

SENATE BILL REPORT

SB 6510

As Reported by Senate Committee On:
Natural Resources & Parks, February 4, 2016

Title: An act relating to the smoke management plan.

Brief Description: Concerning the smoke management plan.

Sponsors: Senators Parlette and Pearson.

Brief History:

Committee Activity: Natural Resources & Parks: 2/03/16, 2/04/16 [DPS-WM].

SENATE COMMITTEE ON NATURAL RESOURCES & PARKS

Majority Report: That Substitute Senate Bill No. 6510 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

Signed by Senators Pearson, Chair; Dansel, Vice Chair; Jayapal, Ranking Member; Chase, Fraser, Hewitt and Warnick.

Staff: Bonnie Kim (786-7316)

Background: The Washington State smoke management plan (Plan) was first adopted in 1969, and was most recently updated in 1998, as an optional part of the state implementation plan (SIP) of the federal Clean Air Act. The Plan governs Department of Natural Resources (DNR) regulated silvicultural - forest land - burning, which includes all DNR fire protected lands; unimproved, federally managed forest lands; and participating tribal lands. The Plan does not pertain to agricultural burning or outdoor burning on improved property.

DNR is responsible for the overall administration of the Plan. Operating responsibilities are delegated to DNR region managers and other state and federal agencies for various activities. The Department of Ecology (Ecology) confers with DNR meteorologists regarding air quality determinations as needed for burn decisions. Emissions from silvicultural burning conducted in Eastern Washington to restore forest health are exempt from mandatory emissions reduction levels.

Burn Approval Processes. Silvicultural fires under the Plan are divided into two general categories: small fires - which burn less than 100 tons of material per burn - and large burns

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- which burn more than 100 tons per burn near communities or areas prone to inversions or 300 tons per burn for pile burns in low risk areas.

Persons proposing small burns must call a toll-free number to apply for a permit. Permits may be denied or delayed when state or local authorities declare an air pollution episode.

Large fire burn approval depends on the following criteria:

- likelihood of an "intrusion" of smoke into "designated areas", which includes air space 2000 feet above the ground, or "sensitive areas", such as population centers;
- likelihood of over-flight smoke above a designated or special public event;
- burning would violate the SIP regarding visibility protection of Class I federal areas;
- any state or federal air quality regulations, laws, or rules, would be violated;
- burning would violate forest practice rules related to endangered or threatened species;
- burning would exceed mandatory emission reduction levels;
- burning would knowingly violate another state's air quality standards; and
- smoke would not significantly disperse within eight hours of ignition, and be fully dispersed by 12pm the next afternoon - unless by multiple day burn permit.

DNR considers multiple factors in approving a proposed large burn, including forecasted air quality, weather conditions, fuel moistures, and firing methods. Except in certain limited circumstances, large fire burns are not allowed on weekends between June 15 and October 1.

Multiple day burns of any size in Eastern Washington are subject to the same criteria for large burns. In addition, landowners must submit a plan to DNR three months in advance of the burn for review. DNR must determine whether the proposed burn has the potential to significantly affect communities and may require the landowner to notify the public in advance of the burn.

Under the current plan, DNR region managers screen burns scheduled for the following day and submit a prioritized list to DNR's smoke management reporting system by 2pm the business day before the burn. Priorities include elimination of extreme fire hazards, restoring forest health, maintaining fire dependent ecosystems, and whether fire is the only viable tool to accomplish fuel reduction.

The DNR smoke management team reviews each list and issues a burn decision - often called a "go-no go" - by 8am on the day of the burn. DNR region managers notify burn bosses at approximately 8:30am each day to let them know if they can proceed with that day's burn.

Similar approval processes apply to prescribed burns on federal and participating tribal lands.

Summary of Bill (Recommended Substitute): By December 31, 2018, DNR must update the smoke management plan, based on a science-based stakeholder process, as follows:

- Consult with Ecology, other relevant state and federal agencies, and public and private landowners engaged in silvicultural forest burning.
- Increase the minimum thresholds for large fire burn permits to 1000 tons in areas near communities or prone to inversions and 2000 tons for pile burns in low risk areas.

- Issue 48-hour forecasts, in addition to a 24-hour forecast, to increase predictability for permitted prescribed burns.
- Authorize individual prescribed burns 24 hours prior to ignition of the fire rather than requiring a prescribed burn manager to call in the morning of the day of a burn for a burn decision.
 - Any burn decision made 24 hours in advance is subject to change if meteorological conditions or conditions affecting smoke dispersion are different from those anticipated and either pose an imminent and significant threat to public health or would cause a violation of air quality standards.
- Prioritize burn projects according to the public benefits, including forest health, wildfire prevention, safety, and public health.
- Clarify the criteria it considers when determining whether a burn "has the potential to affect communities" with respect to multiple day burns to add additional requirements.
- Cooperate with prescribed burn managers with multiple day burn permits to ensure predictability and to maximize opportunities to burn on each day of the approved multiple day burn permit.

DNR may not deny a prescribed burn solely on the potential for smoke intrusions into communities unless there is clear evidence of an imminent and significant threat to public health or clear evidence that the smoke intrusion is forecast to exceed an air quality standard.

EFFECT OF CHANGES MADE BY NATURAL RESOURCES & PARKS COMMITTEE (Recommended Substitute):

- Changes the due date to update the state smoke management plan from December 31, 2017, to December 31, 2018.
- Adds participating tribes as a stakeholder in updating the state smoke management plan.
- The plan update must be based on a science-based stakeholder process that balances forest health and public health interests.
- Clarifies that silvicultural burn decisions are not based on the likelihood of violations of air quality standards but whether a burn is forecast to exceed an air quality standard.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on Original Bill: PRO: The purpose of this bill is really asking how we want our smoke. We had over 30 days of smoke in 2011, 2014, and during the high tourist season in 2015. A few days of prescribed burning can prevent these large fires. There must be quick response to fire and we must engage our local communities and restore forest health. We need to increase the rate and pace of prescribed fire and

thinning throughout WA. The current plan's prescribed fire policies are not regionally tailored to meet local needs. A full update to the plan, beyond just the prescribed fire section, may not be completed by December 31, 2017. We recommend the creation of a smoke management advisory committee.

OTHER: DNR acknowledges that an update to the smoke management plan is warranted. The bill's provisions may result in a plan that is approved by the EPA. Also, air quality provisions are more protective today than they were in 1998. There is a national conversation regarding managing prescribed fire smoke and making air quality determinations. DNR would require an experienced contractor and at least one FTE to accomplish this goal. This bill might have unintended consequences. Washington may be placed in conflict with national standards. We need to balance protecting vulnerable communities and the agricultural community which also needs to burn. Prescribed burns for forest management might compete with an agricultural burning that needs to happen at the same time. We have to manage particulate matter and ozone and smog levels under federal standards. Forest fires may have contributed to exceedances of federal standards last year.

Persons Testifying on Original Bill: PRO: Senator Parlette, prime sponsor; Scott Richards, The Nature Conservancy; Clay Sprague, WDFW.

OTHER: Craig Kenworthy, Puget Sound Clean Air Agency; Mary Verner, Department of Natural Resources; Karen Arnold, Department of Natural Resources; Denise Clifford, WA State Dept. of Ecology.

Persons Signed In To Testify But Not Testifying on Original Bill: No one.