

From: [Gary Hess](#)
To: [Rulemaking](#)
Cc: [Anna Maria Mancini](#); [Renee Jacobsen](#); [Josh Harvey](#); [Brooke Heasty](#)
Subject: Fw: DEQ Smoke Management Comments - Docket 20-0402-2301, 20-0401-2301
Date: Thursday, February 22, 2024 3:51:38 PM
Attachments:

From: Mark Boyle <Mark.Boyle@deq.idaho.gov>
Sent: Thursday, February 22, 2024 7:10 AM
To: Josh Harvey <JHarvey@idl.idaho.gov>
Cc: Brooke Heasty <bheasty@idl.idaho.gov>
Subject: DEQ Smoke Management Comments - Docket 20-0402-2301, 20-0401-2301

Mr. Harvey,

Thank you for the opportunity to comment on Docket 20-0402-2301 and 20-0401-2301. DEQ values the efforts of IDL over the past several years working with DEQ to consider the need for a smoke management plan in Idaho for burners to meet current DEQ air quality regulations. DEQ respectfully submits the following for your consideration.

Rule Citation:

20.04.02.001 Title and Scope. *These rules are titled IDAPA 20.04.02, “Rules Pertaining to the Idaho Forestry Act and Fire Hazard Reduction Laws” and implement the provisions of Title 38, Chapters 1 and 4, Idaho Code. They provide for Hazard Management Agreements*

and Contracts, set standards for reduction of the fire hazard resulting from commercial timber harvest, and detail release of Contractor liability for fire suppression costs on completed operations.

Agency Comment:

DEQ proposes IDL include “burning operations” in the list of provisions added to this version of the rule to bring the burn plan requirement included in these rules to the forefront. This might be helpful to highlighting the foundation of the interagency smoke management agreement without changing the content of the rule. Title 38, Chapters 1 and 4 both appear to address burning, so it seems to be directly applicable and helps clarify the rule. DEQ proposes the second sentence could read: **They provide for Hazard Management Agreements and Contracts, set standards for reduction of the fire hazard resulting from commercial timber harvest, burning operations, and detail release of Contractor liability for fire suppression costs on completed operations.**

Rule Citation:

20.04.02.030.03. Extensions. *If a Contractor cannot meet the standard required to obtain a Clearance within the period specified in the Agreement, they may apply to the Fire Warden for an extension. The application must be in writing, received at the Fire District office thirty (30) working days before the Agreement expires, and show good reason as to why an extension is necessary (other than financial hardship). The Fire Warden will **acknowledge** receipt of the request prior to the expiration of the Agreement.*

Agency Comment:

Is IDL communicating here if the extension application is submitted per the description, then the Fire Warden’s acknowledgement includes a determination? Does IDL expect to add extension criteria for Wardens in the FMH or our Interagency agreement to address stakeholders’ concerns? (Recall, prescribed fire smoke management stakeholders have repeatedly identified the ambiguity and disparity across Districts in handling the Clearance Extension approval as a potential impediment to implementing adequate smoke management measures while treating slash). DEQ suggests replacing the final sentence with: **The Fire Warden will grant or deny the request per FMH guidance prior to the expiration of the Agreement** to provide added clarity.

Rule Citation:

20.04.02.110. BURNING OF SLASH **FOR HAZARD REDUCTION.**

Agency Comment:

Adding the “Hazard Reduction” qualifier to this title appears to limit the applicability of the burn plan requirement of 110.02 which states that burn plans are required when burning occurs “for any purpose”. DEQ suggests IDL use a more inclusive heading that addresses the types of burning that occur. 20.04.02.110 is foundational to the interagency agreement for a smoke management solution.

20.04.01.050 Refuse Wood Burning Near Forest Land

Rule Citation:

Any saw mill, planing mill, shingle mill, or other woodworking or wood product manufacturing plant, operating in or within five hundred (500) feet of Forest Land and burning refuse wood material outside of and/or adjacent to the mill or plant, must meet the terms of Section 38-108, Idaho Code.

Agency Comment:

DEQ suggest modifying this rule language to include a reference that other regulations may be

applicable to this type burning. Propose edits: **Any saw mill, planing mill, shingle mill, or other woodworking or wood product manufacturing plant, operating in or within five hundred (500) feet of Forest Land and burning refuse wood material outside of and/or adjacent to the mill or plant, must meet the terms of Section 38-108, Idaho Code and other applicable State or local regulations.** Open burning of refuse wood by manufacturing facilities, regardless of proximity to forest land, must meet requirements in 58.01.01.600-624 and the material being burned is not identified as prohibited in 58.01.01.603.01 (i.e. 603.01.i. Trade Waste). Facilities with air pollution emission permits generally have conditions which would exclude open burning of this material. Refuse wood burned in a controlled combustion unit for co-generation, heat alone, or other process purposes does not appear to align with the statute language which seems to be addressing open burning (no stack or vent).

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