

OFFICE OF THE SECRETARY OF STATE

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ARCHIVES DIVISION

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NOTICE OF PROPOSED RULEMAKING
INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 629
DEPARTMENT OF FORESTRY

FILED

06/27/2024 3:37 PM
ARCHIVES DIVISION
SECRETARY OF STATE

FILING CAPTION: Wildfire Hazard Map and Procedural Rules

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 08/15/2024 5:00 PM

The Agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing negative economic impact of the rule on business.

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Filed By:
Ryan Miller
Rules Coordinator

HEARING(S)

Auxiliary aids for persons with disabilities are available upon advance request. Notify the contact listed above.

DATE: 07/31/2024

TIME: 10:00 AM - 11:00 AM

OFFICER: Ryan Miller

REMOTE HEARING DETAILS

MEETING URL: [Click here to join the meeting](#)

PHONE NUMBER: 541-620-0341

CONFERENCE ID: 8829567607

SPECIAL INSTRUCTIONS:

Phone only option is not available.

Written comments may be sent to maprules@odf.oregon.gov

DATE: 07/31/2024

TIME: 2:00 PM - 3:00 PM

OFFICER: Ryan Miller

REMOTE HEARING DETAILS

MEETING URL: [Click here to join the meeting](#)

PHONE NUMBER: 541-620-0341

CONFERENCE ID: 8829567607

SPECIAL INSTRUCTIONS:

Phone only option is not available.

Written comments may be sent to maprules@odf.oregon.gov

DATE: 08/01/2024

TIME: 6:00 PM - 7:00 PM

OFFICER: Ryan Miller

REMOTE HEARING DETAILS

MEETING URL: [Click here to join the meeting](#)

PHONE NUMBER: 541-620-0341

CONFERENCE ID: 8829567607

SPECIAL INSTRUCTIONS:

Phone only option is not available.

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NEED FOR THE RULE(S)

Details regarding the need for these rules can be found at <https://www.oregon.gov/odf/pages/sb762.aspx> which describes in detail Senate Bill 762 of the 2021 Legislative Session.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE

Documents and materials relied upon, as presented at the June 6th, 2024 Board of Forestry meeting, can be found via this link below. <https://www.oregon.gov/odf/board/bof/20240605-bof-item-06.pdf>

STATEMENT IDENTIFYING HOW ADOPTION OF RULE(S) WILL AFFECT RACIAL EQUITY IN THIS STATE

All property owners within the State of Oregon are subject to these rules, and all residents of the State of Oregon are impacted by these rules. The proposed amended administrative rules serve to establish a wildfire hazard map. There is no current data on how this rule would impact racial equity. These rules will be utilized to create a map in which areas of known socially and economically vulnerable populations will be overlaid with wildfire hazard to identify focus areas. These rules will be utilized to inform future decisions and prioritization. There are no known adverse consequences regarding racial equity. The map created through these rules may identify priority areas to focus financial resources for wildfire risk mitigation and home hardening.

FISCAL AND ECONOMIC IMPACT:

The proposed amended administrative rules serve to establish a wildfire hazard map. The proposed amended administrative rules pertain directly to the passage of Senate Bill 80 during the 2023 legislative session, feedback received by the public and county officials, and advisement of a rules advisory committee. Utilizing these rules, a tax lot will be designated as 1 of 3 wildfire hazard zones. A tax lot with an assignment of high hazard, that is also identified in the geographic area of the Wildland-Urban Interface (WUI), is subject to additional requirements outlined in Senate Bill 762, enrolled during the 2021 legislative session. Under the proposed amended administrative rules, it is estimated that approximately 100,000 tax lots will be assigned as High Hazard Zone and also be within the WUI, a reduction of approximately 20,000 tax lots under the 2022 promulgated rules. Within this dual designated area, tax lots within the WUI and assigned a wildfire hazard zone of high may be required to implement defensible space measures on said property, as determined by the Oregon State Fire Marshal in subsequent rulemaking. This requirement may potentially impose a labor requirement on the tax lot owner or require the owner to hire a contractor to complete the work. The specific need and requirements are indeterminate currently and will vary from tax lot to tax lot. Additionally, the designated high hazard zone within the WUI prioritizes funds for wildfire mitigation activities, which may be utilized to assist with the financial burden of defensible space requirements. Tax lots within the WUI and assigned a wildfire hazard zone of high may be required to meet building code standards compliant with section R327 of the 2021 Oregon Residential Specialty Code, as adopted by the Department of

Consumer and Business Services in subsequent rulemaking. This will be an ongoing impact and is indeterminate. For properties outside of the WUI, any designation may have additional indirect impacts, such as an insurer's review of the wildfire risk assignment to a particular property. This impact is indeterminate.

COST OF COMPLIANCE:

(1) Identify any state agencies, units of local government, and members of the public likely to be economically affected by the rule(s). (2) Effect on Small Businesses: (a) Estimate the number and type of small businesses subject to the rule(s); (b) Describe the expected reporting, recordkeeping and administrative activities and cost required to comply with the rule(s); (c) Estimate the cost of professional services, equipment supplies, labor and increased administration required to comply with the rule(s).

These amended administrative rules will reduce the effect to public and small business owners as property owners, who will be regulated through the assignment of wildfire hazard zones and designation of owning property within the Wildland-Urban Interface (WUI). Under the rules promulgated in 2022, approximately 120,000 tax lots are within the WUI and assigned a wildfire risk class of High or Extreme. The proposed amended rules reduce that total to approximately 100,000 tax lots within the WUI and a high hazard zone. These rules do not impose reporting or record keeping requirements. The proposed amended rules will reduce the number of tax lots that may be subject to additional requirements imposed by the Office of the State Fire Marshal and the Department of Consumer and Business Services.

DESCRIBE HOW SMALL BUSINESSES WERE INVOLVED IN THE DEVELOPMENT OF THESE RULE(S):

A Rule Advisory Committee(RAC) was utilized in the development and refinement of these rules. Small business representatives served on the RAC and participated throughout the process.

WAS AN ADMINISTRATIVE RULE ADVISORY COMMITTEE CONSULTED? YES

RULES PROPOSED:

629-001-0000, 629-001-0005, 629-001-0010, 629-001-0015, 629-001-0020, 629-001-0045, 629-001-0055, 629-001-0057, 629-044-1000, 629-044-1005, 629-044-1011, 629-044-1016, 629-044-1021, 629-044-1026, 629-044-1031, 629-044-1036, 629-044-1041

AMEND: 629-001-0000

RULE SUMMARY: References to necessary time frames prior to the effective dates for (1) and (2) were updated. (3) was deleted from the rule.

CHANGES TO RULE:

629-001-0000

Administrative Rule Notification ¶¶

Prior to the adoption, amendment, or repeal of any rule, the State Forester shall give notice of the proposed adoption, amendment, or repeal:¶¶

(1) In the Secretary of State's Bulletin referred to in ORS 183.360 at least ~~21~~ 15 days prior to the effective date.¶¶

(2) By mailing a copy of the notice to persons on the Forester's mailing list established pursuant to ORS 183.335(8)(c), at least ~~30~~ 28 days prior to the effective date.¶¶

~~(3) By mailing a copy of the notice to the following persons, organizations, and publications at least 30 days prior to the effective date:¶¶~~

~~(a) State Agencies:¶¶~~

~~(A) Agriculture, Oregon Department of;¶¶~~

~~(B) Environmental Quality, Oregon Department of;¶¶~~

~~(C) Fire Marshal Division, Oregon Department of Commerce;¶¶~~

~~(D) Fish and Wildlife, Oregon Department of;¶¶~~

~~(E) Geology and Mineral Industries, Oregon Department of;¶¶~~

- (F) Governor's Office, Assistant for Natural Resources;¶
 - (G) Health Division, Oregon Department of Human Resources;¶
 - (H) Land Conservation and Development, Oregon Department of;¶
 - (I) Lands, Division of State;¶
 - (J) Parks and Recreation Department;¶
 - (K) Revenue, Oregon Department of;¶
 - (L) Water Resources, Oregon Department of.¶
 - (b) News Media:¶
 - (A) Associated Press, Salem;¶
 - (B) United Press International, Salem;¶
 - (C) Albany – Democrat Herald;¶
 - (D) Astoria – Daily Astorian;¶
 - (E) Bend – The Bulletin;¶
 - (F) Coos Bay – The World;¶
 - (G) Corvallis – Gazette Times;¶
 - (H) Eugene – Register-Guard;¶
 - (I) Forest Grove – The News-Times;¶
 - (J) John Day – Blue Mountain Eagle;¶
 - (K) Klamath Falls – Herald and News;¶
 - (L) La Grande – Observer;¶
 - (M) Medford – Mail Tribune;¶
 - (N) Newport – News Times;¶
 - (O) Pendleton – East Oregonian;¶
 - (P) Portland – The Oregonian;¶
 - (Q) Prineville – Central Oregonian;¶
 - (R) Roseburg – News Review;¶
 - (S) Salem – Statesman Journal;¶
 - (T) The Dalles – Chronicle;¶
 - (U) Tillamook – Headlight Herald;¶
 - (V) Oregon Administrative Law News, Tigard.¶
 - (c) Each Regional Forest Practices Committee member.
- Statutory/Other Authority: ORS 183.310(1), 192.610-710, 526.016(4), 526.041(1)
 Statutes/Other Implemented: ORS 183.550, 192.610 - 192.710, 526.016

AMEND: 629-001-0005

RULE SUMMARY: Rule amended to reflect a change in the effective date.

CHANGES TO RULE:

629-001-0005

Model Rules of Procedure ¶

The Model Rules of Procedure under the Administrative Procedures Act, promulgated by the Attorney General effective January 1, 2008~~24~~24 are hereby adopted as the rules of procedures of the Board of Forestry and the State Forester.¶

[ED. NOTE: The full text of the Attorney General's Model Rules of Procedure is available from the office of the Attorney General or Board of Forestry.]

Statutory/Other Authority: ORS 526.016(4), 526.041

Statutes/Other Implemented: ORS 183.341

AMEND: 629-001-0010

RULE SUMMARY: Rule amended to reflect an updated ORS reference.

CHANGES TO RULE:

629-001-0010

Agency Representation by Officer or Employee ¶¶

(1) Department of Forestry officer or employee is authorized to appear (but not make legal argument) on behalf of the department in a hearing or in a class of contested hearings in which the Attorney General or the Deputy Attorney General has given written consent for such representation. A copy of the list of contested case hearings for which the Attorney General has given consent is maintained by the Department of Forestry and the Department of Justice.¶¶

(2) "Legal argument" as used in ORS 183.450(82)(3) and this rule shall include arguments on:¶¶

(a) The jurisdiction of the agency to hear the contested case;¶¶

(b) The constitutionality of a statute or rule or the application of a constitutional requirement to an agency;¶¶

(c) The application of court precedent to the facts of the particular contested case proceeding.¶¶

(3) "Legal argument" does not include presentation of evidence, examination and cross-examination of witnesses or presentation of factual arguments or arguments on:¶¶

(a) The application of the facts to the statutes or rules directly applicable to the issues in the contested case;¶¶

(b) Comparison of prior actions of the agency in handling similar situations;¶¶

(c) The literal meaning of the statutes or rules directly applicable to the issues in the contested case;¶¶

(d) The admissibility of evidence or the correctness of procedures being followed.¶¶

(4) When an agency officer or employee represents the agency, the presiding officer shall advise such representative of the manner in which objections may be made and matters preserved for appeal. Such advice is of a procedural nature and does not change applicable law on waiver or the duty to make timely objection. Where such objections involve legal argument, the presiding officer shall provide reasonable opportunity for the agency officer or employee to consult legal counsel and permit such legal counsel to file written legal argument within a reasonable time after conclusion of the hearing.

Statutory/Other Authority: ORS 183, 526

Statutes/Other Implemented: ORS 183, 526

AMEND: 629-001-0015

RULE SUMMARY: Rule amended to add (10) referring to appeals of property assignments on the wildfire hazard map.

CHANGES TO RULE:

629-001-0015

Rules of Procedure for Contested Cases; Applicability ¶¶

The rules of procedure in this Division, OAR 629-001-0010 to 629-001-0055, apply to all contested cases before the board and State Forester, unless otherwise provided by law, and are in addition to the procedural requirements of the Attorney General's Model Rules adopted in 629-001-0005. Contested cases covered by these rules include, but are not limited to the following:¶¶

(1) Appeal of civil penalties assessed under ORS 527.687;¶¶

(2) Appeal of "any finding or order" under ORS 527.610 through 527.770 and 527.992;¶¶

(3) Hearings requested by persons adversely affected or aggrieved by an operation requiring a written plan under ORS 527.700(3) through (9);¶¶

(4) Appeal of temporary orders to cease further activity under ORS 527.680(3) and 527.680(4);¶¶

(5) Appeal of repair orders issued under ORS 527.680(2)(b) and 527.690(1);¶¶

(6) Appeal of orders prohibiting new operations under ORS 527.680(5);¶¶

(7) Appeal by any person adversely affected by operations to be conducted under an approved or amended stewardship agreement under ORS 527.662;¶¶

(8) Review of State Forester's proposal to conduct repair work at state expense under ORS 527.690(2); and¶¶

(9) Appeals of decisions on land exchanges under OAR 629-033-0055.¶¶

(10) Appeals of all property assignments on the wildfire hazard map, ncluding high hazard zones as provided under ORS 477.490(7)(d) (as amended by Section 1, 2023 Oregon Law)

Statutory/Other Authority: ORS 526.016(4), 527.687(3), 527.715

Statutes/Other Implemented: ORS 183.310 - 183.550

AMEND: 629-001-0020

RULE SUMMARY: Amended rule to add (8) regarding hearings involving the wildfire hazard map.

CHANGES TO RULE:

629-001-0020

Requesting Hearings ¶

- (1) All requests for hearing shall be made in writing, within the time period provided by statute or rule.¶
- (2) All requests shall specifically state the issues to be addressed and the relief sought.¶
- (3) Requests for hearing involving civil penalties shall comply with OAR 629-670-0310.¶
- (4) Requests for hearing involving a finding or order of the State Forester issued under ORS 527.610 to 527.770 shall comply with OAR 629-672-0200.¶
- (5) Requests for hearing by persons adversely affected or aggrieved by an operation approved under ORS 527.670(3) shall comply with OAR 629-672-0210.¶
- (6) Requests for hearing by persons adversely affected or aggrieved by a proposed or amended stewardship agreement shall comply with ORS 527.662(12).¶
- (7) Requests for hearing involving land exchanges shall comply with OAR 629-033-0055.¶
- (8) Requests for hearing involving the wildfire hazard map shall comply with OAR 629-044-1041.

Statutory/Other Authority: ORS 526.016(4), 527.687(3), 527.715

Statutes/Other Implemented: ORS 183.310 - 183.550

AMEND: 629-001-0045

RULE SUMMARY: Amended to add (4) specifying final orders regarding the wildfire hazard map.

CHANGES TO RULE:

629-001-0045

Final Orders in Contested Cases ¶¶

(1) Following hearing, the administrative law judge will prepare the record and proposed order for filing with the board as expeditiously as possible. In the case of hearings related to orders of the State Forester pursuant to ORS 527.700, the record and proposed order shall be filed with the board within five working days of the close of hearing unless an extension has been agreed to by the parties and State Forester. Except as provided in section (2) of this rule, no less than a majority of the board shall then review and consider the proposed order and record, hold a meeting or telephone conference, and take final action as provided for in this rule.¶¶

(2) If upon a determination by the board chairperson, the board cannot complete a final order within applicable statutory time limits, the chairperson may delegate authority to issue a final order to the administrative law judge.¶¶

(3) After reviewing and considering the proposed order and record, the board may do any of the following:¶¶

(a) Schedule written or oral argument from the State Forester and any party that filed exceptions to the proposed order. The board chairperson shall determine whether oral argument, written argument, or both will be permitted after consulting with the board members.¶¶

(A) Oral argument shall be allowed only if the board determines it is necessary or appropriate to assist in the proper disposition of the case, and shall be:¶¶

(i) Limited to matters raised in written exceptions; and¶¶

(ii) Conducted under such time limits as the board chairperson determines are appropriate.¶¶

(B) The board chairperson shall notify the agency and parties of the form of argument, if any, to be allowed.¶¶

(b) Remand the matter to the administrative law judge for further hearing on such issues as the board specifies, and to prepare a revised proposed order as appropriate, under OAR 137-003-0655(2).¶¶

(c) Enter a final order adopting the recommendation of the administrative law judge.¶¶

(d) Enter an amended proposed order or final order that modifies or rejects the recommendation of the administrative law judge. If the board decides to modify or reject the proposed order, the board must comply with OAR 137-003-0655 and 137-003-0665.¶¶

(4) Final orders regarding the wildfire hazard map will be issued in accordance with OAR 629-044-1041.

Statutory/Other Authority: ORS 526.016(4), 527.687(3), 527.715

Statutes/Other Implemented: ORS 183.310 - 183.550

AMEND: 629-001-0055

RULE SUMMARY: Amended to include written orders related to the wildfire hazard map.

CHANGES TO RULE:

629-001-0055

Delegation of Authority to State Forester ¶¶

In addition to any duties and responsibilities conferred upon the State Forester by law or delegation of authority from the Board of Forestry, the State Forester may, with regard to the administration of contested cases:¶¶

- (1) Execute any written order, on behalf of the board, which has been consented to in writing by the person or persons adversely affected by the order;¶¶
- (2) Prepare and execute written orders, on behalf of the board, implementing any action taken by the board on any matter;¶¶
- (3) Prepare and execute orders, on behalf of the board, upon default where:¶¶
 - (a) The adversely affected party or parties have been properly notified of the time and manner in which to request a hearing and have failed to file a proper, timely request for a hearing; or¶¶
 - (b) Having requested a hearing, the adversely affected person or persons have failed to appear at the hearing.¶¶
- (4) Prepare and execute written orders related to OAR 629-044-1041.

Statutory/Other Authority: ORS 526.016(4), 527.685(4), 527.687(3), 527.715

Statutes/Other Implemented: ORS 527.685, 183.310 - 183.550

AMEND: 629-001-0057

RULE SUMMARY: Rule amended to reflect update ORS reference.

CHANGES TO RULE:

629-001-0057

Delegation of Authority to State Forester - Responding to Claims under ORS 197.352 ¶

(1) This rule delegates to the State Forester certain duties and responsibilities to carry out the authorities of the Board of Forestry and the Department in responding to claims under ORS 197.3052 (Formerly Chapter 1, Oregon Laws 2005, 2004 Ballot Measure 37). This rule further provides for review and modification by the Board of Forestry of certain actions taken by the State Forester pursuant to this delegation of authority.¶

(2) The State Forester is vested by the Board of Forestry with authority to respond to claims under ORS 197.3052 by:¶

(a) Reviewing claims;¶

(b) Denying claims;¶

(c) Recommending approval of claims by modifying, removing, or not applying the statute(s) or rule(s) that are the basis of the claim; or¶

(d) Recommending payment of claims. These actions shall be done in compliance with Department of Administrative Services administrative rules relating to ORS 197.3052.¶

(3) The State Forester shall submit to the Board any recommendation made under paragraph (2)(c) or (d) of this rule. The Board may accept or modify the State Forester's recommendation.¶

(4) The State Forester shall establish procedures to provide notice of any action on a claim under ORS 197.3052 as required by Department of Administrative Services administrative rules relating to ORS 197.3052.¶

(5) Actions by the Board of Forestry or State Forester on claims under this rule are actions under ORS 197.3052, and are not orders under ORS 527.700.

Statutory/Other Authority: ORS 197.352, ORS 526, 527

Statutes/Other Implemented: ORS 197.352, 526.016, 526.031, 526.041

AMEND: 629-044-1000

RULE SUMMARY: Rule change changes the reference from "risk map" to "hazard map". Change also updates the reference to ORS 477.490.

CHANGES TO RULE:

629-044-1000

Purpose ¶¶

(1) The purpose of OAR 629-044-1000 to 629-044-1040 is to implement the provisions of ORS 477.027 and ORS 477.490.¶¶

(2) The purpose of OAR 629-044-1010 to 629-044-1015 is to establish criteria by which the wildland-urban interface shall be identified and classified pursuant to ORS 477.027.¶¶

(3) The purpose of OAR 629-044-1020 to 629-044-1026 is to set forth the criteria by which a statewide wildfire ~~risk~~hazard map must be developed and maintained pursuant to ORS 477.~~027~~490.¶¶

(4) The purpose of OAR 629-044-1030 is to set forth the process for notification to property owners pursuant to ORS 477.027.¶¶

(5) The purpose of OAR 629-044-1035 is to set forth the process of integrating public input into the statewide wildfire ~~risk~~hazard map pursuant to ORS 477.~~027~~490. ¶¶

(6) The purpose of OAR 629-044-1040 is to set forth the process of how a property owner or local government may appeal the assignment of wildfire ~~risk~~hazard pursuant to ORS 477.~~027~~490.

Statutory/Other Authority: ORS 477.015 - 477.027, ORS 526.016, ORS 477.490

Statutes/Other Implemented: ORS 477.015 - 477.027, ORS 477.490

AMEND: 629-044-1005

RULE SUMMARY: The rule changes the definitions section by removing what was formerly (b) Hazard rating. The definition for Wildfire Hazard was also modified in this amendment.

CHANGES TO RULE:

629-044-1005

Definitions ¶¶

(1) The definitions set forth in ORS 477.001, shall apply.¶¶

(2) The following words and phrases, when used in OAR 629-044-1000 to 629-044-1040, shall mean the following: ¶¶

(a) "Geographical area" means an area of land with similar characteristics that can be considered as a "unit" for the purposes of classification of the wildland-urban interface.¶¶

~~(b) "Hazard rating" is a numerical value describing the likelihood and intensity of a fire, based on specific factors or conditions including weather, climate, topography, and vegetation.¶¶~~

~~(c) "Intermingles with wildland or vegetative fuels" means a minimum of 50% coverage of wildland or vegetative fuels.¶¶~~

~~(d) "Meets with wildland or vegetative fuels" means located within a 1.5-mile buffer from the edge of an area greater than 2 square mile with a minimum of 75% cover of wildland or vegetative fuels.¶¶~~

~~(e) "Occluded geographical area" means an area with a minimum of one structure or other human development per 40-acres within 1.5 miles of an area greater than 1 square mile but less than 2 square miles with a minimum of 75% cover of wildland or vegetative fuels.¶¶~~

~~(f) "Other human development" means essential facilities, special occupancy structures, or hazardous facilities as defined in ORS 455.447 that support community functions, public communication, energy, or transportation.¶¶~~

~~(g) "Structure" means any building that is at least 400 square feet. ¶¶~~

~~(h) "Unincorporated community" has the meaning provided in OAR Chapter 660, Division 22.¶¶~~

~~(i) "Urban growth boundary" has the meaning provided in OAR Chapter 660, Division 15.¶¶~~

~~(j) "Vegetative fuels" means plants that constitute a wildfire hazard. ¶¶~~

~~(k) "Wildland fuels" means natural vegetation that occurs in an area where development is essentially non-existent, including grasslands, brushlands, rangelands, woodlands, timberlands, or wilderness. Wildland fuels are a type of vegetative fuels. ¶¶~~

~~(l) "Wildfire Risk" means the wildfire impacts to values. Hazard" is a numerical value describing the likelihood and intensity of a wildfire, based on scientifically modeled wildfire frequency and wildfire intensity specific factors or conditions of weather, climate, topography, and vegetation, as modeled for a given pixel.¶¶~~

~~(m) "Wildland-Urban Interface" means a geographical area where structures and other human development meets or intermingles with wildland or vegetative fuels.~~

Statutory/Other Authority: ORS 477.015 - 477.027, ORS 526.016, ORS 477.490, ORS 477.001

Statutes/Other Implemented: ORS 477.015 - 477.027, ORS 477.490

AMEND: 629-044-1011

RULE SUMMARY: Rule was amended to replace "risk" with "hazard" in (4).

CHANGES TO RULE:

629-044-1011

Wildland-Urban Interface Identification Criteria

(1) The Wildland-Urban Interface is a geographic area comprised of tax lots, or portions of tax lots that includes an average density of one structure or other human development per 40 acres and either:¶

(a) meets with wildland or vegetative fuels; or¶

(b) intermingles with wildland or vegetative fuels; or¶

(c) is an occluded geographical area.¶

(2) The Wildland-Urban Interface also includes:¶

(a) lands identified within an urban growth boundary or unincorporated community boundary by local comprehensive plans that meet the criteria in (1)(a); or¶

(b) a planned development, within the urban growth boundary or unincorporated communities, that is not identified in 1(a) but that is approved for development that meets the criteria in 1(a). ¶

(3) If multiple structures or other human developments are located on a single tax lot, then the totality will be considered a single structure or other human development.¶

(4) Each tax lot in the State of Oregon shall be assigned a wildfire ~~risk classification~~ hazard zone in accordance with 629-044-10201.

Statutory/Other Authority: ORS 477.015-027, ORS 526.016, ORS 477.490

Statutes/Other Implemented: ORS 477.015-027

AMEND: 629-044-1016

RULE SUMMARY: Rule language was amended to include "wholly or partially" and added "within" in reference to the Wildland-Urban Interface.

CHANGES TO RULE:

629-044-1016

Periodic Wildland-Urban Interface Lands Identification and Classification

Tax lots wholly or partially identified as within the Wildland-Urban Interface shall be reviewed in conjunction with updates to the statewide wildfire ~~risk~~hazard map in accordance with OAR 629-044-1026.

Statutory/Other Authority: ORS 477.015-477.027, ORS 526.016, ORS 477.490

Statutes/Other Implemented: ORS 477.015-477.027

AMEND: 629-044-1021

RULE SUMMARY: Rule was amended to define wildfire hazard zones and change references to "risk" to "hazard."

CHANGES TO RULE:

629-044-1021

~~Wildfire Risk Classification and Wildfire Hazard Rating~~

~~(1) Wildfire risk classifications are established by a range of wildfire hazard factors that determine a net value change that illustrates likely wildfire consequences. Each net value change range is identified as a wildfire risk class. hazard zones are established as follows: ¶~~

~~(a) No Low Wildfire Risk. A net value change of zero. Typically characterized as non-burnable areas. ¶~~

~~(b) Low Wildfire Risk. A net value change from greater than 0.00 to 0.001911. Typically characterized as having the capacity to generate a wildfire which produces a flame length of less than 4 feet, a wildfire that exhibits little to no spotting, torching, or crowning. Hazard. A hazard value less than 0.001911. ¶~~

~~(c) Moderate Wildfire Risk. A net value change of greater than 0.001911 to 0.137872. Typically characterized as having the capacity to generate a wildfire which produces a flame length of 4 to 6 feet, and that occasionally exhibits spotting, torching, or crowning. ¶~~

~~(d) High Wildfire Risk. A net value change of greater than 0.137872 to 0.522288. Typically characterized as having the capacity to generate a wildfire which produces a flame length of 6 to 8 feet, and frequently exhibits spotting, torching, or crowning. ¶~~

~~(e) Extreme Wildfire Risk. A net value change greater than 0.522288. Typically characterized as having the capacity to generate a wildfire which produces a flame length of over 8 feet, and exhibits frequent spotting, torching, or crowning. Hazard. A value between 0.001911 to 0.137872. ¶~~

~~(c) High Wildfire Hazard. A value greater than 0.137872. ¶~~

~~(2) It is recognized that natural vegetation is highly variable and that the fuel models used in subsection (1) of this rule may not always accurately reflect expected wildfire behavior, due to variations in local species and vegetation conditions. Therefore, consistent with peer reviewed methods, modifications may be made to the hazard rating, net value change, and risk classification as necessary to ensure accuracy. ¶~~

~~(3) Each wildfire risk class hazard zone assignment shall be based on the average pixel-level wildfire hazard rating of values within each tax lot. ¶~~

~~(4) Each wildfire risk class hazard zone shall consist of a net value change range. The net value change ranges that correlate to a given wildfire risk class hazard zone shall be determined using a statistically objective methodology. Statutory/Other Authority: ORS 477.490, ORS 526.016~~

~~Statutes/Other Implemented: ORS 477.490~~

AMEND: 629-044-1026

RULE SUMMARY: Rules were amended to replace "risk" references with "hazard". Additionally the rule was amended to clarify how and when adjustments to the data shall be made.

CHANGES TO RULE:

629-044-1026

~~Statewide Wildfire Risk~~Hazard Map

(1) Oregon State University shall develop and maintain the Statewide Wildfire ~~Risk~~Hazard Map in a publicly accessible format. The map shall be developed:¶

(a) using current, peer reviewed data sets when calculating wildfire ~~risk~~hazard;¶

(b) calculating wildfire ~~risk~~hazard as a combined hazard rating value incorporating ~~how often wildfires occur~~annual burn probability and wildfire ~~burn~~intensity; ¶

(c) ~~and~~ utilize ~~fuel loading measured at the~~the most representatim~~ve~~ of year when large wildfires generally occur; ~~and~~¶

~~(d) shall~~fuel characteristics practical;¶

~~(d) to~~ include a layer that geospatially displays the locations of socially and economically vulnerable communities.¶

~~(2) F; and~~¶

~~(e) to include adjustments for irrigated agricultural, in locations identified as irrigated at least one of five years within the most recent IrrMapper dataset, prior to updates in accordance with Section 2 of this rule.~~¶

~~(2) Oregon State University shall update the map and other publicly available web-based tools shall be updated in consultation with Oregon~~the State University Forester and other agency partners, within 12 months after updates to the most current wildfire ~~risk~~hazard assessment data sets are available.

Statutory/Other Authority: ORS 526.016, ORS 477.490

Statutes/Other Implemented: ORS 477.490

AMEND: 629-044-1031

RULE SUMMARY: Rules were amended to replace "risk" with "hazard". Additionally the amendments clarify the requirements of a written notice.

CHANGES TO RULE:

629-044-1031

Notification

- (1) The State Forester shall provide written notice to the owners of properties classified as high or ~~extreme~~ hazard zone within the Wildfire riskland-Urban Interface. ¶
- (2) The written notice shall be sent to the property owner address included in the county assessor records. ¶
- (3) The written notice shall include: ¶
 - (a) the wildfire ~~risk class~~ hazard zone assignment; ¶
 - (b) where a map of the property can be found in the publicly accessible mapping portal, ~~including the average wildfire hazard value of the property;~~ ¶
 - ~~(c) resources available to address wildfire risk;~~ ¶
 - (c) information regarding what the wildfire hazard assignment means for the property owner; ¶
 - ~~(d) information regarding what the available wildfire risk assignment means for the property owner~~ related resources and programs; and ¶
 - ~~(e) information about how a property owner may appeal the assignment of wildfire risk class, including the specific elements that may be appealed~~ hazard zone. ¶
- (4) Prior to the effective date of updates to the Statewide Wildfire ~~Risk~~ Hazard Map, the Department shall hold regional public meetings. ¶
- (5) The Department shall provide a notice of the times and places of all statewide and regional meetings, and the other ways by which comments may be submitted, using a variety of notice methods designed to reach diverse audiences, both statewide and within each region. ¶
- (6) The Department, in consultation with Oregon State University, shall present anticipated changes to the Wildland-Urban Interface boundary and Wildfire ~~Risk Classification~~ Hazard Zone assignments at a county scale. ¶
- (7) The meeting shall allocate time to receive input from any interested persons relating to the proposed wildfire ~~risk class~~ hazard zone assignments. ¶
- (8) The Department shall establish and publicize a place where electronic and written comment may be received. ¶
- (9) Following the public meeting the Department, in consultation with Oregon State University, may make changes in the proposed wildfire ~~risk classification~~ hazard zone assignments, hold additional meetings, and thereafter shall make final wildfire ~~risk class~~ hazard zone assignments.

Statutory/Other Authority: ORS 477.490, ORS 526.016

Statutes/Other Implemented: ORS 477.490

AMEND: 629-044-1036

RULE SUMMARY: Rules were amended to replace "risk" with "hazard".

CHANGES TO RULE:

629-044-1036

Locally Developed Wildfire Plans

(1) The following types of locally developed wildfire plans may be integrated into the wildfire ~~risk~~hazard mapping portal if the local jurisdiction chooses.¶

(a) Community Wildfire Protection Plans developed under the Healthy Forests Restoration Act; ¶

(b) Natural Hazard Mitigation Plans developed under the Robert T. Stafford Disaster Relief and Emergency Assistance Act; ~~or~~¶

(c) Firewise USA Action Plans developed under the Firewise USA Program administered by the National Fire Protection Association.¶

(2) Information in the types of locally developed wildfire plans identified in subsections (1)(a) thru (c) above, may complement, but does not supplant or supersede the Statewide Wildfire ~~Risk~~Hazard Map.

Statutory/Other Authority: ORS 477.490, ORS 526.016

Statutes/Other Implemented: ORS 477.490

RULE SUMMARY: Rules were amended to clarify the appeal of wildfire hazard assignments.

CHANGES TO RULE:

629-044-1041

Appeal of Wildfire Risk Hazard Assignment

- (1) Any affected property owner or local government may appeal the assignment of property by submitting an appeal in writing within 60 days of:
- (a) the wildfire hazard zones. All appeals of the assignment shall be referred for a contested case hearing in accordance with ORS Chapter 183, OAR 629-001-0003 to OAR 629-001-0055, and this rule. The Administrative Law Judge assigned the matter shall be authorized to issue a Proposed Order. The State that the wildfire risk map or update is posted on Forester shall issue the Final Order.
 - (2) The notification described under OAR 629-044-1031 shall serve as a Notice of Proposed Agency Action for property owners in the high hazard zone and also within the Wildland-Urban Interface. The posting of the hazard map on the Oregon Explorer Map Viewer website;
 - (b) The date that a correctly addressed notice is deposited with the postal service for mailing to the affected property owner.
- (2) In the written appeal in section (1) of this rule, the property owner must specifically state:
- (a) the wildfire risk class assignment;
 - (b) the hazard map or an update to the change in wildfire risk assignment sought; and
 - (c) any pertinent facts that may justify a change in the wildfire risk class assignment, in accordance with ORS 477.490.
- (3) Upon receipt of a written appeal of wildfire risk assignment, the State Forester:
- (a) shall review the appeal to determine whether the appellant has standing and whether the appeal addresses the hazard map or an update to the hazard map is posted on Oregon Explorer Map Viewer website; or
 - (b) The date that a correctly addressed notice, issued in accordance with OAR 629-044-1031(2), is deposited with the postal service for mailing to the affected property owner.
- (4) A local government may appeal the assignment of a wildfire hazard zone by submitting a written hearing request to the Department. Such request must be made within 60 days of the following events, whichever is later:
- (a) The date that the wildfire risk class assignment;
 - (b) the hazard map or an update to the hazard map is posted on Oregon Explorer Map Viewer website; or
 - (c) any pertinent facts that may justify a change in the wildfire risk class assignment, in accordance with ORS 477.490.
- (5) The written hearing request must specifically state:
- (a) the issues to be addressed;
 - (b) The criteria of the hazard map being contested; and
 - (c) the relief sought.
- (6) Additionally, the appeal must include the following contact information for referral:
- (A) Property owner name;
 - (B) Mailing address;
 - (C) Property address and tax lot number; and
 - (D) Phone number.
- (6) This specific response is required based on the agency's determination that, due to the complexity of the program and category of cases involved, according to these rules and the most current wildfire assessment:
- (B) reviewing for any error in the data that was used to determine the wildfire risk class assignment;
 - (C) reviewing any pertinent facts that may justify a change in the assignment; and
 - (D) providing the report to more specific response is warranted. The requester may amend their response, except when doing so would be unduly prejudicial. Failure to raise an issue as provided in this rule shall constitute a waiver of the opportunity to raise the issue in a contested hearing.
- (7) Upon receipt of a written request for hearing under this section, the Department may contact the property

owner or local government to seek additional information and attempt to informally resolve the appealant. ¶
(48) ~~¶~~ The Department shall provide information to the public describing changes to the map based on
approved that result from appeals. The information shall be posted on the Department's public website. ¶
(49) ~~A final decision of the matter issued~~ The State Forester will issue a Final Order resolving appeals under this
section (3), based on this rule shall be a record established through the contested case hearing. The Forester's
Final Order, and is subject to appeal as prescribed by ORS 183.484.
Statutory/Other Authority: ORS 477.490, ORS 526.016
Statutes/Other Implemented: ORS 477.490