



Oregon

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To: Energy Facility Siting Council

From: Sarah Esterson, Senior Policy Advisor, Oregon Department of Energy Siting Division

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Subject: Agenda Item J (Information Item): Review of the Council's Wildfire Prevention and Risk Mitigation Standard (OAR 345-022-0115) for the September 19-20, 2024 EFSC Meeting

WILDFIRE PREVENTION AND RISK MITIGATION STANDARD

At the September 20, 2024 meeting, the Energy Facility Siting Council (EFSC or Council) will be presented an initial update on the implementation of its newest standard, the [Wildfire Prevention and Risk Mitigation standard](#). This staff report was prepared based on an evaluation provided by Oregon Department of Justice Law Clerk, Ava Mastrianni and provides an overview of the standard; status of implementation of the standard; and an evaluation of how similar requirements are being implemented by other state and local governments in Oregon as well as in two other western states, California and Washington.

The Department has several recommendations for Council consideration to support continued effective implementation of the standard, including the need for a follow up presentation to discuss next steps and implementation status of any agreed upon recommendations.

Standard Overview

Council adopted the Wildfire Prevention and Risk Mitigation standard (OAR 345-022-0115) in July 2022. This is the Council's newest standard and is applicable to the review of any application for site certificate (ASC) or request for amendment of a site certificate filed since July 2022.

The standard requires the Council to find that 1) an applicant or certificate holder has adequately characterized wildfire risk within a specified analysis area using current data from reputable sources; and 2) that any proposed EFSC jurisdictional facility or facility, with proposed changes, will be operated in compliance with a Council-approved wildfire mitigation plan (WMP) during both short-term construction and long-term operations and maintenance.¹ The standard also provides that the Council may approve a facility without making these findings if

¹ EFSC jurisdiction energy facilities are defined in ORS 469.300(11)(a).

the facility is subject to a wildfire protection plan approved by the Oregon Public Utility Commission (PUC) or the governing body of a consumer-owned utility.

Implementation Status Summary

Since the 2022 adoption of the standard, Council has approved 1 ASC; and 6 site certificate amendments for 5 energy facilities.² The requirements of the new standard applied to the review of this ASC and amendment requests. Of the 5 energy facilities where the standard has been evaluated, 4 are sited or approved to be sited in eastern Oregon and 1 is approved to be sited in south-central Oregon (Lake County). Of these facilities, only 1 – Wheatridge Renewable Energy Facility East in Morrow County - has proceeded to the construction phase, where the outcome of the standard (i.e., wildfire risk evaluation and implementation of a Construction Wildfire Mitigation Plan) is being tested.

In general, EFSC approved Construction WMPs include requirements for: monitoring red-flag warnings during fire season, and avoiding or minimizing hot work during red-flag warning; worker training on fire prevention and response; equipping the site and work vehicles with proper fire-fighting equipment; restrictions on onsite fueling and areas of operation; emergency communication procedures; and vegetation maintenance.

In general, EFSC approved Operational WMPs include requirements for: maintaining vegetative clearance areas; facility component inspection procedures/schedules; vegetation maintenance; fire weather monitoring, and restricted operations during red-flag warnings; emergency response procedures; and process for WMP updates.

Initial observations by Oregon Department of Energy (Staff or Department) Siting staff following first two years of evaluation of the standard:

- Staff and applicants/certificate holders would benefit from guidance on how to apply the wildfire risk data required by the standard to the scope/scale of the WMP
- Staff and applicants/certificate holder would benefit from templates with minimum requirements for both a construction and operational WMP (particularly construction WMP)
 - Many applicants/certificate holders propose compliance with requirements of other agencies in their WMPs, many of which are not within EFSC jurisdiction (i.e., Occupational Safety and Health Administration requirements) – this creates challenges of review and enforcement for ODOE

WILDFIRE REQUIREMENTS IN OREGON

The Department tracks other state and local government processes with similar or related wildfire rules and policies to inform its review and implementation of the Council’s standard. Other state and local government agencies with wildfire requirements or policies include, but

² The Wildfire Prevention and Risk Mitigation standard has been evaluated in the following Council’s approvals: Final Order on the ASC for West End Solar Facility; Final Order on Leaning Juniper IIA Wind Facility, Site Certificate Amendment 3; Final Order on Wheatridge Renewable Energy Facility East, Site Certificate Amendment 1; Final Order on Oregon Trail Solar Facility, Site Certificate Amendment 1; Final Order on Obsidian Solar Facility, Site Certificate Amendment 1; Final Order on Boardman to Hemingway Transmission Line, Site Certificate Amendment 1 and 2.

are not limited to, Oregon Public Utilities Commission (PUC), Oregon Department of Forestry (ODF), and Morrow and Umatilla counties. A brief review of wildfire related rules and processes of other Oregon state and local governments is presented below.

Oregon Public Utilities Commission

PUC adopted wildfire protection plan requirements for “public utilities” under [OAR 860-300-0020](#) in 2021.³ PUCs rules require public utilities to develop an operational WMP that assesses the heightened risk of wildfire within their service territory and within the public utilities’ right-of-way for generation and transmission assets that are outside its service area. Like the EFSC standard, PUC rules require that a WMP include a description of procedures, standards, and time frames for infrastructure inspection and vegetation management; as well as a communication plan for notifying emergency service providers and community members during a wildfire event. Unlike the EFSC standard, PUC rules specifically require that WMPs include a protocol for de-energization of power lines through Public Safety Power Shutoff (PSPS) plan or methods of adjusting power system operations to reduce the likelihood of wildfire acceleration.

PUC rules require that WMPs be updated and filed annually with the Commission; within 180-days of submission of a WMP, the PUC may approve or approve with conditions the WMP. PUC rules allow the WMP review to be completed by an Independent Evaluator (IE). To date, the PUC has relied upon the subject matter expertise of an IE, Climate, Wildfire and Energy Strategies, LLC, in every instance of WMP review since its rule adoption.

Oregon Department of Forestry

ODF is Oregon’s largest fire department, with regulatory oversight for 16 million acres of public, state and federal forest lands. ODF’s wildfire related rules in OAR Chapter 629 Division 43 have been in place for over 40 years and include requirements during fire season – referred to as Industrial Fire Precaution Levels – applicable to fire control, fire prevention and enforcement. These requirements apply to any action that results in operation of power-driven machinery (PDM; e.g., cutting, grinding/welding). Unless otherwise approved by ODF through waiver request by PDM operator, requirements include use of PDM with spark arrestors; equipping work sites and work vehicles with proper fire fighting equipment (shovels, tools and fire extinguishers); equipping work sites with water supplies, including water quantity, pump, hose and nozzle; requiring fire watch during and post-work; and PDM operation time restrictions.

Any owner/operator intending to conduct PDM activity on forest lands during fire season is required to file a Notification of Operations and Application for Permit (NO/AP) within 15-days of the activity. The NO/AP is received and reviewed by ODF; ODF then issues a PDM permit, including review of any requested waivers. The site of the permit is then included in the respective ODF fire warden’s workload to conduct compliance inspections. ODF fire wardens are responsible for review of NOAPs, issuance of PDM permits, and enforcement/inspections are fire wardens, with backgrounds in forest stewardship.

³ ORS 757.005 defines “public utility” as, “any corporation, company, individual, association of individuals, or its lessees, trustees or receivers that owns, operates, manages or controls all or a part of any plant or equipment in this state for the production, transmission, delivery or furnishing of heat, light, water or power, directly or indirectly to or for the public, whether or not such plant or equipment or part thereof is wholly within any town or city.”

Morrow County Community Wildfire Protection Plan

Morrow County, like all other Oregon Counties⁴, has established a Community Wildfire Protection Plan (CWPP), designed to help inform agencies responsible for fire suppression and to serve as a guidance document for the community. The Morrow County CWPP was originally completed in 2006 and has been updated twice since origination, to be updated every-five years. The CWPP includes a Community Base Map (CBM) and Wildfire Urban Interface (WUI) zone designation, based on areas with modeled heightened wildfire risk. Based on the map and WUI zone, Morrow County identified 36 projects intended to reduce wildfire risk including projects for vegetation management; community outreach and education; goals for county development of enhanced fire risk zoning requirements for dwellings and other structures; and increased federal and state agency wildfire mitigation planning.

In addition to the CWPP, Morrow County has also adopted an Emergency Operations Plan (EOP) that works in coordination with the CWPP to aid addressing emergency situations such as wildfires.⁵ The EOP outlines detailed procedures regarding reporting, notification, and management following an emergency event. Notification is first directed at local emergency personnel and then if necessary to the County Emergency Manager. In an emergency event, the county has identified several notification tools that can be utilized by local and state officials. These include:

- Use of National Warning System: A nationwide private telephone communication system
- The Oregon Emergency Response System: OERS provides 24-hour alert, warning, and notification service to county/local warning points and notifies appropriate county, state, federal, and volunteer entities.
- Print and electronic media
- Siren Warning System: Morrow County does not have a County-wide siren warning system, however, some fire departments have outdoor sirens and have procedures for their use as a public warning system.
- Public Address Systems: Most police and fire vehicles are equipped with public address systems that may be used for warning the public in localized emergencies. Can be effective alternative to door-to-door notification in small areas with limited populations.
- Door-to-Door contact
- Telephone

Umatilla County Community Wildfire Protection Plan

Umatilla County established their CWPP in 2005; the CWPP has been updated twice since original adoption and will continue to be updated on a 5-year cycle. Umatilla County's CWPP includes a CBM and WUI zone. Based on the CBM and WUI zone designation, Umatilla County developed a Mitigation Action Plan inclusive of projects for vegetation management; prescribed fire; reducing structural ignitability; improving fire response capability of fire protection services; improving emergency preparedness; and homeowner education efforts.

⁴ [Oregon Department of Forestry Community Wildfire Protection Plan Website](#)

⁵ Morrow County Emergency Operations Plan (2022), [morrow_county_eop_2022.pdf](#)

Umatilla County's CWPP includes a notification procedure for alerting residents of an impending wildfire hazard or other emergency. The emergency notification process includes utilizing an emergency alert system, use of radio news broadcasts or announcements, door-to-door notifications, and emergency vehicle sirens/public announcements.⁶ The plan also requires the County to implement a Joint Information System to provide regular updates to the public and media.⁷ In case of emergency, the County Public Information Officer and Joint Information Center and Government Agencies (US Forest Service, Oregon Department of Forestry, tribal and other agencies) are advised to coordinate with county authorities to distribute information. The plan outlines two ways to report a wildfire in Umatilla County, either through dialing 9-1-1 or if the wildfire is located on forestlands protected by either the Umatilla National Forest or Oregon Department of Forestry to contact the Pendleton Interagency Communications Center which maintains a mutual aid agreement with the county.

WILDFIRE REQUIREMENTS IN OTHER WESTERN STATES

California Natural Resources Agency - Office of Energy Infrastructure Safety

In California, electrical cooperations are required to prepare and update WMPs. WMPs must address the following: wildfire risk; wildfire risk to grid design, operations, and maintenance; vegetation management; situational awareness modeling; emergency preparedness; community outreach and engagement; and PSPS.

WMPs must be submitted to the California Natural Resources Agency, Office of Energy Infrastructure Safety for review and approval. The review and approval process includes coordinated review by Office of Energy Infrastructure Safety staff with the Office of the State Fire Marshal; and review by the Wildfire Safety Advisory Board. The Wildfire Safety Advisory Board is comprised of seven independent experts appointed by the Governor, Speaker of the Assembly, and Senate Committee on Rules. The Board meets at least quarterly; it advises the Office of Energy Infrastructure Safety on electrical corporations' WMPs, requirements for these plans, and other wildfire safety matters. The Board provides comments and issues Advisory Opinions on the WMPs, which are then incorporated into the review and approval of an WMP or WMP update.

Washington – Department of Natural Resources

In 2023, the Washington legislature passed a law requiring that, by October 31, 2024, and every three years thereafter, each Investor-owner and Consumer-owned Utility review, if appropriate revise and adopt a WMP.⁸ The utility must provide a copy to the Washington Department of Natural Resources, along with a list and description of wildland fires involving utility equipment within its customer service area over the previous two years.

The Washington legislature also passed a law requiring the Washington State Department of Natural Resources (DNR), in coordination with the Energy Resilience and Emergency Management Office of the Department of Commerce (DOC), to contract with an independent

⁶ *Id.* at 9-3

⁷ *Id.*

⁸ Revised Code of Washington (RCW) §19.29A.170.

consultant with experience in developing electric utility wildfire mitigation plans to develop an electric utility wildfire mitigation plan format and a list of elements to be included in electric utility wildfire mitigation plans.⁹

In January 2024, the DNR provided a draft WMP template, created in coordination with the Utilities and Transportation Commission, the Utility Wildland Fire Prevention Advisory Committee (UWRPAC) and other stakeholders.¹⁰ It describes a range of activities to assess and mitigate the threat of utility ignited wildfires.

LESSONS LEARNED AND RECOMMENDATIONS

Based on review of rules, policies and community planning efforts in Oregon, California and Washington, as summarized in this staff report, the Department recommends Council provide a policy directive to staff to initiate the following measures:

- Develop a guidance document to support the evaluation of the wildfire risk assessment and the adequacy of proposed mitigation measures for both construction and operations.
 - Clarify that projects within counties that have adopted a CWPP and WUI zone should be considered/applied to the wildfire risk evaluation and addressed, as applicable, in WMP development
- Establish the state and local governments that Siting staff should be consulting with in review of construction and operational WMPs.
- Develop guidance for the scope and scale of public notification and community engagement to be included in the WMP.
- Evaluate the availability of third-party consultants with subject matter expertise in climate and wildfire management, and develop a plan for utilizing their support in reviewing WMPs and/or preparing or evaluating guidance documents

Based on Council deliberation of the above-recommendations, staff proposes to return within 2-3 months to report back on progress made based on direction provided.

⁹ RCW §76.04.185 <https://app.leg.wa.gov/RCW/default.aspx?cite=76.04.185>

¹⁰ https://www.dnr.wa.gov/publications/rp_fire_electric_utility_mit_plan_temp_20231228.pdf