NATIONAL ASSOCIATION OF STATE FORESTERS
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Richard A. Wayland
Director, Air Quality Assessment Division
Office of Air Quality and Planning Standards
Environmental Protection Agency
1200 Pennsylvania Ave. NW,
Washington, DC 20460

Docket No. EPA–HQ–OAR–2004–0489

Dear Director Wayland,

The National Association of State Foresters (NASF) is pleased to provide comments on the Environmental Protection Agency's (EPA) proposed Revisions to the Air Emissions Reporting Requirements (EPA–HQ–OAR–2004–0489). NASF represents the heads of state forestry agencies for all 50 states, five U.S. territories, three nations in compacts of free association with the U.S., and the District of Columbia. Our members, the nation's state foresters, support private landowners in sustainable forest management including the use of prescribed fire, and provide wildfire response across lands of all ownerships. Data from the National Interagency Fire Center (NIFC) shows that state forestry agencies and local fire departments respond to the majority of wildfires across the country. In 2022, state and local agencies responded to 83% of wildfires across all jurisdictions[1]. Additionally, NASF conducts a biennial survey of prescribed fire use across the nation generating the authoritative source of data in this area as recognized in the proposal. The most recent report shows 9.4 million acres were treated using prescribed fire in 2020.[2]

Within the context of the larger EPA proposal for Air Emissions Reporting Requirements (AERR), our comments here focus on the proposed increased data collection and reporting around prescribed fire. We appreciate EPA's recognition in the proposal of the landscape-level need across the entire country to increase the use of prescribed fire to reduce the risk of unplanned catastrophic wildfire and the emissions impacts that come with those events. It is nearly universally agreed that a significant increase in prescribed fire and fuels treatments is needed to aid ecosystem restoration and resilience and protect communities from unplanned catastrophic wildfire. This fact was recently emphasized in a report released by the Congressionally-mandated Wildland Fire Mitigation and Management Commission[3].

We also appreciate the EPA's recognition through its 2016 Exceptional Events Rule of the nature of both wildfire and prescribed fire emissions related air quality monitoring data. The rule

[1] https://www.predictiveservices.nifc.gov/intelligence/2022_statssumm/annual_report_2022.pdf
[2] https://www.stateforesters.org/wp-content/uploads/2023/01/2021-National-Rx-Fire-Use-Report_FINAL.pdf
[3] https://www.usda.gov/sites/default/files/documents/wfmmc-final-report-092023-508.pdf

recognized fire as part of U.S. ecosystems and the importance of managing fire through use of wildfire where appropriate, with fuels treatments, and with prescribed fire to reduce the risk of catastrophic wildfire. In doing so, it allows for state environmental agencies to remove fire-related particulate-matter exceedances from monitoring data that may impact non-attainment determinations. However, to our knowledge, the exceptional event determination process has not been used to date for prescribed fire by any state agency for exceedance of particulate matter (PM) 2.5. We would like to work with the EPA to better understand barriers and craft guidance and tools to help increase the use of the Exceptional Events Rule.

While the collection of all the prescribed fire data proposed in the AERR would be ideal, especially in its contribution to better understanding the emissions impacts of prescribed fire compared to unplanned wildfire, it needs to be tempered with the reality of the added workload of collecting the data. As alluded to in the proposal, there are great differences among states and territories (and the NASF members that represent each) about how prescribed fire is currently regulated and what information is collected from landowners conducting prescribed burns. The breadth of different approaches is too numerous to catalogue here. Many of our members state forestry agencies and their counterpart state air quality agencies will be offering comments on this proposal, and NASF encourages you to review them to add more depth and specifics to our comments below. We are aware of public comments being submitted to this proposal by the California Department of Forestry and Fire Protection (CAL FIRE), Kansas Department of Health and Environment, North Carolina Department of Environmental Quality Division of Air Quality, the Northeast States for Coordinated Air Use Management (NESCAUM), Idaho Department of Environmental Quality, South Carolina Forestry Commission, South Carolina Department of Environment, Iowa Department of Natural Resources Air Quality Bureau, Nevada Department of Conservation and Natural Resources Division of Forestry, and the Alabama Forestry Commission.

In short, there is no state that currently has a system in place to report all the data EPA proposes to be collected on prescribed fire through this AERR. For some states, the gap between their current system and the necessary system to comply with this proposal would be manageable, but for other states, compliance would mean developing a whole program from scratch, not just for reporting data but for the way they engage with landowners who are conducting prescribed burns. It would not simply be a matter of how to collect, manage and report data, it would in many cases, be a process of redefining relationships and expectations within the state prescribed fire community to meet the data needs for EPA. Many states would need to revise or update state laws and agency regulations to require additional information to be collected from burners during existing notification processes, then educate all parties about the new requirements. Some particularly challenging data elements to collect would be:

- **Actual Acres Burned** – Nearly all current permitting and reporting systems for prescribed fire outside of federal lands are for planned operations. A landowner gets a permit to burn, and may have to report how many acres they are planning on burning to get that permit. There are few existing systems that require the landowner to subsequently report on whether their burns actually occurred or if the full number of acres was actually burned. While systems could be added to track this, there is the still the reality that enforcing landowner follow-up post-burn would be difficult.

- **Pile Burning** – The data collection gaps referenced above for prescribed burning would be even more significant for pile burning. Even fewer states currently regulate or collect data on pile burning in a way that would translate into reportable tonnage burned, and many landowners may not even be able to accurately estimate the tonnage of their piles. In addition, the practice of pile burning varies widely based on landowner objectives. Some projects may consist of many small brush piles created by handcrews while other projects of similar acreage may result in one or two larger piles usually created after logging operations.

- **Fuel Moisture** – Very few if any states currently capture fuel moisture in any required landowner reporting, and that is not something that could be reasonably expected of prescribed burn practitioners or landowners to report.

- **Burn Perimeter Geographic Information System Shape** - Very few, if any, states currently collect, and there is no way most private lands burners will ever be able to provide this. Agency personnel, consulting foresters, and maybe some NGOs may be able to provide this, but it is not easy at all for a private land burner to get a shapefile.

We also question why the data collection burden on states would not be limited to burning on state and private lands, but also include federal military installations. This is outside the scope of most state foresters, and it is more appropriate for EPA to collect this information directly from the Department of Defense to ensure completeness and consistency in reporting burning on these acreages.

We agree with the proposal that reporting timeframes need to be flexible and recognize the different ecosystem and fire dynamics across the country. The timing and duration of the wildfire season is very different across the country, with the prescribed fire season similarly offset. The months when state air quality and state forestry personnel might have the time to devote to gathering and reporting the relevant data for the AERR is also very different and we appreciate the flexibility in the proposed rule from East to West.

We also agree on establishing an acreage threshold for data collection and reporting requirements. The law of diminishing returns should determine where the most useable data can be obtained with the least amount of workload placed on those involved. From the initial assessment in the proposal, it appears that 50 acres may be a reasonable break-point but we encourage more discussion from EPA with the prescribed fire community about this.

While not impossible, the AERR for prescribed burning as proposed would be a heavy regulatory and reporting lift, requiring coordination amongst State Forestry Agencies, State Air Quality Agencies, and local government. Many states would be burdened with the development of entirely new programs, which may in turn require changes to local or statewide laws and policies. For many states, investments in web-based landowner applications and reporting capabilities would need to be developed from scratch. This will all have a cost, between the dedicated federal funding needed to implement the requirements and the exhaustive process of implementation. Without federal support, this proposal represents an unfunded mandate that will induce significant cost and responsibility on state agencies in order to achieve compliance. Our members and the state forestry

agencies they lead have the greatest level of expertise with wildfire and prescribed fire; if EPA intends to move forward with this proposal, we ask that you do so in partnership with NASF to develop mechanisms to fund each of our member agencies to be able to deliver on the data requested. Without funding to implement this system holistically, we run the risk of producing incomplete and hence inaccurate data, which serves no scientific nor effective policy-facilitating purpose.

As a final reminder, it is important that through any rulemaking or data collection policies, we do not place undue nor unintended restrictions nor hardships on the ability of private landowners, or public land managers to conduct prescribed burning. Ensuring that the use of prescribed fire remains in the toolbox of land managers across the country is critical not only to state forestry agencies' missions, but also to many of EPA's other mandates, such as community safety and water quality. We have seen firsthand too many examples from Gatlinburg, TN in the east to Paradise, CA in the west where the build-up of hazardous fuels combined with the right weather conditions have been devastating. We need to be doing everything we can to ensure fire conditions around our nation's communities are as safe as possible. Additionally, catastrophic wildfire and subsequent burned area erosion cause significant impacts to water quality, particularly in rural communities. The more prescribed fire we can put on the landscape, the more likely we are to avoid catastrophic wildfire and associated impacts on water quality.

Thank you for your consideration of these comments, and your proactive engagement with state forestry agencies and the larger prescribed fire community on this AERR proposal for prescribed fire going forward.

Sincerely,

Scott Phillips
NASF President
South Carolina State Forester