

Agenda Item No.:	3
Work Plan:	Fire Protection
Topic:	Evolving Topic: Governor’s Council on Wildfire Response
Presentation Title:	Senate Bill 762: Certified Burn Manager
Date of Presentation:	November 16, 2022
Contact Information:	Tim Holschbach, Deputy Chief – Policy & Planning 503-945-7434, Tim.J.Holschbach@odf.Oregon.gov

SUMMARY

The purpose of this agenda item is to seek the Board of Forestry (Board) adoption of the proposed administrative rules regarding the creation of a Certified Burn Manager (CBM) Program.

BACKGROUND

Following the 2013-2015 fire seasons, two parallel review processes were initiated, the Secretary of State Audit and the Fire Program Review. Both efforts are aligned to help continue a highly functioning wildfire protection system for Oregon into the future. The Oregon Department of Forestry (Department) has fully embraced the findings and recommendations from both final reports. The 2017-2018 fire seasons experience reinforced the need for the agency to continue efforts on these recommendations. Additionally, the Governor issued Executive Order 19-01 creating the Governor’s Council on Wildfire Response.

The Secretary of State Performance Audit offered a third-party review of the Department’s ability to sustain its multiple missions, as increased demand to support the fire protection effort has been required from the entire agency.

The Fire Protection Response Committee was coordinated with all agency partners through a transparent process including legislators, the governor’s office, forest landowners, and cooperators to reach for continuous improvement in Oregon’s complete and coordinated fire protection system.

The Governor’s Council on Wildfire Response offered 37 recommendations to improve Oregon’s wildfire protection system. Many of the recommendations required legislative action to be carried out.

Senate Bill 762 captured many of the recommendations of the Governor’s Council on Wildfire Response, providing legislative direction to the Board of Forestry regarding the wildland-urban interface; statewide fire risk mapping; prescribed fire; directed the Department to review and clarify the enforcement of rules pertaining to forestland; and baseline standards for unprotected and under-protected lands in Oregon.

On July 20, 2022, the Department presented draft administrative rules to the Board. The Board directed ODF to proceed with the public hearing process.

ANALYSIS

Consistent with Oregon administrative rule making processes, ODF held public hearings virtually on August 23 at 10 am, August 24 at 2 pm, and August 25 at 7 pm, as well as accepted written comments through August 31, 2022. Attachment 1 provides the Presiding Officer's report on the rulemaking hearings and a summary of comments received. Attachment 2 contains the written comment record.

Following the public comment process, the Department recommends the proposed final rules (Attachment 3). Changes from the draft (Attachment 4) presented on July 20, 2022, are summarized as follows:

- Common word definitions were removed. Additionally, previously defined words that were only used once were explained through expanding context.
- OAR 629-042-1025(1)(b) was modified from 2 years to 3 years for consistency.
- "State Forester's Representative" was replaced with "Forester".
- Additional appeal language was added in multiple places where decisions were made by the Forester.
- Tense, structure, and word edits to improve clarity and readability.

RECOMMENDATION

The Board approves the adoption of OAR 629-042-1000 through OAR 629-042-1070 with the proposed changes.

NEXT STEPS

- Pending the Board of Forestry's direction, the Department submits the rule package to the Secretary of State and Legislative Counsel for filing.
- The Department is anticipating a late spring program launch.

ADMINISTRATIVE RULE REVIEW

ORS 183.405 of the Administrative Procedures Act requires effectiveness review and need analysis to be completed after the adoption of an administrative rule. This is an ongoing requirement at five-year intervals.

ATTACHMENTS

1. Presiding Officer's Public Hearing Report to Board and summary of comments
2. Written Comment received
3. ODF proposed final rule language for Chapter 629, Division 42, 1000-1070.
4. Rule language changes, strikethrough

**OREGON DEPARTMENT OF FORESTRY
HEARING OFFICER'S REPORT
RULEMAKING FOR CERTIFIED BURN MANAGER PROGRAM**

Date: September 1, 2022

To: Oregon Department of Forestry

From: Tom Fields

Subject: Hearing Officer's Report on Certified Burn Manager Program Rulemaking

Hearing Date: August 23 – August 25, 2022

Hearing Location: Virtual through Zoom

Public hearings to receive comments on rulemaking for the Certified Burn Manager Program were convened via zoom on four different occasions between August 23rd through August 25th, 2022.

Serving as hearing officers included Oregon Department of Forestry Protection from Fire Program associates Tom Fields on August 23rd, Ryan Miller on August 24th and Levi Hopkins on August 25th. People attending the hearings were informed of the procedures for making oral comments.

Before receiving oral comments, the hearing officers briefly summarized the purpose for the hearings, described the role and limitations of the Hearing Officer, and outlined requirements of the Department when making recommendations to the Board of Forestry. Attendees were also notified that the proceedings of the public hearings were being recorded. Three public hearings were held between August 23 and August 25, 2022. Written comments were accepted through August 31, 2022. ODF Deputy Chief of Protection Tim Holschbach provided an overview of the proposed rules and the process during their development.

Summary of Oral Comments

August 23, 2022: 10 members of the public were in attendance. No oral comments provided.

August 24, 2022: Five members of the public were in attendance. No oral comments were provided.

August 25, 2022: Nine members of the public were in attendance. No oral comments were provided.

None of the persons attending the public hearing specifically requested a copy of the Hearing Officer's Report.

Summary of Written Comments

Written comments have been submitted in their entirety in the Board of Forestry materials.

Hearing Officers

Tom Fields

Ryan Miller

Levi Hopkins

HOLSCHBACH Tim J * ODF

From: Bob Hart <bob@bobhartconsultingllc.com>
Sent: Wednesday, August 24, 2022 1:08 PM
To: RULEMAKING Sb762 * ODF
Subject: SB 762 Prescribed Burns

I am in support of prescribed burns as a way to reduce fuels in Wildfire areas. However, I am concerned with the provision of Section 526.360(6) that will read:

(6) When *[any]* a burning for any of the purposes stated in subsection (1) of this section on forestland classified pursuant to ORS 526.328 or 526.340 is started under the supervision of and supervised by the forester, **a forest protective association** or a Certified Burn Manager, *[no]* a person *[shall]* **may not** be held liable for property damage resulting from that burning unless the damage is caused by the negligence of the person.

Under this provision there is no responsibility for a prescribed burn if it becomes out of control and would burn my dwelling. There needs to be some requirement for insurance to cover loss as a result of fire. Insurance is required to operate a motor vehicle to cover loss or damage. The same should be required for anyone who starts and manages a prescribed burn and it escapes even if no negligence is shown. There is still a loss that needs to be covered.

Please consider my concern during rule making.

Bob Hart
Bob Hart Consulting LLC
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bob@bobhartconsultingllc.com



JACKSON COUNTY

Oregon

Board of Commissioners

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10 South Oakdale, Room 214
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August 30, 2022

Oregon Department of Forestry
2600 State Street, Building D
Salem OR 97310
sb762.rulemaking@odf.oregon.gov

RE: Comments on Proposed Certified Burn Manager Program Rulemaking

To Whom It May Concern:

We, the Jackson County Board of Commissioners, appreciate the opportunity to provide comment on the proposed rulemaking by the Oregon Department of Forestry (ODF) for the Certified Burn Manager Program. As a county whose jurisdiction is annually impacted by wildfires and the smoke from wildfires, we believe that we have extensive knowledge and experience as it relates to wildfires and treatment to prevent wildfires. However, as an initial comment, we find the short timeframe between the public hearings for the Certified Burn Manager Program rulemaking, and the due date for public comments, is unacceptable.

The public hearings on the proposed rule – August 23 through August 25, 2022 – leave less than one week for our Board, other governmental partners, and the public to ask questions, understand the proposed rule, and draft meaningful comment. As noticed, ODF waited 30 days after providing notice of the proposed rules before having its first public hearing, and then left only six days to provide comment. At a minimum, ODF should extend the comment period for at least 30 additional days to provide people the opportunity to engage in the public hearing process and to make comment on the proposed rule.

As to the substance of the proposed rule, we oppose promoting the exclusive use of prescribed fire for fuels treatment and any use of prescribed fire during the annual declared fire season. Past practices on Federal forest lands have resulted in excessive and unacceptable smoke and economic impact in the Rogue Valley. Increasing prescribed burning, especially in the summer during the declared fire seasons, will only exacerbate the problem. And, again, the discussion of alternative treatments to prescribed fire is completely missing from the proposed rule, including the duties of a Certified Burn Manager.

As stated in the proposed rulemaking, all landowners, agents of landowners, or operators conducting prescribed fires within ODF protection districts may be subject to this proposed rule. Therefore, the proposed rules will affect lands within the County and County-owned lands. As such, the rulemaking should include a process for the Certified Burn Manager to notify, and consult with, any impacted local government of any proposed burns. The local governments, including cities, counties, and special districts, are the entities who are going to respond when a prescribed burn gets out of control, to calls from citizens on reports of fires, and who have to deal with all other aspects of a prescribed burn and its impacts on their communities. The lack of a requirement for coordination by a Certified Burn Manager with impacted local governments when conducting a prescribed fire is, honestly, a shocking omission to the proposed rules. As just one example, the Oregon State Fire

Marshal (OSFM) has received funding from Oregon Senate Bill (SB) 762 (2021) to stage equipment. The rulemaking does not indicate if a fire district will be notified of prescribed burns so that they can request OSFM equipment be staged to have on standby to increase firefighting capabilities.

Another issue that is unclear with the proposed rulemaking is how required notification to adjacent landowners will be made. Will this be a process similar to those for proposed land use changes? Will the process be something else? It is also unclear how a landowner being notified would be made aware that they can request a copy of the burn plan. The proposed rulemaking is unclear on who will make notification to adjacent landowners and clarification is needed.

It is also very unclear in the rulemaking what will be required in a burn plan. Will prescribed burns conducted be limited by the proximity to residential areas or areas of high housing density? Will a burn plan be required to take into consideration prescribed burns within Department of Environmental Quality (DEQ) designated Air Quality Maintenance Areas (AQMA)? Jackson County is a DEQ designated AQMA and any smoke from a prescribed burn will impact the ability of the County to meet the standards for required air quality. Yet, no requirement is made for a burn plan to take this, and similar issues, into consideration.

Furthermore, the cost of implementation and management of the Certified Burn Manager Program appears to be unfunded. The statement of need and fiscal impact statement indicate that there will be no anticipated cost associated with the proposed rulemaking. However, there are several actions identified in the rulemaking that ODF staff will be required to undertake to implement the Program. It is unclear if the Program will be sustainable after SB 762 funds are expended.

Finally, the rulemaking establishes a Certified Burn Manager Advisory Committee. It is not clear if this Committee will consider issues other than Burn Manager certification, such as changes to liability law. Easing the liability of burns crossing property boundaries is concerning and should be addressed.

Thank you for the opportunity to provide comment.

Sincerely,

JACKSON COUNTY BOARD OF COMMISSIONERS



Dave Dotterrer, Chair



Colleen Roberts, Commissioner

Rick Dyer, Commissioner

:tv/jb/kk

By: Email Only

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HOLSCHBACH Tim J * ODF

From: Lynn Barton <nylldarb35@gmail.com>
Sent: Tuesday, August 30, 2022 4:02 PM
To: RULEMAKING Sb762 * ODF
Subject: Comments on Proposed Certified Burn Manager Rulemaking

My first comment is to strongly object to the short window given for public comments. One week is not enough to learn about what is proposed and to comment intelligently. Here are a few comments on short notice:

Any activity of the Burn Manager should be coordinated with local governments. We are impacted by these activities and need to have input.

I live in the Rogue Valley. What about smoke caused from a prescribed burn that damages our ability to meet DEQ air quality standards? This must also be taken into consideration.

Why isn't timber harvest a strategy to be used? Timber can be sold and used to build things but there is this belief that burning is better. We don't need MORE fire. It is a failed experiment. The quality of life in our area since this strategy was implemented has gone down greatly. Prescribed burning has added to the misery of the Rogue Valley as some fires have gotten out of control. The smoke is horrible and is terrible for our health.

How much will this new bureaucracy cost and how will it be funded?

Thank you for your consideration.

Sincerely,

Lynn Barton
Medford, OR

CERTIFIED BURN MANAGER PROGRAM

November 16, 2022

Purpose

629-042-1000

The purpose of OAR 629-042-1005 to 629-042-1070 is to set forth the standards, requirements, and procedures by which the Certified Burn Manager program will be operated, pursuant to ORS 526.360(3).

Definitions

629-042-1005

- (1) The definitions set forth in ORS 526.005, ORS 477.001, and OAR 629-041-0005 shall apply to OAR Chapter 629, Division 042.
- (2) The following words and phrases, when used in OAR Chapter 629, Division 042, shall mean the following:
 - (a) "Accreditation" means approval from the Forester to conduct and document training required by OAR 629-042-1065.
 - (b) "Certificate" means a Certified Burn Manager certificate issued by the Oregon Department of Forestry pursuant to ORS 526.360(3) and OAR 629-042-1015.
 - (c) "Certification book" means a publication provided by the Forester in which successful training required by OAR 629-042-1025(2) is documented.
 - (d) "Certification period" means a period of five years, beginning on the date a certificate is issued.
 - (e) "Certified Burn Manager" means an individual who has a current and valid certificate.
 - (f) "Committee" means the Certified Burn Manager Advisory Committee.
 - (g) "Dangerous or adverse situation" means conditions that are a significant deviation from a prescribed burn plan and resulting or has the potential to result in negative consequences, as determined by the professional judgement of the Forester or a Certified Burn Manager.
 - (h) "Forestland" is defined by ORS 526.005(6).
 - (i) "Forester" means the State Forester or authorized representative.
 - (j) "Prescribed burn" and "prescribed burning" means the controlled application of fire, in accordance with the plan required by OAR 629-042-1040(1) and the conditions of a permit issued pursuant to ORS 477.625, to vegetative fuels, under specified environmental conditions, and following appropriate precautionary measures, which is intended to cause the burning to be confined to a predetermined area and accomplish specific land management objectives.

- (k) "Prescribed burn plan" is a plan prepared to conduct a prescribed burn, in accordance with OAR 629-042-1040(1).
- (l) "Successfully completed" and "successful performance" means completion of a training requirement of OAR 629-042-1025, or a test required by OAR 629-042-1030, and which has been properly documented.
- (m) "Training provider" means a certified instructor who is accredited to conduct and/or document training required by OAR 629-042-1065.

Intent

629-042-1010

- (1) The Certified Burn Manager program is intended to provide oversight of training and certification concerning the safe and effective use of prescribed burning and to promote the use of prescribed burning for the purposes outlined in ORS 526.360(1).
- (2) Participation in the Certified Burn Manager program is voluntary. The forester may not require or condition the approval of a plan, or the issuance of a burning permit on the presence of a certified burn manager, for any prescribed burning.
- (3) Nothing in OAR 629-042-1000 to 629-042-1070 is intended to reduce the ability of a District, as defined in ORS 477.001(5), to exercise their responsibility to ensure that burning in their jurisdiction is conducted in a safe and lawful manner.

Certified Burn Manager certification requirements. Certificates generally.

629-042-1015

- (1) A certificate shall be issued only to an individual. Entities other than an individual, including but not limited to partnerships, corporations, and limited liability companies, are not eligible for a certificate.
- (2) A certificate will authorize the individual to conduct prescribed fires as permitted by the certificate.
- (3) The Forester will not issue a certificate prior to the receipt of all documents and fees required by OAR 629-042-1020.
- (4) The Forester shall assign a unique identification number to each certificate issued.
- (5) A certificate shall be valid for five years unless it is sooner revoked or surrendered.
- (6) A certificate may be renewed only after having been valid for at least four years
- (7) A certificate may not be renewed if:
 - (a) it was revoked pursuant to OAR 629-042-1035(2); or
 - (b) it has been more than six years since it was issued.
- (8) Certificates shall be non-transferable.
- (9) Authorized entries.

- (a) A Certified Burn Manager, the Forester, or a training provider may document successful completion of a training requirement of OAR 629-042-1025, or a test required by OAR 629-042-1030, when they have personal knowledge that the person has properly completed the task being documented.
- (b) Notwithstanding (a) above, the Forester may document successful completion of a training requirement of OAR 629-042-1025, or a test required by OAR 629-042-1030, if the requirements of OAR 629-042-1025(3). have been met.

Certified Burn Manager certification requirements. Application procedures.

629-042-1020

Individuals applying for a Certified Burn Manager certificate shall provide to the Forester:

- (1) a properly completed certification book showing that the applicant has satisfactorily completed all training required by OAR 629-042-1025 and all tests required by OAR 629-042-1030; and
- (2) submitted all fees required by OAR 629-042-1070.

Certified Burn Manager certification requirements. Training.

629-042-1025

- (1) The Forester shall provide a certification book. An applicant for a certificate must complete a certification book prior to applying for an initial certificate, or applying for a new certificate if the applicant was issued a certificate which was not renewed pursuant to OAR 629-042-1015(7):
 - (a) Prior to receiving a certification book, an individual shall submit documentation to the Forester of successful completion of:
 - (i) educational training that is provided by an approved training provider or the Forester; and
 - (ii) a test in accordance with OAR 629-042-1030 with a passing score.
 - (b) An applicant will not receive credit for educational training that was completed more than three years prior to the applicant's request for a certification book. The Forester may waive this three-year limitation if the individual is applying for historical recognition.
- (2) After verification of documentation required under 629-042-1025(1), the State Forester's representation shall issue the applicant a certification book.
 - (a) The certification book shall consist of field training that the applicant must complete, including:
 - (i) general proficiencies;
 - (ii) pile burning proficiencies; and
 - (iii) broadcast burning proficiencies.
 - (b) To apply for a certificate to conduct pile burns, field training described in Sections 2(a)(i) and 2(a)(ii) must be completed.
 - (c) To apply for a certificate to conduct pile burns and broadcast burns, all the field training described in the certification book must be verified of completion with a signature by a Certified Burn Manager, by the Forester, or by a training provider in a certification book.
 - (d) The certification book will be valid for three years after the date of issuance by the Forester.

- (e) The Forester will not accept documentation of field training which was completed more than three years prior to the date of application for a certificate. The Forester may waive this three-year limitation if the individual is applying for historical recognition.
- (3) The Forester may consider educational and field training requirements completed prior to January 1, 2023 through historical recognition. In lieu of the initial training requirements of (1) and (2) above, an individual may submit to the Forester:
- (a) a copy of a Prescribed Fire Burn Boss Type 2 Task Book which is complete. The Task Book shall indicate successful performance in the planning and implementation of prescribed fire; or
 - (b) documentation that the individual holds a valid Certified Burn Manager certification in a state with comparable requirements to the State of Oregon; or
 - (c) such evidence of experience as the Forester determines is equivalent to the initial training requirements of (1) and (2) above. The testing requirements of OAR 629-042-1030 shall still be required.
- (4) An individual shall complete the following actions, prior to applying for a renewal of their certificate:
- (a) An individual shall successfully complete sixteen hours of continuing education within the certification period. The continuing education must be related to prescribed burning and approved in advance by the Forester.
 - (i) The Forester may approve training presented in a classroom format, a conference format, a correspondence course format, or in another format the Forester determines is acceptable.
 - (ii) The Forester will not accept educational training which was completed more than five years prior to the applicant's date of application for renewal of a certificate.
 - (b) An individual shall supervise one prescribed burn and participate in two additional prescribed burns during their certification period and prior to applying for a renewal.

Certified Burn Manager certification requirements. Tests.

629-042-1030

- (1) The Forester:
- (a) shall provide for the development and administration of all tests required by this rule;
 - (b) shall establish a passing score for all tests required by this rule;
 - (c) may not administer the same test to an individual more frequently than once every 30 calendar days; and
 - (d) may not prohibit the use of written reference material by individuals taking tests.
- (2) Individuals taking tests required by this rule:
- (a) shall display an approved government issued picture identification to the Forester or authorized Training Provider, prior to taking a test; and

- (b) shall comply with all test taking requirements established by the Forester or authorized Training Provider.
- (3) Individuals shall successfully pass a test prior to requesting a certification book from the Forester.
- (4) An individual who was unsuccessful in passing the test may request that the Certified Burn Manager Advisory Committee review the decision, by submitting a request within 30 calendar days notification of the test result.
 - (a) The Certified Burn Manager Advisory Committee shall conduct the requested review at its next scheduled meeting after the receipt of a request for review.
 - (b) Following completion of the review requested, the Certified Burn Manager Advisory Committee shall either affirm or withdraw the test result by majority vote.
 - (c) The Forester or the individual may appeal the decision of the Certified Burn Manager Advisory Committee to the Board of Forestry, in the same manner as appeals under ORS 477.260(2).
 - (d) Any final resolution by the Board of the matter raised under section (3) of this rule shall be prepared as a final order, and any further appeal of the Board's final action shall be as prescribed by ORS 183.484.

Certified Burn Manager certificate investigation and revocation procedures

629-042-1035

- (1) The Forester may investigate any reported or observed dangerous or adverse situations for which a Certified Burn Manager has been alleged to be responsible.
 - (a) Upon the receipt of an allegation under this rule, the Forester may:
 - (A) investigate and prepare a written report; or
 - (B) direct that a certified wildfire investigator to investigate, prepare a written report and forward it to the Forester for review and approval.
 - (b) Upon receipt of the written report required in (1)(a) above, the Forester shall determine as to whether the Certified Burn Manager was responsible for the reported dangerous or adverse situation.
 - (c) If the Forester determines that the Certified Burn Manager was responsible for a dangerous or adverse situation, the Forester shall determine as to whether the actions of the Certified Burn Manager constitute grounds to revoke the certification of the Certified Burn Manager.
- (2) The Forester may revoke a certificate if:
 - (a) a Certified Burn Manager has submitted false information pertaining to any aspect of the Burn Manager Program, such as, but not limited to, the entry of false information into a certification book submitted to the Forester pursuant to OAR 629-042-1020;
 - (b) a Certified Burn Manager has been found to have violated ORS 477.515, 477.625, 477.720, 477.740, or OAR 629-043-0026(4);
 - (c) a Certified Burn Manager fails to comply with the required actions and activities set forth in OAR 629-042-1040; or

- (d) a Certified Burn Manager terminated their responsibility for supervision of a prescribed burn in violation of OAR 629-042-1045(2).
- (3) The Forester shall provide written notice to the Certified Burn Manager of the intent to revoke a certificate. The Forester may not revoke the certificate until after 30 calendar days from the date of notice.
- (4) Certificate revocation review and appeals procedures.
 - (a) A Certified Burn Manager may request that the Certified Burn Manager Advisory Committee review a decision to revoke a certificate, by submitting a request within 30 calendar days after service of the written notice required by subsection (3). Service is completed at the earlier of actual notice or depositing a properly addressed written notice in first class mail or sending an email to an address established by the Certified Burn Manager.
 - (b) The Certified Burn Manager Advisory Committee shall conduct the requested review at its next scheduled meeting after the receipt of a request for review.
 - (c) Following completion of the review requested, the Certified Burn Manager Advisory Committee shall either affirm or withdraw the revocation by majority vote.
 - (d) The Forester or the Certified Burn Manager whose certificate has been revoked may appeal the decision of the Certified Burn Manager Advisory Committee to the Board of Forestry, in the same manner as appeals under ORS 477.260(2).
 - (e) Any final resolution by the Board of the matter raised under section (4)(d) of this rule shall be prepared as a final order, and any further appeal of the Board's final action shall be as prescribed by ORS 183.484.
- (5) An individual who has had their certification revoked is ineligible to apply for another certification for a period of 3 years from the date of revocation unless waived by the committee.

Certified Burn Manager required actions and activities

629-042-1040

- (1) A Certified Burn Manager shall:
 - (a) prepare or review a prescribed burn plan prior to ignition of a prescribed burn that they will supervise. The plan shall be prepared in a format approved by the Forester; and
 - (b) confirm that the notification required by OAR 629-042-1055(1), to adjacent landowners, has been made, prior to ignition of a prescribed burn that they will supervise; and
 - (c) be on site and maintain active supervision of the resources used on any prescribed burn the Certified Burn Manager is supervising during the ignition phase and the initial stages of the mop-up phase.
- (2) A Certified Burn Manager shall, when not required to be on site pursuant to (1), be readily available to return to a prescribed burn they are responsible for until:
 - (a) the prescribed burn has achieved the conditions documented in the prescribed burn plan for transfer of responsibility to another person; or
 - (b) giving notice of termination of responsibility as provided in in (3)(b).

- (3) A Certified Burn Manager shall give notification to the District of:
 - (a) their assumption of responsibility for a prescribed burn; and
 - (b) their termination of responsibility for a prescribed burn.
- (4) The notifications of the Certified Burn Manager required in (3)(a) and (b) shall be:
 - (i) made by phone to the District that the burn is being conducted in; and
 - (ii) made prior to ignition assuming responsibility under 3(a) and within 2 hours after termination of responsibility under 3(b).
- (5) A Certified Burn Manager shall not permit any dangerous or adverse situation on any prescribed burn for which they have responsibility.
- (6) A Certified Burn Manager shall cooperate fully with an investigation undertaken by the Forester pursuant to OAR 629-042-1035(1).

Certified Burn Manager prohibited actions and activities

629-042-1045

- (1) A Certified Burn Manager may not use a certificate as the authority to supervise prescribed burning unless the burning is conducted pursuant to ORS 526.360(1).
- (2) A Certified Burn Manager may not terminate their responsibility for a prescribed burn unless:
 - (a) There is a transfer of responsibility
 - i. immediately to another Certified Burn Manager and documented on a form provided by the Forester; or
 - ii. to the landowner, in accordance with the criteria established in the prescribed burn plan, and documented on a form provided by the Forester; and
 - (b) There is a notification to the District pursuant to OAR 629-042-1040(3)(b).
- (3) The following persons may not use the title "Certified Burn Manager" and may not purport to be a Certified Burn Manager:
 - (a) an individual whose certificate has expired;
 - (b) an individual whose certificate has been revoked; or
 - (c) An individual who has surrendered their certificate to the Forester.
- (4) A Certified Burn Manager shall not falsify records.

Limitations on the use of Certified Burn Managers

629-042-1050

A Certified Burn Manager shall only supervise:

- (1) prescribed burning activities as identified within an approved prescribed burn plan;
- (2) prescribed burning for which they are certified to conduct; and
- (3) prescribed burning on forestland which is classified in accordance with ORS 526.328 or ORS 526.340.

Landowner required and prohibited actions

629-042-1055

- (1) A landowner who uses a Certified Burn Manager to supervise a prescribed burn shall:
 - (a) make a bona fide attempt to notify all adjacent landowners about the prescribed burn. The attempt must be made in a timely manner, in consideration of the landowner's availability, location, and other applicable considerations. Such notification shall be made not more than 90 calendar days prior to ignition of the prescribed burn; and
 - (b) provide, prior to ignition of the prescribed burn, a copy of the prescribed burning plan to any landowner notified pursuant to (1)(a) above, who requests a copy.
- (2) A landowner who uses a Certified Burn Manager to supervise a prescribed burn, once ignited, may not terminate the Certified Burn Manager's responsibility for a prescribed burn unless:
 - (a) responsibility has been transferred by:
 - (1) meeting transfer conditions outlined in the approved burn plan; or
 - (2) the Certified Burn Manager is immediately replaced by another Certified Burn Manager; or
 - (3) the landowner has assumed responsibility for the prescribed burn and for execution of the prescribed burning plan prepared pursuant to OAR 629-042-1045(2)(b); and
 - (b) There has been a notification to the District pursuant to OAR 629-042-1040(3)(b).

Certified Burn Manager Advisory Committee

629-042-1060

- (1) A Certified Burn Manager Advisory Committee shall provide recommendations to the Forester in administering the Certified Burn Manager Program as described in ORS 526.360(3).
- (3) The Certified Burn Manager Advisory Committee shall:
 - (a) consist of seven members
 - (b) select a chairperson to coordinate the work of the Committee
 - (c) meet at least twice each calendar year;
 - (d) advise the Forester on the administration of the Certified Burn Manager program; and

- (e) conduct reviews of proposed certificate revocation, when requested pursuant to OAR 629-042-1035(4).
- (4) The Department of Forestry provides administrative support for the Certified Burn Manager Advisory Committee and all sub-committees therein.
- (5) The Certified Burn Manager Advisory Committee shall consist of members broadly representative of the industries, associations, and professions involved in the planning and execution of prescribed fire.
- (6) In addition to the members designated in section (5) of this rule, representatives of the following federal agencies shall be invited to serve as ex-officio members of the advisory committee:
 - (a) A representative of the United States Forest Service.
 - (b) A representative of the United States Bureau of Land Management.
 - (c) A representative of the United States Bureau of Indian Affairs.
- (7) The Forester shall serve as secretary for the committee.
- (8) Applying for an appointment to the Certified Burn Manager Advisory Committee.
 - (a) Priority in selection shall be given first to applicants holding a Certified Burn Manager Certificate, and then second to prescribed fire practitioners.
 - (b) Any interested person may submit a completed interest form to the Department of Forestry to apply for an appointment to the Certified Burn Manager Advisory Committee.
 - (c) An interest form must be submitted to the Department of Forestry to be considered for an appointment to the Committee. Interest forms are available on the Department of Forestry's website or by email upon request.
 - (d) Completed interest forms will be kept on file consistent with the Department's record retention policy.
 - (e) The Department of Forestry will acknowledge receipt of each completed interest form.
 - (f) The State Forester will appoint members to the Certified Burn Manager Advisory Committee.
 - (g) Committee members may serve two consecutive 3-year terms; however, initial terms may be adjusted to ensure Committee stability.
- (9) Vacancies
 - (a) A vacancy exists when a Committee member completes the term for that position; resigns; becomes incapacitated or is otherwise incapable of performing the duties of a member; has been removed from the appointment for just cause; is not reappointed; is no longer employed in the position that the appointment represents; or is no longer affiliated with the association or organization that the appointment represents.
 - (b) Any vacancy subject to this rule will be filled in the same manner as an initial appointment.
- (10) The Committee may create subcommittees and appoint people to serve on those subcommittees.
- (11) The State Forester may remove an appointed member for just cause.

Training Provider accreditation, Suspension, and Revocation

629-042-1065

- (1) A training provider shall obtain accreditation from the Forester prior to conducting or documenting training required by OAR 629-042-1025.
- (2) To request accreditation, prospective training providers shall make application to the Forester and sign an accreditation agreement.
- (3) Training providers will not be considered accredited until the Forester reviews and approves their application.
- (4) Applications shall include, but will not be limited to:
 - (a) a list of the specific training, either initial, renewal, or both to be provided or documented; and
 - (b) evidence the person has had at least two years total experience either teaching adults or working in the area of expertise covered by the specific training to be provided or documented.
- (5) Accreditation agreements shall include, but will not be limited to:
 - (a) a requirement to provide training using only curricula or course manuals approved by the Forester;
 - (b) a requirement to send all training completion records to the Forester within the period of time required by the Forester;
 - (c) a requirement to maintain training completion records for a minimum of six years;
 - (d) a requirement to document successful completion of a training requirement of OAR 629-042-1025 or a test required by OAR 629-042-1030 only for which they are accredited and for which they have personal knowledge that the person has properly completed the task being documented; and
 - (e) a requirement that no entry of false information be made into a certification book to be submitted to the Forester.
- (6) Temporary Suspension of documentation authority.
 - (a) The Forester may immediately suspend the documentation authority of a training provider at any time the Forester determines that the training provider has failed to comply with all requirements of the accreditation agreement. A training provider may appeal the temporary suspension of documentation authority in the same manner as section 7(c) of this rule.
 - (b) Within 30 calendar days of suspending the documentation authority of a training provider, the Forester must either initiate action to revoke the accreditation of the training provider or restore the documentation authority of the training provider.
- (7) Revocation of accreditation
 - (a) The Forester may revoke the accreditation of a training provider at any time the Forester determines that the training provider has failed to comply with all requirements of the accreditation agreement.

- (b) The Forester shall provide written notice to the training provider of the intent to revoke an accreditation. The Forester may not revoke an accreditation until after 30 calendar days from the date of notice.
- (c) Accreditation revocation review and appeals procedures:
 - (i) A training provider may request that the Certified Burn Manager Advisory Committee review a decision to revoke an accreditation, by submitting a request within 30 calendar days after service of the written notice required by subsection (b) above. Service is completed at the earlier of actual notice, or depositing a properly addressed written notice in first class mail, or sending an email to an address established by the training provider,
 - (ii) The Certified Burn Manager Advisory Committee shall conduct the requested review at its next scheduled meeting after the receipt of a request for review.
 - (iii) Following completion of the review requested, the Certified Burn Manager Advisory Committee shall either affirm or withdraw the revocation by majority vote.
 - (iv) The Forester or the training provider whose accreditation has been revoked may appeal the decision of the Certified Burn Manager Advisory Committee to the Board of Forestry, in the same manner as appeals under ORS 477.260(2).
 - (v) Any final resolution by the Board of the matter raised under section (7)(c) of this rule shall be prepared as a final order, and any further appeal of the Board's final action shall be as prescribed by ORS 183.484.
- (8) Nothing in these rules creates a right for review of revocation of training provider accreditation for employees of the Oregon Department of Forestry.

Fees

629-042-1070

- (1) To cover the cost of materials and testing for the Certified Burn Manager program, the application fee for an initial certificate shall be \$50.00.
- (2) Training providers may charge reasonable fees for the training they provide or document.

CERTIFIED BURN MANAGER PROGRAM

November 16, 2022

Purpose

629-042-1000

The purpose of OAR 629-042-1005 to 629-042-1070 is to set forth the standards, requirements, and procedures by which the Certified Burn Manager program will be operated, pursuant to ORS 526.360(3).

Definitions

629-042-1005

- (1) The definitions set forth in ORS 526.005, ORS 477.001, and OAR 629-041-0005 shall apply to OAR Chapter 629, Division 042.
- (2) The following words and phrases, when used in OAR Chapter 629, Division 042, shall mean the following:
 - (a) "Accreditation" means approval from the Forester to conduct and document training required by OAR 629-042-1065.
 - (b) "Certificate" means a Certified Burn Manager certificate issued by the Oregon Department of Forestry pursuant to ORS 526.360(3) and OAR 629-042-1015.
 - (c) "Certification book" means a publication provided by the Forester in which successful training required by OAR 629-042-1025(2) is documented.
 - (d) "Certification period" means a period of five years, beginning on the date a certificate is issued.
 - (e) "Certified Burn Manager" means an individual who has a current and valid certificate.
 - (f) "Committee" means the Certified Burn Manager Advisory Committee.
 - (g) "Dangerous or adverse situation" means conditions that are a significant deviation from a prescribed burn plan and resulting or has the potential to result in negative consequences, as determined by the professional judgement of the Forester or a Certified Burn Manager.
 - (h) "Forestland" is defined by ORS 526.005(6).
 - (i) "Forester" means the State Forester or authorized representative.
 - (j) "Prescribed burn" and "prescribed burning" means the controlled application of fire, in accordance with the plan required by OAR 629-042-1040(1) and the conditions of a permit issued pursuant to ORS 477.625, to vegetative fuels, under specified environmental conditions, and following appropriate precautionary measures, which is intended to cause the burning to be confined to a predetermined area and accomplish specific land management objectives.

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- Deleted: (b) "Actively burning" means the time from ignition through mop-up during which there is potential for a prescribed burn to escape confinement and be declared a wildfire.¶
- (c) "Authorized entry" means the signature of a Certified Burn Manager, of the State Forester's Agent, or of a training provider in a certification book.¶
- (d) "Bona fide attempt" means a good faith attempt to contact a landowner in a timely manner, considering the landowner's availability, location, and other applicable considerations.¶
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- Deleted: (f) "Certificate period" means a period of five years, beginning on the date a certificate is issued.¶
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- Deleted: (i) "Certified Burn Manager Advisory Committee" means a committee established in accordance with OAR 629-042-1060, consisting of appointed members who make recommendations on Certified Burn Manager issues to the State Forester's representative and provides advice and guidance on issues and emerging topics that affect the use of prescribed fire within the State of Oregon.¶
- (j) "Committee" means the Certified Burn Manager Advisory Committee.¶
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- Deleted: (n) "Document" and "documented" means an authorized entry into a certification book that a trainin...
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- Deleted: (p) "Initial education requirements" means any requirements that must be successfully complete...
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(k) "Prescribed burn plan" is a plan prepared to conduct a prescribed burn, in accordance with OAR 629-042-1040(1).

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(l) "Successfully completed" and "successful performance" means completion of a training requirement of OAR 629-042-1025, or a test required by OAR 629-042-1030, and which has been properly documented.

Deleted: u) "Renewal education requirements" means requirements that must be completed by an individual before a certificate is issued to a person renewing a certificate as required by OAR 629-042-1025(4).
(v) "State Forester's representative" means the person or persons designated by the State Forester to administer the Certified Burn Manager program.
(w)

(m) "Training provider" means a certified instructor who is accredited to conduct and/or document training required by OAR 629-042-1065.

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Intent

629-042-1010

(1) The Certified Burn Manager program is intended to provide oversight of training and certification concerning the safe and effective use of prescribed burning and to promote the use of prescribed burning for the purposes outlined in ORS 526.360(1).

(2) Participation in the Certified Burn Manager program is voluntary. The forester may not require or condition the approval of a plan, or the issuance of a burning permit on the presence of a certified burn manager, for any prescribed burning.

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(3) Nothing in OAR 629-042-1000 to 629-042-1070 is intended to reduce the ability of a District, as defined in ORS 477.001(5), to exercise their responsibility to ensure that burning in their jurisdiction is conducted in a safe and lawful manner.

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Certified Burn Manager certification requirements. Certificates generally.

629-042-1015

(1) A certificate shall be issued only to an individual. Entities other than an individual, including but not limited to partnerships, corporations, and limited liability companies, are not eligible for a certificate.

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(2) A certificate will authorize the individual to conduct prescribed fires as permitted by the certificate.

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(3) The Forester will not issue a certificate prior to the receipt of all documents and fees required by OAR 629-042-1020.

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(4) The Forester shall assign a unique identification number to each certificate issued.

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(5) A certificate shall be valid for five years unless it is sooner revoked or surrendered.

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(6) A certificate may be renewed only after having been valid for at least four years

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(7) A certificate may not be renewed if:

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(a) it was revoked pursuant to OAR 629-042-1035(2); or

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(b) it has been more than six years since it was issued.

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(8) Certificates shall be non-transferable.

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(9) Authorized entries.

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- (a) A Certified Burn Manager, the Forester, or a training provider may document successful completion of a training requirement of OAR 629-042-1025, or a test required by OAR 629-042-1030, when they have personal knowledge that the person has properly completed the task being documented.
- (b) Notwithstanding (a) above, the Forester may document successful completion of a training requirement of OAR 629-042-1025, or a test required by OAR 629-042-1030, if the requirements of OAR 629-042-1025(3). have been met.

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Certified Burn Manager certification requirements. Application procedures.

629-042-1020

Individuals applying for a Certified Burn Manager certificate shall provide to the Forester:

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- (1) a properly completed certification book showing that the applicant has satisfactorily completed all training required by OAR 629-042-1025 and all tests required by OAR 629-042-1030; and
- (2) submitted all fees required by OAR 629-042-1070.

Certified Burn Manager certification requirements. Training.

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629-042-1025

- (1) The Forester shall provide a certification book. An applicant for a certificate must complete a certification book prior to applying for an initial certificate, or applying for a new certificate if the applicant was issued a certificate which was not renewed pursuant to OAR 629-042-1015(7):
 - (a) Prior to receiving a certification book, an individual shall submit documentation to the Forester of successful completion of:
 - (i) educational training that is provided by an approved training provider or the Forester; and
 - (ii) a test in accordance with OAR 629-042-1030 with a passing score.
 - (b) An applicant will not receive credit for educational training that was completed more than three years prior to the applicant's request for a certification book. The Forester may waive this three-year limitation if the individual is applying for historical recognition.
- (2) After verification of documentation required under 629-042-1025(1), the State Forester's representation shall issue the applicant a certification book.
 - (a) The certification book shall consist of field training that the applicant must complete, including:
 - (i) general proficiencies;
 - (ii) pile burning proficiencies; and
 - (iii) broadcast burning proficiencies.
 - (b) To apply for a certificate to conduct pile burns, field training described in Sections 2(a)(i) and 2(a)(ii) must be completed.
 - (c) To apply for a certificate to conduct pile burns and broadcast burns, all the field training described in the certification book must be verified of completion with a signature by a Certified Burn Manager, by the Forester, or by a training provider in a certification book.
 - (d) The certification book will be valid for three years after the date of issuance by the Forester.

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(e) ~~The Forester~~ will not accept documentation of field training which was completed more than three years prior to the date of application for a certificate. ~~The Forester may waive this~~ three-year limitation, if the individual is applying for historical recognition.

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(3) ~~The Forester may consider~~ educational and field training requirements completed prior to January 1, 2023 ~~through historical recognition~~. In lieu of the initial training requirements of (1) and (2) above, an individual may ~~submit to the Forester:~~

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(a) a copy of a Prescribed Fire Burn Boss Type 2 Task Book which is complete. The Task Book shall indicate successful performance in the planning and ~~implementation~~ of prescribed fire; or

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(b) ~~documentation that the individual holds a valid Certified Burn Manager certification in a state with comparable requirements to the State of Oregon; or~~

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(c) ~~such evidence of experience as the Forester determines is equivalent to the initial training requirements of (1) and (2) above. The testing requirements of OAR 629-042-1030 shall still be required.~~

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(4) An individual shall complete the following actions, prior to applying for a renewal of their certificate:

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submit to the State Forester's representative

(a) An individual shall successfully complete sixteen hours of continuing education within the certification period. ~~The continuing education must be~~ related to prescribed burning ~~and~~ approved in advance by the ~~Forester~~.

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submit to the State Forester's representative

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(i) ~~The Forester may approve training presented in a classroom format, a conference format, a correspondence course format, or in another format the Forester determines is acceptable.~~

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(ii) ~~The Forester will not accept educational training which was completed more than five years prior to the applicant's date of application for renewal of a certificate.~~

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(b) An individual shall supervise one prescribed burn and participate in two additional prescribed burns ~~during their certification period and~~ prior to ~~applying for a renewal~~.

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~~Certified Burn Manager certification requirements. Tests.~~

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~~629-042-1030~~

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(1) The ~~Forester:~~

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~~(a) shall provide for the development and administration of all tests required by this rule;~~

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~~(b) shall establish a passing score for all tests required by this rule;~~

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~~(c) may not administer the same test to an individual more frequently than once every 30 calendar days; and~~

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~~(d) may not prohibit the use of written reference material by individuals taking tests.~~

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(2) Individuals taking tests required by this rule:

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(a) shall display an approved government issued picture identification to the ~~Forester~~ or authorized Training Provider, prior to taking a test; and

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(b) shall comply with all test taking requirements established by the Forester or authorized Training Provider.

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(3) Individuals shall successfully pass a test prior to requesting a certification book from the Forester.

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(4) An individual who was unsuccessful in passing the test may request that the Certified Burn Manager Advisory Committee review the decision, by submitting a request within 30 calendar days notification of the test result.

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(a) The Certified Burn Manager Advisory Committee shall conduct the requested review at its next scheduled meeting after the receipt of a request for review.

(b) Following completion of the review requested, the Certified Burn Manager Advisory Committee shall either affirm or withdraw the test result by majority vote.

(c) The Forester or the individual may appeal the decision of the Certified Burn Manager Advisory Committee to the Board of Forestry, in the same manner as appeals under ORS 477.260(2).

(d) Any final resolution by the Board of the matter raised under section (3) of this rule shall be prepared as a final order, and any further appeal of the Board's final action shall be as prescribed by ORS 183.484.

Certified Burn Manager certificate investigation and revocation procedures

629-042-1035

(1) The Forester may investigate any reported or observed dangerous or adverse situations for which a Certified Burn Manager has been alleged to be responsible.

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(a) Upon the receipt of an allegation under this rule, the Forester may:

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(A) investigate and prepare a written report; or

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(B) direct that a certified wildfire investigator to investigate, prepare a written report and forward it to the Forester for review and approval.

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Following preparation

(b) Upon receipt of the written report required in (1)(a) above, the Forester shall determine as to whether the Certified Burn Manager was responsible for the reported dangerous or adverse situation.

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(c) If the Forester determines that the Certified Burn Manager was responsible for a dangerous or adverse situation, the Forester shall determine as to whether the actions of the Certified Burn Manager constitute grounds to revoke the certification of the Certified Burn Manager.

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(2) The Forester may revoke a certificate if:

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(a) a Certified Burn Manager has submitted false information pertaining to any aspect of the Burn Manager Program, such as, but not limited to, the entry of false information into a certification book submitted to the Forester pursuant to OAR 629-042-1020;

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(b) a Certified Burn Manager has been found to have violated ORS 477.515, 477.625, 477.720, 477.740, or OAR 629-043-0026(4);

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(c) a Certified Burn Manager fails to comply with the required actions and activities set forth in OAR 629-042-1040; or

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(d) a Certified Burn Manager terminated their responsibility for supervision of a prescribed burn in violation of OAR 629-042-1045(2).

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(3) The Forester shall provide written notice to the Certified Burn Manager of the intent to revoke a certificate. The Forester may not revoke the certificate until after 30 calendar days from the date of notice.

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(4) Certificate revocation review and appeals procedures.

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(a) A Certified Burn Manager may request that the Certified Burn Manager Advisory Committee review a decision to revoke a certificate, by submitting a request within 30 calendar days after service of the written notice required by subsection (3). Service is completed at the earlier of actual notice or depositing a properly addressed written notice in first class mail or sending an email to an address established by the Certified Burn Manager.

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(b) The Certified Burn Manager Advisory Committee shall conduct the requested review at its next scheduled meeting after the receipt of a request for review.

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(c) Following completion of the review requested, the Certified Burn Manager Advisory Committee shall either affirm or withdraw the revocation by majority vote.

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(d) The Forester or the Certified Burn Manager whose certificate has been revoked may appeal the decision of the Certified Burn Manager Advisory Committee to the Board of Forestry, in the same manner as appeals under ORS 477.260(2).

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(e) Any final resolution by the Board of the matter raised under section (4)(d) of this rule shall be prepared as a final order, and any further appeal of the Board's final action shall be as prescribed by ORS 183.484.

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(5) An individual who has had their certification revoked is ineligible to apply for another certification for a period of 3 years from the date of revocation unless waived by the committee.

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Certified Burn Manager required actions and activities

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629-042-1040

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(1) A Certified Burn Manager shall:

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(a) prepare or review a prescribed burn plan prior to ignition of a prescribed burn that they will supervise. The plan shall be prepared in a format approved by the Forester; and

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(b) confirm that the notification required by OAR 629-042-1055(1), to adjacent landowners, has been made, prior to ignition of a prescribed burn that they will supervise; and

Deleted: ¶ during the ignition phase; and ¶ between the ignition phase and the initial stages of the mop-up phase when the prescribed burn exhibits or is expected to exhibit active burning. ¶ When

(c) be on site and maintain active supervision of the resources used on any prescribed burn the Certified Burn Manager is supervising, during the ignition phase and the initial stages of the mop-up phase.

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(2) A Certified Burn Manager shall, when not required to be on site pursuant to (1), be readily available to return to a prescribed burn they are responsible for until:

(a) the prescribed burn has achieved the conditions documented in the prescribed burn plan for transfer of responsibility to another person; or

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(b) giving notice of termination of responsibility as provided in in (3)(b).

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(3) A Certified Burn Manager shall give notification to the District of:

- (a) their assumption of responsibility for a prescribed burn; and
- (b) their termination of responsibility for a prescribed burn.

(4) The notifications of the Certified Burn Manager required in (3)(a) and (b) shall be:

- (i) made by phone to the District that the burn is being conducted in; and
- (ii) made prior to ignition assuming responsibility under 3(a) and within 2 hours after termination of responsibility under 3(b).

(5) A Certified Burn Manager shall not permit any dangerous or adverse situation on any prescribed burn for which they have responsibility.

(6) A Certified Burn Manager shall cooperate fully with an investigation undertaken by the Forester pursuant to OAR 629-042-1035(1).

Certified Burn Manager prohibited actions and activities

629-042-1045

(1) A Certified Burn Manager may not use a certificate as the authority to supervise prescribed burning unless the burning is conducted pursuant to ORS 526.360(1).

(2) A Certified Burn Manager may not terminate their responsibility for a prescribed burn unless:

(a) There is a transfer of responsibility

- i. immediately to another Certified Burn Manager and documented on a form provided by the Forester; or
- ii. to the landowner, in accordance with the criteria established in the prescribed burn plan, and documented on a form provided by the Forester; and

(b) There is a notification to the District pursuant to OAR 629-042-1040(3)(b).

(3) The following persons may not use the title "Certified Burn Manager" and may not purport to be a Certified Burn Manager:

- (a) an individual whose certificate has expired;
- (b) an individual whose certificate has been revoked; or
- (c) An individual who has surrendered their certificate to the Forester.

(4) A Certified Burn Manager shall not falsify records.

Limitations on the use of Certified Burn Managers

629-042-1050

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an individual whose certificate is pending revocation, pursuant to the written notice set forth in OAR 629-042-1035(3);

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A Certified Burn Manager shall only supervise:

- (1) prescribed burning activities as identified within an approved prescribed burn plan;
- (2) prescribed burning for which they are certified to conduct; and
- (3) prescribed burning on forestland which is classified in accordance with ORS 526.328 or ORS 526.340.

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Landowner required and prohibited actions

629-042-1055

- (1) A landowner who uses a Certified Burn Manager to supervise a prescribed burn shall:
 - (a) make a bona fide attempt to notify all adjacent landowners about the prescribed burn. The attempt must be made in a timely manner, in consideration of the landowner's availability, location, and other applicable considerations. Such notification shall be made not more than 90 calendar days prior to ignition of the prescribed burn; and
 - (b) provide, prior to ignition of the prescribed burn, a copy of the prescribed burning plan to any landowner notified pursuant to (1)(a) above, who requests a copy.
- (2) A landowner who uses a Certified Burn Manager to supervise a prescribed burn, once ignited, may not terminate the Certified Burn Manager's responsibility for a prescribed burn unless:

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(a) responsibility has been transferred by:

- (1) meeting transfer conditions outlined in the approved burn plan; or
- (2) the Certified Burn Manager is immediately replaced by another Certified Burn Manager; or
- (3) the landowner has assumed responsibility for the prescribed burn and for execution of the prescribed burning plan prepared pursuant to OAR 629-042-1045(2)(b); and

(b) There has been a notification to the District pursuant to OAR 629-042-1040(3)(b).

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Certified Burn Manager Advisory Committee

629-042-1060

- (1) A Certified Burn Manager Advisory Committee shall provide recommendations to the Forester in administering the Certified Burn Manager Program as described in ORS 526.360(3).
- (3) The Certified Burn Manager Advisory Committee shall:
 - (a) consist of seven members
 - (b) select a chairperson to coordinate the work of the Committee
 - (c) meet at least twice each calendar year;

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Deleted: There is established in the Department of Forestry a Certified Burn Manager Advisory Committee consisting of seven members.¶
(2) The

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- (d) advise the Forester on the administration of the Certified Burn Manager program; and Deleted: b.
- (e) conduct reviews of proposed certificate revocation, when requested pursuant to OAR 629-042-1035(4). Deleted: State Forester's representative
Deleted: c.
- (4) The Department of Forestry provides administrative support for the Certified Burn Manager Advisory Committee and all sub-committees therein. Deleted: coordinates the activities of
- (5) The Certified Burn Manager Advisory Committee shall consist of members broadly representative of the industries, associations, and professions involved in the planning and execution of prescribed fire. Deleted: conduction
Deleted: and land management activities
- (6) In addition to the members designated in section (5) of this rule, representatives of the following federal agencies shall be invited to serve as ex-officio members of the advisory committee:
 - (a) A representative of the United States Forest Service. Deleted: a.
 - (b) A representative of the United States Bureau of Land Management. Deleted: b.
 - (c) A representative of the United States Bureau of Indian Affairs. Deleted: c.
- (7) The Forester shall serve as secretary for the committee. Deleted: State Forester's Representative
- (8) Applying for an appointment to the Certified Burn Manager Advisory Committee.
 - (a) Priority in selection shall be given first to applicants holding a Certified Burn Manager Certificate, and then second to prescribed fire practitioners. Deleted: a.
 - (b) Any interested person may submit a completed interest form to the Department of Forestry to apply for an appointment to the Certified Burn Manager Advisory Committee. Deleted: b.
 - (c) An interest form must be submitted to the Department of Forestry to be considered for an appointment to the Committee. Interest forms are available on the Department of Forestry's website or by email upon request. Deleted: c.
Deleted: d.
 - (d) Completed interest forms will be kept on file consistent with the Department's record retention policy. Deleted: for a period of two years for future consideration. Interest forms will be destroyed after two years have elapsed from
 - (e) The Department of Forestry will acknowledge receipt of each completed interest form. Deleted: date the form was received by the Department of Forestry...
 - (f) The State Forester will appoint members to the Certified Burn Manager Advisory Committee. Deleted: e.
Deleted: f.
 - (g) Committee members may serve two consecutive 3-year terms; however, initial terms may be adjusted to ensure Committee stability. Deleted: members will be appointed by the State Forester...
- (9) Vacancies
 - (a) A vacancy exists when a Committee member completes the term for that position; resigns; becomes incapacitated or is otherwise incapable of performing the duties of a member; has been removed from the appointment for just cause; is not reappointed; is no longer employed in the position that the appointment represents; or is no longer affiliated with the association or organization that the appointment represents. Deleted: g.
Deleted: a.
Deleted: subject to this rule
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Deleted: Committee's decisions regarding an appointment to a Certified Burn Manager Advisory
 - (b) Any vacancy subject to this rule will be filled in the same manner as an initial appointment. Deleted: subcommittee are final
- (10) The Committee may create subcommittees and appoint people to serve on those subcommittees. Deleted: are not subject to appeal.

(11) The State Forester may remove an appointed member for just cause.

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Training Provider accreditation, Suspension, and Revocation

629-042-1065

(1) A training provider shall obtain accreditation from the Forester prior to conducting or documenting training required by OAR 629-042-1025.

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(2) To request accreditation, prospective training providers shall make application to the Forester and sign an accreditation agreement.

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(3) Training providers will not be considered accredited until the Forester reviews and approves their application.

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(4) Applications shall include, but will not be limited to:

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(a) a list of the specific training, either initial, renewal, or both to be provided or documented; and

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(b) evidence the person has had at least two years total experience either teaching adults or working in the area of expertise covered by the specific training to be provided or documented.

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(5) Accreditation agreements shall include, but will not be limited to:

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(a) a requirement to provide training using only curricula or course manuals approved by the Forester;

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(b) a requirement to send all training completion records to the Forester within the period of time required by the Forester;

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(c) a requirement to maintain training completion records for a minimum of six years;

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(d) a requirement to document successful completion of a training requirement of OAR 629-042-1025 or a test required by OAR 629-042-1030 only for which they are accredited and for which they have personal knowledge that the person has properly completed the task being documented; and

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(e) a requirement that no entry of false information be made into a certification book to be submitted to the Forester.

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(6) Temporary Suspension of documentation authority.

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(a) The Forester may immediately suspend the documentation authority of a training provider at any time the Forester determines that the training provider has failed to comply with all requirements of the accreditation agreement. A training provider may appeal the temporary suspension of documentation authority in the same manner as section 7(c) of this rule.

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(b) Within 30 calendar days of suspending the documentation authority of a training provider, the Forester must either initiate action to revoke the accreditation of the training provider or restore the documentation authority of the training provider.

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(7) Revocation of accreditation

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(a) The Forester may revoke the accreditation of a training provider at any time the Forester determines that the training provider has failed to comply with all requirements of the accreditation agreement.

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(b) The Forester shall provide written notice to the training provider of the intent to revoke an accreditation. The Forester may not revoke an accreditation until after 30 calendar days from the date of notice.

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Deleted: revoke an accreditation only after providing thirty days prior

(c) Accreditation revocation review and appeals procedures:

(i) A training provider may request that the Certified Burn Manager Advisory Committee review a decision to revoke an accreditation, by submitting a request within 30 calendar days after service of the written notice required by subsection (b) above. Service is completed at the earlier of actual notice, or depositing a properly addressed written notice in first class mail, or sending an email to an address established by the training provider.

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Not more than 30 days following receipt of the written notice required by (2)(f)(

(ii) e

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(iii) Following completion of the review requested, the Certified Burn Manager Advisory Committee shall either affirm or withdraw the revocation by majority vote.

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(iv) The Forester or the training provider whose accreditation has been revoked may appeal the decision of the Certified Burn Manager Advisory Committee to the Board of Forestry, in the same manner as appeals under ORS 477.260(2).

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(v) Any final resolution by the Board of the matter raised under section (7)(c) of this rule shall be prepared as a final order, and any further appeal of the Board's final action shall be as prescribed by ORS 183.484.

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Deleted: required pursuant to (2)(f)(B)(ii) above

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(8) Nothing in these rules creates a right for review of revocation of training provider accreditation for employees of the Oregon Department of Forestry.

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The State Forester's representative may revoke

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Fees

629-042-1070

(1) To cover the cost of materials and testing for the Certified Burn Manager program, the application fee for an initial certificate shall be \$50.00.

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(2) Training providers may charge reasonable fees for the training they provide or document.

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