

Negotiated Rule Draft No. 3

Docket No. 58-0101-1601, Dated June 23, 2016

DEQ made revisions to Negotiated Rule Draft No. 2. The revisions are highlighted in yellow. DEQ considered comments provided at the May 18, 2016 meeting discussion and comments submitted in writing. In summary:

- Positive comments were received on the current implementation of no burning when PM2.5 levels reach or are forecasted to reach 75% of the NAAQS. Participants stated the program was working.
- When asked, DEQ was unable to scientifically justify that lowering the PM2.5 trigger is necessary to ensure the crop residue burn does not cause or significantly contribute to a violation of the PM2.5 NAAQS.
- The NAAQS are set at a level that is protective of public health, including sensitive populations.
- 75% of the NAAQS for PM2.5 is consistent with the Nez Perce Tribe program.
- Emissions from crop residue burning do not affect ozone concentrations like they do PM2.5 concentrations. Raising the ozone trigger to 90% of the ozone NAAQS does not then necessitate a lowering of the PM2.5 trigger level to protect public health – meaning the emissions do not cause or significantly contribute to a violation of the applicable NAAQS.
- Three implementation options have been developed and are listed below.

DEQ is requesting written comments on the draft rule revisions and the implementation options listed below.

The written comment deadline is June 30, 2016.

Option 1

In this option, the current rule would remain in effect until EPA SIP approval. The revised version of Subsection 621.01 would become effective after EPA SIP approval.

Current Rule

621. BURN DETERMINATION.

[Effective until February 28, 2018] The current rule would remain in effect until a date certain by which EPA will have approved the SIP. DEQ anticipates approval of the SIP by 2/28/18.

01. Burn Approval Criteria. The Department shall develop a Crop Residue Operating Guide to use in assisting in the determination of burn approvals. The permittee shall obtain initial approval from the Department for the proposed burn at least twelve (12) hours in advance of the burn. The permittee shall confirm, with the Department, the approval the morning of the proposed burn. The Department may shorten this time frame if meteorological or other applicable conditions change that will impact the air quality during the proposed burn period. To approve a permittee's request to burn, the Department must determine that ambient air quality levels do not exceed seventy-five percent (75%) of the level of any national ambient air quality standards on any day and are not projected to exceed such level over the next twenty-four (24) hours, and ambient air quality levels have not reached, and are not forecasted to reach and persist at, eighty percent (80%) of the one (1) hour action criteria for particulate matter under Section 556 of these rules. In making this determination, the Department shall consider the following: (5-8-09)

621. BURN DETERMINATION.

[Effective February 28, 2018] This version would become effective on a date certain by which EPA will have approved the SIP. DEQ anticipates approval of the SIP by 2/28/18.

01. Burn Approval Criteria. The Department shall develop a Crop Residue Operating Guide to use in assisting in the determination of burn approvals. The permittee shall obtain initial approval from the Department for the proposed burn at least twelve (12) hours in advance of the burn. The permittee shall confirm, with the Department, the approval the morning of the proposed burn. The Department may shorten this time frame if meteorological or other applicable conditions change that will impact the air quality during the proposed burn period. To approve a permittee's request to burn, the Department must determine that ambient air quality levels do not exceed ninety percent (90%) of the ozone national ambient air quality standards (NAAQS), sixty five percent (65%) of the particulate matter NAAQS, and seventy-five percent (75%) of the level of any other national ambient air quality standards ~~sulfur dioxide, nitrogen dioxide, carbon monoxide, and lead NAAQS~~ on any day and are not projected to exceed such level over the next twenty-four (24) hours, and ambient air quality levels have not reached, and are not forecasted to reach and persist at, eighty percent (80%) of the one (1) hour action criteria for particulate matter under Section 556 of these rules. In making this determination, the Department shall consider the following: (5-8-09)(2-28-18)

Option 2

This option includes a revised version of Subsection 621.01 that would become effective upon conclusion of the 2017 legislative session and until EPA SIP approval (**Effective 1st**). The other revised version of Subsection 621.01 would become effective after EPA SIP approval (**Effective 2nd**).

Effective 1st

621. BURN DETERMINATION.

[Effective 2017 Sine die until February 28, 2018] This version would be effective until a date certain by which EPA will have approved the SIP. DEQ anticipates approval of the SIP by 2/28/18.

01. Burn Approval Criteria. The Department shall develop a Crop Residue Operating Guide to use in assisting in the determination of burn approvals. The permittee shall obtain initial approval from the Department for the proposed burn at least twelve (12) hours in advance of the burn. The permittee shall confirm, with the Department, the approval the morning of the proposed burn. The Department may shorten this time frame if meteorological or other applicable conditions change that will impact the air quality during the proposed burn period. To approve a permittee's request to burn, the Department must determine that ambient air quality levels do not exceed seventy-five percent (75%) of the level of any national ambient air quality standards (NAAQS) on any day (for purposes of the ozone NAAQS, the 2008 standard shall apply) and are not projected to exceed such level over the next twenty-four (24) hours, and ambient air quality levels have not reached, and are not forecasted to reach and persist at, eighty percent (80%) of the one (1) hour action criteria for particulate matter under Section 556 of these rules. In making this determination, the Department shall consider the following: ~~(5-8-09)~~(2017 Sine die)

Effective 2nd

621. BURN DETERMINATION.

[Effective February 28, 2018] This version would become effective on a date certain by which EPA will have approved the SIP. DEQ anticipates approval of the SIP by 2/28/18.

01. Burn Approval Criteria. The Department shall develop a Crop Residue Operating Guide to use in assisting in the determination of burn approvals. The permittee shall obtain initial approval from the Department for the proposed burn at least twelve (12) hours in advance of the burn. The permittee shall confirm, with the Department, the approval the morning of the proposed burn. The Department may shorten this time frame if meteorological or other applicable conditions change that will impact the air quality during the proposed burn period. To approve a permittee's request to burn, the Department must determine that ambient air quality levels do not exceed ninety percent (90%) of the ozone national ambient air quality standards (NAAQS), sixty five percent (65%) of the particulate matter NAAQS, and seventy-five percent (75%) of the level of any other national ambient air quality standards ~~sulfur dioxide, nitrogen dioxide, carbon monoxide, and lead-NAAQS~~ on any day and are not projected to exceed such level over the next twenty-four (24) hours, and ambient air quality levels have not reached, and are not forecasted to reach and persist at, eighty percent (80%) of the one (1) hour action criteria for particulate matter under Section 556 of these rules. In making this determination, the Department shall consider the following: ~~(5-8-09)~~(2-28-18)

Option 3

In this option, the revised version of Subsection 621.01 would become effective upon conclusion of the 2017 legislative session (prior to EPA SIP approval).

621. BURN DETERMINATION.

[Effective 2017 Sine die]

01. Burn Approval Criteria. The Department shall develop a Crop Residue Operating Guide to use in assisting in the determination of burn approvals. The permittee shall obtain initial approval from the Department for the proposed burn at least twelve (12) hours in advance of the burn. The permittee shall confirm, with the Department, the approval the morning of the proposed burn. The Department may shorten this time frame if meteorological or other applicable conditions change that will impact the air quality during the proposed burn period. To approve a permittee's request to burn, the Department must determine that ambient air quality levels do not exceed ninety percent (90%) of the ozone national ambient air quality standards (NAAQS), sixty five percent (65%) of the particulate matter NAAQS, and seventy-five percent (75%) of the level of any other national ambient air quality standards ~~sulfur dioxide, nitrogen dioxide, carbon monoxide, and lead NAAQS~~ on any day and are not projected to exceed such level over the next twenty-four (24) hours, and ambient air quality levels have not reached, and are not forecasted to reach and persist at, eighty percent (80%) of the one (1) hour action criteria for particulate matter under Section 556 of these rules. In making this determination, the Department shall consider the following: (5-8-09)(2017 Sine die)