



Oregon

Kate Brown, Governor

Department of Consumer and Business Services

Building Codes Division

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May 27, 2022

RE: Rulemaking Advisory Committee Meeting on Senate Bill 762 implementation

Thank you for your interest in the rulemaking advisory committee relating to implementing Senate Bill 762. This rulemaking is intended to implement the law by making the optional fire hardening provisions included in Section R327 of the Oregon Residential Specialty Code mandatory for new construction in high and extreme wildfire risk zones. We look forward to hearing the committee's feedback on the issues outlined below.

Meeting information

Date: June 9, 2022

Time: 1:30 p.m.

In person: 1535 Edgewater St Conference Room A, Salem, Oregon 97304.

Virtual: ZoomGov, telephone and (virtual) computer attendance also available
The connection information for participating virtually will be distributed closer to the meeting and will also be posted to the division's [View Live Meetings web page](#) on the day of the meeting.

Facilitator:

Andy Boulton, Senior Policy Advisor

Agenda:

- A. Welcome and Introductions
- B. Discussion of issues
- C. Additional Discussion
- D. Summary of next steps
- E. Adjournment

Attachments:

[Issues Document](#)

[Oregon Revised Statutes 455.612](#)

[Proposed code amendment implementing SB 762](#)

[Proposed rule language adopting the code amendments](#)

[Statement of Need and Fiscal and Economic Impact from 2019 ORSC R327 adoption](#)

Issues to be discussed

Background:

In 2019 the division added section R327 to the Oregon Residential Specialty Code (ORSC). Section R327 of the ORSC includes wildfire hazard mitigation standards that can help make a building more resistant to damage from wildfire. These standards include items like more ignition or heat resistant building materials and construction methods and materials that resist ember intrusion. The section was not required statewide because there was no clear criteria to determine where it should apply, but was instead made available for local adoption, which allowed local jurisdictions to adopt section R327 and make its wildfire hazard mitigation standards mandatory in wildfire risk zones they identified within that jurisdiction.

Senate Bill 762 passed the Oregon Legislature during the 2021 legislative session and was signed into law by the Governor. SB 762 was an omnibus bill relating to many different aspects of wildfire preparation, prevention, and mitigation and it included directives for several Oregon agencies. The sections of the bill that addressed fire hardening requirements and that necessitated this rulemaking were sections 12, 12a, and 12b and they were added to the Oregon Revised Statutes at 455.612.

The law requires the director of DCBS to amend the ORSC. The amendments must change the scope of section R327's wildfire hazard mitigation standards from just being available for local adoption to being required for new construction in high and extreme wildfire risk zones in the wildland-urban interface. Both the wildfire risk zones and the wildfire urban interface are required to be defined and mapped by other agencies. Additionally, the law directs the department to amend section R327 of the ORSC to include standards for additions to existing dwellings and for replacement of existing exterior elements covered by section R327. The code amendments are required to be enacted no later than October 1, 2022, and mandatory no earlier than April 1, 2023, creating a phase in period for the code provisions.

During this meeting we will discuss rulemaking issues related to the implementation of ORS 455.612. These issues are listed below. After we get through that list, there will be an opportunity for you to address any additional issues you believe that the division should consider in this rulemaking. Also if you have comments you would like to submit after this meeting is over, please send them to RulesCoordinator.BCD@dcbs.oregon.gov no later than June 17, 2022.

Issue 1: Does the proposed rulemaking fulfil the requirements of the legislation

Discussion: The intent of this rulemaking and the associated code amendment is to implement the requirements in ORS 455.612. That statute requires that the ORSC be amended. The amendment must change the scope of section R327 from one that is available for local adoption, to one the is required for new construction in high and extreme wildfire risk zones of the wildland-urban interface. Also, the amendments must include standards for additions to existing dwellings and accessory structures and for replacement of existing exterior elements covered in section R327 of the ORSC.

The division welcomes feedback from the committee on whether the proposed code amendments and the rule language adopting them that are attached to this packet adequately fulfill the requirements of ORS 455.612.

Options:

- The proposed rulemaking does appropriately implement the legislation.
- Changes should be made to the proposed rules to fulfill the requirements of the legislation, what are those changes?

Issue 2: Are the amendments sufficiently clear?

Discussion: It is always the division's goal for rulemaking and code amendments to be as clear and understandable as possible while still maintaining the technical accuracy of the code. The division has prepared proposed code language and rule language that is intended to fulfill the requirements of the new law taking into account additional feedback that may have been received on the previous issue.

The division welcomes feedback from the committee on the clarity of the proposed rule language and code language.

Options:

- The proposed language is sufficiently clear and understandable.
- The proposed language should be changed to improve its clarity. (please indicate where the clarity could be improved)

Issue 3: What are the potential fiscal and economic impacts of this rulemaking

Discussion: With any rulemaking the division is required to make particular note of the potential fiscal and economic impact that might result from the new rules. The division is requesting input from the committee on the nature and extent of any fiscal or economic impact that may be caused by this rule. Some examples of potential fiscal or economic impact would be:

- Additional costs or requirements on local municipalities
- Additional costs or requirements on particular types of businesses
- Will the new rule require additional training to implement, comply with, or enforce
- Will the new rule make particular actions or products more or less expensive

This is just a list of just some examples, any thoughts on fiscal and economic impact that go beyond the items detailed in this list are welcome. When the division adopted section R327 into the ORSC in 2019, it prepared a statement of fiscal and economic impact on that proposed rulemaking. The full statement is included as an attachment to this packet but the primary conclusion was that the division estimated at the time that in jurisdictions where R327 was adopted as mandatory the cost of a typical 1,200 square foot detached single family dwelling would increase by approximately \$2,500-\$3,000.

Do members of the committee have thoughts on the possible fiscal or economic impact of this new rule?

Issue 4: What are the potential impacts on racial equity in the state?

Discussion: With any rulemaking the division is required to make particular note any potential impact on racial equity in the state that might result from the new rules. The division would welcome any input from the committee on the nature and extent of any impact this rule may have on racial equity in Oregon.

Additional Discussion from the committee

This is an opportunity for the committee to discuss any additional issues that we have not previous brought up. It is also an opportunity for the committee to return to any previous issues that were discussed but where additional discussion may be beneficial.

Oregon Revised Statute 455.612

455.612 Building code standards for wildfire hazard mitigation; rules.

(1) For extreme and high wildfire risk classes in the wildland-urban interface that are identified pursuant to ORS 477.490, the Department of Consumer and Business Services shall adopt wildfire hazard mitigation building code standards that apply to new dwellings and the accessory structures of dwellings, as described in section R327 of the 2021 Oregon Residential Specialty Code.

(2) The department shall amend section R327 of the Oregon Residential Specialty Code to include standards for additions to existing dwellings and accessory structures and for replacement of existing exterior elements covered in section R327 of the 2021 Oregon Residential Specialty Code.

(3) The department shall incorporate the standards described in subsections (1) and (2) of this section into any updates to the Oregon Residential Specialty Code. [2021 c.592 §12]

Proposed Amendments to the Oregon Residential Specialty Code

SECTION R327 WILDFIRE HAZARD MITIGATION

~~R327.1 Purpose.~~ The purpose of this section is to provide minimum standards for *dwellings* and their *accessory structures* located in or adjacent to vegetated areas subject to wildfires, to reduce or eliminate hazards presented by such fires.

~~R327.2 Scope~~ The provisions of this section shall apply to all *dwellings* required to be protected against wildfire by a *municipality* that has adopted wildfire zoning regulations. The additional provisions of Section R327.4 shall apply when a local *municipality* has adopted a local ordinance specifically recognizing Section R327.4 and consistent with Sections R327.4 through R327.4.8.

~~R327.3 Determination.~~ Wildfire hazard zones shall be determined using criteria established by the Oregon Department of Forestry.

R327.1 General. The provisions of this section shall apply to *dwellings* and their *accessory structures* required to be protected against wildfire.

Nothing in the code ~~or adopting ordinance~~ prevents a local *municipality* from waiving/modifying the requirements of ~~Section R327.4~~ this section for any lot, property or *dwelling*, or the remodel, replacement or reconstruction of a *dwelling* within the jurisdiction, as provided in Section R104.10.

R327.2 Application. On or after April 1, 2023, newly constructed *dwellings*, their *accessory structures*, and new *additions* to existing *dwellings* and their *accessory structures*, located in high and extreme wildfire risk classes in the wildland urban interface as determined by the Oregon Wildfire Risk Explorer and indicated on the Oregon Geographic Hazard Design Tool at <https://tools.oregonexplorer.info/> shall be protected against wildfire in accordance with this section. Where existing exterior elements which fall within the scope of this section are replaced in their entirety on *dwellings* and *accessory structures* located in high and extreme wildfire risk classes in the wildland urban interface, the replacement shall be made in accordance with the provisions of this section.

Exceptions:

1. Nonhabitable detached *accessory structures* with an area of not greater than 400 square feet, (37.2 m²) located not less than 50 feet (15 240 mm) from all other structures on the lot.
2. Partial repairs made in accordance with R105.2.2.

~~R327.3.1.1 Roofing.~~ Roofing shall be asphalt shingles in accordance with Section R905.2, slate shingles in accordance with Section R905.6, metal roofing in accordance with Section R905.4, tile, clay or concrete shingles in accordance with Section R905.3 and other approved roofing which is deemed to be equivalent to a minimum Class C rated roof covering. Untreated wood shingle and shake roofs are not permitted when the construction site is in a wildfire hazard zone as determined by Section R327.3.

~~R327.3.1.2 Reroofing or repair of roofing of existing buildings.~~ When 50 percent or more of the roof covering of any building is repaired or replaced within 1 year, the roof covering shall be made to comply with this section and attic ventilation shall be made to comply with this code. Ventilation openings shall be protected with corrosion-resistant wire mesh not greater than ¹/₂-inch (12.7 mm) or less than ¹/₈-inch (3.2 mm) in any dimension.

~~R327.4 Scope of additional wildfire hazard mitigation requirements.~~

~~R327.4.1 Qualifying lots of record.~~ Qualifying lots of record shall meet all of the following:

1. Be located in a wildfire hazard zone as identified by the local *municipality* using criteria established by the Oregon Department of Forestry. The local *municipality* is not required to include all areas identified by the Oregon Department of Forestry as wildfire hazard zones. The zone shall be detailed in the local adopting ordinance.
2. The local *municipality* shall determine in the adopting ordinance whether qualifying lots of record shall consist of individual lots or whether qualifying lots must be part of a development that contains a minimum number of lots.
3. The local *municipality* shall make a determination that the lot of record is either located within the identified wildfire hazard zone as determined by the *jurisdiction* or that it is located outside of the wildfire hazard zone as determined by the *jurisdiction*. Notification shall be provided in conjunction with the land use approval under ORS 197.522.
4. Application:
 - 4.1 Lots created prior to the effective date of the local ordinance, that would otherwise qualify under the local adopting ordinance, are exempt from the requirements of the ordinance for a period of 3 years from the creation date of the land use approval under ORS 197.522.
 - 4.2 For a lot created after the effective date of the local ordinance that receives notification under this section, the determination in the notification shall be valid for 3 years from the date of the land use approval under ORS 197.522. At the expiration of the 3 years, a lot of record shall be re-evaluated under the current version of the adopting ordinance prior to the issuance of a building permit.

R327.2.1 Subdivision infill exception. *Dwellings* or *accessory structures* constructed on a lot in a subdivision located partially or completely within the high or extreme risk classes in the wildland urban interface do not need to comply with Section R327.24 when 50 percent or more of the subject lots in the subdivision have existing dwellings that were not constructed in accordance with Section R327.24. Calculation of 50 percent is based on the lots in the subdivision that are located within the high or extreme risk classes in the wildland urban interface.

~~The local municipality must include a process for resolving disputes related to the applicability of the local ordinance and this section.~~

R327.42.2 Definitions. The following words and terms shall, for purposes of Section R327, have the meanings shown herein. Refer to [See](#) Chapter 2 for general definitions.

HEAVY TIMBER. For the use in this section, *heavy timber* shall be sawn lumber or glue laminated wood with the smallest minimum nominal dimension of 4 inches (102 mm). *Heavy timber* walls or floors shall be sawn or glue laminated planks splined, tongue-and-groove or set close together and well spiked.

IGNITION-RESISTANT MATERIAL. A type of building material that resists ignition or sustained flaming combustion sufficiently so as to reduce losses from wildland urban interface conflagrations under worst-case weather and fuel conditions with *wildfire exposure* of burning embers and small flames. Such materials include any product designed for exterior exposure that, when tested in accordance with ASTM E84 or UL 723 for surface burning characteristics of building materials, extended to a 30 minute duration, exhibits a flame spread index of not more than 25, shows no evidence of significant progressive combustion, and whose flame front does not progress more than 10¹/₂ feet (3.2 m) beyond the centerline of the burner at any time during the test.

NONCOMBUSTIBLE MATERIAL. Any material that in the form in which it is used and under the conditions anticipated will not ignite, burn, support combustion or release flammable vapors when subjected to fire or heat in accordance with ASTM E136.

WILDFIRE. Any uncontrolled fire spreading through vegetative fuels that threatens to destroy life, property or resources.

WILDFIRE EXPOSURE. One or a combination of circumstances exposing a structure to ignition, including radiant heat, convective heat, direct flame contact and burning embers being projected by a vegetation fire to a structure and its immediate environment.

R327.42.3 Roofing. Roofing shall be asphalt shingles in accordance with Section R905.2, slate shingles in accordance with Section R905.6, metal roofing in accordance with Section R905.4, tile, clay or concrete shingles in accordance with Section R905.3 or other *approved* roofing which is deemed to be equivalent to a minimum Class B-rated roof assembly. Wood shingle and shake roofs are not permitted [on structures in high and extreme wildfire risk classes hazard zone](#).

Where the roof profile allows a space between the roof covering and roof decking, the spaces shall be constructed to prevent the intrusion of flames and embers, be fireblocked with *approved* materials, or have one layer of minimum 72-pound (32.4 kg) mineral-surfaced nonperforated cap sheet complying with ASTM D3909 installed over the combustible decking.

Where valley flashing is installed, the flashing shall be not less than 0.019-inch (0.48 mm) No. 26 gage galvanized sheet corrosion-resistant metal installed over not less than one layer of minimum 72-pound (32.4 kg) mineral-surfaced nonperforated cap sheet complying with ASTM D3909 not less than 36-inch-wide (914 mm) running the full length of the valley.

R327.42.3.1 Gutters. ~~When~~ [Where](#) required, roof gutters shall be constructed of *noncombustible materials* and be provided with a means to prevent accumulation of leaves and debris in the gutter.

R327.42.4 Ventilation. Where provided, the minimum net area of ventilation openings for enclosed attics, enclosed soffit spaces, enclosed rafter spaces and underfloor spaces shall be in accordance with Sections R806 and R408.

All ventilation openings shall be covered with noncombustible corrosion-resistant metal wire mesh, vents designed to resist the intrusion of burning embers and flame, or other *approved* materials or devices.

Ventilation mesh and screening shall be a minimum of ¹/₁₆-inch (1.6 mm) and a maximum of ¹/₈-inch (3.2 mm) in any dimension.

R327.42.4.1 Eaves, soffits, and cornices. Ventilation openings shall not be installed on the underside of eaves, soffits or cornices.

Exceptions:

1. The *building official* may *approve* ~~special~~-eave, soffit or cornice vents that are manufactured to resist the intrusion of flame and burning embers.
2. Ventilation openings complying with the requirements of Section R327.42.4 may be installed on the underside of eaves, soffits or cornices where the opening is located 12 feet (3658 mm) or greater above *grade* or the surface below.

R327.42.5 Exterior walls. The *exterior wall covering* or wall assembly shall comply with one of the following requirements:

1. *Noncombustible material*.
2. *Ignition-resistant material*.
3. *Heavy timber* assembly.
4. Log wall construction assembly.
5. Wall assemblies that have been tested in accordance with the test procedures for a 10-minute direct flame contact exposure test set forth in ASTM E2707, complying with the conditions of acceptance listed in Section R327.42.5.2.

Exception: Any of the following shall be deemed to meet the assembly performance criteria and intent of this section:

1. One layer of ⁵/₈-inch Type X exterior gypsum sheathing applied behind the *exterior wall covering* or cladding on the exterior side of the framing.
2. The exterior portion of a 1-hour fire-~~resistive~~ [resistance-rated exterior wall](#) assembly designed for exterior fire exposure including assemblies using exterior gypsum panel and sheathing products listed in the Gypsum Association *Fire Resistance and Sound Control Design Manual*.

R327.42.5.1 Extent of exterior wall covering. *Exterior wall coverings* shall extend from the top of the foundation to the roof and terminate at 2-inch (50.8 mm) nominal solid wood blocking between rafters at all roof overhangs, or in the case of enclosed eaves or soffits, shall terminate at the underside of the enclosure.

R327.42.5.2 Conditions of acceptance. ASTM E2707 tests shall be conducted in triplicate and the conditions of acceptance below shall be met. If any one of the three replicates does not meet the conditions of acceptance, three additional tests shall be conducted. All additional tests shall meet the following conditions of acceptance:

1. Absence of flame penetration through the wall assembly at any time during the test.
2. Absence of evidence of glowing combustion on the interior surface of the assembly at the end of the 70-minute test.

R327.42.6 Overhanging projections. All exterior projections (exterior balconies, carports, decks, patio covers, porch ceilings, unenclosed roofs and floors, overhanging buildings and similar architectural appendages and projections) shall be protected as specified in this section.

R327.42.6.1 Enclosed roof eaves, soffits, and cornices. The exposed underside of rafter or truss eaves and enclosed soffits, where any portion of the framing is less than 12 feet (3658 mm) above *grade* or similar surface below, shall be protected by one of the following:

1. *Noncombustible material.*
2. *Ignition-resistant material.*
3. One layer of 5/8-inch Type X exterior gypsum sheathing applied behind an exterior covering on the underside of the rafter tails, truss tails or soffit.
4. The exterior portion of a 1-hour fire **resistive resistance-rated** exterior wall assembly applied to the underside of the rafter tails or soffit including assemblies using exterior gypsum panel and sheathing products listed in the Gypsum Association *Fire Resistance and Sound Control Design Manual*.
5. Soffit assemblies with an underside surface that meets the performance criteria in Section R327.42.6.5 when tested in accordance ASTM E2957.

Exceptions: The following materials do not require protection required by this section:

1. Eaves and soffits where all portions of the framing members are 12 feet (3658 mm) or greater above *grade*, and 2-inch nominal eave fireblocking is provided between roof framing members from the wall top plate to the underside of the roof sheathing.
2. Gable end overhangs and roof assembly projections beyond an *exterior wall* other than at the lower end of the rafter tails.
3. Fascia and other architectural trim boards.

R327.42.6.2 Exterior patio and porch ceilings. The exposed underside of exterior patio and porch ceilings greater than 200 square feet in area and less than 12 feet (3658 mm) above *grade* shall be protected by one of the following:

1. *Noncombustible material.*
2. *Ignition-resistant material.*
3. One layer of 5/8-inch Type X exterior gypsum sheathing applied behind the exterior covering on the underside of the ceiling.

4. The exterior portion of a 1-hour fire **resistive resistance-rated** exterior wall assembly applied to the underside of the ceiling assembly including assemblies using exterior gypsum panel and sheathing products listed in the Gypsum Association Fire Resistance Design Manual.
5. Porch ceiling assemblies with a horizontal underside that meet the performance criteria in Section R327.42.6.5 when tested in accordance with the test procedures set forth in ASTM E2957.

Exception: Architectural trim boards.

R327.42.6.3 Floor projections. The exposed underside of cantilevered floor projections less than 12 feet (3658 mm) above *grade* or the surface below shall be protected by one of the following:

1. *Noncombustible material.*
2. *Ignition-resistant material.*
3. One layer of 5/8-inch Type X exterior gypsum sheathing applied behind an exterior covering on the underside of the floor projection.
4. The exterior portion of a 1-hour fire **resistive resistance-rated** exterior wall assembly applied to the underside of the floor projection, including assemblies using exterior gypsum panel and sheathing products listed in the Gypsum Association Fire Resistance Design Manual.
5. An assembly that meets the performance criteria in Section R327.42.6.5 when tested in accordance with ASTM E2957.

Exception: Architectural trim boards.

R327.42.6.4 Underfloor protection. The underfloor area of elevated structures shall be enclosed to *grade* in accordance with the requirements of **Section R327.4** [this section](#), or the underside of the exposed underfloor shall be protected by one of the following:

1. *Noncombustible material.*
2. *Ignition-resistant material.*
3. One layer of 5/8-inch Type X exterior gypsum sheathing applied behind an exterior covering on the underside of the floor assembly.
4. The exterior portion of a 1-hour fire **resistive resistance-rated** exterior wall assembly applied to the underside of the floor, including assemblies using exterior gypsum panel and sheathing products listed in the Gypsum Association Fire Resistance Design Manual.
5. An assembly that meets the performance criteria in Section R327.42.6.5 when tested in accordance with ASTM E2957.

Exception: *Heavy timber* structural columns and beams do not require protection.

R327.42.6.5 Conditions of acceptance. ASTM E2957 tests shall be conducted in triplicate, and the following conditions of acceptance shall be met. If any one of the three replicates does not meet the conditions of acceptance, three additional tests shall be conducted. All additional tests shall meet the following conditions of acceptance:

1. Absence of flame penetration of the eaves or horizontal projection assembly at any time during the test.
2. Absence of structural failure of the eaves or horizontal projection subassembly at any time during the test.
3. Absence of sustained combustion of any kind at the conclusion of the 40-minute test.

R327.42.7 Walking surfaces. Deck, porch and balcony walking surfaces located greater than 30 inches and less than 12 feet (3658 mm) above *grade* or the surface below shall be constructed with one of the following materials:

1. Materials that comply with the performance requirements of Section R327.42.7.1 when tested in accordance with both ASTM E2632 and ASTM E2726.
2. *Ignition-resistant* materials that comply with the performance requirements of Section R327.42.2 when tested in accordance with ASTM E84 or UL 723.
3. Exterior fire-retardant-treated wood.
4. *Noncombustible material*.
5. Any material that complies with the performance requirements of Section R327.42.7.2 where tested in accordance with ASTM E2632, where the *exterior wall covering* of the structure is noncombustible or *ignition-resistant* material.
6. Any material that complies with the performance requirements of ASTM E2632, where the *exterior wall covering* of the structure is noncombustible or *ignition-resistant* material.

Exception: *Wall covering* material may be of any material that otherwise complies with this chapter when the decking surface material complies with the performance requirements ASTM E84 with a Class B flame spread rating.

Exception: Walking surfaces of decks, porches and balconies not greater than 200 square feet (18.58 m²) in area, where the surface is constructed of nominal 2-inch (51 mm) lumber.

R327.42.7.1 Requirements for R327.42.7, Item 1. The material shall be tested in accordance with ASTM E2632 and ASTM E2726, and shall comply with the conditions of acceptance in Sections R327.42.7.1.1 and R327.42.7.1.2. The material shall also comply with the performance requirements of Section R327.42.2 for ignition-resistant material when tested in accordance with ASTM E84 or UL 723.

R327.42.7.1.1 Conditions of acceptance. ASTM E2632 tests shall be conducted in triplicate and the following conditions of acceptance shall be met. If any one of the three replicates does not meet the conditions of acceptance, three additional tests shall be conducted. All additional tests shall meet the following conditions of acceptance:

1. Peak heat release rate of less than or equal to 25 kW/ft² (269 kW/m²).
2. Absence of sustained flaming or glowing combustion of any kind at the conclusion of the 40-minute observation period.
3. Absence of falling particles that are still burning when reaching the burner or floor.

R327.42.7.1.2 Conditions of acceptance. ASTM E2762 tests shall be conducted in triplicate and the following conditions of acceptance shall be met. If any one of the three replicates does not meet the conditions of acceptance, three additional tests shall be conducted. All of the additional tests shall meet the following conditions of acceptance:

1. Absence of sustained flaming or glowing combustion of any kind at the conclusion of the 40-minute observation period.
2. Absence of falling particles that are still burning when reaching the burner or floor.

R327.42.7.2 Requirements for R327.42.7, Item 6. The material shall be tested in accordance with ASTM E2632 and shall comply with the following conditions of acceptance. The test shall be conducted in triplicate and the peak heat release rate shall be less than or equal to 25 kW/ft² (269 kW/m²). If any one of the three replicates does not meet the conditions of acceptance, three additional tests shall be conducted. All of the additional tests shall meet the conditions of acceptance.

R327.42.8 Glazing. Exterior windows, windows within exterior doors, and skylights shall be tempered glass, multilayered glazed panels, glass block or have a fire-resistance rating of not less than 20 minutes.

Proposed rule language adopting the code amendments

918-480-0010

Amendments to the Oregon Residential Specialty Code

(1) The Oregon Residential Specialty Code is amended pursuant to OAR chapter 918, division 8. Amendments adopted during the code-cycle for inclusion into the Oregon Residential Specialty Code are placed in this rule, showing the section reference and a descriptive caption.

(2) Effective January 24, 2019, until October 1, 2021, the 2017 Oregon Residential Specialty Code Section R327 is amended for additional wildfire hazard mitigation provisions that are available for local adoption.

(3) Effective October 1, 2020, until October 1, 2021, the 2017 Oregon Residential Specialty Code Section N1107.4 is amended for solar ready provisions.

(4) Effective July 1, 2022 the Oregon Residential Specialty Code Section R101.2.1 is amended for additional clarity on code application to certain childcare facilities, adult foster care facilities, and residential facilities.

(5) Effective October 1, 2022, the Oregon Residential Specialty Code Section R327 is amended to require wildfire hazard mitigation standards for new construction in certain locations, for the purposes of implementing a phase-in period for section R327 requirements the wildfire hazard mitigation standards in the section will not become mandatory until April 1, 2023.

Statutory/Other Authority: ORS 455.020, ORS 455.110 & ORS 455.610

Statutes/Other Implemented: ORS 455.610, **455.612, & 455.614**

Statement of need and fiscal and economic impact from 2019 ORSC R327 adoption

Below is an excerpt from the Notice of Proposed Rulemaking Filing Including Statement of Need and Fiscal Impact (notice) that was created for the 2019 rulemaking that adopted section R327 into the Oregon Residential Specialty Code. The notice is a document that is filed with the Oregon Secretary of State's office when the division is preparing a rulemaking action. One of the main functions of the notice is to highlight the potential fiscal and economic impacts of the rulemaking so that anyone reading the notice who could potentially be impacted by the rulemaking would be aware of the pending rulemaking and the public hearing that will allow them to testify on the rulemaking.

The statement below was prepared for a rulemaking that was filed at the end of 2018 and effective at the beginning of 2019. It is included here as a reference but it is possible that aspects of the fiscal and economic impact that were accurate when the notice was filled have changed. In particular this statement has not be updated to reflect any changes to the cost of construction materials specifically or inflation more generally.

STATEMENT OF NEED AND FISCAL IMPACT

Need for the Rule(s):

ORS 455.610 requires the division to adopt, and amend as necessary, a low-rise code that contains all the requirements, including structural design provisions, related to the construction of residential dwellings three stories or less above grade. Furthermore, ORS 455.020 and 455.110 require the division to adopt a uniform state building code that conforms to model building codes generally accepted and in use to govern the construction, reconstruction, alteration and repair of buildings and other structures and the installation and use of mechanical, heating and ventilating devices and equipment in buildings and other structures.

In 2016 the Residential and Manufactured Structures Board (RMSB) appointed a committee to review the 2015 International Residential Code, public code change proposals, and existing Oregon specific amendments that would become the 2017 Oregon Residential Specialty Code (ORSC). Appendix W – Wildfire Hazard Mitigation was one of many public proposals reviewed by the committee and forwarded to the RMSB for consideration. In May of 2017 the RMSB reviewed the committee's recommendations, including Appendix W – Wildfire Hazard Mitigation and recommended that Building Codes Division move the 2017 ORSC to rulemaking. During the division's review of the RMSB's recommendations three specific areas of concern were identified regarding Appendix W and the division returned Appendix W to the RMSB for further review.

On October 1, 2017, the 2017 ORSC became effective without Appendix W.

On May 29, 2018, the division received a request from the City of Ashland Fire and Rescue to have Appendix W reconsidered by the RMSB. On July 11, 2018, the RMSB reviewed Appendix W and recommended that the division proceed to rulemaking.

The division worked with stakeholders, including representatives from the fire service and homebuilders, to adopt wild fire hazard standards that are workable for Oregon. This rule would make the increased wildfire hazard mitigation provisions in Section R327 available for local adoption.

Fiscal and Economic Impact:

The division estimates that municipalities adopting the increased wildfire mitigation provisions of Section R327 will add approximately \$2,500-\$3,000 to the existing costs of a typical 1,200 square foot detached single family dwelling. This increase includes the costs of labor and materials to comply with the new provisions. The cost impact may vary based on building choices.

The Residential and Manufactured Structures Board made the specific finding that the added cost is necessary for the health and safety of the occupants and the public, or necessary to conserve scarce resources.

This fiscal impact takes into consideration the requirements specified in ORS 183.534 and OAR 813-025-0015 regarding housing cost impacts for single family dwellings. The overall cost increase for labor and materials for proposed code changes related to adding increased wildfire hazard mitigation provisions in the 2017 Oregon Residential Specialty Code is approximately \$2,500-\$3,000 in areas where the local jurisdiction has adopted them.

Statement of Cost of Compliance:

1. Impact on state agencies, units of local government and the public (ORS 183.335(2)(b)(E)):

The division has determined that this rule will only have an impact on state agencies and units of local government that adopt the provisions. Consequently, the rule will have an impact on the public where the municipality has adopted the provisions. The division estimates that additional provisions will increase the cost of single family dwellings. The exact cost increase will depend on specific design variables, but a typical 1,200 square foot detached single family dwelling is expected to increase by approximately \$2,500-\$3,000.

2. Cost of compliance effect on small business (ORS 183.336):

a. Estimate the number of small businesses and types of business and industries with small businesses subject to the rule:

Small businesses that are subject to these rules include residential and commercial contractors, designers, engineers, architects, and others associated with the construction industry. There are approximately 37,000 licensed active construction businesses in the state of Oregon. Construction businesses are primarily small and medium sized businesses: approximately 90 percent employ fewer than 20 workers, 80 percent fewer than 10, and nearly 75 percent employ fewer than five workers. Additionally, there are approximately 135 municipalities administering and enforcing building inspection programs in Oregon and there are approximately 600 certified residential structural and mechanical inspectors. The division is unable to determine the exact fiscal impact at this time because it is dependent upon specific factors related to a building's design, use, materials, etc.

b. Projected reporting, recordkeeping and other administrative activities required for compliance, including costs of professional services:

The proposed rules do not impose any additional reporting, recordkeeping, or other administrative activities in order to comply.

c. Equipment, supplies, labor and increased administration required for compliance:

The division estimates that the increased provisions will add approximately \$2,500-\$3,000 to the existing costs of a typical 1,200 square foot detached single family dwelling. This increase includes the costs of labor and materials to comply with the new provisions.

How were small businesses involved in the development of this rule? Small businesses were represented on the 2017 Oregon Residential Specialty Code Review Committee and the Residential and Manufactured Structures Board which reviewed the initial proposal, and the workgroup that participated in the integration of the standards into R327. The RMSB will review the current proposed changes to R327.

Documents Relied Upon, and where they are available: Draft rules are available from the division's rules coordinator located at 1535 Edgewater Street NW, Salem, OR 97304 and are posted on the division's Web site at: <http://www.oregon.gov/bcd/laws-rules/Pages/proposed-rules.aspx>.