

Appendix L Smoke Management Program Administration

L.1. Program Evaluation

Program evaluation is part of this Smoke Management Program as required by the Regional Haze Rule. The AQB will convene an annual meeting in January during which the burn community and other interested stakeholders will assess the adequacy of the design, impact and implementation of the program. Specifically, topics for evaluation could include elements requirements (e.g., evaluation of smoke dispersion, emission reduction techniques, etc.), forms and time frames, fees, a summary of the Annual Emission Goal (see below), identification of administrative barriers to the use of alternatives to burning, addition of weekend staffing, and other aspects of the program as appropriate.

The thresholds that determine the rigor applied to the program elements are also subject to review and revision. At this time, these thresholds provide a starting point, and can be refined should more concrete information on actual emissions be obtained. Through the tracking of fire emissions, the AQB will gain the necessary information to be able to verify the validity of the thresholds.

These program evaluations will be used to revise and improve the Smoke Management Program and Regulation as needed, as well as assisting the AQB in the preparation of the five-year state implementation plan revision.

L.2. Annual Emission Goals for Fire

Under Section 309, the Regional Haze Rule requires the “establishment of annual emission goals for fire (excluding wildfire) that will minimize emission increases from fire to the maximum extent feasible.” (RHR, p. 35771, §51.309 (d)(6)(v)) The New Mexico Smoke Management Program adopts the WRAP’s definition of annual emission goals (AEG) as well as the methodology proposed for developing them, as described in the WRAP AEG Policy. Annual emission goals will be used to achieve the minimum emission increase from fire. The AEG is a quantifiable value that is distinct from an emission limit. The AEG is also a statewide goal and is not specific to any one burner.

The minimum emission increase from fire is accomplished through the application of emission reduction techniques (ERTs). The use of ERTs with the projected annual burn information provides the basis for the AEG. Due to the potential impacts from all fire sources, annual emission goals will apply to all fire except wildfire (as exempted by the Regional Haze Rule), and will be developed for the entire state in cooperation with all burners on a yearly basis.

The AEG is determined by the AQB compiling all the registration information provided by the burners, specifically the total projected emissions and the total projected emission reductions. Information on the statewide use of ERTs from prior years’ tracking forms will be used to determine if the annual emission goal is being set in a realistic manner.

L.3. Fee Structure

In the initial years of the Smoke Management Program, the AQB will be lacking certain information necessary to implement an equitable fee structure. Some of this information includes costs of the program, staffing requirements including the potential need for weekend staffing, developing and maintaining an emissions inventory and other important variables. The program has been designed to gather this information, but will necessitate some period of time to evaluate.

A fee structure is necessary to fund this program, and this will be developed for future years. NMED's intent is to create an equitable fee structure to recover the cost of the program implementation. However, in the program's initial year(s), no fees will be assessed. The fee structure will be considered as part of the Smoke Management Program evaluation process.

L.4. Surveillance and Enforcement

Surveillance/enforcement is an oversight mechanism that assures adherence to smoke management efforts as defined by the Smoke Management Program. All fire activities should be conducted in accordance with the stated purpose and objectives of the Smoke Management Program regarding the protection of public health and welfare. The primary purpose of an enforcement program is to deter noncompliance by providing a mechanism for penalizing those burners who do not adhere to the Smoke Management Regulation, without being an impediment to burners who do comply with the requirements of the regulation. The AQB will encourage and make every reasonable effort to obtain voluntary compliance in an effort to maintain, restore or improve air quality.

The New Mexico Air Quality Control Act, NMSA 1978, Chapter 74, Article 2, authorizes enforcement actions and the assessment of civil penalties for violations. These actions may include a Warning Letter, Notice of Violation, or Compliance Order. An appeal process for enforcement actions is detailed in the Act as well.

The Civil Penalty Policy, a public document available on the NMED website, provides guidance to the Air Quality Bureau in determining the amount of civil penalties related to violations of the Air Quality Control Act. The objectives of the policy include ensuring fair and consistent penalty determination, ensuring a level playing field among sources and to impose penalties proportional to the gravity of the violation.

The AQB has authority to audit data, records, or weather measurements from previously conducted burns, if necessary to verify conformity with, or deviation from, procedures and authorizations outlined in the Smoke Management Regulation. On-site inspections of burn sites may be conducted to ensure compliance with required elements of the smoke management regulation where appropriate. Any field surveillance and enforcement conducted will be consistently applied to all burners.

The AQB will respond to and investigate smoke complaints on a case-by-case basis. If the burn is in compliance with the Smoke Management Regulation, shut down or mop up activities would

not be anticipated. The AQB will compile data from complaints to assist in future planning and program evaluation. The AQB will notify individuals or agencies responsible for a burn of smoke complaints specific to the burn project.

L.5. Burn Community Collaboration

The ultimate success of this program will depend on collaboration among federal and other state agencies, private landowners, and the AQB. The AQB intends to continue the collaborative effort that has resulted in this Smoke Management Program in the program evaluation and implementation of the program. Interagency collaboration will include the use of the National Weather Service fire weather forecast for evaluating weather conditions prior to burning, as well as sharing monitoring instruments and personnel when needed.

L.6. Airshed Coordination

In the future, the AQB intends to address airshed coordination by working to promote cooperation among burners to facilitate necessary emissions reduction in the affected airshed. The intent is that rather than have the AQB decide which burns need to be modified or postponed, the burner groups or association would prioritize burn projects themselves.

For example, the AQB would work with various burner groups or associations (e.g., Fire Management Zones) to develop notification plans and procedures to prioritize burning. Then, should the AQB make the determination that a burn project needed modification or postponement, the AQB would notify the appropriate entity.

L.7. Regional Coordination

In order to ensure that the regional effects on visibility are addressed in this program, AQB will coordinate with tribes, other air quality agencies, and other states during the coordination of airshed impacts. For example, should AQB become aware of large burns planned or wildfires already occurring on lands outside of New Mexico's jurisdiction, AQB will work with burners to ensure that airsheds are not overly impacted by smoke emissions. Conversely, AQB will coordinate with New Mexico burners to ensure that New Mexico is not adversely impacting other jurisdictions. AQB will continue to work with the WRAP and the Western States Air Resources Council (WESTAR) on issues including smoke management.

L.9. References

New Mexico Environment Department, Air Quality Bureau

Civil Penalty Policy, revised July 11, 2001.

http://www.nmenv.state.nm.us/aqb/enforce_compliance/compliance.html

Regional Haze Rule

Published in the Federal Register on July 1, 1999, 64 FR 35714.

http://www.epa.gov/ttn/oarpg/t1/fr_notices/rhfedreg.pdf

WRAP Policy on Annual Emission Goals

Approved by the Western Regional Air Partnership, April 2, 2003

<http://www.wrapair.org/forums/fejf/documents/aeg/WRAPAEGPolicy1.pdf>

WRAP Policy on Enhanced Smoke Management Programs for Visibility

Approved by the Western Regional Air Partnership, November 12, 2002.

http://www.wrapair.org/forums/fejf/documents/esmptt/policy/030115_ESMP_Policy.pdf