn permits are directed to manage the prescribed burning on forest land in connection with the management of other aspects of the environment in order to maintain a satisfactory atmospheric environment in smoke sensitive receptor areas. This direction is to be applied to situations in which prescribed burning may impact SSRAs or other areas sensitive to smoke.

(9) Each burn boss or field administrator must validate that forecasted weather conditions are consistent with actual on-site conditions prior to ignition of burns.

(10) A burn boss is required to terminate ignition, in a manner that does not compromise worker safety or the ability to prevent escape of the burn, if either of the following occurs:

(a) The burn boss determines, or is advised by a field administrator, that an SSRA, or other area sensitive to smoke is already adversely affected by the burn or would likely become so with additional burning; or

(b) The burn boss receives notice from the forester, through the smoke management forecast unit, or following consultation with the Department of Environmental Quality, that air in the entire state or portion thereof is, or would likely become adversely affected by smoke.

(11) Upon termination of ignition required by section (10) of this rule, any burning already under way should be completed, residual burning should be extinguished as soon as practicable, and no additional burning may be attempted until approval has been received from the forester.

Stat. Auth: ORS 477.013, 477.562 (as amended by ch. 213, OL 2007, Enrolled HB 2973), 526.016, 526.041  
Stats. Implemented: ORS 477.013, 477.515, 477.562 (as amended by ch. 213, OL 2007, Enrolled HB 2973)  
Hist.: DOF 4-2007, f. 12-31-07, cert. ef. 1-1-08

## **6. Burn Fees**

**629-048-0310**

### **Fees for Prescribed Burning**

(1) Any prescribed burning on forestland subject to level 1 regulation (OAR 629-048-0100) requires payment of a non-refundable registration fee of \$.50/acre and upon accomplishment (see section (3) of this rule), a burn fee as further described in sections (2), (3), (5), (6) and (8) below.



(2) Burn fees for all forms of prescribed burning, including but not limited to, broadcast burning and burning of piles (whether in-unit, on landings, or from rights-of-way) shall be assessed (where required) against the total acres in the unit from which the forest fuels were accumulated, as described in the burn registration.

(3) The first time that fire is applied to a prescribed burn unit, regardless of actual accomplishment, payment of a burn fee is required. Burn fees shall be charged according to the following schedule:

(a) If only landing or right-of-way piles are burned, the burn fee shall be \$.50 per acre. Subsequent attempts to improve accomplishment only in landing or right-of-way piles in the same unit, in the same calendar year or the two following calendar years, shall not incur additional fees.

(b) If subsequent to burning only landing or right-of-way piles, the first time fire is applied to any other portion of a registered unit (typically broadcast or in-unit pile burning), an additional burn fee of \$2.60 per acre for each additional treatment registered shall be required.

(c) If the first application of fire to the registered unit includes other than landing or right-of-way piles, the burn fee shall be \$3.10 per acre regardless of whether landing or right-of-way piles are burned. Subsequent attempts to improve accomplishment in any portion of the same unit, in the same calendar year or the two following calendar years, shall not incur additional fees.

(4) (a) As used in this rule, "landing" means any location logs are yarded to for processing (trimming ends or limbs and tops remaining after yarding) and assembling for forwarding or loading onto trucks, including each loading site that may occur along a road. Consequently, a landing pile contains only those residues resulting from the processing, and not additional forest fuels accumulated from growth on the site or the felling process.

(b) As used in this rule, "right-of-way piles" means any accumulated forest fuels that come only from the area cleared in the pioneering stage of road construction after appropriate utilization.

(5) Areas burned as a result of escaped fires that are outside the description of the registered burn area shall not be assessed fees if the fire outside of the described area is immediately attacked for wildfire suppression. If the fire outside of the described area is managed as a prescribed fire then every additional acre burned shall incur a registration fee of \$.50 per acre and a burn fee of \$3.10 per acre.

(6) Notwithstanding section (3) of this rule, forest health maintenance burning on forestland subject to level 1 regulation, where significant fuel reduction has been accomplished through underburning within the last five years and where there are no piled forest fuels on the site, shall be charged a burn fee of \$.50 per acre.

(7) The forester shall prepare monthly billings to collect the appropriate registration and burn fees from the operator, federal land manager, landowner or timber owner whose name is recorded on the registration form for billing purposes.

(8) Notwithstanding sections (1) and (3) of this rule, each burn unit requires a minimum combined registration and burn fee of \$30.00. To reduce processing costs, the forester may elect to collect both registration and burn fees prior to accomplishment, for units less than 20 acres on one combined billing.

(9) Notwithstanding sections (1), (3) and (7) of this rule, in accordance with ORS 477.562(6) (as amended by Chapter 213, Oregon Laws, 2007; enrolled HB 2973), a federal land management agency may enter into a cooperative agreement with the forester for payment of registration and burn fees at an annual flat rate. The rate shall be based on estimated acres to be treated as a percentage of total acres on all ownerships, applied against the overall annual estimated operating cost of the smoke management plan. Any such agreement shall have a provision that allows for periodic adjustment of the rate based on actual experience.

(10) Notwithstanding section (7) of this rule, any person or entity described in ORS 477.406(1) with a prior record of timely payment may, at the discretion of the forester, enter into a cooperative agreement for the efficient administration and payment of registration and burn fees provided all payments equal no less than the registration rate described in section (1) of this rule times the number of acres registered plus the burn fee rate in sections (3) or (6) of this rule, as appropriate, times the number of acres accomplished.

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## 7. Periodic Review

### 629-048-0450

#### Periodic Evaluation and Adaptive Management

- (1) The department is responsible for analysis and evaluation of the prescribed burning operations conducted under the smoke management plan.
- (2) Reports summarizing annual activities of the program shall be published by the department addressing:
  - (a) The level of burning activity;
  - (b) Results with regard to avoiding entrance of smoke into SSRAs and other areas sensitive to smoke and reports of any smoke intrusions;
  - (c) Accomplishment of alternatives to burning and the use of emission reduction techniques;
  - (d) Evaluation of overall smoke management plan accomplishment;
  - (e) Evaluation of adequacy of listed SSRAs and protection measures;
  - (f) Any other pertinent information related to smoke management plan evaluation and improvement; and
  - (g) Revenues generated from burn fees and related smoke management plan costs.
- (3) Copies of the reports described in section (2) of this rule will be made available to all interested parties.
- (4) Upon publication of a report in accordance with section (2) of this rule, the forester will consult at least annually with the Smoke Management Advisory Committee created under ORS 477.556. Topics will include, but are not limited to, smoke management plan implementation, status of the Oregon Forest Smoke Management Account (ORS 477.560), and any fee changes that may be appropriate based on the balance in this account.
- (5) The Department of Forestry and the Department of Environmental Quality will jointly review the Smoke Management Plan (ORS 477.013, 477.515-.562, OAR 629-048, Directive 1-4-601) every five years unless there is agreement by both agencies that the Plan can be reviewed at an earlier or later date, not to exceed 10 years from the previous review. Results of the review will be presented to the State Forester and the Director of Environmental Quality for joint consideration and approval. Representatives of affected agencies may assist the review at the discretion of the State Forester.

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## 8. Compliance and Enforcement

### 629-048-0500

#### Enforcement

(1) Violations of the smoke management plan may be enforced either as violations of the fire prevention statutes and rules (ORS 477.980 to 477.993) or as violations of the forest practice rules (ORS 527.680 to 527.690, ~~and~~ 527.990 to 527.992 and OAR 629-670).

(2)(a) When, in the judgment of the forester, a violation is related primarily to an act or omission that has caused or might cause fire to burn uncontrolled, enforcement under the provisions of the fire prevention statutes and rules is appropriate.

(b) When, in the judgment of the forester, a violation is related primarily to an act or omission that has caused or might cause deterioration of air quality, enforcement under the provisions of the Forest Practices Act and rules (specifically, OAR 629-615-0300) is appropriate.

(3) Enforceable standards within the smoke management plan include requirements to:

(a) Register burns prior to ignition (OAR 629-048-0230(4) and 629-048-0300);

(b) Obtain approval for and follow a burn plan (OAR 629-048-0230(2) and 629-043-0026(4);

(c) Obtain a burn permit and comply with any conditions included therein (OAR 629-048-0230(5) and ORS 477.515);

(d) Obtain and comply with daily smoke management instructions and updates (OAR 629-048-0230(6);

(e) Comply with restrictions regarding use of polyethylene covers on burn piles (OAR 629-048-0210(4);

(f) Cease burning when directed by the forester (OAR 629-048-0100(4) and 629-048-0230(10);

(g) Report accomplishments (OAR 629-048-0320); and

(h) Pay fees (OAR 629-048-0310).

(4) Section 118 of the federal Clean Air Act provides for enforcement of state air quality regulations against federal agencies. It will be the policy of the Board of Forestry, in the event of a failure of a federal land management agency to comply with the smoke management plan, that the forester will first inform the responsible agency of the failure and coordinate efforts to ensure timely correction of any breakdowns in procedure that may have resulted in the failure. However, if this method does not appear in the judgment of the State Forester to result in necessary correction of procedures, or under other circumstances that in the judgment of the State Forester warrant further action, enforcement action may be taken as with any other responsible party.

Attachment A

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