

Agenda Item No.:	C
Work Plan:	Fire Protection Work Plan
Topic:	On Going Topics
Presentation Title:	East Oregon Forest Protective Association Agreement
Date of Presentation:	November 6, 2019
Contact Information:	Tim Holschbach, Fire Prevention and Policy Manager 503-945-7434; <a href="mailto:Tim.J.Holschbach@oregon.gov">Tim.J.Holschbach@oregon.gov</a>

**SUMMARY**

The purpose of this agenda item is to seek the Board of Forestry’s review and approval of a revision to the forestland protection agreement in accordance with the Board’s rules. Oregon Department of Forestry and East Oregon Fire Protective Association to meet legal sufficiency revised this agreement jointly.

**BACKGROUND**

Under ORS 477.210, every forestland owner is responsible for protecting his/her land from the start or spread of fire and may do so individually under an approved plan (none currently in effect), by being a member of a forest protective association (FPA) or by paying an assessment to the State Forester to provide protection. Twelve forest protective associations currently exist in Oregon and many forest landowners, particularly those with the largest holdings comply with the statute through membership in these associations.

In three forest protection districts, Coos, Douglas and Walker Range, the local forest protective associations still actively provide fire protection services for their members (“operating associations”) using their own employees as most FPAs did in the earlier history of fire protection in Oregon. As a matter of administrative efficiency, these three associations, by agreement, also provide for the protection of all other forestlands in the district that would otherwise be protected by the State Forester. These agreements, updated in 2005 and approved by the Board of Forestry, establish the terms under which the associations provide this service for the State Forester, spelling out the actions to be taken, reports and records required, how budgets will be developed and approved, addressing administrative matters such as payments, liability, insurance and how issues under the agreement will be resolved.

In the remaining nine forest protection districts, such as East Oregon FPA, the FPAs provide fire protection services to their members through forestland protection agreements or “reverse contracts” wherein the Department of Forestry provides the service the same as it is required to by statute for non-members, however, with the FPAs having a great deal of participation in the budgeting and planning processes of the protection district and providing cooperation in suppression activities to the extent of their capabilities.

ORS 477.406 (Attachment 1) provides the authority for entering into such agreements and further specifies that all such agreements “must be negotiated in accordance with procedures

specified by rules of the State Board of Forestry.” OAR 629-041-0100 (Attachment 2) sets out those procedures and requires that “the Board shall review any base level contract or agreement between the forester and a forest protective association.” The Board’s review should determine whether any such agreement is limited to matters addressed in ORS 477.406, conforms to the statutes and rules, is negotiated in good faith by knowledgeable individuals to accomplish the complete and coordinated fire protection system, and is economically efficient.

In addition to the three “operating” associations already referenced, two basic models emerged for the agreements between the State Forester and the FPAs arising from differences in facilities ownership. In four cases, the associations retained district motor pools (as opposed to other districts whose firefighting equipment is part of the Department’s statewide motor pool) and some of the four have land or structures used as part of the protection facilities that are owned by the FPA (paid for with funds that do not include non-member assessments). The remaining five associations do not have any facilities that were funded other than from equal assessment of all the lands in the district. In addition, some FPAs choose to collect fire patrol costs from their members and subsequently pay the cost to the State Forester en masse, while other associations allow the county assessor to collect their costs along with property taxes in the same manner prescribed by statute for non-members.

## **CONTEXT**

This agreement has been revised to maintain legal sufficiency.

## **RECOMMENDATION**

The Department recommends the Board take the following action when it meets on November 6, 2019:

**Confirm the revision to the East Oregon Forest Protective Association Agreement in adherence to the requirements of statute and rule as required by OAR 629-041-0100.**

## **NEXT STEPS**

This action will complete the process for this agreement, effective on the date last signed unless the Board determines that it does not conform to statute and rule or otherwise takes issue with the agreement.

## **ATTACHMENTS**

- (1) ORS 477.406
- (2) OAR 629-041-0100
- (3) East Oregon Fire Protective Association Agreement, Revised 2019
- (4) East Oregon Fire Protective Association Agreement, 1989