**DEPARTMENT OF FORESTRY**

**DIVISION 44**

**CRITERIA FOR DETERMINATION OF  
WILDFIRE HAZARD ZONES**

**629-044-0200**

**Definitions**

As used in OAR chapter 629, division 044, unless otherwise required by context:

(1) "Geographic Area" means the areas which result from the partitioning of all or portions of a jurisdiction into smaller segments, based on the presence of differing hazard values.

(2) "Hazard" means the potential to burn.

(3) "Hazard Factor" means the factors which most influence the potential of a geographic area to burn. Hazard factors are fire weather, topography, natural vegetative fuels, and natural vegetative fuel distribution.

(4) "Hazard Rating" means a cumulative value resulting from the summation of hazard values for all four hazard factors. It reflects the overall potential for a given geographic area to burn.

(5) "Hazard Value" means a value assigned to a hazard factor within a geographic area.

(6) "Jurisdiction" means a unit of local government authorized by law to adopt a building code or a fire prevention code.

(7) "Land Features" means roads, jurisdictional boundaries and other features created by human activity.

(8) "Natural Geographic Features" means streams, ridge lines and other features naturally occurring.

(9) "Wildfire Hazard Zone" means a geographic area having a combination of hazard factors that result in a significant hazard of catastrophic fire over relatively long periods of each year.

Stat. Auth.: [ORS 526](http://landru.leg.state.or.us/ors/526.html).016  
Stats. Implemented: [ORS 93.](http://landru.leg.state.or.us/ors/093.html)270  
Hist.: FB 2-1996, f. 3-13-96, cert. ef. 4-1-96

**629-044-0210**

**Purpose**

The purpose of OAR chapter 629, division 044 is to set forth the criteria by which Wildfire Hazard Zones shall be determined by jurisdictions. Such a determination is necessary before the provisions of [ORS 93.](http://landru.leg.state.or.us/ors/093.html)270(4), portions of the **Oregon One and Two Family Dwelling Specialty Code**, and portions of the **Oregon Structural Specialty Code** can become effective. The determination of Wildfire Hazard Zones by jurisdictions is voluntary.

Stat. Auth.: [ORS 526](http://landru.leg.state.or.us/ors/526.html).016  
Stats. Implemented: [ORS 93.](http://landru.leg.state.or.us/ors/093.html)270  
Hist.: FB 2-1996, f. 3-13-96, cert. ef. 4-1-96

**629-044-0220**

**Wildfire Hazard Zones**

(1) For the convenience of administration, when practical, a jurisdiction may utilize nearby natural geographic features or land features to delineate the boundaries of Wildfire Hazard Zones.

(2) It is not the intent of OAR chapter 629, division 044 that Wildfire Hazard Zones be determined on a tax lot or an ownership specific basis, but rather that a landscape approach be used.

(3) To determine the existence of Wildfire Hazard Zones, a jurisdiction shall:

(a) Determine, for each hazard factor, the appropriate geographic areas and associated hazard values; then

(b) Overlay the geographic areas and associated hazard values determined in subsection (3)(a) above, then determine the resulting composite geographic areas and the associated hazard rating for each composite area.

(c) For each composite geographic area determined in subsection (3)(b) above, determine whether a Wildfire Hazard Zone is present from **Table 5**.

**TABLE 5**

**WILDFIRE HAZARD ZONE**

**Hazard Rating** -- **Wildfire Hazard Zone**

1, 2, 3, 4, 5, or 6 -- NO

7, 8, 9, 10, 11 or 12 -- YES

Stat. Auth.: [ORS 526](http://landru.leg.state.or.us/ors/526.html).016  
Stats. Implemented: [ORS 93.](http://landru.leg.state.or.us/ors/093.html)270  
Hist.: FB 2-1996, f. 3-13-96, cert. ef. 4-1-96

**629-044-0230**

**Fire Weather Hazard Factor**

(1) The reference for establishing the fire weather hazard factor shall be data provided by the Oregon Department of Forestry, which was developed following an analysis of daily fire danger rating indices in each regulated use area of the state.

(2) For geographic areas described in **Table 1**, select the appropriate hazard value from **Table 1**.

**TABLE 1**

**FIRE WEATHER HAZARD FACTOR**

**County -- Hazard Value**

Baker -- 3

Benton -- 2

Clackamas -- 2

Clatsop, Area 1 - All of Clatsop County except Area 2. -- 1

Clatsop, Area 2 - That portion of Clatsop County in Township 4 North Range 6 West. -- 2

Columbia -- 2

Coos, Area 1 - All of Coos County except Area 2. -- 1

Coos, Area 2 - That portion of Coos County east of a generally north-south straight line which extends from the boundary with Douglas County, passes through the locales of Allegany and Gaylord, to the boundary with Curry County. -- 2

Crook -- 3

Curry, Area 1 - All of Curry County except Area 2. -- 1

Curry, Area 2 - That portion of Curry County east of the north-south line between Townships 13 West and 14 West. -- 2

Deschutes -- 3

Douglas, Area 1 - That portion of Douglas County west of a generally north-south straight line which extends from the boundary with Lane County, passes through the locale of Sulpher Springs, to the boundary with Coos County. -- 1

Douglas, Area 2 - That portion of Douglas County east of Area 1 and west of the north-south line between Townships 8 West and 9 West. -- 2

Douglas, Area 3 - That portion of Douglas County east of Area 1 and north of a generally east-west straight line which extends from the city of Cottage Grove to the mouth of Winchester Bay. -- 2

Douglas, Area 4 - That portion of Douglas County east of Area 2, south of Area 3 and west of Area 5. -- 3

Douglas, Area 5 - That portion of Douglas County east of a generally north-south line which follows the western boundary of the Umpqua National Forest from the boundary with Jackson County to the boundary with Lane County. -- 2

Gilliam -- 3

Grant -- 3

Harney -- 3

Hood River -- 3

Jackson -- 3

Jefferson -- 3

Josephine, Area 1 - All of Josephine County except Area 2. -- 2

Josephine, Area 2 - That portion of Josephine County east of a generally north-south line which follows Highway 199 from the California border to the locale of Wonder and than extends straight through the locale of Galice to the boundary with Douglas County. -- 3

Klamath -- 3

Lake -- 3

Lane, Area 1 - All of Lane County except Area 2. -- 1

Lane, Area 2 - That portion of Lane County east of generally north-south straight line which extends from the boundary with Benton County through the northeast corner of Township 15 South Range 9 West and the southwest corner of Township 18 South Range 9 West to the boundary with Douglas County. -- 2

Lincoln, Area 1 - All of Lincoln County except Area 2. -- 1

Lincoln, Area 2 - That portion of Lincoln County east of a generally north-south straight line which extends from the boundary with Lane County through the southwest corner of Township 14 South Range 10 West to the northwest corner of Township 12 South Range 10 West then straight to the northeast corner of Township 14 South Range 10 West then straight through the locale of Rose Lodge to the boundary with Tillamook County. -- 2

Linn -- 2

Malheur -- 3

Marion -- 2

Morrow -- 3

Multnomah -- 2

Polk -- 2

Sherman -- 3

Tillamook, Area 1 - All of Tillamook County except Area 2. -- 1

Tillamook, Area 2 - That portion of Tillamook County east of the north-south line between Townships 7 West and 8 West. -- 2

Umatilla -- 3

Union -- 3

Wallowa -- 3

Wasco -- 3

Washington -- 2

Wheeler -- 3

Yamhill --2

Stat. Auth.: [ORS 526](http://landru.leg.state.or.us/ors/526.html).016  
Stats. Implemented: [ORS 93.](http://landru.leg.state.or.us/ors/093.html)270  
Hist.: FB 2-1996, f. 3-13-96, cert. ef. 4-1-96

**629-044-0240**

**Topography Hazard Factor**

(1) The reference for establishing the topography hazard factor shall be:

(a) The General Soil Map Report published by the Oregon Water Resources Board and the Soil Conservation Service, USDA in 1969; or

(b) The appropriate 7.5 minute quadrangle map published by the U.S. Geological Survey, USDI.

(2) For geographic areas determined by use of a reference set forth in subsection(1) above, select the appropriate hazard value from **Table 2**.

**TABLE 2**

**TOPOGRAPHY HAZARD FACTOR**

**Map Slope Class** -- **Hazard Value**

1 (Slopes 00-03%) -- 0

2 (Slopes 03-07%) -- 1

3 (Slopes 07-12%) -- 1

4 (Slopes 12-20%) -- 2

5 (Slopes 20-35%) -- 3

6 (Slopes 35-60+%) -- 3

Stat. Auth.: [ORS 526](http://landru.leg.state.or.us/ors/526.html).016  
Stats. Implemented: [ORS 93.](http://landru.leg.state.or.us/ors/093.html)270  
Hist.: FB 2-1996, f. 3-13-96, cert. ef. 4-1-96

**629-044-0250**

**Natural Vegetative Fuel Hazard Factor**

(1) The reference for establishing the natural vegetative fuel hazard factor shall be the "Aids to Determining Fuel Models For Estimating Fire Behavior" published by the Forest Service, USDA Intermountain Forest and Range Experiment Station in 1982 as General Technical Report INT-122.

(2) Using the natural vegetative fuel models described in the reference set forth in subsection(1), and summarized in T**able 3**, divide the jurisdiction into geographic areas which best describe the natural vegetation expected to occupy sites for the next 10 to 15 years and then select the appropriate hazard value from **Table 3**.

**TABLE 3**

**NATURAL VEGETATIVE FUEL HAZARD FACTOR**

**Natural Vegetative Fuel Description -- Hazard Value**

Little or no natural vegetative fuels are present. -- 0

Grass. Very little shrub or timber is present, generally less than one-third of the area. Main fuel is generally less than two feet in height. Fires are surface fires that move rapidly through cured grass and associated material. (Fuel model 1) -- 3

Grass. Open shrub lands and pine stands or scrub oak stands that cover one-third to two-thirds of the area. Main fuel is generally less that two feet in height. Fires are surface fires that spread primarily through the fine herbaceous fuels, either curing or dead. (Fuel model 2) -- 3

Grass. Beach grasses, prairie grasses, marshland grasses and wild or cultivated grains that have not been harvested. Main fuel is generally less than four feet in height, but considerable variation may occur. Fires are the most intense of the grass group and display high rates of spread under the influence of wind.(Fuel model 3) -- 3

Shrubs. Stands of mature shrubs have foliage known for its flammability, such as gorse, manzanita and snowberry. Main fuel is generally six feet or more tall. Fires burn with high intensity and spread very rapidly. (Fuel model 4) -- 3

Shrubs. Young shrubs with little dead material and having foliage not known for its flammability, such as laurel, vine maple and alders. Main fuel is generally three feet tall or less. Fires are generally carried in the surface fuels and are generally not very intense. (Fuel model 5) -- 1

Shrubs. Older shrubs with foliage having a flammability less than fuel model 4, but more than fuel model 5. Widely spaced juniper and sagebrush are represented by this group. Main fuel is generally less than six feet in height. Fires will drop to the ground at low wind speeds and in stand openings. (Fuel model 6) -- 2

Timber. Areas of timber with little undergrowth and small amounts of litter buildup. Healthy stands of lodgepole pine, spruce, fir and larch are represented by this group. Fires will burn only under severe weather conditions involving high temperatures, low humidities and high winds. (Fuel model 8) -- 1

Timber. Areas of timber with more surface litter than fuel model 8. Closed stands of healthy ponderosa pine and white oak are in this fuel model. Spread of fires will be aided by rolling or blowing leaves. (Fuel model 9) -- 2

Timber. Areas of timber with heavy buildups of ground litter caused by overmaturity or natural events of wind throw or insect infestations. Fires are difficult to control due to large extent of ground fuel. (Fuel model 10) -- 3

Stat. Auth.: [ORS 526](http://landru.leg.state.or.us/ors/526.html).016  
Stats. Implemented: [ORS 93.](http://landru.leg.state.or.us/ors/093.html)270  
Hist.: FB 2-1996, f. 3-13-96, cert. ef. 4-1-96

**629-044-0260**

**Natural Vegetative Fuel Distribution Hazard Factor**

(1) Divide the jurisdiction into geographic areas which best describe the percentage of the area which is occupied by the foliage of natural vegetative fuels.

(2) For each geographic area determined in section(1) above, select the appropriate hazard value from **Table 4**.

**TABLE 4**

**NATURAL VEGETATIVE FUEL DISTRIBUTION**

**HAZARD FACTOR**

**Natural Vegetative Fuel Distribution -- Hazard Value**

0 to 10% of the area -- 0

10 to 25% of the area -- 1

25 to 40% of the area -- 2

40 to 100% of the area -- 3

Stat. Auth.: [ORS 526](http://landru.leg.state.or.us/ors/526.html).016  
Stats. Implemented: [ORS 93.](http://landru.leg.state.or.us/ors/093.html)270  
Hist.: FB 2-1996, f. 3-13-96, cert. ef. 4-1-96

**Wildland-Urban Interface**

**629-044-1000**

**Purpose**

(1) The purpose of OAR 629-044-1000 to 629-044-1110 is to implement the provisions of ORS 477.015 to 477.061, the Oregon Forestland-Urban Interface Fire Protection Act of 1997.

(2) The purpose of OAR 629-044-1010 to 629-044-1045 is to set forth the criteria by which the forestland-urban interface shall be identified and classified pursuant to ORS 477.025 to 477.057.

(3) The purpose of OAR 629-044-1050 to 629-044-1090 is to set forth the standards an owner of land in the forestland-urban interface shall apply pursuant to ORS 477.059(2).

(4) The purpose of OAR 629-044-1095 to 629-044-1105 is to set forth the process for written evaluation and certification pursuant to ORS 477.059(3).

(5) The purpose of OAR 629-044-1110 is to set forth the processes which shall apply to special or additional costs of fire protection within the forestland-urban interface pursuant to ORS 477.060.

Stat. Auth.: ORS 477.027, ORS 477.059, ORS 477.060  
Stats. Implemented: ORS 477.015 - ORS 477.061  
Hist.: DOF 9-2002, f. 9-19-02, cert. ef.11-15-02

**629-044-1005**

**Definitions**

(1) The definitions set forth in ORS 477.001, 477.015 and OAR 629-041-0005 shall apply to 629-044-1000 to 629-044-1110, unless the context otherwise requires.

(2) The following words and phrases, when used in OAR 629-044-1000 to 629-044-1110, shall mean the following, unless the context otherwise requires:

(a) "Community Wildfire Protection Plan" means a plan developed pursuant to the federal Healthy Forests Restoration Act of 2003 and which has been approved, within the past five years, by the appropriate city or county, by the appropriate structural fire service provider and by the Oregon Department of Forestry.

(b) "Concentration of structures" means dwellings in a density of four or more per quarter of a quarter section (an area approximately 40 acres in size), as determined by the Public Land Survey.

(c) "Classification" means the process set forth in ORS 477.031 to 477.052 and 477.057.

(d) "Classified by a committee" means the end result of the classification process set forth in ORS 477.031 to 477.052 and 477.057.

(e) "Current zoning" means zoning which allows the siting of a dwelling as an outright use.

(f) "Driveway" means the primary, privately owned vehicle access road that serves a dwelling, which is controlled by the owner of the dwelling, and which is longer than 150 feet.

(g) "Dwelling" means a structure, or a part of a structure, that is used as a home, as a residence, or as a sleeping place by one or more people who maintain a household in the structure.

(h) "Fire resistant roofing " means roofing material that has been installed and is maintained to the specifications of the manufacturer and which:

(A) Is rated by Underwriter's Laboratory as Class A, Class B, Class C, or is equivalent thereto; or

(B) Is metal.

(i) "Fuel break" means a natural or a human-made area immediately adjacent to a structure or to a driveway, where material capable of allowing a wildfire to spread does not exist or has been cleared, modified, or treated to:

(A) Significantly reduce the rate of spread and the intensity of an advancing wildfire; and

(B) Create an area in which fire suppression operations may more safely occur.

(j) "Geographic area" means an area which results from the partitioning of all or portions of a district into smaller segments, based on the presence of differing hazard factors, risks, or dwelling concentrations.

(k) "Hazard factor" means one of the three factors which most influence the potential of a wildfire to spread. The three hazard factors are topography, natural vegetative fuels, and wildfire weather.

(l) "Homeowner's association" means a non-profit corporation organized under ORS Chapter 65 and which is subject to the provisions of ORS 94.625 to 94.700.

(m) "Included rural lands" means lands which meet the definition of "rural" but which have been classified by a committee as "suburban."

(n) "Ladder fuel" means branches, leaves, needles, and other combustible vegetation that may allow a wildfire to spread from lower growing vegetation to higher growing vegetation.

(o) "Lands" means one or more tax lots.

(p) "Non-fire resistant roofing" means roofing material that is not fire resistant including, but not limited to, cedar shakes.

(q) "Private fire department" means a private entity which provides structural fire prevention and suppression services and which meets the safety requirements set forth in OAR 437-002-0182.

(r) "Road" means a road over which the public has a right of use that is a matter of public record.

(s) "Rural" means a geographic area which has not been classified by a committee as suburban or urban and shall include:

(A) Lands zoned primarily for farm or forestry uses;

(B) Lands which have an average tax lot size of 10 acres or larger;

(C) Lands not zoned to allow a concentration of structures; and

(D) Lands which do not contain a concentration of structures.

(t) "Safety zone" means an adequately sized area, which is substantially free of flammable materials, and which can be used as a refuge to protect human life from an advancing wildfire.

(u) "Standards" means the actions, efforts, or measures which owners of suburban and urban lands shall take on their property, prior to a wildfire occurrence which originates on the property.

(v) "Structural fire service provider" means a local government agency or a private fire department which provides structural fire prevention and suppression services.

(w) "Structure" means a permanently sited building, a manufactured home, or a mobile home that is either a dwelling or an accessory building, which occupies at least 500 square feet of ground space, and which has at least one side that is fully covered.

(x) "Suburban" means a geographic area which includes one or more of the following:

(A) Lands where a concentration of structures exists;

(B) Lands on which current zoning allows a concentration of structures; or

(C) Included rural lands.

(y) "Urban" means a geographic area that includes one or more of the following:

(A) Lands within a city limit; or

(B) Lands within an urban growth boundary.

(z) "Urban growth boundary" is defined by ORS 197.295.

(aa) "Wildfire" means an uncontrolled fire which is burning on forestland and which is damaging, or is threatening to damage, forest resources or structures.

(ab) "Zoning" means a local governmental zoning ordinance, a land division ordinance adopted under ORS 92.044 or 92.046, or a similar general ordinance establishing standards for implementing a comprehensive plan.

Stat. Auth.: ORS 477.027, 477.059 & 477.060   
Stats. Implemented: ORS 477.015 - 477.061   
Hist.: DOF 9-2002, f. 9-19-02, cert. ef.11-15-02; DOF 3-2007, f. 8-23-07, cert. ef. 12-31-07

**629-044-1010**

**Forestland-Urban Interface Lands Identified By A Committee**

(1) A committee shall identify for classification only those lands which:

(a) Are within the county of its jurisdiction;

(b) Are within a forest protection district;

(c) Meet the definition of forestland; and

(d) Meet the definition of suburban or urban.

(2) The amount of included rural lands identified for classification as suburban shall be kept to a minimum.

(3) Lands which meet all the criteria set forth in subsections (1) and (2) of this rule shall be considered to be forestland-urban interface lands.

(4) A committee shall set forth the boundaries of forestland-urban interface lands identified in subsection (3) of this rule. For clarity, natural geographic features, human-made land features, public land survey lines, and political boundary lines should be used to describe such boundaries.

Stat. Auth.: ORS 477.027

Stats. Implemented: ORS 477.025 -- ORS 477.057

Hist.: DOF 9-2002, f. 9-19-02, cert. ef.11-15-02

**629-044-1015**

**Forestland-Urban Interface Lands Classified By A Committee**

(1) Forestland-urban interface lands shall be classified by a committee as follows:

(a) Locate, for each hazard factor, the appropriate geographic areas and the associated values from the criteria set forth in OAR 629-044-1035 to 629-044-1045; then

(b) Overlay the geographic areas and the associated values, located in subsection (1)(a) of this rule, and identify the resulting composite geographic areas and the associated values; then

(c) Determine the classification for each composite geographic area identified in subsection (1)(b) of this rule, from the criteria set forth in **Table 1** of this rule.

(d) Geographic areas determined in subsection (1)(c) of this rule to be "Extreme" may be classified by a committee as "High Density Extreme" pursuant to OAR 629-044-1020.

(2) A committee shall set forth the boundaries of the geographic areas classified by a committee pursuant to subsection (1) of this rule. For clarity, natural geographic features, human-made land features, public land survey lines, and political boundary lines should be used to describe such boundaries.

[ED.NOTE: Tables referenced are available from the agency.]

Stat. Auth.: ORS 477.027  
Stats. Implemented: ORS 477.025 - ORS 477.057  
Hist.: DOF 9-2002, f. 9-19-02, cert. ef.11-15-02

**629-044-1020**

**High Density Extreme Classification**

(1)(a) The purpose of the High Density Extreme classification is to identify those lands where vegetation modification around structures alone may not be sufficient to help protect lives during a wildfire.

(b) Owners of lands classified High Density Extreme are required to provide fuel breaks adjacent to:

(A) Property lines;

(B) Roads; or

(C) Both property lines and roads.

(2) Lands may be classified by a committee as High Density Extreme when a geographic area meets all of the following criteria:

(a) The lands have been classified by a committee as Extreme based on the hazard factors;

(b) The lands have a current zoning for residential development;

(c) The lands contain fuels which, if not modified or treated, will result in a wildfire having a significant rate of spread and intensity;

(d) The lands have:

(A) An average tax lot size of less than three acres; or

(B) A typical tax lot configuration which prevents the establishment of a 30 feet wide fuel break adjacent to structures;

(e) The lands lack:

(A) Safety zones; or (B) Effective vehicle egress which may hamper the safe evacuation of dwellings during a wildfire.

(3) Notwithstanding subsection (2) of this rule, lands may be classified by a committee as High Density Extreme when all of the following apply to a geographic area which has current zoning for residential development:

(a) The committee receives a written request for such classification from one or more of the following entities in which the lands are located:

(A) The county;

(B) The city;

(C) The structural fire service provider;

(D) The entity responsible for development of a Community Wildfire Protection Plan; or

(E) The homeowner's association.

(b) The written request contains:

(A) Certification that the request has been approved by the governing body of the entity;

(B) Justification for the requested classification, based upon:

(i) The existence of fuels which, if not modified or treated, will result in a wildfire having a significant rate of spread and intensity; or

(ii) A lack of effective vehicle egress which may hamper the safe evacuation of dwellings during a wildfire.

(4) When lands are classified by a committee as High Density Extreme, the committee shall also specify which of the following options shall apply to the lands:

(a) Option 1, where fuel breaks shall be provided adjacent to property lines pursuant to OAR 629-044-1075(1);

(b) Option 2, where fuel breaks shall be provided adjacent to roads pursuant to ORS 629-044-1075(2); or

(c) Option 3, where fuel breaks shall be provided adjacent to property lines and to roads pursuant to OAR 629-044-1075(1) and (2).

(5) Written requests received by a committee under subsection (3) of this rule automatically terminate after a period of five years.

Stat. Auth.: ORS 477.027   
Stats. Implemented: ORS 477.025 - 477.057   
Hist.: DOF 9-2002, f. 9-19-02, cert. ef.11-15-02; DOF 3-2007, f. 8-23-07, cert. ef. 12-31-07

**629-044-1025**

**Periodic Forestland-Urban Interface Lands Identification And Classification**

The identification and classification of forestland-urban interface lands shall be reviewed by a committee at least once every five years.

Stat. Auth.: ORS 477.027  
Stats. Implemented: ORS 477.025 - ORS 477.057  
Hist.: DOF 9-2002, f. 9-19-02, cert. ef.11-15-02

**629-044-1030**

**Forestland-Urban Interface Lands Identification And Classification By The State Forester**

When the State Forester performs the duties of a committee pursuant to ORS 477.057, the State Forester shall comply with OAR 629-044-1010 to 629-044-1045.

Stat. Auth.: ORS 477.027  
Stats. Implemented: ORS 477.025 - ORS 477.057  
Hist.: DOF 9-2002, f. 9-19-02, cert. ef.11-15-02

**629-044-1035**

**Wildfire Weather Hazard Factor**

(1) The reference for establishing the wildfire weather hazard factor shall be data provided by the Oregon Department of Forestry, which was developed following an analysis of daily wildfire danger rating indices in each regulated use area of the state and which is described in **Table 1** of OAR 629-044-0230.

(2) For the geographic areas described in **Table 1** of OAR 629-044-0230, select the appropriate hazard values.

(3) A committee may increase the hazard value determined in subsection (2) of this rule by one point in any geographic area which it determines to have a history of frequent wildfire occurrence.

Stat. Auth.: ORS 477.027  
Stats. Implemented: ORS 477.025 - ORS 477.057  
Hist.: DOF 9-2002, f. 9-19-02, cert. ef.11-15-02

**629-044-1040**

**Topography Hazard Factor**

(1) The reference for establishing the topography hazard factor shall be:

(a) A 30-meter or better Digital Elevation Model (DEM); or

(b) The appropriate 7.5 minute quadrangle map published by the U.S. Geological Survey, USDI.

(2) Using the reference set forth in subsection (1) of this rule, determine the geographic areas which best describe:

(a) Areas having an overall slope of 25% (14 degrees) or less; and

(b) Areas having an overall slope of more than 25% (14 degrees).

(3) Each geographic area determined in subsection (2) of this rule shall be assigned an appropriate hazard value, as follows:

(a) A hazard value of 1, for geographic areas described by subsection (2)(a) of this rule; or

(b) A hazard value of 2, for geographic areas described by subsection (2)(b) of this rule.

Stat. Auth.: ORS 477.027  
Stats. Implemented: ORS 477.025 - ORS 477.057  
Hist.: DOF 9-2002, f. 9-19-02, cert. ef.11-15-02

**629-044-1045**

**Natural Vegetative Fuel Hazard Factor**

(1) The reference for establishing the natural vegetative fuel hazard factor shall be the document "Aids to Determining Fuel Models for Estimating Fire Behavior" published by the Forest Service, USDA Intermountain Forest and Range Experiment Station in 1982 as General Technical Report Technical INT-122. Information from this reference is summarized in **Table 3** of OAR 629-044-0250. [Table not included. See ED. NOTE]

(2) Using the fuel models described in the reference set forth in subsection (1) of this rule, determine the geographic areas which best describe the natural vegetative fuels expected to occupy an area for the next five years.

(3) The geographic areas determined in subsection (2) of this rule shall be assigned the appropriate hazard value, as shown in **Table 3** of OAR 629-044-0250.

(4) It is recognized that natural vegetation is highly variable and that the fuel models used in subsection (2) of this rule may not always accurately reflect expected wildfire behavior, due to variations in local species and vegetation conditions. Therefore, a committee may make such modifications to the hazard values as it determines is necessary to accurately reflect the following:

(a) A hazard value of 1 shall describe vegetation that typically produces a flame length of up to 5 feet, a wildfire which exhibits very little spotting, torching, or crowning, and which results in a burned area that can normally be entered within 15 minutes.

(b) A hazard value of 2 shall describe vegetation that typically produces a flame length of 5 to 8 feet, a wildfire which exhibits sporadic spotting, torching, or crowning, and which results in a burned area that can normally be entered within one hour.

(c) A hazard value of 3 shall describe vegetation that typically produces a flame length of over 8 feet, a wildfire that exhibits frequent spotting, torching, or crowning, and which results in a burned area that normally cannot be entered for over one hour.

Stat. Auth.: ORS 477.027  
Stats. Implemented: ORS 477.025 - ORS 477.057  
Hist.: DOF 9-2002, f. 9-19-02, cert. ef.11-15-02

**629-044-1050**

**Purpose And Intent Of Standards**

(1) The standards required by OAR 629-044-1055 are designed to minimize or mitigate a wildfire hazard or risk on an owners property which arises due, singly or in combination, to the presence of structures, to the arrangement or accumulation of vegetative fuels, or to the presence of other wildfire hazards.

(2) It is recognized that owners have a variety of objectives to achieve while applying the standards, including objectives related to aesthetics, dust barriers, fish and wildlife habitat, gardening, soil stabilization, sound barriers, and visual barriers. It is the intent of the standards to allow owners to meet such objectives, provided there is no compromise of the standards needed to mitigate wildfire hazards or risks.

(3) The standards are considered to be minimum measures which are intended to improve the survivability of structures during a wildfire, but which will not guarantee survivability.

Stat. Auth.: ORS 477.059  
Stats. Implemented: ORS 477.059  
Hist.: DOF 9-2002, f. 9-19-02, cert. ef.11-15-02

**629-044-1055**

**Standards**

(1) Owners of lands classified by a committee as Low are not required to comply with the standards, however, they are encouraged to review their individual situation and to apply those standards which may be appropriate.

(2) Owners of lands classified by a committee as Moderate, High, Extreme, or High Density Extreme shall comply with the standards applicable to their lands. In meeting this requirement, owners shall apply one or more of the following:

(a) The default standards set forth in OAR 629-044-1060, which are intended for the majority of owners;

(b) The optional standards set forth in OAR 629-044-1065, which are intended for owners who are unable to meet the default standards; or

(c) The alternate standards developed pursuant to OAR 629-044-1070, which are intended for owners who wish to address site specific conditions or unique situations.

(3) Owners are encouraged to exceed the standards and to apply additional wildfire safety measures.

Stat. Auth.: ORS 477.059  
Stats. Implemented: ORS 477.059  
Hist.: DOF 9-2002, f. 9-19-02, cert. ef.11-15-02

**629-044-1060**

**Default Standards**

(1) Where structures exist on lands classified by a committee as Moderate, High, Extreme, or High Density Extreme owners shall:

(a) Provide and maintain primary fuel breaks which comply with the requirements of OAR 629-044-1085 and which are:

(A) Immediately adjacent to structures, for a distance of at least 30 feet, or to the property line, whichever is the shortest distance. The distance shall be measured along the slope and from the furthest extension of the structure, including attached carports, decks, or eaves.

(B) Immediately adjacent to driveways, for a distance of at least ten feet from the centerline of a driveway, or to the property line, whichever is the shortest distance. The distance shall be measured along the slope. Including the driving surface, a fuel break shall result in an open area which is not less than 13 1/2 feet in height and 12 feet in width or to the property line, whichever is the shortest distance.

(b) Provide and maintain secondary fuel breaks which comply with the requirements of OAR 629-044-1085 and which are immediately adjacent to primary fuel breaks, for the distance necessary to comply with the total fuel break distance specified in **Table 2** of this rule, or to the property line, whichever is the shortest distance. The distance shall be measured along the slope and from the furthest extension of the structure, including attached carports, decks, or eaves.

(c) Remove any portion of a tree which extends to within 10 feet of the outlet of a structure chimney or a stove pipe;

(d) Maintain the portion of any tree which overhangs a structure substantially free of dead plant material;

(e) Maintain the area under decks substantially free of firewood, stored flammable building material, leaves, needles, and other flammable material; and

(f) During times of the year when wildfire may be a threat, locate firewood, flammable building material, and other similar flammable material:

(A) At least 20 feet away from a structure; or

(B) In a fully enclosed space.

(2) On all lands classified by a committee as High Density Extreme, owners shall comply with subsection (1) of this rule and with the standards set forth in OAR 629-044-1075.

[ED.NOTE: Tables referenced are available from the agency.]

Stat. Auth.: ORS 477.059  
Stats. Implemented: ORS 477.059  
Hist.: DOF 9-2002, f. 9-19-02, cert. ef.11-15-02

**629-044-1065**

**Optional Standards**

(1) Where structures exist on lands classified by a committee as Moderate, High, Extreme, or High Density Extreme, owners shall provide fuel breaks which comply with the requirements of OAR 629-044-1085 and which are immediately adjacent to structures for a distance of thirty feet or to the property line, whichever is the shortest distance. The distance shall be measured along the slope and from the furthest extension of the structure, including attached carports, decks, or eaves.

(2) Where structures exist on lands classified by a committee as Moderate, owners shall comply with subsection (1) of this rule and with one or more of the options set forth in subsection (6) of this rule.

(3) Where structures exist on lands classified by a committee as High, owners shall comply with subsection (1) of this rule and with two or more of the options set forth in subsection (6) of this rule.

(4) Where structures exist on lands classified by a committee as Extreme, owners shall comply with subsection (1) of this rule and with three or more of the options set forth in subsection (6) of this rule.

(5) Where structures exist on lands classified by a committee as High Density Extreme, owners shall comply with subsection (1) of this rule, with three or more of the options set forth in subsection (6) of this rule, and with subsection (7) of this rule.

(6) Optional standards are:

(a) Option 1, fire resistant structures. This option is intended to reduce the likelihood of a structure being ignited by a wildfire. To comply with this option, owners of structures shall:

(A) Have fire resistant roofing material;

(B) Have all permanent openings into and under the structure completely covered with noncombustible, corrosion-resistant, mesh screening material, which has openings no greater than 1/4 inch in size;

(C) Where there are attachments to the structure, such as decks and porches:

(i) Maintain the area under the attachments substantially free of firewood, flammable building material, leaves, needles, and other flammable material; or

(ii) Cover openings to the area under the attachments with noncombustible, corrosion-resistant mesh screening material, which has openings no greater than 1/4 inch in size;

(D) Remove any portion of a tree which extends to within 10 feet of the outlet of a structure chimney or a stove pipe;

(E) Maintain the portion of any tree which overhangs a structure substantially free of dead plant material; and

(F) During times of the year when wildfire may be a threat, locate firewood, flammable building material, and other similar flammable material:

(i) At least 20 feet away from the structure; or

(ii) In a fully enclosed space.

(b) Option 2, secondary fuel break. This option is intended to provide additional separation between structures and natural vegetation. To comply with this option, owners of structures shall provide and maintain secondary fuel breaks which comply with the requirements of OAR 629-044-1085 and which are immediately adjacent to primary fuel breaks, for the distance necessary to create a total fuel break of 100 feet, or to the property line, whichever is the shortest distance. The distance shall be measured along the slope and from the furthest extension of the structure, including attached carports, decks, or eaves.

(c) Option 3, wildfire safe access. This option is intended to provide a more safe vehicle access to and from structures during a wildfire. To comply with this option, owners of a driveway shall provide and maintain a primary fuel break which complies with the requirements of OAR 629-044-1085 and which is immediately adjacent to a driveway for a distance of ten feet from the centerline of the driveway, or to the property line, whichever is the shortest distance. The distance shall be measured along the slope. Including the driving surface, a fuel break shall result in an open area which is not less than 13 1/2 feet in height and 12 feet in width or to the property line, whichever is the shortest distance.

(d) Option 4, low ignition risk property. This option is intended to reduce the likelihood of a wildfire ignition. To comply with this option, owners shall at all times use the following fire prevention practices:

(A) Open fires shall be:

(i) Built, ignited and maintained in compliance with all applicable permit and fire safety requirements;

(ii) Tended and maintained under the control of a person 16 years of age or older;

(iii) Conducted only when weather conditions permit safe burning;

(iv) Conducted in a location which has had all surrounding material cleared of flammable material sufficient to prevent unintended spread of the fire; and

(v) Conducted only when adequate and appropriate fire tools and/or a water supply are present to assist in preventing unintended spread of the fire.

(B) Grills, incinerators, outdoor fireplaces, permanent barbecues, and similar outdoor devices shall be maintained in good repair, in safe condition, and all openings shall normally be completely covered by a spark arrester, by a screen, or by a device which prevents unintended spread of a fire.

(C) Ashes and coals resulting from the use of grills, incinerators, outdoor fireplaces, permanent barbecues, and similar outdoor devices shall be disposed of in a manner which prevents unintended spread of a fire.

(D) The use of outdoor equipment or devices capable of generating heat, open flame, or sparks shall be conducted in compliance with all applicable permit and fire safety requirements; and

(E) Chimneys and stove pipes shall be used only if their openings are completely covered with a spark arrester which meets or exceeds the following standard: constructed of 12 USA standard gauge wire which has openings no larger than 1/2 inch in size.

(7) On all lands classified by a committee as High Density Extreme, owners comply with the standards set forth in OAR 629-044-1075.

Stat. Auth.: ORS 477.059  
Stats. Implemented: ORS 477.059  
Hist.: DOF 9-2002, f. 9-19-02, cert. ef.11-15-02

**629-044-1070**

**Alternate Standards**

(1) Where structures exist on lands classified by a committee as Moderate, High, Extreme, or High Density Extreme, owners shall comply with all standards described in a cooperative agreement made pursuant to ORS 477.406.

(2) Cooperative agreements which describe alternate standards shall be valid only if:

(a) On forms provided by the State Forester or in a format prescribed by the State Forester;

(b) Signed by the District Forester and by the owner; and

(c) The alternate standards provide, in the judgement of the District Forester, for equal or better protection from wildfire than do the standards of OAR 629-044-1060, 629-044-1065, and 629-044-1075 which apply to the classification of the lands for which the cooperative agreement is made.

Stat. Auth.: ORS 477.059  
Stats. Implemented: ORS 477.059  
Hist.: DOF 9-2002, f. 9-19-02, cert. ef.11-15-02

**629-044-1075**

**Additional Standards For Lands Classified As High Density Extreme**

(1) On all lands classified by a committee as High Density Extreme with Option 1, owners shall provide fuel breaks which comply with the requirements of OAR 629-044-1085 and which are immediately adjacent to all property lines, for a distance of twenty feet or to the adjacent property line, whichever is the shortest distance. The distance shall be measured along the slope.

(2) On all lands classified by a committee as High Density Extreme with Option 2, owners shall provide fuel breaks which comply with the requirements of OAR 629-044-1085 and which are immediately adjacent to all road centerlines, for a distance of at least thirty feet, or to the property line, whichever is the shortest distance. The distance shall be measured along the slope and from the center of the driving surface.

(3) On all lands classified by a committee as High Density Extreme with Option 3, owners shall comply with subsections (1) and (2) of this rule.

Stat. Auth.: ORS 477.059   
Stats. Implemented: ORS 477.059   
Hist.: DOF 9-2002, f. 9-19-02, cert. ef.11-15-02; DOF 3-2007, f. 8-23-07, cert. ef. 12-31-07

**629-044-1080**

**Modification Of Standards**

The District Forester may, in writing, reduce or waive any standard of OAR 629-044-1060, 629-044-1065, 629-044-1075, and 629-044-1085 if the forester finds that conditions so warrant. Reductions or waivers made under this rule:

(1) May be made only after a written request from the owner;

(2) Are intended to be few in number;

(3) Must address:

(a) A site specific condition or a unique situation which does not warrant the development of alternate standards under OAR 629-044-1070; or

(b) A conflict with the requirements of other codes, laws, ordinances, or regulations, as described in ORS 477.023(2), and which does not warrant the development of alternate standards under OAR 629-044-1070; and

(4) Shall be:

(a) On forms provided by the State Forester or in a format prescribed by the State Forester;

(b) Signed by the District Forester and by the owner.

Stat. Auth.: ORS 477.059  
Stats. Implemented: ORS 477.059  
Hist.: DOF 9-2002, f. 9-19-02, cert. ef.11-15-02

**629-044-1085**

**Fuel Break Requirements**

(1) The purpose of a fuel break is to:

(a) Slow the rate of spread and the intensity of an advancing wildfire; and

(b) Create an area in which fire suppression operations may more safely occur.

(2) A fuel break shall be a natural or a human-made area where material capable of allowing a wildfire to spread:

(a) Does not exist; or

(b) Has been cleared, modified, or treated in such a way that the rate of spread and the intensity of an advancing wildfire will be significantly reduced.

(3) A primary fuel break shall be comprised of one or more of the following:

(a) An area of substantially non-flammable ground cover. Examples include asphalt, bare soil, clover, concrete, green grass, ivy, mulches, rock, succulent ground cover, or wildflowers.

(b) An area of dry grass which is maintained to an average height of less than four inches.

(c) An area of cut grass, leaves, needles, twigs, and other similar flammable materials, provided such materials do not create a continuous fuel bed and are in compliance with the intent of subsections (1) and (2) of this rule.

(d) An area of single specimens or isolated groupings of ornamental shrubbery, native trees, or other plants, provided they are:

(A) Maintained in a green condition;

(B) Maintained substantially free of dead plant material;

(C) Maintained free of ladder fuel;

(D) Arranged and maintained in such a way that minimizes the possibility a wildfire can spread to adjacent vegetation; and

(E) In compliance with the intent of subsections (1) and (2) of this rule.

(4) A secondary fuel break shall be comprised of single specimens or isolated groupings of ornamental shrubbery, native trees, or other plants, provided they are:

(a) Maintained in a green condition;

(b) Maintained substantially free of dead plant material;

(c) Maintained free of ladder fuel;

(d) Arranged and maintained in such a way that minimizes the possibility a wildfire can spread to adjacent vegetation; and

(e) In compliance with the intent of subsections (1) and (2) of this rule.

Stat. Auth.: ORS 477.059  
Stats. Implemented: ORS 477.059  
Hist.: DOF 9-2002, f. 9-19-02, cert. ef.11-15-02

**629-044-1090**

**Apparent Conflicts With Standards**

Pursuant to ORS 477.023:

(1) The standards set forth in OAR 629-044-1060 to 629-044-1085 do not supercede or replace any federal law or regulation, any other state agency law or regulation, or any more restrictive local government ordinance or code.

(2) Apparent conflicts with other laws and regulations, for which the forester is responsible and has jurisdiction, shall be resolved within the scope of the forester's authority and documented, as provided in OAR 629-044-1070 or 629-044-1080.

(3) Compliance with OAR 629-044-1070 to 629-044-1080 does not relieve the owner of the requirements of any other law or regulation which applies to the lands in question.

Stat. Auth.: ORS 477.059  
Stats. Implemented: ORS 477.023 & ORS 477.059  
Hist.: DOF 9-2002, f. 9-19-02, cert. ef.11-15-02

**629-044-1095**

**Written Evaluation**

(1) Pursuant to ORS 477.059, the forester shall provide to the owners of lands classified by a committee a copy of OAR 629-044-1000 to 629-044-1110 and an evaluation form:

(a) Two years before the obligations of ORS 477.059(4) become effective on the lands for the first time;

(b) Every five years thereafter; and

(c) When requested by an owner.

(2) The intent of an evaluation form provided pursuant to subsections (1), (5) or (6) of this rule is to allow owners to self-certify compliance with the standards of OAR 629-044-1060 to 629-044-1085. Completion and return of the evaluation form to the forester is optional.

(3) In lieu of completing and returning an evaluation form provided pursuant to subsections (1), (5) or (6) of this rule, an owner may have it completed and returned by an accredited assessor.

(4) Completed and returned evaluation forms shall become void:

(a) Five years after they are provided by the forester;

(b) When the ownership of a tax lot changes;

(c) When a structure is added to a tax lot; or

(d) Pursuant to a determination made in accordance with the provisions of subsection (3) of OAR 629-044-1100.

(5) When the ownership of a tax lot changes, the previous owner shall notify the new owner of the voiding of the evaluation form under subsection (4)(b) of this rule. The new owner may, as provided in subsection (1)(c) of this rule, request that the forester provide a current copy of OAR 629-044-1000 to 629-044-1110 and a new evaluation form.

(6) When a structure is added to a tax lot, the owner may request that the forester provide a current copy of OAR 629-044-1000 to 629-044-1110 and a new evaluation form.

Stat. Auth.: ORS 477.059  
Stats. Implemented: ORS 477.059  
Hist.: DOF 9-2002, f. 9-19-02, cert. ef.11-15-02

**629-044-1100**

**Certification**

(1) An owner of lands classified by a committee shall be considered to be certified as meeting the standards set forth in OAR 629-044-1060 to 629-044-1085 if:

(a) They sign and return to the forester an evaluation form provided pursuant to OAR 629-044-1095; or

(b) They use the services of an Accredited Assessor who signs and returns to the forester an evaluation form provided pursuant to OAR 629-044-1095; and

(c) The evaluation form has not become void pursuant to OAR 629-044-1095(4).

(2) The forester may make a determination of whether the lands of an owner meet the standards set forth in OAR 629-044-1060 to 629-044-1085 at any time following the completion and return of an evaluation form provided pursuant to 629-044-1095. Such a determination must be made prior to the occurrence of a wildfire on an owners tax lot.

(3) If the forester determines that an evaluation form provided pursuant to OAR 629-044-1095 was returned by the owner and that it incorrectly or falsely indicated the lands meet the standards set forth in 629-044-1060 to 629-044-1085, the owner shall be notified in writing that both the evaluation form and the certification granted under subsection (1) of this rule will become void on a specified date. In making such a determination, the forester shall:

(a) Not base the determination on technicalities or omissions which, in the sole judgment of the forester, are minor in nature; and

(b) First provide the owner a reasonable time to:

(A) Provide evidence that the property does meet the standards set forth in OAR 629-044-1060 to 629-044-1085; or

(B) Bring their property into compliance with the standards set forth in OAR 629-044-1060 to 629-044-1085.

Stat. Auth.: ORS 477.059  
Stats. Implemented: ORS 477.059  
Hist.: DOF 9-2002, f. 9-19-02, cert. ef.11-15-02

**629-044-1105**

**Accredited Assessors**

(1) An Accredited Assessor shall obtain accreditation from the District Forester prior to conducting any activities allowed or required by OAR 629-044-1100 in a district.

(2) To request accreditation, prospective Accredited Assessors shall make application to the District Forester and sign an accreditation agreement on forms provided by the State Forester or in a format prescribed by the State Forester.

(3) Accredited Assessors will not be considered to be accredited until the District Forester reviews and approves both their application and their signed accreditation agreement.

(4) Applications to become an Accredited Assessor shall include, but will not be limited to:

(a) For a Type 1 Accredited Assessor:

(A) The person's Oregon Construction Contractors Board or Oregon Landscape Contractors Board license number; and

(B) Evidence that the person has had at least two years total experience related to:

(i) Wildland fire prevention or suppression; or

(ii) Management of properties which contain forestland.

(b) For a Type 2 Accredited Assessor:

(A) A statement that the person is acting as an authorized agent of a structural fire service provider;

(B) The signature of the Fire Chief of the structural fire service provider;

(C) Evidence that the person is a full time paid employee or a volunteer employee in good standing of the structural fire service provider; and

(D) Evidence that the person has had at least two years total experience related to wildland fire prevention or suppression.

(c) For a Type 3 Accredited Assessor:

(A) A statement that the person is acting as an authorized agent of a homeowner's association;

(B) The signatures of the persons who constitute the governing body of the homeowner's association;

(C) Evidence that the person is a full time paid employee or a volunteer employee in good standing of the homeowner's association; and

(D) Evidence that the person has had at least two years total experience related to:

(i) Wildland fire prevention or suppression; or

(ii) Management of properties which contain forestland.

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

(a) For a Type 1 Accredited Assessor, a requirement to perform certification services only while currently registered with the Oregon Construction Contractors Board or the Oregon Landscape Contractors Board;

(b) For a Type 2 Accredited Assessor:

(A) A requirement to perform certification services only while acting as an authorized agent of a structural fire service provider; and

(B) A prohibition on collecting either a fee or any other form of remuneration directly from the owner of the lands, for performing certification services;

(c) For a Type 3 Accredited Assessor:

(A) A requirement to perform certification services only while acting as an authorized agent of a homeowner's association; and

(B) A prohibition on collecting either a fee or any other form of remuneration directly from the owner of the lands, for performing certification services;

(d) A requirement to make a determination of whether a property meets the standards set forth in OAR 629-044-1060 to 629-044-1085 only in a truthful manner;

(e) A requirement to send any required records to the State Forester within a specified period of time;

(f) A requirement to maintain any required records for a minimum of six years; and

(g) A requirement to not perform certification services if:

(A) Notified of a suspension under subsection (6) of this rule; or

(B) Notified of a revocation under subsections (7), (8) or (9) of this rule.

(6) The District Forester may suspend the certification authority of an Accredited Assessor at any time the District Forester determines the Accredited Assessor has failed to comply with all requirements of the accreditation agreement. In taking such action, the District Forester shall:

(a) Suspend the certification authority of an Accredited Assessor only after providing fifteen days prior written notice to the Accredited Assessor;

(b) Not more than fifteen days after suspending the certification authority of an Accredited Assessor, either initiate action for the State Forester to revoke the accreditation of the Accredited Assessor or restore the certification authority of the Accredited Assessor.

(7) The State Forester shall revoke the certification authority of an Accredited Assessor if the District Forester provides evidence that such action is warranted due to a failure of the Accredited Assessor to comply with all requirements of the accreditation agreement. In taking such action, the State Forester shall:

(a) Take the revocation action not more than sixty days after receiving the evidence from the District Forester; and

(b) Revoke the certification authority of an Accredited Assessor only after providing thirty days prior written notice to the Accredited Assessor.

(8) An Accredited Assessor may, not more than 30 days after receipt of the written notice required in subsection (7)(b) of this rule, request a review of the proposed revocation by the State Forester. If such a request is made, the State Forester shall:

(a) Conduct the requested review within 30 days of the receipt of the request; and

(b) Either affirm or cancel the proposed certification revocation action.

(9) An Accredited Assessor who has had their certification authority revoked pursuant to this rule may appeal the decision of the State Forester to the Board of Forestry, in the same manner as appeals under ORS 477.260(2).

Stat. Auth.: ORS 477.059  
Stats. Implemented: ORS 477.059  
Hist.: DOF 9-2002, f. 9-19-02, cert. ef.11-15-02

**629-044-1110**

**Special Assessments**

(1) When, pursuant to ORS 477.060, the forester assesses the owners of lands classified by a committee, the funds so received shall be:

(a) Allocated exclusively to the forest protection district wherein the lands are located;

(b) Used exclusively for activities pertaining to the lands from which the funds have been received;

(c) Used only in accordance with an annual written plan which may provide for:

(A) The full or partial funding of targeted fire prevention and suppression resources which are needed to minimize cost and risk while maximizing the effectiveness and efficiency of the protection of values at risk from wildfire;

(B) The full or partial funding of projects which will assist, encourage or promote owners to minimize and mitigate wildfire hazards and risks. Examples include:

(i) Providing labor and/or equipment for fuels reduction activities;

(ii) Assisting owners who are physically or financially unable to complete the work necessary to meet the standards set forth in OAR 629-044-1060 to 629-044-1085; and

(iii) Providing rebates for owners who have lands which meet the standards set forth in OAR 629-044-1055 to 629-044-1085.

(C) The full or partial funding of special or unique costs of assessment processing, certification administration, or program administration, so long as such an amount does not exceed $10 per tax lot or parcel of real property.

(2) Assessments levied pursuant to ORS 477.060 shall be:

(a) Levied only after being approved by an advisory and guidance committee, pursuant to ORS 477.240;

(b) Levied on a per tax lot or parcel of real property basis;

(c) Levied in an amount which does not exceed $25 per tax lot or parcel of real property. The determination of lots or parcels of real property shall be made pursuant to ORS 477.295; and

(d) Based on the classification of the lands classified by a committee.

Stat. Auth.: ORS 477.060  
Stats. Implemented: ORS 477.060  
Hist.: DOF 9-2002, f. 9-19-02, cert. ef.11-15-02

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OAR 43

629-043-0080

Additional Fire Hazard

For the purpose of sections(1) and (2) of ORS 477.580, notice of additional fire hazard shall be given to the landowner and operator in writing with instructions for offsetting or abating such fire hazard. Such notice will include one or more options as follows, provided such options are consistent with the provisions of 527.610 through 527.730. The Forester will issue a release upon successful completion of the instructions for offsetting or abating the hazard:

(1) By burning part or all of the slashing to reduce the extra hazard as approved by the Forester.

(2) By altering the fuel loading and arrangement on the site by piling slash, crushing, or otherwise altering the fuel to reduce hazard as approved by the Forester.

(3) By making physical improvements to offset the hazard such as building fire trails, water supply sources, building fuel breaks, compartmentizing the improvement which effectively offsets the fire hazard as approved by the Forester.

(4) By payment to the Forester of a sum of money for extra fire protection for the area if such release is requested by the owner or operator with approval of the owner. Such payment is subject to the provisions of OAR 629-043-0065.

(5) Other hazard offsets as approved by the Forester.

NOTE: It is intended that physical improvements under sections(1), (2), and (3) of this rule shall offset the additional hazard created to such a degree that the possibility of spread of fire is sufficiently reduced and the ability to control fire sufficiently improved, that extra protection for the area is not warranted.

Stat. Auth.: ORS 477 & ORS 526

Stats. Implemented: ORS 477.580

Hist.: FB 35(Temp), f. & ef. 1-17-74; FB 37, f. 4-15-74, ef. 5-11-74

TITLE 38

PROTECTION FROM FIRE

Chapter 476. State Fire Marshal; Protection From Fire Generally

477. Fire Protection of Forests and Vegetation

478. Rural Fire Protection Districts

479. Protection of Buildings From Fire; Electrical Safety Law

480. Explosives; Flammable Materials; Pressure Vessels

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Chapter 476 — State Fire Marshal; Protection From Fire Generally

2013 EDITION

STATE FIRE MARSHAL; PROTECTION FROM FIRE

PROTECTION FROM FIRE

GENERAL PROVISIONS

476.005 Definitions

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STATE FIRE MARSHAL; POWERS AND DUTIES

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GENERAL PROVISIONS

476.005 Definitions. As used in this chapter, unless the context requires otherwise:

(1) “Fire protection equipment” means any apparatus, machinery or appliance intended for use by a fire service unit in fire prevention or suppression activities, excepting forest fire protection equipment.

(2) “Governmental subdivisions” means a city, county or rural fire protection district in this state whose functions include regulation of building use and occupancy and the administration of fire safety laws, ordinances and regulations. [Formerly 476.800; 1985 c.118 §1; 1993 c.185 §24]

476.010 Additional definitions. (1) As used in ORS 476.010 to 476.115, 476.150 to 476.170 and 476.210 to 476.270, “alterations,” “construction,” “family,” “hospital,” “occupancy” and “private residence” have the meanings given those terms in ORS 479.168.

(2) As used in ORS 476.030 and other laws relating to the duties of the State Fire Marshal, “governmental subdivision” means a city, county, municipal corporation, quasi-municipal corporation and rural fire protection district, created under the laws of Oregon.

(3) As used in ORS 476.380:

(a) “Commercial waste”:

(A) Means any waste produced in any business involving the lease or sale, including wholesale and retail, of goods or services, including but not limited to housing.

(B) Means any waste produced by a governmental, educational or charitable institution.

(C) Does not include any waste produced in a dwelling containing four living units or less.

(b) “Demolition material” means any waste resulting from the complete or partial destruction of any man-made structure, such as a house, apartment, commercial building or industrial building.

(c) “Domestic waste” means any nonputrescible waste, consisting of combustible materials, such as paper, cardboard, yard clippings, wood or similar materials, generated in a dwelling, including the real property upon which it is situated, containing four living units or less.

(d) “Field burning” means the burning of any grass field, grain field, pasture, rangeland or other field by open burning or by use of mobile equipment or flaming equipment on any land or vegetation.

(e) “Industrial waste” means any waste resulting from any process or activity of manufacturing or construction.

(f) “Land clearing debris” means any waste generated by the removal of debris, logs, trees, brush or demolition material from any site in preparation for land improvement or construction projects.

(g) “Open burning” means any burning conducted in such a manner that combustion air is not effectively controlled and that combustion products are not vented through a stack or chimney, including but not limited to burning conducted in open outdoor fires, common burn barrels and backyard incinerators. [Subsection (2) formerly part of 476.030; 1975 c.635 §1; 2005 c.22 §353]

STATE FIRE MARSHAL; POWERS AND DUTIES

476.020 State Fire Marshal; appointment; qualifications. (1) The office of State Fire Marshal is established in the Department of State Police. The State Fire Marshal shall be appointed by and be administratively responsible to the Superintendent of State Police, and shall serve at the pleasure of the superintendent. The State Fire Marshal shall retain all current authority of the office and shall be responsible for the implementation of its mission and programs.

(2) The State Fire Marshal shall be qualified to direct the technical and executive work of the agency as determined by the superintendent and shall have education or training related to the programs of the agency and significant experience in managing fire protection or related programs. [Amended by 1963 c.523 §1; 1971 c.753 §54; 1987 c.414 §79; 1993 c.186 §1]

476.030 Powers and duties of marshal and deputies generally; rules; exemption of certain governmental subdivisions; inspection of adult foster homes. (1) The State Fire Marshal shall enforce all statutes, and make rules relating to:

(a) The prevention of fires.

(b) The storage and use of combustibles and explosives.

(c) The maintenance and regulation of structural fire safety features in occupied structures and overseeing the safety of and directing the means and adequacy of exit in case of fire from factories, asylums, hospitals, churches, schools, halls, theaters, amphitheaters, all buildings, except private residences, which are occupied for sleeping purposes, and all other places where large numbers of persons work, live or congregate from time to time for any purpose except that structural changes shall not be required in buildings built, occupied and maintained in conformity with state building code regulations applicable at the time of construction.

(d) Standards for equipment used for fire protection purposes within this state including standard thread for fire hose couplings and hydrant fittings.

(2) The State Fire Marshal and deputies shall have such powers and perform such other duties as are prescribed by law.

(3) If, in the opinion of the State Fire Marshal, a governmental subdivision of the state has enacted adequate regulations generally conforming to state and national standards concerning fire prevention, fire safety measures and building construction requirements for safety, and if the governmental subdivision provides reasonable enforcement of its regulations, the State Fire Marshal may exempt the area subject to such regulation either partially or fully from the statutes, rules and regulations administered by the State Fire Marshal. Prior to adoption of any such exemption, the State Fire Marshal may request from the Department of Public Safety Standards and Training consideration of and recommendations regarding the exemption. The exemption may extend for a two-year period, and may be renewed from time to time, but may be canceled by the State Fire Marshal following 30 days’ written notice if the State Fire Marshal finds that the governmental subdivision’s regulations or enforcement thereof are not reasonably sufficient. The governmental subdivision shall furnish a copy of such regulations to the State Fire Marshal and shall file with the State Fire Marshal any amendment thereto within 30 days before the effective date of such amendment. The State Fire Marshal shall designate a person or division within such governmental subdivision as an approved authority for exercising functions relating to fire prevention, fire safety measures and building construction. Upon request of a local official having enforcement responsibility and a showing of unusual fire hazard or other special circumstances, the State Fire Marshal shall make investigation and appropriate recommendations.

(4) The State Fire Marshal may investigate or cause an investigation to be made to determine the probable cause, origin and circumstances of any fire and shall classify such findings as the State Fire Marshal may find appropriate to promote fire protection and prevention.

(5) The State Fire Marshal shall provide training in fire safety inspection to the Department of Human Services, area agencies, the Oregon Health Authority, community mental health programs, developmental disabilities programs and designees of the Long Term Care Ombudsman. If an adult foster home has been inspected by the Department of Human Services, the Oregon Health Authority, an area agency, a community mental health program or a developmental disabilities program and the agency conducting the inspection reasonably believes that the adult foster home is not in compliance with applicable fire safety rules, the agency conducting the inspection may request the State Fire Marshal to inspect or cause an inspection to be made. If a designee of the Long Term Care Ombudsman, in the course of visiting an adult foster home, believes that the adult foster home is not in compliance with applicable fire safety rules, the designee shall report the problem to the appropriate agency to request a fire safety inspection by the office of the State Fire Marshal or by a designated representative of the office of the State Fire Marshal.

(6) Upon the request of the Department of Human Services, the Oregon Health Authority, an area agency, a community mental health program or a developmental disabilities program, the State Fire Marshal shall inspect or cause an inspection to be made to determine if the adult foster home is in compliance with rules jointly adopted by the Department of Human Services and the State Fire Marshal establishing fire safety standards for adult foster homes.

(7) As used in subsections (5) and (6) of this section:

(a) “Adult foster home” has the meaning given that term in ORS 443.705.

(b) “Area agency” has the meaning given that term in ORS 410.040.

(c) “Community mental health program” means a program established under ORS 430.620 (1)(b).

(d) “Developmental disabilities program” means a program established under ORS 430.620 (1)(a). [Amended by 1957 c.265 §1; 1963 c.523 §5; 1965 c.602 §1; part renumbered as part of 476.010; 1967 c.417 §1; 1973 c.667 §16; 1977 c.821 §3; 1985 c.118 §2; 1985 c.726 §18; 1989 c.696 §1; 1993 c.185 §25; 1997 c.13 §1; 1997 c.853 §40; 2001 c.900 §206; 2009 c.595 §976]

476.033 Discretionary powers of State Fire Marshal. The State Fire Marshal may:

(1) Contract or otherwise cooperate with any person or public agency for the procurement of necessary services or property;

(2) Accept gifts or grants of services or property; and

(3) Perform such other duties as required by law. [Formerly 476.855]

Note: 476.033 was added to and made a part of ORS chapter 476 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

476.035 Adjustments and variances in application of statutes and regulations. When the State Fire Marshal finds that practical difficulties, unnecessary hardship or consequences inconsistent with the general purposes of statutes and regulations administered by the State Fire Marshal relating to fire protection and fire prevention may result under the provisions of such statutes and regulations, the State Fire Marshal may upon receipt of a verified application from the owner or occupant of the property affected stating fully the grounds of the application and facts relied upon, and upon further investigation, grant adjustments or variances with such conditions and safeguards as the State Fire Marshal may determine in harmony with the general purpose and intent and spirit of such fire protection and fire prevention statutes and regulations, so that the public health, safety and welfare shall be secured and substantial justice done. Such adjustments or variances shall be restricted to unique, unusual or peculiar circumstances or substitute materials or arrangements. The State Fire Marshal may refer the application to a regional appeal advisory board created under ORS 476.113 and 476.115 for recommendation prior to making a decision. Except as otherwise specified by law the order of the State Fire Marshal granting or denying a variance shall be final and conclusive. [1965 c.602 §6]

Note: 476.035 was added to and made a part of 476.010 to 476.115 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

476.040 Deputies and assistants. The State Fire Marshal shall appoint a chief deputy state fire marshal and deputy state fire marshals whose duties shall be to assist in carrying into effect the provisions of ORS 476.010 to 476.090 and 476.155 to 476.170, 476.210 to 476.270 and 479.168 to 479.190. The State Fire Marshal may also employ such other assistants and employees and incur such other expenses as the State Fire Marshal may deem necessary in carrying into effect these provisions. The State Fire Marshal may remove any deputies or assistants for cause. [Amended by 1963 c.523 §6; 1985 c.118 §3; 1993 c.185 §26; 2011 c.97 §1]

476.050 Payment of salaries and expenses. The salary of the chief deputy state fire marshal, deputy state fire marshals, compensation of clerks and other assistants and other expenses of the office of State Fire Marshal necessary in the performance of the duties imposed upon the State Fire Marshal shall be paid in the same manner as are other state officers and the expenses of other state departments, and shall not exceed the amount paid to the State Treasurer for the maintenance of the office of State Fire Marshal. [Amended by 1953 c.93 §1; 1987 c.414 §156]

476.055 State Fire Marshal Fund; uses. (1) All moneys received by the State Fire Marshal shall be paid into the State Treasury, and shall be placed by the State Treasurer to the credit of the State Fire Marshal Fund, except those moneys received and accounted for under the provisions of ORS 279A.290.

(2) Except as otherwise provided by this section, moneys in the State Fire Marshal Fund shall be available and constitute a continuing appropriation for the payment of any expense of the State Fire Marshal and for the payment of expenses of the Department of Public Safety Standards and Training and the Board on Public Safety Standards and Training relating to training programs concerning fire services and accreditation of fire service professionals. The State Fire Marshal shall keep on file an itemized statement of all expenses incurred by the State Fire Marshal and shall approve all disbursements as submitted for payment. Administrative expenditures made from the State Fire Marshal Fund shall not exceed a reasonable amount for the services performed. [1953 c.93 §2; 1953 c.199 §2; 1965 c.602 §2; 1967 c.359 §694; 1967 c.417 §2; 1973 c.832 §§6,6a; 1977 c.104 §1; 1985 c.118 §4; 1987 c.414 §157; 1993 c.185 §27; 1993 c.186 §6; 1997 c.853 §41; 2003 c.794 §298]

476.057 [1980 c.15 §1; repealed by 1985 c.383 §1]

476.060 Local officers and constables as assistants to State Fire Marshal. (1) All fire marshals in those governmental subdivisions having such officers, and where no such officer exists, the chief of the fire department of every city or rural fire protection district in which a fire department is established, the marshal or chief of police, officer of any city in which no fire department exists, and constables, if any, shall be, by virtue of the offices held by them, assistants to the State Fire Marshal without additional recompense, subject to the duties and obligations imposed by law, and shall be subject to the direction of the State Fire Marshal in the execution of the provisions of this section and ORS 476.070, 476.090, 476.150, 476.210 and 480.445.

(2) In addition to other duties under subsection (1) of this section, an individual designated as an assistant to the State Fire Marshal shall aid in the administration and enforcement of ORS 480.200 to 480.290 and 480.990 (6) upon the request of the State Fire Marshal. [Amended by 1965 c.602 §3; 1971 c.518 §22; 1983 c.740 §188; 1987 c.158 §103; 2005 c.88 §4]

476.070 Entering buildings and premises. The State Fire Marshal, the deputies or assistants of the State Fire Marshal, or any of them, may:

(1) At all reasonable hours, in performance of the duties imposed by the provisions of ORS 476.030, enter upon and examine any building or premises wherein fire has occurred, and other buildings or premises adjoining or near the same.

(2) For just cause and for the purpose of examination, enter, at all reasonable hours, in and upon all buildings and premises within their jurisdiction.

476.080 [Amended by 1973 c.834 §32; renumbered 476.150 in 1987]

476.090 Records of fires. (1) The State Fire Marshal shall keep a record of all fires occurring in this state and of all facts concerning the same, including statistics as to the extent of such fires and the damage caused, whether such losses were covered by insurance, and if so, in what amount. All such records shall be public, except any testimony, information or other evidence taken in an investigation under ORS 476.010 to 476.090, 476.155 to 476.170, 476.210 to 476.270 and 479.180, which shall be considered investigatory information as described in ORS 192.501.

(2) This section shall not apply to forestlands under the jurisdiction of the State Forester. [Amended by 1967 c.417 §3; 1981 c.701 §1]

476.100 [Amended by 1973 c.832 §§7,7a; 1977 c.104 §2; repealed by 1987 c.414 §172]

476.110 State police to enforce fire laws. The Department of State Police shall employ a sufficient number of state police who shall perform the duties of enforcement of criminal laws and other statutes of Oregon with reference to the suppression and punishment of arson and fraudulent claims and practices in connection with fire laws. [Amended by 1963 c.523 §7; 1965 c.602 §4; 1967 c.417 §4]

476.113 Designation of regions; regional appeal advisory boards; qualifications of members. (1) The State Fire Marshal may by order from time to time designate not more than seven regions within the state and establish regional appeal advisory boards for each of the designated regions.

(2) Each regional appeal advisory board shall consist of three regular members and three alternate members appointed by the State Fire Marshal. A member or alternate member of a regional appeal advisory board shall receive no compensation for services as a member, but, subject to any other applicable law regulating travel and other expenses for state offices, shall receive actual and necessary travel and other expenses incurred in the performance of official duties. All appointed members must be persons qualified by experience and training. At least one member of each board must be a qualified architect who has practiced the profession for at least two years. Appointments shall be made for three-year terms. Any member may be removed by the State Fire Marshal for cause. Upon the death, resignation or removal of any member, a successor shall be appointed by the State Fire Marshal to serve the balance of the unexpired term. No member of a regional appeal advisory board shall sit in a case in which the member is interested and if any such case comes before the board, an alternate shall act in the place of the member. [1965 c.602 §7(1),(2); 2005 c.22 §354]

476.115 Functions of regional appeal advisory boards; reports submitted to board. (1) Each regional appeal advisory board shall:

(a) Elect a chairperson to whom referral of any matter by the State Fire Marshal shall be effective as to all board members, and who shall call and preside over meetings.

(b) Consider, and make recommendations to the State Fire Marshal concerning, any application for adjustment or variance arising within that region and referred to the board by the State Fire Marshal within 15 days after such referral. With relation to the referred matter the board may hold a hearing and receive testimony. The recommendations of the board shall be made in writing to the State Fire Marshal and shall be accompanied by a summary of any testimony received, any documentary or physical evidence received, any affidavit submitted by applicant and a summary of any special facts found by the board.

(c) Hear and consider, and make recommendations to the State Fire Marshal concerning, any appeal from an order made appealable by law, within 15 days after referral of such appeal to the board by the State Fire Marshal. Such recommendations shall be accompanied by the same summaries and evidentiary matter as in the case of an application for adjustment or variance referred to the board.

(d) Make recommendations to the State Fire Marshal concerning any matter referred to the board by the State Fire Marshal or considered by the board on its own motion, relating to fire prevention, protection from fire or other safety measures.

(2) At the time of each appeals board meeting a deputy state fire marshal shall submit to the board a report containing the pertinent facts and the manner in which the statutes or regulations apply to the case in point. [1965 c.602 §7(3)]

476.120 Minimum standards for protection of life and property. The State Fire Marshal, in making rules and regulations establishing minimum standards for the protection of life and property against fire, shall consider as evidence of generally accepted standards the applicable standards prescribed from time to time by the National Fire Protection Association. The State Fire Marshal may request consideration and recommendations from the Department of Public Safety Standards and Training before adopting any such regulations. [1963 c.523 §4; 1967 c.417 §5; 1973 c.667 §19; 1993 c.185 §28; 1997 c.853 §42]

476.130 Statistical reports; price; sale; deposit of proceeds. (1) The State Fire Marshal may from time to time cause to be prepared statistical reports on the history and condition of state fire defenses, and an analysis of contributing factors of fire causes for the period of the report. Such reports may be printed at the expense of the office of the State Fire Marshal and sold at a price not to exceed cost of printing and distribution. Receipts from the sale of such material shall be deposited with the State Treasurer and shall be placed in the State Fire Marshal Fund.

(2) The State Fire Marshal may fix a sale price for each copy of any publication of the office of the State Fire Marshal supplied to private persons interested therein, when such publication has been approved as provided by law. [1965 c.602 §8]

INSPECTION PROCEDURES

476.150 Entry and inspection of premises; interfering with or preventing entry prohibited. (1) The State Fire Marshal and deputies, at all reasonable hours, may enter into all buildings and upon all premises, except private residences, for the purpose of inspection to ascertain if fire hazards exist therein or thereon. Owners of private residences may request a fire inspection of their property.

(2) No person shall interfere with or prevent any such inspection by such officers.

(3) When any person interferes with or prevents the State Fire Marshal or deputies from making the inspection mentioned herein, the officer shall apply to the district attorney of the county wherein the inspection was made or attempted to be made, for a warrant for the arrest of the offending person, and it shall be the duty of such district attorney forthwith to prosecute such offending person. [Formerly 476.080]

476.155 When judges authorized to issue inspection warrants. Judges authorized by law to issue search warrants, upon application of the State Fire Marshal, or deputies or assistants of the State Fire Marshal, may issue an inspection warrant whenever an inspection or investigation of any building or premises is required or authorized by any state or local statute, ordinance or rule relating to fire cause investigation or fire safety inspection. [1987 c.362 §2]

476.160 Circumstances under which warrant may be issued. (1) An inspection warrant shall be issued only upon cause, supported by affidavit, particularly describing the applicant’s status in applying for the warrant, the statute, ordinance or rule requiring or authorizing the inspection or investigation, the place, building or premises to be inspected or investigated and the purpose for which the inspection or investigation is to be made including the basis upon which cause exists to inspect. In addition, the affidavit shall contain either a statement that entry had been sought and refused or facts or circumstances reasonably showing that the purposes of the inspection or investigation might be jeopardized if entry were sought without an inspection warrant.

(2) Cause shall be deemed to exist in the following circumstances:

(a) There is probable cause to believe that a condition of nonconformity with a fire safety standard or order exists;

(b) A fire has occurred in a building or on premises the cause of which has not been determined; or

(c) For the purpose of carrying out a routine, periodic inspection. [1987 c.362 §3]

476.165 Establishing cause to issue warrant; content. (1) Before issuing an inspection warrant, the judge may examine under oath the applicant or any other witness to be satisfied of the existence of grounds for granting such application.

(2) If the judge is satisfied that cause for the inspection or investigation exists and that the other requirements for granting the application are satisfied, the judge shall issue the warrant, particularly describing the name and title of the person or persons authorized to execute the warrant, the building or premises to be entered and the purpose of the inspection or investigation. The warrant shall contain a direction that it be executed as provided for in ORS 476.070 and 476.150. [1987 c.362 §4]

476.170 Execution of warrant. (1) Except as provided in subsection (2) of this section, in executing an inspection warrant, the person authorized to execute the warrant, before entry, shall make a reasonable effort to present the person’s credentials, authority and purpose to an occupant or person in possession of the building or premises and present the warrant or a copy thereof.

(2) An inspection warrant must be executed and returned to the court by whom it was issued within 10 days from its date, unless such court before the expiration of such time, by indorsement thereon, extends the time for five days. After the expiration of the time prescribed by this subsection, the warrant unless executed is void. [1987 c.362 §5]

INVESTIGATION OF FIRES; REPORTS

476.210 Investigation of fires by municipal officers and constables; reports; exemption. (1) The municipal fire marshals, fire department chiefs, constables and other officers referred to in ORS 476.060 shall investigate the cause, origin and circumstances of each fire occurring in their respective cities, villages or townships, by which property has been destroyed or damaged, and shall make an investigation to determine whether the fire was the result of carelessness or design. The investigation shall be commenced immediately after the occurrence of the fire. The State Fire Marshal may superintend and direct the investigation if the State Fire Marshal deems it necessary.

(2) The fire chief of every city, or rural fire protection district shall provide the State Fire Marshal with a full report of every fire occurring within the jurisdiction of the fire chief on a form provided or approved by the State Fire Marshal. Whenever the fire chief of every city under 200,000 population finds any fire is of undetermined or suspicious origin or involves a death or serious injury, the fire chief shall immediately notify the State Fire Marshal or a deputy state fire marshal and shall assemble all known facts and circumstances concerning the fire in an approved report form and shall submit such report to the State Fire Marshal, or the deputy state fire marshal assigned to the territory in which the fire originated. When evidence clearly indicates the cause of fire to be of incendiary origin, the fire chief shall also immediately notify the state, county or municipal police agency.

(3) This section shall not apply to forestlands under the jurisdiction of the State Forester. [Amended by 1965 c.602 §9; 1967 c.417 §6]

476.220 Report by officer investigating fire; exemption. (1) The officer making an investigation of a fire occurring in a city, village or township shall forthwith notify the State Fire Marshal and, within one week of the occurrence of the fire, shall furnish the State Fire Marshal a written statement of all facts relating to its cause and origin, and such other information as is required by forms provided by the State Fire Marshal.

(2) This section shall not apply to forestland under the jurisdiction of the State Forester. [Amended by 1967 c.417 §7]

476.230 Taking statements of persons knowing facts. If in the opinion of the State Fire Marshal further investigation is necessary, the State Fire Marshal or deputy state fire marshal, with the assistance of the district attorney, shall then proceed to take or have taken the statements of all persons supposed to be cognizant of any facts or who have means of knowledge in relation to the matter concerning which the examination is required and have such statements reduced to writing.

476.240 Supplying information to and requesting action by district attorney. If the Superintendent of State Police or an authorized assistant is of the opinion that there is evidence sufficient to charge a person with arson, burning with intent to defraud or prejudice the insurer, or a similar crime, the Superintendent of State Police or authorized assistant shall furnish the district attorney with such evidence, with the names of witnesses and a copy of material testimony taken in the case, and request the district attorney to cause the arrest of such person or take such other action as the district attorney deems necessary or advisable. [Amended by 1965 c.602 §10; 1967 c.417 §8]

476.250 District attorney summoning witnesses and requiring production of documents. The district attorney may at the discretion of the district attorney, upon the application of the State Fire Marshal or chief deputy state fire marshal, issue a subpoena to summon the attendance of witnesses before the district attorney to testify in relation to any matter which by law is a subject of inquiry and investigation, and require the production of any books, papers or documents the district attorney deems pertinent to an investigation of or relating to evidence pertaining to the cause of a fire. [Amended by 1967 c.417 §9]

476.260 District attorney assisting investigation of fires. The district attorney of any county, upon request of the state, county or a municipal police agency, shall assist such officers in the investigation of any fire which in their opinion is of incendiary origin. [Amended by 1967 c.417 §10]

476.270 Insurance company reports of suspicious fires; inspection of company’s relevant information. (1) If an insurance company has reason to believe that a fire loss to its assured’s real or personal property was caused by incendiary means, the company shall immediately make a report to the office of the State Fire Marshal. The report shall indicate the name of the assured, the date of the fire, location, occupancy, and facts and circumstances coming to the company’s knowledge, tending to establish the cause or origin of the fire.

(2) Any federal, state or local public official or authorized agent thereof having legal authority to investigate a fire loss of real or personal property may request any insurance company to provide relevant information in its possession pertaining to that loss. Upon request, the company shall release such information to the official who requests it. For purposes of this subsection, “relevant information” means information having any tendency to make the existence of any fact that is of consequence to the investigation more probable or less probable.

(3) In the absence of fraud or malice, no insurance company or its authorized representative shall be liable for damages in a civil action or subject to criminal prosecution for the release of information required by subsections (1) and (2) of this section. [Amended by 1967 c.417 §11; 1981 c.701 §2; 1985 c.686 §4]

EXTINGUISHING FIRES IN UNPROTECTED AREAS

476.280 Municipal fire departments and rural fire protection districts authorized to extinguish fires in unprotected areas. (1) The fire chief, or the representative of the fire chief, of any duly organized municipal or rural fire protection district may extinguish any uncontrolled fire found to be burning in any unprotected area, if:

(a) The governing body of the city or the district board of the rural fire protection district, as the case may be, has authorized the fire chief and the representatives of the fire chief to extinguish uncontrolled fires that are found to be burning in unprotected areas situated outside of the boundaries of the city or district and that are causing or may cause an undue jeopardy to life or property; and

(b) The fire chief or the representative of the fire chief believes that such fire is causing or may cause undue jeopardy to life or property.

(2) In extinguishing a fire pursuant to subsection (1) of this section, the fire chief and the representatives of the fire chief may employ the same means and resources used by them to extinguish similar fires within their jurisdiction. [1971 c.683 §1]

476.290 Billing owner of property for cost of extinguishing fire; cost limited; collection; action for recovery of cost. Whenever a fire is extinguished pursuant to ORS 476.280, the governing body of the city or the district board of the rural fire protection district that provided the fire suppression service may, on forms furnished by the State Fire Marshal for such purposes, bill the owner of the property involved in the fire for the cost of providing the fire suppression service. The governing body of the city or the district board of the rural fire protection district that provided the fire suppression service may determine the cost of providing the fire suppression service by use of a state standardized-costs schedule as approved by the State Fire Marshal. The cost charged for providing the fire suppression service may not be greater than the pro rata cost that would have been charged by the city or district for the performance by the city or district of a similar fire suppression service within its jurisdiction. If the cost is not paid within 30 days after the second billing, the governing body of the city or the district board of the rural fire protection district that provided the fire suppression service may bring an action for the recovery of the unpaid cost from the owner of the real property upon which the fire suppression service was rendered. [1971 c.683 §2; 2005 c.22 §355]

FIRE PREVENTION AND CONTROL ON CERTAIN LANDS NOT OTHERWISE PROTECTED

476.310 Zoning and rezoning of certain lands; hearing on petition of owners in nonzoned territory; duty of landowner to provide fire protection. (1) The governing body of each county may, in cooperation with the State Board of Forestry, zone and, as often as necessary, rezone any lands within the county lying outside the boundaries of incorporated cities, organized rural fire protection districts, federal and state-owned lands, lands protected under ORS chapter 477 and railroad rights of way, except that railroad rights of way may be zoned or rezoned if the owners of such rights of way file their written consent with the governing body. Lands, when zoned or rezoned, shall be divided into two zones as follows:

(a) Zone 1 shall be composed of forest, range, grass or undeveloped lands, or any of such lands intermingled with grazing and agricultural lands.

(b) Zone 2 shall be composed of rural lands not included in zone 1.

(2) During the season of the year when there is danger of fire, every owner of zone 1 land shall provide adequate protection against the starting or spread of fire thereon or therefrom, which protection shall meet with the approval of the governing body of the county in which the zone 1 land is located.

(3) An owner shall be deemed to have complied with the requirements of subsection (2) of this section if, on January 1 of each year, the owner files with the governing body of the county a bona fide fire protection plan that meets with the approval of the county governing body. The governing body of the county, or its appointed representative, shall periodically inspect the protection facilities provided under such a plan in order to confirm compliance by the owner.

(4) If any owner of zone 1 land fails or neglects to file a fire protection plan, or to comply with the standard of protection approved by the county governing body, the governing body shall provide for forest protection pursuant to ORS 476.320.

(5) Nothing contained in ORS 476.310 to 476.340 shall prevent interested property owners in any nonzoned territory from petitioning the governing body and State Board of Forestry to hold a hearing on the matter of zoning the territory if a majority of the landowners within the territory file such petition. The governing body, cooperating with the State Board of Forestry, shall give full consideration to the wishes of the landowners as shown by the hearing. [Amended by 1957 c.432 §1; 1963 c.222 §1; 1965 c.253 §143; 1991 c.459 §415a; 2005 c.22 §356]

476.320 Determination of form of fire protection for lands in zone 1; costs. (1) The form of protection from fire for lands lying in zone 1 shall be determined jointly by the governing body of the county, the State Fire Marshal and the State Board of Forestry, which determination shall be reduced to writing, signed by the officers of the agencies and entered in the journal of the governing body of the county.

(2) The authority of the State Board of Forestry may be extended to include the establishment of forest protection on lands lying within zone 1 for lands not subject to a fire protection plan under ORS 476.310. For such purposes the board of forestry may contract with individuals, associations, agencies, corporations, rural fire protection districts, counties, cities, federal agencies, or any of them. The cost of protection in zone 1 shall be assessed and collected in the same manner as protection costs for lands protected under ORS chapter 477.

(3) The moneys received by the State Board of Forestry under this section shall be paid into the State Treasury and credited to the State Forestry Department Account and shall be used exclusively for the purposes stated in this section.

(4) As used in this section, the “authority of the State Board of Forestry” means the duties, obligations, requirements and penalties of ORS chapter 477. [Amended by 1957 c.83 §5; 1965 c.253 §144; 1967 c.429 §53; 1981 c.362 §1; 1991 c.459 §415b; 1999 c.355 §1]

476.330 Prevention and control of fires in zone 2; tax levy. (1) The county court or board of county commissioners of any county may prevent and control fire occurring within the limits of zone 2 in such county, and may for such purposes establish and maintain fire fighting and fire control facilities and contract with existing fire control agencies, either individuals, associations, corporations, cities or rural fire protection districts. The State Fire Marshal, upon the request of any county court or board of county commissioners, shall meet with and advise such county court or board of county commissioners as to the establishment and maintenance of fire fighting and fire protection equipment and facilities.

(2) If the court or board establishes fire fighting and fire protection equipment and facilities, it shall not discontinue such equipment and facilities until at least three years after notice of its intention to do so has been first published in a newspaper considered by the board to be of general circulation in the county. The notice shall be published by four insertions in the newspaper and 12 months shall elapse between each insertion.

(3) While the county court or board of county commissioners of any county is maintaining fire fighting and fire protection equipment and facilities, the court or board annually shall levy a tax upon the taxable property lying within zone 2 in the county, not to exceed one-fourth of one percent (0.0025) of the real market value of all taxable property within the zone, computed in accordance with ORS 308.207, for the purpose of furnishing such fire protection.

(4) The court or board of county commissioners, upon approval of the majority of the electors of zone 2 voting at a special election called for such a purpose, may levy a special tax of not to exceed one-fourth of one percent (0.0025) of the real market value of all taxable property within the zone, computed in accordance with ORS 308.207. This special levy may be in addition to the regular levy under subsection (3) of this section.

(5) To carry into effect any of the powers granted under this section, the court or board, when authorized by a majority of the votes cast by the electors of the zone voting at an election called for that purpose by the court or board, may borrow money and sell and dispose of general obligation bonds, which bonds shall never in the aggregate exceed one and one-fourth of one percent (0.0125) of the real market value of all taxable property within the zone, computed in accordance with ORS 308.207.

(6) The tax limitations provided in subsections (3) and (4) of this section do not apply to taxes levied to pay principal or interest on outstanding bonds. [Amended by 1955 c.262 §1; 1959 c.288 §1; 1963 c.9 §29; 1967 c.356 §1; 1969 c.590 §1; 1971 c.647 §107; 1991 c.459 §416; 2007 c.154 §63]

476.340 Establishment of rural fire protection districts in zone 2; exemption from taxation of property included in district. Nothing contained in the provisions of ORS 476.310 to 476.330 shall be construed to prohibit the establishment of rural fire protection districts as provided by law within the boundaries of zone 2 as the same may be established in any county. In event of the organization of a rural fire protection district comprising lands in zone 2, property included within such fire protection district shall not thereafter be taxed or assessed under the provisions of ORS 476.320 or 476.330. [Amended by 1955 c.262 §2; 1963 c.222 §2]

476.380 Fire permits; limitations upon burning; records. (1) No person, outside the boundaries of a rural fire protection district or a forest protection district, shall cause or permit to be initiated or maintained on the property of the person, or cause to be initiated or maintained on the property of another any open burning of commercial waste, demolition material, domestic waste, industrial waste, land clearing debris or field burning without first securing a permit from the county court or board of county commissioners.

(2) The county court or board of county commissioners, or its designated representative, shall prescribe conditions for issuance of any permit and shall refuse, revoke or postpone issuance of permits when necessary to prevent danger to life or property or to protect the air resources of this state. The Environmental Quality Commission shall notify the State Fire Marshal of the type of and time for burning to be allowed on each day under schedules adopted pursuant to ORS 468A.570 and 468A.595. The State Fire Marshal shall cause all county courts and boards of county commissioners or their designated representatives in the affected areas to be notified of the type of and time for burning to be allowed on each day and of any revisions of such conditions during each day. The county court, board or representative shall issue permits only in accordance with schedules of the Environmental Quality Commission adopted pursuant to this section and ORS 468A.555 to 468A.620 and 468A.992, 476.990, 478.960 and 478.990 but may reduce the hours allowed for burning if necessary to prevent danger to life or property from fire. The State Fire Marshal may refuse or postpone permits when necessary in the judgment of the State Fire Marshal to prevent danger to life or property from fire, notwithstanding any determination by the county court or board of county commissioners or its designated officer. Notwithstanding any other provision of this subsection, for a permit for the propane flaming of mint stubble, the county court or board of county commissioners, or its designated representative may only prescribe conditions necessary to prevent the spread of fire or to prevent endangering life or property and may refuse, revoke or postpone permission to conduct the propane flaming only when necessary to prevent danger to life or property from fire.

(3) Nothing in this section:

(a) Requires permission for starting a campfire in a manner otherwise lawful.

(b) Relieves a person starting a fire from responsibility for providing adequate protection to prevent injury or damage to the property of another. If such burning results in the escape of fire and injury or damage to the property of another, such escape and damage or injury constitutes prima facie evidence that the burning was not safe.

(c) Relieves a person who has obtained permission to start a fire, or the agent of the person, from legal liability for property damage resulting from the fire.

(d) Permits an act within a city or regional air quality control authority area that otherwise is unlawful pursuant to an ordinance of the city or rule, regulation or order of the regional authority.

(4) The county court or board of county commissioners shall maintain records of all permits and the conditions thereof, if any, that are issued under this section and shall submit at such times, as the Environmental Quality Commission shall require such records or summaries thereof to the commission. The Environmental Quality Commission shall provide forms for the reports required under this subsection. [1967 c.420 §3; 1969 c.613 §2; 1971 c.563 §8; 1973 c.835 §164; 1975 c.635 §2; 1991 c.920 §21; 1997 c.473 §5]

STANDARDIZATION OF FIRE PROTECTION EQUIPMENT

476.410 Standard thread hose couplings and hydrant fittings required. All equipment for fire protection purposes purchased by state and municipal authorities, or any other authorities having charge of public property, shall be equipped with the standard thread for fire hose couplings and hydrant fittings as adopted by the State Fire Marshal under ORS 476.030. Prior to adopting any such standard, the State Fire Marshal may request from the Department of Public Safety Standards and Training consideration of and recommendations regarding the standard. [Amended by 1963 c.523 §8; 1973 c.667 §20; 1993 c.185 §29; 1997 c.13 §2; 1997 c.853 §43]

476.420 Standardization of existing fire protection equipment; exemption. The standardization of existing fire protection equipment in this state shall be arranged for and carried out by or under the direction of the State Fire Marshal who may proceed to make the changes necessary to standardize all existing fire protection equipment in this state. Prior to making any such change, the State Fire Marshal may request from the Department of Public Safety Standards and Training consideration of and recommendations regarding the change. The State Fire Marshal shall provide the appliances necessary for carrying on this work and shall proceed with such standardization as rapidly as possible and complete such work at the earliest date circumstances will permit. However, the State Fire Marshal may exempt from standardization special purpose fire equipment and existing fire protection equipment when it is established that such equipment is not essential to the coordination of public fire protection operations. The provisions of this section and ORS 476.440 shall not apply to fire protection equipment used under authority of ORS chapters 477 and 526. [Amended by 1965 c.602 §11; 1973 c.667 §21; 1993 c.185 §30; 1997 c.13 §3; 1997 c.853 §44]

476.430 Changing private equipment. The State Fire Marshal shall notify industrial establishments and property owners having equipment for fire protection purposes, which may be necessary for a fire department to use in protecting the property or putting out fire, of the changes necessary to bring their equipment up to the requirements of the standard established and shall render them such assistance as may be available in converting their defective equipment to standard requirements.

476.440 Sale of nonstandard equipment prohibited; exemption. No person shall sell or offer for sale in Oregon any fire hose, hydrant, fire engine or other equipment for fire protection purposes unless such equipment is fitted and equipped with the standard thread for fire hose couplings and hydrant fittings as has been adopted by the State Fire Marshal under ORS 476.030. Fire equipment for special purposes, research programs or special features of fire protection equipment found appropriate for uniformity within a particular protection area, may be exempted from this requirement by order of the State Fire Marshal. [Amended by 1963 c.523 §9; 1965 c.602 §12]

PROTECTION OF LIFE AND PROPERTY FROM FIRE IN CASE OF EMERGENCY

476.510 Short title. ORS 476.510 to 476.610 shall be known as the Emergency Conflagration Act.

476.515 Other officers authorized to act when Governor unavailable. If the Governor is unavailable to make timely exercise of the authority under ORS 476.510 to 476.610, the Superintendent of State Police may exercise such authority, and if that individual is unavailable the State Fire Marshal may exercise such authority. Any orders, rules or regulations issued by the Superintendent of State Police or the State Fire Marshal pursuant to this section have the same force and effect as if issued by the Governor. [1979 c.76 §5; 1987 c.414 §81; 1993 c.186 §2]

476.520 Governor authorized to assign fire-fighting forces and equipment. The Governor may assign and make available for use and duty in any county, city or district, under the direction and command of an officer designated by the Governor for the purpose, any part of the fire-fighting forces and equipment of any fire-fighting organization in this state other than an organization that possesses only one self-propelled pumping unit. The Governor may make fire-fighting forces and equipment available under this section in response to fire, a heightened danger of fire or a significant reduction in available fire-fighting resources. [Amended by 2005 c.16 §1]

476.530 Chief executive of political subdivision to assign forces and equipment; federal equipment. The chief executive of any county, city or fire protection district or the head of any fire department of any political subdivision, including agencies of this state, if so ordered by the Governor, shall assign and make available for duty and use in any county, city or fire district under the direction and command of such officer as may be designated by the Governor for the purpose, any part of the fire-fighting forces and equipment under the control of the chief executive or the head of the fire department, provided that any equipment made available by loan, or otherwise, to any county, city or fire district or this state by the United States or any agency thereof, shall at all times be subject to the order of the United States or such agency in accordance with the terms and conditions upon which the equipment is made available. [Amended by 1961 c.626 §1; 1979 c.76 §1]

476.540 Powers and duties of fire-fighting forces. Whenever the fire-fighting forces of any county, city or fire district are rendering outside aid pursuant to ORS 476.520 or 476.530, the officers and members of such fire-fighting forces shall have the same powers, duties, rights, privileges and immunities as though they were performing their duties in the political subdivision in which they are normally employed.

476.550 Loss or damage to equipment. When any equipment is used pursuant to ORS 476.520 or 476.530 the state shall be liable for any loss thereof or damage thereto and shall pay any expense incurred in the operation or maintenance thereof. No claim for any such loss, damage or expense shall be allowed unless, within 60 days after it has been sustained or incurred, or within such extension of such time as may have been obtained from the Department of State Police, an itemized notice of such claim, under oath, is served by mail or personally upon the Department of State Police and such loss, damage or expense shall be payable from the Emergency Fund of the state. [Amended by 1979 c.76 §2; 1993 c.186 §3]

476.560 Reimbursement for aid. Whenever aid is supplied pursuant to ORS 476.520 to 476.590, the state shall reimburse the political subdivision supplying such aid for the compensation paid to employees supplied under ORS 476.520 to 476.590 during the time the rendition of such aid prevents them from performing their duties in the political subdivision by which they are employed and shall defray the actual traveling and maintenance expenses of such employees while they are rendering such aid. “Employee” as used herein means, and the provisions of ORS 476.520 to 476.610 apply with equal effect to, all firefighters, whether paid, volunteer or call. [Amended by 1991 c.67 §145]

476.570 Appointment of substitute firefighters; recall of off-duty firefighters. Substitute firefighters or recalled off-duty firefighters within any county, city or fire district from which regular firefighters are taken under the provisions of ORS 476.530, not exceeding the number of regular firefighters, may be recalled or appointed by the same persons authorized by law to appoint regular firefighters, provided that substitute firefighters appointed shall not be subject to the requirements of the civil service law or rules and that such substitute firefighters shall not be entitled to any pension or retirement rights or privileges. The substitute firefighters appointed under this section shall have the powers, functions and duties of regular firefighters. Their compensation shall not be greater than the lowest rate of pay for regular firefighters. Persons appointed as substitute firefighters shall exercise their powers, functions and duties only when called upon, during the period all, or any part, of the regular fire-fighting forces of any county, city or fire district are rendering outside aid pursuant to ORS 476.520 or 476.530, and for no longer than two days after the return to duty of the part of the regular fire-fighting forces for which they are substituting. Compensation for recalled off-duty firefighters and substitute firefighters and any allowable expense necessarily incurred by them in the performance of their duties shall be charged against the county, city or fire district for which they were appointed and shall be audited, allowed and paid as other charges against it are audited, allowed and paid, and shall be subject to reimbursement by the state as provided in ORS 476.550 and 476.560. [Amended by 1979 c.76 §3; 1991 c.67 §146]

476.574 Leave of absence for volunteers; employment rights. (1) Upon request of an employee who is a volunteer firefighter of a rural fire protection district or a firefighter employed by a city or a private firefighting service to perform service pursuant to ORS 476.510 to 476.610, the employee, upon written notice by the employer, may be granted a leave of absence by the employer until release from such service permits the employee to resume the duties of employment.

(2) The regular employment position of an employee on leave of absence under this section shall be considered vacant only for the period of the leave of absence. The employee shall not be subject to removal or discharge from such position as a consequence of the leave of absence.

(3) Upon the termination of a leave of absence under this section, the employee shall be restored to the employee’s position or an equivalent position by the employer without loss of seniority, vacation credits, sick leave credits, service credits under a pension plan or any other employee benefit or right that had been earned at the time of the leave of absence.

(4) An employer is not required to pay wages or other monetary compensation to an employee during a leave of absence under subsection (1) of this section.

(5) As used in this section:

(a) “Employee” means any individual, other than a copartner of the employer or an independent contractor, who renders personal services in this state to an employer who pays or agrees to pay wages or other compensation to the individual for those services.

(b) “Employer” means any person who employs one or more employees in this state. The term includes the State of Oregon or any county, city, district, authority, public corporation or entity and any of their instrumentalities organized and existing under law or charter, but does not include the federal government. [1997 c.266 §2]

Note: 476.574 and 476.576 were added to and made a part of 476.510 to 476.610 by legislative action but were not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

476.576 Violation of job restoration rights of volunteers as unlawful employment practice. (1) Any violation of ORS 476.574 by an employer is an unlawful employment practice.

(2) Complaints alleging a violation of ORS 476.574 may be filed by employees with the Commissioner of the Bureau of Labor and Industries. The commissioner shall enforce ORS 476.574 in the manner provided in ORS chapter 659A for the enforcement of other unlawful employment practices.

(3) Any person claiming to be aggrieved by a violation of ORS 476.574 may bring a civil action in the manner provided in ORS 659A.885. [1997 c.266 §3; 2001 c.621 §81]

Note: See note under 476.574.

476.580 Orders, rules and regulations. The Governor may make, amend and rescind such orders, rules and regulations as are necessary or advisable to carry out the provisions of ORS 476.530 and 476.540. Any order issued by the Governor in relation to carrying out the provisions of ORS 476.520 to 476.610 may be either written or oral. If written, a copy thereof shall be filed in the office of the Secretary of State and another copy dispatched forthwith to the chief executive of any county, city or fire protection district affected. Immediately thereafter such order, rule or regulation shall be in effect. Oral orders may be made by the Governor when in the opinion of the Governor the emergency is such that delay in issuing a written order would be dangerous to the welfare of the people of the state. However, written copies of such oral order shall be filed and dispatched as soon after issuing such oral order as is conveniently possible in the manner above provided for written orders.

476.590 Preparation of plans by State Fire Marshal; advice and counsel to Governor. The State Fire Marshal shall prepare plans for the effective carrying out of the provisions of ORS 476.520 to 476.610 and provide advice and counsel to the Governor for the most practical utilization under ORS 476.520 to 476.610 of the fire-fighting resources of this state. [Amended by 2005 c.16 §2]

476.600 Liability for injury to person or property. Neither the state nor any county, city or fire district or other political subdivision nor any firefighter acting as the agent of any of the foregoing is liable for any injury to person or property resulting from the performance of any duty imposed by the authority of ORS 476.520 to 476.590. In carrying out the provisions of ORS 476.520 to 476.590 or while acting within the scope of any duty imposed by authority of the provisions of ORS 476.520 to 476.590, no person shall incur civil liability. A person does not, however, escape full liability for injury to person or property resulting from willful misconduct or gross negligence of the person. [Amended by 1991 c.67 §147; 2005 c.22 §357]

476.610 Payment of claims. The state shall draw warrants on the State Treasurer for the payment of all duly approved claims lawfully incurred in pursuance of ORS 476.520 to 476.600. [Amended by 1983 c.740 §189; 1993 c.186 §5]

GOVERNOR’S FIRE SERVICE POLICY COUNCIL

476.680 Governor’s Fire Service Policy Council; membership; terms; duties. (1) There is created the Governor’s Fire Service Policy Council. The council shall include the following nonvoting ex officio members:

(a) The Superintendent of State Police, or a designee thereof experienced in the oversight of Department of State Police activities relating to the office of the State Fire Marshal; and

(b) The Director of the Department of Public Safety Standards and Training, or a designee thereof.

(2) The State Fire Marshal shall serve as executive director of the council, but is not a member. The council shall meet at least quarterly. The council shall select a chairperson and vice chairperson at the first council meeting of each odd-numbered year. The council may elect additional officers as the council determines to be reasonable and necessary.

(3) In addition to the ex officio members identified in subsection (1) of this section, the Governor may designate a representative of the Governor to serve as a nonvoting member. The Governor may also appoint not more than nine members to serve on the council for three-year terms. Initial terms of the appointed members may be adjusted to promote council stability. An appointed member may not serve more than two consecutive terms. A member appointed by the Governor must be a representative of one of the following:

(a) The Oregon Fire Chiefs Association or a successor or other organization representing fire chiefs.

(b) The Oregon Fire District Directors Association or a successor or other organization representing fire district directors.

(c) The Oregon Fire Marshals Association or a successor or other organization representing fire marshals.

(d) Property and casualty insurance providers.

(e) Employees of the office of the State Fire Marshal.

(f) The Oregon State Fire Fighters Council or a successor or other organization representing professional firefighters.

(g) The Oregon Volunteer Firefighters Association or a successor or other organization representing volunteer firefighters.

(h) The League of Oregon Cities or a successor or other organization representing municipalities.

(i) The general public.

(4) Notwithstanding the term of office specified in subsection (3) of this section, the initial term of a member appointed by the Governor may be adjusted to limit the number of member terms expiring in the same year.

(5) To the extent funding is available from moneys appropriated to the office of the State Fire Marshal, a member of the council is entitled to compensation and expenses as provided in ORS 292.495.

(6) The council shall advise the Governor and the Superintendent of State Police on fire policy issues and serve in an advisory capacity to the State Fire Marshal on strategies for the implementation of fire and life safety issues. The council may initiate advice to the State Fire Marshal, the Superintendent of State Police and the Governor on any matter related to the mission of the council. The council may not participate in the discussion of traditional labor relations issues.

(7) The office of the State Fire Marshal shall provide staff services to the council. All agencies, departments and officers of this state are directed to assist the council in the performance of its functions and to furnish information and advice as the council considers necessary. [2001 c.647 §1; 2011 c.9 §66]

Note: 476.680 and 476.685 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 476 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

476.685 Biennial reports. The Governor’s Fire Service Policy Council shall provide a biennial report to the Governor and the Superintendent of State Police on the overall performance of the office of the State Fire Marshal. The report shall identify significant successes and improvement opportunities. [2001 c.647 §2]

Note: See note under 476.680.

MISCELLANEOUS PROVISIONS

476.710 Setting fires adjacent to structures or timber on ocean shore prohibited; exceptions. No person shall set or permit any fire on the Pacific Ocean shore, declared to be a state recreation area under ORS 390.615, adjacent to any structure or any timber or forest area except pursuant to rule, regulation or permit of or from the State Parks and Recreation Department. [Amended by 1965 c.368 §7; 1989 c.904 §65]

476.715 Throwing away of lighted matches, cigarettes and other materials prohibited; posting copy of section in public conveyances. No one shall, at any time, throw away any lighted tobacco, cigars, cigarettes, matches or other lighted material, on any forestland, private road, public highway or railroad right of way within this state. Everyone operating a public conveyance shall post a copy of this section in a conspicuous place within the smoking compartments of such conveyance. [Formerly 477.164]

476.720 Certain remedial statutes to be construed liberally. ORS 476.010 to 476.090, 476.155 to 476.170, 476.210 to 476.270, 476.990 (1) and 479.168 to 479.190 are remedial in nature and shall be construed liberally. [Amended by 2011 c.97 §2]

476.725 Statewide standards for residential carbon monoxide alarms; rules. (1) The State Fire Marshal shall adopt rules establishing minimum standards for carbon monoxide alarms in one and two family dwellings and multifamily housing. The rules adopted by the State Fire Marshal may include, but need not be limited to, rules establishing minimum standards for the design, inspection, testing and maintenance of carbon monoxide alarms.

(2) The State Fire Marshal shall adopt rules establishing standards for the placement and location of carbon monoxide alarms in one and two family dwellings and multifamily housing that were not subject to state building code requirements for carbon monoxide alarm placement or location at the time of construction.

(3) In adopting rules under this section, the State Fire Marshal shall give consideration to state building code requirements and any standards adopted by national safety organizations.

(4) Notwithstanding ORS 476.030, State Fire Marshal rules adopted under this section shall apply for all governmental subdivisions in the state. A governmental subdivision, as defined in ORS 476.005 may not enact or enforce any local ordinance, rule or regulation regarding the design, inspection, testing, maintenance, placement or location of carbon monoxide alarms. [2009 c.591 §4]

Note: 476.725 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 476 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

476.730 Notice prior to release or after escape of arsonist from state institution. (1) The superintendent of each Department of Corrections institution of this state and of each institution for persons with mental illness shall, prior to the release, or immediately after the escape, from such institution of any person committed to such institution for arson or arsonist activity, notify the State Fire Marshal and the Department of State Police except that such notice shall not be required when such persons are on approved leave from such institutions for periods of not to exceed 10 days. The notice shall state the name of the person to be released or who has escaped, the county in which the person was convicted or from which the person was committed and, if known, the address or locality at which the person will reside.

(2) Promptly upon receipt of the notice, the State Fire Marshal and the Department of State Police shall notify respectively the fire departments and rural fire protection districts who maintain full-time personnel and the sheriff and police departments of the county in which the person was convicted or from which the person was committed and the county, if known, in which the person will reside. [1957 c.245 §§1,2; 1959 c.26 §1; 1965 c.602 §16; 1987 c.320 §237; 2007 c.70 §271]

476.740 [1967 c.417 §12; repealed by 1971 c.743 §432]

476.750 [1967 c.417 §14; repealed by 1971 c.743 §432]

REDUCED IGNITION PROPENSITY CIGARETTES

476.755 Definitions for ORS 476.755 to 476.790 and 476.995. As used in ORS 476.755 to 476.790 and 476.995:

(1) “Cigarette” means a roll for smoking:

(a) That is made wholly of tobacco, or of tobacco and any other substance, regardless of size, shape or flavoring or adulteration by or mixing with other ingredients, the wrapper of which is made of paper or other nontobacco materials; and

(b) That, because of its appearance, the type of tobacco used in the filler or its packaging and labeling, is likely to be offered to or purchased by consumers as a cigarette.

(2) “Distribute” means to do any of the following:

(a) Sell cigarettes or deliver cigarettes for sale by another person to consumers.

(b) Receive or retain more than 199 cigarettes at a place of business where the person receiving or retaining the cigarettes customarily sells cigarettes or offers cigarettes for sale to consumers.

(c) Place cigarettes in vending machines.

(d) Sell or accept orders for cigarettes that are to be transported from a point outside this state to a consumer within this state.

(e) Buy cigarettes directly from a manufacturer or wholesale dealer for resale in this state.

(f) Give cigarettes as a sample, prize, gift or other promotion.

(3) “Manufacturer” means:

(a) An entity that produces, or causes the production of, cigarettes for sale in this state;

(b) An importer or first purchaser of cigarettes that intends to resell within this state cigarettes that were produced for sale outside this state; or

(c) A successor to an entity, importer or first purchaser described in paragraph (a) or (b) of this subsection.

(4) “Packaging” includes, but is not limited to, cigarette soft packs, boxes, cartons and cases.

(5) “Quality control and assurance program” means laboratory procedures implemented to ensure that operator bias, systematic and nonsystematic methodological errors and equipment-related problems do not affect the results of testing.

(6) “Reduced ignition propensity” means meeting the fire safety performance standard described in ORS 476.770 (6).

(7) “Repeatability” means the range of values within which the repeat results of ignition propensity testing by a single laboratory will fall 95 percent of the time.

(8) “Retail dealer” means a person, other than a manufacturer or wholesale dealer, that engages in distributing cigarettes.

(9) “Sell” means to transfer, or agree to transfer, title or possession for a monetary or nonmonetary consideration.

(10) “Variety” means a type of cigarette marketed by the manufacturer as being distinct from other types of cigarettes on the basis of brand name, length, filter, wrapping, flavoring or other characteristics as the State Fire Marshal may provide by rule.

(11) “Wholesale dealer” means a person that distributes cigarettes to:

(a) A retail dealer or other person for resale; or

(b) A person that owns, operates or maintains cigarette vending machines on premises owned or operated by another person. [2007 c.34 §1]

Note: 476.755 to 476.806 and 476.995 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 476 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

476.760 Prohibition against distributing or offering certain cigarettes; improper packaging markings; seizure and forfeiture; interagency agreements; inspections; rules. (1) A person may not distribute or offer to sell a cigarette within this state unless the cigarette is of a variety the State Fire Marshal has determined to have reduced ignition propensity.

(2) Cigarette packaging may not bear a marking or other device identifying the packaged cigarettes as having reduced ignition propensity other than a packaging marking approved for use with those cigarettes by the State Fire Marshal under ORS 476.785. This subsection does not apply if the cigarettes are in interstate commerce and not intended for distribution in this state.

(3) The State Fire Marshal, an authorized representative of the State Fire Marshal or any law enforcement agency may immediately seize and subject to forfeiture any cigarettes distributed or offered for sale in violation of subsection (1) of this section and any packaging, and cigarettes contained in that packaging, that violates subsection (2) of this section. The State Fire Marshal shall destroy cigarettes and packaging seized and forfeited under this subsection. However, prior to destroying cigarettes or packaging seized under this subsection, the State Fire Marshal shall allow the true holder of the trademark rights in the cigarette variety to inspect the cigarettes and packaging.

(4) The State Fire Marshal may enter into a cooperative agreement with any state or local agency that allows the agency to act as an authorized representative of the State Fire Marshal for enforcement purposes under this section.

(5)(a) The State Fire Marshal or an authorized representative, upon oral or written demand, may inspect the inventory of cigarette manufacturers, wholesale or retail dealers and transporters as the State Fire Marshal or an authorized representative deems necessary to ensure compliance with this section. The State Fire Marshal may adopt rules to require reports, in a form prescribed by the State Fire Marshal, by cigarette manufacturers, wholesale or retail dealers and transporters for the purpose of ensuring compliance with this section.

(b) As used in this subsection, “transporter” has the meaning given that term in ORS 323.010. [2007 c.34 §2]

Note: See note under 476.755.

476.765 Imposition of civil penalties; bringing of actions. (1) The State Fire Marshal shall impose civil penalties under ORS 476.995 in the manner provided by ORS 183.745.

(2) The Attorney General may bring an action at the request of the office of the State Fire Marshal, in the name of the state, seeking:

(a) Injunctive relief to prevent or end a violation of ORS 476.760;

(b) To recover civil penalties imposed under ORS 476.995; or

(c) To recover attorney fees and other enforcement costs and disbursements. [2007 c.34 §4]

Note: See note under 476.755.

476.770 Determination of cigarette variety ignition propensity; reduced ignition propensity standard; listing; cigarette design; rules. (1) For each variety of cigarette sold or proposed for sale in this state, the State Fire Marshal shall determine whether that variety of cigarette has reduced ignition propensity.

(2) Any cigarette variety certified by a manufacturer under ORS 476.780 shall be determined to have reduced ignition propensity.

(3) Except as provided in this section, ignition propensity testing certified, conducted or accepted by a manufacturer or the State Fire Marshal must be performed using ASTM International specification E2187-04, Standard Test Method for Measuring the Ignition Strength of Cigarettes. The ignition propensity testing must be conducted on 10 layers of filter paper. Forty replicate tests shall constitute a complete test trial for each cigarette variety tested. The fire safety performance standard described in subsection (6) of this section applies only to a completed test trial.

(4) The State Fire Marshal may adopt an ignition propensity testing method developed by ASTM International as a modification or replacement of the method designated by subsection (3) of this section if the State Fire Marshal, by rule, deems the modified or replacement method acceptable for determining cigarette fire safety. However, the State Fire Marshal may not adopt a modified or replacement method that in repeated testing results in a change in the percentage of cigarettes exhibiting full-length burns from the percentage produced on the same variety of cigarettes by use of the ASTM E2187-04 method or that otherwise affects the ability of the cigarette to meet the fire safety performance standard described in subsection (6) of this section.

(5) If the State Fire Marshal determines that ignition propensity testing cannot be performed on a cigarette using a method described in subsection (3) or (4) of this section, the manufacturer may propose an alternative testing method and an alternative fire safety performance standard for the variety. If the State Fire Marshal approves the alternative testing method and determines that the alternative fire safety performance standard is equivalent to the fire safety performance standard described in subsection (6) of this section, the manufacturer may use the alternative testing method and the alternative fire safety performance standard for the purpose of certifying the variety of cigarette under ORS 476.780. Except as provided under the approved alternative testing method and the alternative fire safety performance standard, a cigarette variety described in this subsection remains subject to ORS 476.755 to 476.790 and 476.995.

(6) For a cigarette variety to be declared to have reduced ignition propensity, no more than 25 percent of the cigarettes in a complete test trial conducted in accordance with an ignition propensity testing method described in this section shall exhibit full-length burns.

(7) The State Fire Marshal shall issue, keep current and make available to the public a list of the cigarette varieties the State Fire Marshal has determined to have reduced ignition propensity.

(8) A cigarette listed in a certification under ORS 476.780 that uses lowered permeability bands in the cigarette paper to achieve compliance with the fire safety performance standard described in subsection (6) of this section must have at least two nominally identical bands on the paper surrounding the tobacco column. If the bands are not positioned on the cigarette by design, at least one complete band must be at least 15 millimeters from the lighting end of the cigarette. If the bands are positioned on the cigarette by design, the cigarette must have at least two bands that are entirely located at least 15 millimeters from the lighting end and:

(a) If the cigarette is filtered, that are located at least 10 millimeters from the filter end of the tobacco column; or

(b) If the cigarette is nonfiltered, that are located at least 10 millimeters from the labeled end of the tobacco column. [2007 c.34 §5]

Note: See note under 476.755.

476.775 Laboratories; ignition propensity testing. (1) A laboratory that conducts ignition propensity testing for purposes of ORS 476.770 must have a quality control and assurance program. The program shall be designed to ensure the testing repeatability value for all test trials used to certify a cigarette variety. The repeatability value of ignition propensity testing may not be greater than 0.19.

(2) Ignition propensity testing used in a manufacturer certification submitted under ORS 476.780 must be conducted in a laboratory that has been accredited under:

(a) The ISO/IEC 17025 standard of the International Organization for Standardization, as amended and in effect on April 17, 2007; or

(b) A standard recognized in State Fire Marshal rules as comparable to prevailing international accreditation standards. [2007 c.34 §6]

Note: See note under 476.755.

476.780 Cigarette variety certification by manufacturer; retesting; record retention; unfavorable determination by State Fire Marshal. (1) A manufacturer shall submit a written certification attesting that each variety of cigarette listed in the certification has been subjected to ignition propensity testing described in ORS 476.770 and meets the fire safety performance standard described in ORS 476.770 (6).

(2) The certification shall provide the following information for each variety of cigarette listed:

(a) The brand name shown on the cigarette packaging.

(b) The style, such as light or ultralight.

(c) The length in millimeters.

(d) The circumference in millimeters.

(e) The flavor, such as menthol or chocolate, if applicable.

(f) Whether the cigarette is filtered or nonfiltered.

(g) A packaging description, such as soft pack or box.

(h) A description of the packaging marking approved by the State Fire Marshal under ORS 476.785.

(i) The name, address and telephone number of the laboratory conducting the ignition propensity testing, if other than the laboratory of the manufacturer.

(j) The date of the ignition propensity testing.

(3) The certification of a cigarette variety is valid for three years from the date of receipt by the State Fire Marshal.

(4) If the manufacturer certifies a cigarette variety and later makes any change that is likely to alter the cigarette variety’s compliance with the fire safety performance standard described in ORS 476.770 (6), before distributing the changed cigarette variety in this state the manufacturer shall retest the ignition propensity of that variety. Notwithstanding subsection (3) of this section, a manufacturer may not sell a cigarette variety described in this subsection unless that variety continues to meet the fire safety performance standard described in ORS 476.770 (6).

(5) A manufacturer shall retain copies of all ignition propensity test data for cigarette varieties listed in the certification, including any retesting performed under subsection (4) of this section. The manufacturer shall retain the test data for not less than three years. The manufacturer shall provide copies of the test data upon request to the State Fire Marshal and to the Attorney General. Failure of a manufacturer to provide copies of ignition propensity test data requested by the State Fire Marshal or the Attorney General creates a rebuttable presumption that a cigarette variety does not meet the fire safety performance standard described in ORS 476.770 (6).

(6) The State Fire Marshal may determine that a cigarette variety certified under this section does not have reduced ignition propensity only if:

(a) The test data provided to the State Fire Marshal by the manufacturer demonstrate that the cigarette variety does not meet the fire safety performance standard described in ORS 476.770 (6); or

(b) The State Fire Marshal conducts ignition propensity testing on the cigarette variety and the test results demonstrate that the cigarette variety does not meet the fire safety performance standard described in ORS 476.770 (6).

(7) Ignition propensity testing by the State Fire Marshal under subsection (6) of this section shall be conducted in accordance with the testing requirements applicable to manufacturers by a laboratory meeting the requirements described under ORS 476.775.

(8) Upon a determination by the State Fire Marshal under subsection (6) of this section, the State Fire Marshal may seek the remedies described in ORS 476.765. [2007 c.34 §7]

Note: See note under 476.755.

476.785 Cigarette packaging markings. (1) A manufacturer shall place a single type of marking on all packaging for cigarettes of the manufacturer sold in this state to indicate that cigarettes of the manufacturer sold in this state meet the fire safety performance standard established in ORS 476.770 (6).

(2) A manufacturer shall submit to the State Fire Marshal a proposal for marking cigarette packaging. The proposed marking must be in an eight-point font or larger and consist of one of the following:

(a) Modification of the universal product code to indicate a visible mark printed at or around the universal product code. The mark may consist of alphanumeric or symbolic characters permanently printed, stamped, engraved or embossed in conjunction with the universal product code.

(b) A visible combination of alphanumeric or symbolic characters permanently stamped, engraved or embossed upon the packaging or cellophane wrapping.

(c) Printed, stamped, engraved or embossed text indicating that the cigarettes meet the fire safety performance standard established in ORS 476.770 (6).

(3) The State Fire Marshal shall approve or disapprove the proposal for packaging marking. In determining whether to approve or disapprove a proposal for packaging marking, the State Fire Marshal:

(a) Shall give preference to packaging marking that is consistent with the packaging marking in use and approved for that cigarette variety in the State of New York; and

(b) Shall approve packaging marking that bears the letters “FSC.”

(4) A proposal for packaging marking is approved unless the State Fire Marshal disapproves the proposal on or before the 10th day after receipt. The approved packaging marking may be used for the cigarette variety upon receipt by the State Fire Marshal of the manufacturer certification for that variety under ORS 476.780.

(5) A manufacturer may not modify the approved packaging marking unless the modification has been submitted to and approved by the State Fire Marshal. [2007 c.34 §8]

Note: See note under 476.755.

476.790 Providing copies of cigarette certification and illustration of packaging markings. (1) A manufacturer selling cigarettes to a wholesale dealer in this state shall provide the wholesale dealer with a copy of the certification for those cigarettes submitted to the State Fire Marshal under ORS 476.780. The manufacturer shall also provide the wholesale dealer with copies of an illustration of the packaging marking required under ORS 476.785. The manufacturer shall supply copies of the illustration to the wholesale dealer in sufficient number to allow one copy for each retail dealer receiving the cigarettes from the wholesale dealer.

(2) A wholesale dealer shall provide a copy of the illustration described in subsection (1) of this section to each retail dealer that receives cigarettes of the manufacturer from the wholesale dealer. A wholesale dealer is not required to provide a retail dealer of the cigarettes of a manufacturer with more than one copy of the illustration for that manufacturer. [2007 c.34 §9]

Note: See note under 476.755.

476.795 Interpretation of ORS 476.755 to 476.790 and 476.995. The interpretations given to the New York Fire Safety Standards for Cigarettes (Part 429, Title 19, New York Environmental Conservation Rules and Regulations) shall be persuasive authority in the interpretation of ORS 476.755 to 476.790 and 476.995. [2007 c.34 §12]

Note: See note under 476.755.

476.800 [1973 c.667 §1; 1977 c.104 §3; renumbered 476.055]

476.801 Cigarette varieties not subject to ORS 476.755 to 476.790 and 476.995. ORS 476.755 to 476.790 and 476.995 do not apply to any cigarette variety that the State Fire Marshal determines is subject to a federal law that imposes a cigarette fire safety performance standard that is at least as strict as the standard imposed under ORS 476.770. [2007 c.34 §13]

Note: See note under 476.755.

476.805 [1973 c.667 §2; 1985 c.118 §5; repealed by 1993 c.185 §34]

476.806 Cigarette Fire Safety Fund. (1) The Cigarette Fire Safety Fund is established in the State Treasury, separate and distinct from the General Fund. The Cigarette Fire Safety Fund shall consist of all moneys recovered from the imposition of civil penalties under ORS 476.995. Interest earned by the Cigarette Fire Safety Fund shall be credited to the fund.

(2) All moneys in the fund are continuously appropriated to the Department of State Police for use by the office of the State Fire Marshal for fire safety, enforcement and fire prevention programs. [2007 c.34 §14]

Note: See note under 476.755.

476.810 [1973 c.667 §3; repealed by 1993 c.185 §34]

476.815 [1973 c.667 §8; 1985 c.118 §6; repealed by 1993 c.185 §34]

476.820 [1973 c.667 §4; 1977 c.104 §4; repealed by 1993 c.185 §34]

476.825 [1973 c.667 §5; 1985 c.118 §7; repealed by 1993 c.185 §34]

476.830 [1973 c.667 §6; 1985 c.118 §8; repealed by 1993 c.185 §34]

NOVELTY LIGHTERS

476.831 Definitions for ORS 476.831 to 476.856. As used in ORS 476.831 to 476.856:

(1) “Audio effects” includes music, animal sounds and whistles, buzzers, beepers or other noises not pertinent to the flame-producing function of the lighter.

(2) “Distribute” means to:

(a) Deliver to a person other than the purchaser; or

(b) Provide as part of a commercial promotion or as a prize or premium.

(3) “Importer” means a person who causes a lighter to enter this state from a manufacturing, wholesale, distribution or retail sales point outside this state, for the purpose of selling or distributing the lighter within this state or with the result that the lighter is sold or distributed within this state.

(4) “Lighter” means a handheld device of a type typically used for igniting tobacco products by use of a flame.

(5) “Misleading design” means that a lighter has a shape that resembles or imitates an object other than a lighter.

(6) “Novelty lighter”:

(a) Means a lighter that has misleading design, audio effects or visual effects, or that has other features of a type that would reasonably be expected to make the lighter appealing or attractive to a child less than 10 years of age.

(b) Does not mean:

(A) A lighter manufactured before January 1, 1980; or

(B) A lighter that has been rendered permanently incapable of producing a flame or otherwise causing combustion.

(7) “Sell” means to provide or promise to provide to a wholesale, retail, mail-order or other purchaser in exchange for consideration.

(8) “Visual effect”:

(a) Includes flashing lights, color-changing lights and changing images; and

(b) Does not include logos, decals, decorative artwork or heat-shrinkable sleeves. [2009 c.6 §1]

Note: 476.831 to 476.856 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 476 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

476.835 [1973 c.667 §7; 1979 c.772 §24; 1985 c.118 §9; repealed by 1993 c.185 §34]

476.836 Identification of novelty lighters; rules; disposition of contraband lighters. (1) The State Fire Marshal may adopt rules to identify lighters or classes or types of lighters that are novelty lighters. The novelty lighters identified by the State Fire Marshal may include, but need not be limited to, lighters of misleading design that resemble or imitate:

(a) Cartoon characters, figurines or action figures;

(b) Toys or game pieces;

(c) Musical instruments;

(d) Vehicles;

(e) Animals;

(f) Human body parts;

(g) Food, beverages or food or beverage packages;

(h) Weaponry;

(i) Furniture;

(j) Sports equipment;

(k) Holiday decoration;

(L) Tools; or

(m) Household products.

(2) The State Fire Marshal shall establish and maintain a list of lighters, and of classes and types of lighters, that the State Fire Marshal has determined to be novelty lighters. The State Fire Marshal shall make the list available to the public in electronic form or in other forms selected by the State Fire Marshal.

(3) A lighter is a contraband item subject to seizure and destruction by the State Fire Marshal or a representative of the State Fire Marshal, or by a law enforcement agency, if the lighter is:

(a) Listed, or of a class or type listed, in State Fire Marshal rules as a novelty lighter; and

(b) Offered for sale, sold or distributed in this state or manufactured or possessed for the purpose of sale or distribution in this state.

(4) The State Fire Marshal or a representative of the State Fire Marshal, or a law enforcement agency, may seize a novelty lighter that is not described in subsection (3) of this section. Upon finding that the person from whom the lighter was seized is subject to imposition of a civil penalty under ORS 476.841 for being a manufacturer, importer, wholesaler, storer, seller or distributor of the lighter, the State Fire Marshal or a representative may order that the lighter be forfeited and destroyed. [2009 c.6 §2]

Note: See note under 476.831.

476.840 [1973 c.667 §9; 1987 c.414 §82; repealed by 1993 c.185 §34]

476.841 Prohibition against sale or distribution of novelty lighters; civil penalties. (1) A person may not sell, offer for sale or distribute a novelty lighter in this state. A person may not manufacture a novelty lighter in this state, or import a novelty lighter into this state, for the purpose of selling or distributing the novelty lighter within this state. A person may not possess a novelty lighter in inventory for the purpose of selling or distributing the novelty lighter within this state.

(2) The State Fire Marshal may impose a civil penalty against a person who violates subsection (1) of this section. The civil penalty may not exceed:

(a) $10,000 if the person is a manufacturer or importer of lighters.

(b) $1,000 if the person is a wholesaler of lighters or distributes lighters by means other than distribution directly to consumers.

(c) $500 if the person is:

(A) A retail seller of lighters; or

(B) A person distributing lighters, if the person is other than a manufacturer, importer or wholesaler.

(3) If a person continues to violate this section after the State Fire Marshal gives the person written notice of the violation, each day that the violation continues is a separate offense subject to a civil penalty.

(4) The State Fire Marshal shall impose civil penalties under this section as provided in ORS 183.745. For purposes of ORS 183.417, it is prima facie evidence that a lighter is a novelty lighter if the lighter is listed by the State Fire Marshal as described in ORS 476.836 as a novelty lighter, or is of a class or type of lighter listed by the State Fire Marshal as novelty lighters. However, listing by the State Fire Marshal is not a prerequisite for finding that a lighter is a novelty lighter.

(5) All moneys collected from civil penalties under this section shall be deposited to the credit of the State Fire Marshal Fund. [2009 c.6 §3]

Note: See note under 476.831.

476.845 [1973 c.667 §11; 1977 c.104 §5; 1985 c.118 §10; repealed by 1993 c.185 §34]

476.846 Compliance inspections. (1) The State Fire Marshal, or a representative of the State Fire Marshal, may conduct inspections to ensure compliance with ORS 476.841. The State Fire Marshal or representative may:

(a) Have access during reasonable business hours to facilities within this state used in the business of manufacturing, importing, distributing, selling or storing lighters;

(b) Inspect the manufacturing, importing, distribution, sales or storage facilities and any lighters located at the facilities; and

(c) Inspect all business records pertaining to lighter manufacture, import, distribution, sale or storage.

(2) A person engaged in this state in the business of manufacturing, importing, distributing, selling or storing lighters shall grant the State Fire Marshal or a representative reasonable access for conducting inspections as described in subsection (1) of this section. [2009 c.6 §4]

Note: See note under 476.831.

476.850 [1973 c.667 §13; 1977 c.104 §6; repealed by 1993 c.185 §34]

476.851 Agreements with State Fire Marshal representatives. The State Fire Marshal may enter into agreements with any state or local agency to allow the agency to act as a representative of the State Fire Marshal for purposes of ORS 476.841 and 476.846. [2009 c.6 §5]

Note: See note under 476.831.

476.855 [1973 c.667 §14; 1985 c.118 §11; 1993 c.185 §19; renumbered 476.033 in 1999]

476.856 Attorney General actions to enforce ORS 476.841 and 476.846. The Attorney General may bring an action at the request of the State Fire Marshal, in the name of the state, seeking:

(1) Injunctive relief to prevent or end a violation of ORS 476.841 or 476.846;

(2) To recover civil penalties imposed under ORS 476.841;

(3) To obtain access for inspections under ORS 476.846; or

(4) To recover attorney fees and other enforcement costs and disbursements. [2009 c.6 §6]

Note: See note under 476.831.

476.860 [1973 c.667 §12; 1977 c.104 §7; repealed by 1985 c.118 §17]

476.865 [1973 c.667 §15; 1977 c.104 §8; 1985 c.118 §12; repealed by 1993 c.185 §34]

476.870 [1981 c.97 §2; repealed by 1985 c.118 §17]

FIRE PROTECTION EQUIPMENT LOAN FUND

476.900 Application by certain cities and rural fire protection districts to borrow money from loan fund. (1) Any city of 5,000 or less in population and any rural fire protection district serving 5,000 or fewer residents may file with the State Fire Marshal an application to borrow from the Fire Protection Equipment Loan Fund moneys for the acquisition of fire protection equipment.

(2) Applications shall be submitted in such manner and shall contain or be accompanied by such information as the State Fire Marshal may prescribe. [1991 c.587 §1]

Note: 476.900 to 476.925 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 476 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

476.905 Approval of application by State Fire Marshal. The State Fire Marshal may approve an application for a fire protection equipment acquisition loan if the State Fire Marshal finds that:

(1) Moneys in the Fire Protection Equipment Loan Fund will be available therefor; and

(2) The application is for the acquisition of equipment determined by the State Fire Marshal to be necessary to provide adequate fire protection service by the applicant. [1991 c.587 §2]

Note: See note under 476.900.

476.910 Loan agreement; terms; conditions. If the State Fire Marshal approves an application for a fire protection equipment acquisition loan, the State Fire Marshal, on behalf of the state, and the applicant may enter into a loan agreement. The agreement shall set forth among other matters:

(1) The amount and purpose of the loan.

(2) A plan for repayment by the applicant to the Fire Protection Equipment Loan Fund of moneys borrowed, upon such terms and conditions as the State Fire Marshal considers appropriate.

(3) That the liability of the state under the contract is contingent upon the availability of moneys in the Fire Protection Equipment Loan Fund.

(4) Such further provisions as the State Fire Marshal determines appropriate to insure expenditure of moneys borrowed for the purposes set forth in the approved application. [1991 c.587 §3]

Note: See note under 476.900.

476.915 Source of revenue to repay loan. A city or rural fire protection district that enters into an agreement with the State Fire Marshal for a fire protection equipment acquisition loan may obtain moneys for repayment thereof in the same manner as other moneys are obtained for purposes of the payment of expenses of the city or rural fire protection district. [1991 c.587 §4]

Note: See note under 476.900.

476.920 Rules; acceptance of gifts, donations and grants. (1) In accordance with any applicable provisions of ORS chapter 183, the State Fire Marshal may adopt rules to carry out the provisions of ORS 476.900 to 476.925. Such rules may include, but are not limited to, specifying the importance and priority of fire protection equipment that may be acquired pursuant to ORS 476.900 to 476.925 and which requires local government matching funds.

(2) The State Fire Marshal may accept gifts, donations and grants from whatever source for the purpose of carrying out ORS 476.900 to 476.925. All moneys received shall be paid into the Fire Protection Equipment Loan Fund. [1991 c.587 §5]

Note: See note under 476.900.

476.925 Fire Protection Equipment Loan Fund; uses. The Fire Protection Equipment Loan Fund is established in the State Treasury, separate and distinct from the General Fund. All moneys in the fund are appropriated continuously to the State Fire Marshal to carry out the provisions of ORS 476.900 to 476.925. Interest earned by moneys in the fund shall be credited to the fund. [1991 c.587 §6]

Note: See note under 476.900.

PENALTIES

476.990 Penalties. (1) Violation of ORS 476.150 (2) is a Class A misdemeanor.

(2) Violation of ORS 476.380 (1) is a Class A misdemeanor.

(3) Violation of ORS 476.410 to 476.440 is a Class C misdemeanor.

(4) Violation of any provision of ORS 476.510 to 476.610 is a Class A misdemeanor.

(5) Subject to ORS 153.022, violation of ORS 476.710 or 476.715 or of any rule or regulation of the State Parks and Recreation Department promulgated thereunder is a Class B misdemeanor. [Subsection (5) of 1959 Replacement Part formerly 477.990(5); 1961 c.52 §1; subsection (2) enacted as 1967 c.420 §4; subsection (6) enacted as 1967 c.417 §13 and 1967 c.417 §15; 1971 c.563 §10; 1971 c.743 §383; 1999 c.1051 §312; 2001 c.104 §216; 2011 c.597 §219]

476.995 Penalty for violation of ORS 476.760. The State Fire Marshal may impose a civil penalty for a violation of ORS 476.760 (1). The civil penalty may not exceed:

(1) For a person that distributes or offers to sell cigarettes to a wholesale or retail dealer, $10,000 or five times the wholesale invoice cost of the cigarettes involved in the violation, whichever is greater.

(2) For a person that distributes or offers to sell cigarettes to consumers:

(a) For a distribution or offer of not more than 1,000 cigarettes, $500.

(b) For a distribution or offer of more than 1,000 cigarettes, $1,000 or five times the retail value of the cigarettes involved in the violation, whichever is greater.

(3) For a continuing violation of ORS 476.760 (1), each day that a person distributes or offers to sell cigarettes after being notified by the State Fire Marshal that the distribution or offer to sell cigarettes violates ORS 476.760 (1) is a separate violation subject to civil penalty. For purposes of this subsection, a person is notified by the State Fire Marshal that the distribution or offer to sell cigarettes violates ORS 476.760 (1) only after the person receives a notice, has been provided an opportunity for a hearing and has exhausted all opportunities for administrative or judicial review of the notice in the manner provided for contested cases under ORS chapter 183. [2007 c.34 §3]

Note: See note under 476.755.

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Chapter 477 — Fire Protection of Forests and Vegetation

2013 EDITION

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477.001 Definitions. As used in this chapter, unless the context otherwise requires:

(1) “Additional fire hazard” means a hazard that has been determined to exist by the forester pursuant to ORS 477.580.

(2) “Board” means the State Board of Forestry.

(3) “Campfire” means any open fire used for cooking, personal warmth, lighting, ceremonial or aesthetic purposes that is hand built and that is not associated with any debris disposal activities.

(4) “Department” means the State Forestry Department.

(5) “District” means a forest protection district organized under ORS 477.225.

(6) “Every reasonable effort” means the use of the reasonably available personnel and equipment under the supervision and control of an owner or operator, which are needed and effective to fight the fire in the judgment of the forester and which can be brought to bear on the fire in a timely fashion.

(7) “Fire season” means a period designated pursuant to ORS 477.505.

(8) “Fiscal year” means the period beginning on July 1 of any year and ending on June 30 of the next year.

(9) “Forestland” means any woodland, brushland, timberland, grazing land or clearing that, during any time of the year, contains enough forest growth, slashing or vegetation to constitute, in the judgment of the forester, a fire hazard, regardless of how the land is zoned or taxed. As used in this subsection, “clearing” means any grassland, improved area, lake, meadow, mechanically or manually cleared area, road, rocky area, stream or other similar forestland opening that is surrounded by or contiguous to forestland and that has been included in areas classified as forestland under ORS 526.305 to 526.370.

(10) “Forest patrol assessment” means the costs levied and assessed under ORS 477.270.

(11) “Forest protective association” or “association” means an association, group or agency composed of owners of forestlands, organized for the purpose of protecting such forestlands from fire.

(12) “Forest resource” means the various types of vegetation normally growing on Oregon’s forestland, the associated harvested products and the associated residue, including but not limited to brush, grass, logs, saplings, seedlings, trees and slashing.

(13) “Forester” means the State Forester or authorized representative.

(14) “Governing body” of a county means the county court or board of county commissioners.

(15) “Grazing land” is defined by ORS 477.205.

(16) “Open fire” means any outdoor fire that occurs in such a manner that combustion air is not effectively controlled and combustion products are not effectively vented through a stack or chimney.

(17) “Operation” means any industrial activity, any development or any improvement on forestland inside or within one-eighth of one mile of a forest protection district, including but not limited to the harvesting of forest tree species, the clearing of land, the use of power-driven machinery and the use of fire, excluding, however, the culture and harvesting of agricultural crops.

(18) “Operation area” means the area on which an operation is being conducted and the area on which operation activity may have resulted in the ignition of a fire.

(19) “Operation in progress” means that time when workers are on an operation area for the purpose of an operation, including the period of time when fire watches are required to be on the operation area pursuant to ORS 477.665.

(20) “Operator” means any person who, either personally or through employees, agents, representatives or contractors, is carrying on or has carried on any operation.

(21) “Owner” means an individual, a combination of individuals, a partnership, a corporation, the State of Oregon or a political subdivision thereof, or an association of any nature that holds an ownership interest in land.

(22) “Political subdivision” includes, but is not limited to, counties, cities and special districts.

(23) “Rangeland” is defined by ORS 477.315.

(24) “Routine road maintenance” is defined by ORS 477.625.

(25) “Side” means any single unit of a logging operation employing power-driven machinery.

(26) “Slashing” means the forest debris or refuse on any forestland resulting from the cutting, killing, pruning, severing or removal of brush, trees or other forest growth.

(27) “State Forester” means the person appointed State Forester pursuant to ORS 526.031 or the person serving in the position on an interim or delegated basis.

(28) “Summit of the Cascade Mountains” is considered to be a line beginning at the intersection of the northern boundary of the State of Oregon and the western boundary of Wasco County; thence southerly along the western boundaries of Wasco, Jefferson, Deschutes and Klamath Counties to the southern boundary of the State of Oregon.

(29) “Timberland” is defined by ORS 477.205.

(30) “Warden” means a fire warden appointed under ORS 477.355. [1959 c.363 §2 (enacted in lieu of 477.002); 1961 c.603 §1; 1965 c.253 §44; 1967 c.429 §34; 1973 c.46 §1; 1983 c.22 §1; 1985 c.759 §32; 1997 c.274 §1; 1999 c.59 §156; 1999 c.355 §2; 2003 c.54 §3]

477.002 [Amended by 1953 c.68 §19; subsection (2) of 1957 Replacement Part enacted as 1953 c.372 §2; subsection (5) of 1957 Replacement Part enacted as 1953 c.152 §1; amended by 1955 c.158 §1; repealed by 1959 c.363 §1 (477.001 enacted in lieu of 477.002)]

477.003 [1959 c.363 §20; repealed by 1961 c.351 §1]

477.004 [Repealed by 1965 c.253 §153]

477.005 Policy. (1) The preservation of the forests and the conservation of the forest resources through the prevention and suppression of forest fires hereby are declared to be the public policy of the State of Oregon.

(2) In order to accomplish the purposes of the policy stated in this section:

(a) The need for a complete and coordinated forest protection system is acknowledged and the primary mission of the State Forestry Department in such a system is protecting forest resources, second only to saving lives. Structural protection, though indirect, shall not inhibit protection of forest resources; and

(b) This chapter shall include all persons and activities designated in this chapter, irrespective as to whether or not such person or activity is concerned with the harvesting, cutting, removal or marketing of trees, timber or other forest products. [Formerly 477.022; 1965 c.253 §45; 1989 c.615 §5]

477.006 [Repealed by 1965 c.253 §153]

477.008 [Amended by 1965 c.253 §87; renumbered 477.360]

477.009 Investigative authority of Attorney General for fire protection administration. (1) For the purpose of an investigation as to liability for cost of hazard abatement, fire abatement or damages under this chapter, the Attorney General, at the request of the State Forester, may administer oaths and affirmations, take testimony or depositions and by subpoena compel the:

(a) Attendance of witnesses;

(b) Production of documents, including but not limited to writings, drawings, graphs, charts, photographs, and other data compilations from which information can be obtained and translated; and

(c) Production of any other tangible thing that the Attorney General deems relevant or material to the investigation.

(2) Each witness subpoenaed under subsection (1) of this section shall receive the fees and mileage provided in ORS 44.415 (2).

(3) If a person fails to comply with a subpoena issued or a party or witness refuses to testify on any matters, the judge of the circuit court of any county, on the application of the State Forester, shall compel obedience by proceedings for contempt as in the case of disobedience of the requirements of a subpoena issued from such court or a refusal to testify therein. [1993 c.697 §6]

477.010 [Repealed by 1965 c.253 §153]

477.012 [Amended by 1965 c.253 §88; renumbered 477.365]

SMOKE MANAGEMENT

477.013 Smoke management plan; rules. (1) For the purpose of maintaining air quality, the State Forester and the Department of Environmental Quality shall approve a plan for the purpose of managing smoke in areas they shall designate. The plan shall delineate regulated areas to which this section applies. The plan shall also include but not be limited to considerations of weather, volume of material to be burned, distance of the burning from designated areas, burning techniques and provisions for cessation of further burning under adverse air quality conditions. All burning permitted within the regulated areas shall be according to the plan. The plan shall be developed by the State Forestry Department in cooperation with federal and state agencies, landowners and organizations that will be affected by the plan. The approved plan shall be filed with the Secretary of State and may thereafter be amended in the same manner as its formation.

(2) The State Forester shall promulgate rules to carry out the provisions of the smoke management plan approved under this section. [1997 c.274 §47; 2007 c.213 §1]

477.014 [Amended by 1965 c.253 §89; renumbered 477.370]

URBAN INTERFACE FIRE PROTECTION

477.015 Definitions. (1) As used in ORS 477.015 to 477.061, unless the context otherwise requires, “forestland-urban interface” means a geographic area of forestland inside a forest protection district where there exists a concentration of structures in an urban or suburban setting.

(2) As used in ORS 477.015 to 477.057, unless the context requires otherwise:

(a) “Committee” means a county forestland-urban interface classification committee.

(b) “Governing body” means the board of county commissioners or county court of a county, as the case may be. [1997 c.429 §§3,8]

477.016 [1963 c.107 §8; amended by 1965 c.253 §72; renumbered 477.300]

477.017 Legislative findings, policy and purpose. (1) The Legislative Assembly finds that:

(a) The forestland-urban interface situation in Oregon is a result of both past and present conditions and that, given projected trends, the forestland-urban interface situation will continue to grow.

(b) Urban and suburban structures, real property and natural resources are subject to increased risks of catastrophic damage by forestland-urban interface fire events.

(c) There is greater complexity in forestland-urban interface fire protection than in either resource land fire protection or urban structural fire protection.

(d) In dealing with the forestland-urban interface situation, major and long term solutions will involve local actions and efforts by property owners.

(e) One solution or set of solutions will not fit all situations or areas of the state.

(2) The Legislative Assembly declares that:

(a) In order to ensure the protection of human life, the safety of citizens and fire service personnel and the highest possible level of livability in Oregon, it is necessary to provide a complete and coordinated fire protection system within the forestland-urban interface in Oregon.

(b) All forestland-urban interface property owners have a basic responsibility to share in this complete and coordinated protection system by providing efforts against fire.

(c) Public and property owner education and awareness is critical to forestland-urban interface solutions and must occur at multiple levels.

(d) In administration of ORS 477.015 to 477.061, it is the intent of the Legislative Assembly that property owners who will be affected by ORS 477.015 to 477.061 will be:

(A) Involved in the processes of development of administrative rules pursuant to ORS 477.015 to 477.061; and

(B) Notified of the outcomes of classification pursuant to ORS 477.015 to 477.057.

(3) The purpose of ORS 477.015 to 477.061 is to:

(a) Provide a forestland-urban interface fire protection system in Oregon that minimizes cost and risk while maximizing effectiveness and efficiency for protection of the values at risk from fire.

(b) Promote and encourage property owner efforts to minimize and mitigate fire hazards and risks within the forestland-urban interface.

(c) Promote and encourage the involvement and interaction of all levels of government and the private sector that have a direct or indirect interest and role in the forestland-urban interface situation over the long term. [1997 c.429 §§4,5,7; 2007 c.30 §1]

477.020 [1959 c.408 §§1,2,3,4,5; repealed by 1965 c.253 §153]

477.022 [1953 c.372 §1; 1961 c.603 §2; renumbered 477.005]

477.023 Fire protection system; integration with existing laws; cooperative agreements. (1) The forestland-urban interface in Oregon represents a unique fire protection situation that requires that unique and special measures be taken to ensure adequate public safety and protection of property, development and natural resources. Therefore, it is declared to be the public policy of the State of Oregon to encourage and provide a complete and coordinated forestland-urban interface fire protection system.

(2)(a) It is recognized that forestland-urban interface areas are already subject to other laws and to regulations of other agencies. It is the intent of ORS 477.015 to 477.061 to integrate with and not replace those other laws and regulations.

(b) In the event of an apparent conflict between the obligations imposed by ORS 477.015 to 477.061 and by other laws or regulations for which the forester is responsible and has jurisdiction, the forester shall resolve the conflict within the scope of the forester’s authority.

(c) Except as provided in paragraph (d) of this subsection, the obligations imposed by ORS 477.015 to 477.061 do not supersede or replace federal law or regulation, other state law or rules, or more restrictive local government ordinance or code.

(d) In the event of an apparent conflict between the obligations imposed by ORS 477.015 to 477.061 and a more restrictive local government ordinance or code, the State Forester may enter into a cooperative agreement with the governing body of a local government, the terms of which provide that ORS 477.015 to 477.061 supersede the local government ordinance or code in specified cases.

(e) In the event of an apparent conflict between the obligations imposed by ORS 477.015 to 477.061 and the declaration, bylaws, rules or regulations of a homeowners association, the State Forester may enter into a cooperative agreement with the homeowners association that allows the declaration, bylaws, rules or regulations of the homeowners association to supersede ORS 477.015 to 477.061 in specified cases. The term of a cooperative agreement entered into under this paragraph may not exceed five years.

(f) When a real property lot includes one or more structures that have multiple owners, the State Forester may enter into a cooperative agreement with one or more of the owners, or a person designated as the representative of the owners, for the purposes of matters related to ORS 477.015 to 477.061. The term of a cooperative agreement entered into under this paragraph may not exceed five years.

(g) Compliance with the obligations imposed by ORS 477.015 to 477.061 does not relieve the owner of land of the requirements of other laws or regulations that might apply to the land in question.

(3) To encourage development of a complete and coordinated forestland-urban interface fire protection system, it is declared to be in the public interest that the State Board of Forestry and the State Forester take a lead role in statewide coordination of the forestland-urban interface situation with other state and federal agencies, local governments and private sector interests that are concerned with fire protection in the forestland-urban interface. [1997 c.429 §6; 2007 c.30 §2]

477.024 [1953 c.372 §3; 1955 c.318 §1; 1965 c.253 §57; renumbered 477.210]

477.025 Classification of lands to reflect different protection problems. The Legislative Assembly recognizes that the forestland-urban interface in Oregon varies by condition, situation, fire hazard and risk, that different forestland-urban interface fire protection problems exist across the state because of this variability, that these different problems necessitate varied fire prevention and protection practices and that, in order to give recognition to such differences and their effect on the accomplishment of the public policy stated in ORS 477.023, certain classifications of the forestland-urban interface within the State of Oregon are established by ORS 477.027 to 477.057. [1997 c.429 §9]

477.026 [1953 c.372 §4; 1965 c.253 §59; renumbered 477.225]

477.027 Rules for classification of lands. By administrative rule, the State Board of Forestry shall establish criteria by which the forestland-urban interface shall be identified and classified. The criteria shall recognize differences across the state in fire hazard, fire risk and structural characteristics within the forestland-urban interface. The criteria shall include not less than three nor more than five classes of forestland-urban interface. [1997 c.429 §10; 2007 c.30 §3]

477.028 [1953 c.372 §5; 1957 c.83 §6; 1959 c.363 §3; 1963 c.107 §1; repealed by 1965 c.253 §153]

477.029 Local land classification committee; members; officers; terms; rules. (1) Pursuant to a request by the State Forester, the governing body of a county containing forestland-urban interface may establish a county forestland-urban interface classification committee of five persons, of whom one shall be appointed by the State Forester, one by the State Fire Marshal and three by the governing body. Of the members appointed by the governing body, one must be an owner of land within the forestland-urban interface who permanently resides on the land. Each appointing authority shall file with the State Forester the name of its appointee or appointees, and the persons so named shall constitute the committee for the county. Unless otherwise provided for by the appointing authority, members of the committee shall serve a term of four years and may be reappointed to any number of terms. Each member of the committee at all times is subject to replacement by the appointing authority, effective upon the filing with the State Forester by that authority of written notice of the name of the new appointee.

(2) The committee shall elect from among its members a chair and a secretary and may elect other officers as it finds advisable. The committee shall adopt rules governing its organization and proceedings and the performance of its duties, and shall keep written minutes of all its meetings. A quorum of the county forestland-urban interface classification committee for official actions is three members, and a quorum of a committee established pursuant to subsection (4)(a) of this section is four members.

(3) The governing body of the county may provide for the committee and its employees such accommodations and supplies and such county funds not otherwise appropriated as the governing body finds necessary for the proper performance of the committee’s functions. The members of the committee shall receive no compensation for their services, but the governing body may reimburse them for their actual and necessary travel and other expenses incurred in the performance of their duties. By written agreement between the State Forester and the governing body, the State Forestry Department may provide the functions or be responsible for part or all of the expenses referred to in this subsection.

(4) In the interest of efficiency, by written agreement between the State Forester and the governing body, if a forestland classification committee is established and active within a county pursuant to ORS 526.305 to 526.340, the members of that committee may also serve on the county forestland-urban interface classification committee established by subsection (1) of this section. In the event that this agreement is made, the State Forester and the governing body shall ensure that either:

(a) A State Fire Marshal appointee and an owner of land within the forestland-urban interface who permanently resides on the land are added to the county forestland classification committee to bring the total number of committee members to seven; or

(b) The State Fire Marshal approves of the current membership of the county forestland classification committee and the committee includes an owner of land within the forestland-urban interface who permanently resides on the land. [1997 c.429 §11; 2007 c.30 §4]

477.030 [1953 c.372 §6; 1959 c.363 §4; 1965 c.253 §60; 1965 c.312 §1; renumbered 477.230]

477.031 Duties of committee. (1) A county forestland-urban interface classification committee established under ORS 477.029 shall periodically identify all land to be designated as forestland-urban interface within the county based on the criteria developed pursuant to ORS 477.027.

(2) The committee shall assign all forestland-urban interface forestland identified under subsection (1) of this section to one of the forestland-urban interface classes developed pursuant to ORS 477.027.

(3) Before making final designations and classifications under this section, the committee shall adopt proposed designations and classifications. The committee shall publish notice of the proposed designations and classifications once a week for two consecutive weeks in a newspaper of general circulation in the county, to be posted in three public places within the county, and to be mailed to the owners of land that is affected by the proposed designations and classifications. The notice shall state the time and place for hearing or receiving objections, remonstrances or suggestions as to the proposed designations and classifications and the place where maps of the proposed designations and classifications may be inspected. [1997 c.429 §§12,13; 2007 c.30 §5]

477.032 [Renumbered 477.062]

477.033 [1953 c.372 §7; 1955 c.318 §2; 1957 c.83 §7; 1961 c.603 §3; 1963 c.107 §2; 1965 c.253 §69; 1965 c.312 §2; 1965 c.428 §10; renumbered 477.270]

477.034 [Amended by 1953 c.661 §2; renumbered 477.064]

477.035 [1953 c.372 §8; 1965 c.253 §70; 1965 c.312 §3; renumbered 477.285]

477.036 [Amended by 1953 c.661 §2; renumbered 477.066]

477.037 [1953 c.372 §9; 1959 c.363 §5; 1961 c.603 §5; repealed by 1965 c.253 §153]

477.038 [Amended by 1953 c.661 §2; renumbered 477.068]

477.039 [1953 c.372 §10; 1963 c.107 §3; 1965 c.253 §71; renumbered 477.291]

477.040 [Amended by 1953 c.661 §2; renumbered 477.070]

477.041 [1953 c.372 §11; 1965 c.253 §61; renumbered 477.235]

477.042 [Amended by 1953 c.661 §2; renumbered 477.071 and then 477.067]

477.043 [1953 c.372 §§12,16; 1957 c.32 §1; 1965 c.253 §64; renumbered 477.245]

477.044 [Repealed by 1953 c.372 §22]

477.045 [1953 c.372 §13; 1965 c.253 §65; renumbered 477.250]

477.046 [Repealed by 1953 c.372 §22]

477.047 [1953 c.372 §14; 1965 c.253 §66; renumbered 477.255]

477.048 [Repealed by 1953 c.372 §22]

477.049 [1953 c.372 §15; 1965 c.253 §67; renumbered 477.260]

477.050 [Amended by 1953 c.37 §2; renumbered 477.073]

477.051 [1953 c.372 §17; 1965 c.253 §68; renumbered 477.265]

477.052 Hearings on proposed classifications. (1) The county forestland-urban interface classification committee shall hold a public hearing at the time and place stated in the notice published under ORS 477.031 (3), or at such other time and place to which the hearing may be adjourned, to receive from any interested persons objections, remonstrances or suggestions relating to the proposed designations and classifications. Following the hearing the committee may make such changes in the proposed designations and classifications as it finds to be proper, hold additional hearings as it finds necessary, and thereafter shall make final designations and classifications.

(2) All final action by the committee in designating and classifying forestland-urban interface shall be by formal written order, which must include a statement of findings of fact on the basis of which the order is made, and must include a list of all land designated and classified. The committee shall prepare one or more maps showing the final designations and classifications made. The original of the order shall be filed with the county clerk of the county. The order need not meet the requirements of ORS 205.232 to be filed and recorded. A copy of the order certified by the secretary of the committee shall be sent to the State Forester.

(3) Copies of the order, lists of land and maps required by this section shall be maintained in designated offices of the forester where they shall be made available for public inspection. [1997 c.429 §14; 2007 c.30 §6]

477.053 [1953 c.372 §18; 1955 c.318 §3; 1961 c.603 §6; 1965 c.253 §58; renumbered 477.220]

477.054 Appeal of classification decisions; procedure. (1) Any owner of land designated and classified under ORS 477.027 to 477.057 who is aggrieved by the designation or classification may, within 30 days after the date of the order making the designation and classification, appeal to the circuit court for the county. Notice of an appeal shall be promptly served on the secretary of the committee or, if the designation and classification was made under ORS 477.057, on the State Forester.

(2) The appeal shall be tried by the circuit court as an action not triable by right to a jury. [1997 c.429 §15; 2007 c.30 §7]

477.055 [1953 c.372 §19; repealed by 1965 c.253 §153 and 1965 c.428 §18]

477.056 [1965 c.253 §47 (enacted in lieu of 477.070); 1967 c.429 §57; renumbered 477.120]

477.057 State Forester to classify land if county fails to act. (1) The State Forester may designate and classify forestland-urban interface, consistent with and as described in ORS 477.031 to 477.054, if a designation and classification of forestland-urban interface is not made by the county forestland-urban interface classification committee within a county in which such land is situated because:

(a) The governing body of the county fails to establish a county forestland-urban interface committee within two years after the State Forester makes a request under ORS 477.029 (1);

(b) The committee fails to make a designation and classification within five years after being appointed, or the committee fails to make a designation and classification within five years of the last designation and classification made by the committee; or

(c) The committee fails to make a designation and classification in a manner consistent with ORS 477.031 to 477.054.

(2) Designation and classification by the State Forester has the same force and effect as though made by a committee for that county. However, designations and classifications made by the State Forester cease to be effective if replaced by designations and classifications made pursuant to ORS 477.052 by the appropriate committee. [1997 c.429 §16; 2007 c.30 §8]

477.058 [1965 c.253 §49 (enacted in lieu of 477.148); 1967 c.429 §58; renumbered 477.130]

477.059 Obligation of landowner to comply with standards; rules; certification by landowner; penalty for failure to comply. (1)(a) The State Board of Forestry shall by rule establish minimum standards for minimizing or mitigating:

(A) Fire hazards or risks on land within a forestland-urban interface due to the presence of structures or the arrangement or accumulation of vegetative fuels; and

(B) Other fire hazards or risks or combinations of fire hazards or risks.

(b) In adopting rules under this subsection, the board shall take into account the variability of the forestland-urban interface in different parts of the state.

(c) An owner of land within a forestland-urban interface must comply with the minimum standards applicable to the land.

(2)(a) Except as provided in paragraph (b) of this subsection, but no more frequently than once every five years, the State Forester shall provide written notice of the applicable minimum standards established under this section to each owner of land within a forestland-urban interface, unless the owner requests a copy more frequently.

(b) The board need not give notice under paragraph (a) of this subsection to an owner of land if the owner is a member of a homeowners association by reason of owning the land and the State Forester has entered into a cooperative agreement with the homeowners association pursuant to ORS 477.023 (2)(e) that provides for notice to owners through the association.

(3) An owner of land within a forestland-urban interface must certify in writing to the State Forester that the owner has complied with the applicable minimum standards established under this section not later than two years after the order designating the land as being within the forestland-urban interface is filed with the county clerk under ORS 477.052 (2). If a subsequent order is filed that changes the classification of the land, the owner of the land must make a supplemental certification in writing to the State Forester that reflects the measures that the owner has taken to comply with the applicable minimum standards established under this section for the new classification not later than six months after the new order is filed.

(4) The State Forester shall accept certifications made to the forester under subsection (3) of this section. Any owner of land whose written certification has been accepted by the State Forester under this subsection is not liable for the costs of suppressing a fire under subsection (6) of this section, unless the State Forester subsequently determines that the owner of land has provided a false certification.

(5) The State Board of Forestry may require periodic renewal of a certification accepted by the State Forester under subsection (4) of this section, and may require supplemental certifications from the owner of land that reflect the measures that the owner has taken to comply with the applicable minimum standards established under this section. An owner of land is responsible for maintaining the land described by the certification in compliance with the applicable minimum standards established under this section.

(6) The owner of land designated to be within a forestland-urban interface is liable to the State Forester for the costs of suppressing a fire that occurs on that land, as described in subsection (7) of this section, if:

(a) The owner has failed to meet the applicable minimum standards established under this section;

(b) The fire originates on the owner’s land;

(c) The ignition or spread of the fire is directly related to the owner’s failure to meet the applicable minimum standards established under this section; and

(d) The fire requires action by the forester pursuant to ORS 477.066 (2).

(7) The liability of an owner of land under subsection (6) of this section may not exceed $100,000. The State Forester may not seek recovery under subsection (6) of this section for any portion of the costs of suppressing a fire that are the ordinary costs of the regular personnel and equipment of the forest protection district in which the land is located. This subsection does not limit the liability of the owner under ORS 477.120. [1997 c.429 §17; 2007 c.30 §9]

477.060 Considerations in determining cost of protection; special or additional costs. (1) In determining the annual cost of protection pursuant to ORS 477.230, the forester may consider and include the special or additional cost of fire protection for property owners within a forestland-urban interface classification, including the special or unique costs of assessment processing and administration.

(2) The forester shall identify special or additional costs identified by subsection (1) of this section in the budget required by ORS 477.230 to 477.300. These special or additional costs are in addition to the annual cost of ORS 477.230 (1) and may not exceed $25 annually for each real property lot. Only those owners of land within a forestland-urban interface classification in a forest protection district shall bear the special or additional cost of fire protection within the forestland-urban interface in a manner consistent with rules promulgated by the State Board of Forestry. [1997 c.429 §18; 2001 c.361 §1; 2007 c.30 §10]

477.061 Short title. ORS 477.015 to 477.061 shall be known as the Oregon Forestland-Urban Interface Fire Protection Act. [1997 c.429 §2; 2007 c.30 §11]

HAZARD ABATEMENT

477.062 Inadequately protected forestland declared nuisance; notice to protect; work at expense of owner; collection of amount expended. (1) All forestland that by reason of its lack of adequate fire protection endangers life, forest resources or property is declared to be a public nuisance.

(2) Whenever the forester learns thereof, the forester may direct the owner or operator of such forestland to take proper steps for its protection and advise the owner or operator of means to that end. In case of refusal or neglect by either to take precautions against fire required by law or when so directed by the forester in writing, within such time as is specified in the writing, then the forester may have such work done as the forester considers necessary for the protection of life, forest resources or property, without the necessity of court action.

(3) The cost of work under subsection (2) of this section and the expense of any patrol rendered necessary by the want of adequate protection of such forestland shall be recoverable from the offender by an action prosecuted in the name of the state.

(4) All moneys collected under this section shall be paid into the State Treasury, credited to the State Forestry Department Account and expended as other moneys in that account are expended. [Formerly 477.032; 1965 c.253 §50; 1997 c.274 §2]

FIRE ABATEMENT

477.064 Uncontrolled fire declared nuisance. Any fire on any forestland in Oregon burning uncontrolled or without proper action being taken to prevent its spread, notwithstanding its origin, is declared a public nuisance by reason of its menace to life, forest resources or property. The spread of fire in forestland across an ownership boundary is prima facie evidence of fire burning uncontrolled. [Formerly 477.034; 1997 c.274 §3]

477.066 Duty of owner and operator to abate fire; abatement by authorities. (1) Each owner and operator of forestland on which a fire exists or from which it may have spread, notwithstanding the origin or subsequent spread thereof, shall immediately proceed to control and extinguish such fire when its existence comes to the knowledge of the owner or operator, without awaiting instructions from the forester, and shall continue until the fire is extinguished.

(2) If the forester determines the fire is either burning uncontrolled or the owner or operator does not then have readily and immediately available personnel and equipment to control or extinguish the fire, the forester, or any forest protective association or agency under contract or agreement with the State Board of Forestry for the protection of forestland against fire, and within whose protection area the fire exists, shall summarily abate the nuisance thus constituted by controlling and extinguishing the fire.

(3) An owner may request in writing that the forester employ alternate fire prevention and suppression strategies or techniques on the owner’s forestland. The forester may employ some or all of the requested strategies or techniques when, in the judgment of the forester, conditions warrant the use of the alternate strategies or techniques. [Formerly 477.036; 1961 c.603 §7; 1965 c.253 §51; 1967 c.429 §1; 1983 c.22 §2; 1999 c.355 §3]

477.067 Notice of fire. For the purpose of ORS 477.066, notification to the owner or operator of the forestland, is considered sufficient notification to the owner of the existence of a fire. [Formerly 477.042 and then 477.071]

477.068 Liability for cost of abatement; interest; lien; foreclosure; attorney fees. (1) In case an owner or operator fails to perform the duty required by ORS 477.066, or is willful, malicious or negligent in the origin or subsequent spread of the fire, the actual cost incurred by the forester or a forest protective association or agency in controlling or extinguishing the fire shall be paid by the owner or operator within 90 days after the date on which the first written demand for payment of the actual cost is mailed by the State Forester to the owner or operator. If the actual cost is not paid within such 90-day period, such amount shall bear interest at 10 percent per year from the date on which the first written demand for the payment of the actual costs was mailed by the State Forester and the actual cost together with such interest may be recovered from such owner or operator by an action prosecuted in the name of the State of Oregon, or such forest protective association or agency, or both.

(2) An itemized statement of the actual cost incurred by the forester or association or agency, or both, certified to by the forester, shall be accepted as prima facie evidence of the actual cost in any proceeding authorized by this section.

(3) The actual cost in cases covered by ORS 477.066 shall constitute a general lien upon the real and personal property of such owner or operator. A written notice of the lien, containing a description of the property and a statement of the actual cost, shall be certified under oath by the forester or any warden and filed in the office of the county clerk of the county in which the lands and personal property are situated within 12 months after the calendar year within which the fire originated, and may be foreclosed in the manner provided by law for foreclosure of liens for labor and material. In any proceeding to foreclose a lien created under this subsection, recovery for the plaintiff shall include, in addition to the amount of the actual cost, interest on such amount at the rate of 10 percent per year from the date of the filing of the written notice of the lien.

(4) Upon request of the forester, the district attorney for the district in which the lands and personal property are situated or the Attorney General shall prosecute such action or foreclose the lien in the name of the State of Oregon or such forest protective association or agency, or both. Liens provided for in this section shall cease to exist unless suit for foreclosure is instituted within 12 months from the date of filing under subsection (3) of this section.

(5) In any action under subsection (1) of this section to recover actual cost and in any proceeding to foreclose any lien created by subsection (3) of this section, the court shall award, in addition to costs and disbursements, reasonable attorney fees at trial and on appeal to the prevailing party. [Formerly 477.038; 1955 c.218 §1; 1959 c.363 §6; 1961 c.603 §8; 1965 c.253 §53; 1965 c.428 §§11,12; 1973 c.66 §1; 1981 c.897 §54; 1983 c.22 §3; 1983 c.27 §1; 1997 c.206 §1]

477.069 Negligence in origin and in failure to control fire may be united in one complaint. Notwithstanding any other law, in any action authorized by ORS 477.068 to collect the costs incurred, the plaintiff may unite in the same complaint causes of action based upon any or all of the grounds therein mentioned. [1957 c.157 §1; 1961 c.603 §9; 1965 c.253 §54]

477.070 [Formerly 477.040; 1955 c.218 §2; 1959 c.363 §7; 1961 c.603 §10; 1963 c.107 §4; repealed by 1965 c.253 §46 (477.056 enacted in lieu of 477.070)]

477.071 [Formerly 477.042; 1961 c.603 §11; 1965 c.253 §52; renumbered 477.067]

477.072 [Repealed by 1953 c.372 §22]

477.073 [Formerly 477.050; 1957 c.83 §8; repealed by 1965 c.253 §153]

477.074 [Repealed by 1953 c.372 §22]

477.076 [Repealed by 1953 c.372 §22]

477.078 [Repealed by 1953 c.372 §22]

477.080 [Repealed by 1953 c.372 §22]

477.082 [Repealed by 1953 c.372 §22]

477.085 Liability for cost of protecting land within a forest protection district. Any person who willfully or negligently sets a fire or causes a fire to be set for which efforts to control or extinguish the fire in order to protect forestland within a forest protection district from fire are exerted by the forester or any forest protective association or agency under contract or agreement with the State Board of Forestry is liable for the actual costs incurred by the forester, association or agency in such efforts. The costs shall be recovered from the person liable therefor in the same manner as costs recovered under ORS 477.068. [1965 c.428 §7; 1967 c.429 §2; 1997 c.274 §3a; 1999 c.355 §4]

477.089 Recovery for property damage; liability for firefighting costs. (1) As used in this section:

(a) “Economic and property damage” means the sum of:

(A) The lesser of the difference in the fair market value of property immediately before and immediately after a wildfire or the cost of restoring property to the condition the property was in immediately before a wildfire; and

(B) Any other objectively verifiable monetary losses.

(b) “Fair market value” means the amount, as determined by a state certified appraiser, that a willing buyer would pay to a willing seller for property in an arms-length transaction if both parties were fully informed about all advantages and disadvantages of the property and neither party is acting under a compulsion to buy or sell.

(c) “Forest tree species” means a tree species that is capable of producing logs, fiber or other wood materials that are suitable for the production of lumber, sheeting, pulp, firewood or other commercial forest products.

(d) “State certified appraiser” means an individual who has been certified as a state certified appraiser under ORS 674.310 and is qualified to appraise the property that is the subject of a fair market value determination.

(e) “Wildfire” means a fire that:

(A) Results from a violation of this chapter or of rules adopted under ORS 526.016 or 526.041; or

(B) Originated on land used or capable of being used for growing forest tree species regardless of the existing use of the land.

(2) Except as provided in ORS 477.092 and 477.095, in a civil action for property damage caused by a wildfire, the recoverable damages are:

(a) The amount of economic and property damages, if the wildfire did not occur as the result of recklessness, gross negligence, willfulness or malice; or

(b) Twice the amount of economic and property damages, if the wildfire occurred as the result of recklessness, gross negligence, willfulness or malice.

(3) Except as provided in ORS 477.095 and subject to any other provision of this chapter limiting the recovery of fire fighting costs, a person who causes a wildfire is liable to any person or entity for the full amount of all expenses incurred by the person or entity in fighting the wildfire.

(4) The remedies provided under this section are in addition to any available criminal or civil penalties that may be assessed for the violation of a statute or rule but, subject to Article I, section 10, of the Oregon Constitution, are the exclusive remedies for damages or injury to property caused by a wildfire. This subsection does not:

(a) Prohibit the bringing of any cross claim, counterclaim or joinder of parties;

(b) Prohibit the institution of a suit under ORS 496.705 for the recovery of damages for the unlawful taking of wildlife; or

(c) Affect the applicability of ORS 31.600 to an action.

(5) This section does not create a new cause of action or alter any existing cause of action. [2013 c.307 §2]

Note: 477.089 and 477.092 were added to and made a part of ORS chapter 477 by legislative action but were not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

477.090 [Formerly 477.310; 1971 c.743 §384; 1987 c.919 §18; repealed by 2013 c.307 §8]

477.092 Liability for destruction of property by wildfire. (1) As used in this section, “wildfire” has the meaning given that term in ORS 477.089.

(2) A person is not liable in a civil action for injury to or destruction of property arising out of a wildfire, except to the extent evidence demonstrates that:

(a) An action or inaction of the person constituted negligence or a higher degree of fault; and

(b) The action or inaction caused or contributed to the cause of the wildfire or caused or contributed to the spreading of the wildfire. [2013 c.307 §3]

Note: See note under 477.089.

Note: Section 9, chapter 307, Oregon Laws 2013, provides:

Sec. 9. Sections 2 [477.089] and 3 [477.092] of this 2013 Act, the amendments to ORS 105.810, 197.277 and 477.095 by sections 4 to 6 of this 2013 Act and the repeal of ORS 477.090 by section 8 of this 2013 Act apply for wildfires that originate, or are initially discovered or detected, on or after the effective date of this 2013 Act [June 4, 2013]. Notwithstanding the repeal of ORS 477.090 by section 8 of this 2013 Act, any action to recover costs and damages for fires described in ORS 477.090, as set forth in the 2011 Edition of Oregon Revised Statutes, that originated prior to the effective date of this 2013 Act may be brought or maintained under ORS 477.090, as set forth in the 2011 Edition of Oregon Revised Statutes. [2013 c.307 §9]

477.095 Applicability of ORS 477.068, 477.085 and 477.089. (1) An owner of forestland shall not be subject to the provisions of ORS 477.068 and 477.089, where the origin or subsequent spread of a fire was the direct result of training activity by the Oregon National Guard or of any component of the Armed Forces of the United States.

(2) Notwithstanding any other law, the Oregon National Guard shall be subject to the duties, requirements or penalties of ORS 477.068, 477.085 and 477.089, where the origin or subsequent spread of a fire was the direct result of training activity by the Oregon National Guard. [1997 c.274 §36; 2013 c.307 §6]

477.100 Ability of owner to suppress fire; limitation. (1) The State Forester, or any agency or organization with responsibility under this chapter to suppress fires, may not prohibit an owner or the owner’s agent from suppressing a fire occurring on the owner’s property or that poses a threat to the owner’s property.

(2) Notwithstanding subsection (1) of this section, the forester, agency or organization may prohibit an owner or the owner’s agent from suppressing a fire if the owner or agent conducts the action in a manner that the forester, agency or organization reasonably determines is likely to increase the risk of injury or damage to the personnel or equipment of the forester, agency or organization. [2005 c.802 §4]

477.101 [1959 c.363 §19; 1965 c.253 §135; repealed by 1965 c.428 §§8,18]

477.102 [Repealed by 1953 c.372 §22]

477.104 [Repealed by 1953 c.372 §22]

477.106 [Repealed by 1953 c.372 §22]

477.108 [Repealed by 1953 c.372 §22]

477.110 [Repealed by 1953 c.372 §22]

477.112 [Repealed by 1953 c.372 §22]

477.120 Liability of owner or operator. (1) Except as provided in subsections (2) and (3) of this section, the owner or operator of forestland is not subject to the obligations or penalties of ORS 164.335 and 477.740 or 477.064, 477.066 and 477.068 if:

(a) Forest patrol assessments are regularly paid for the forestland;

(b) Such forestland is protected pursuant to membership in a forest protective association in accordance with ORS 477.210, which association has undertaken the control and suppression of fires on such land as provided in the contract; or

(c) Such forestland is protected pursuant to cooperative agreement or contract under ORS 477.406.

(2) The provisions of subsection (1) of this section do not apply to such owner or operator if the owner or operator:

(a) Is willful, malicious or negligent in the origin or subsequent spread of a fire on such forestland;

(b) Has caused or permitted an operation to exist on such forestland and a fire originates thereon as a result of the operation;

(c) Has failed to give notice to the forester pursuant to ORS 527.670 (6), has failed to obtain a permit for the use of fire in any form or power-driven machinery pursuant to ORS 477.625 or has failed within the time prescribed in any order or notice issued by the forester to reduce, abate, or offset any hazard determined to exist pursuant to ORS 477.062 or 477.580 and a fire originates on or spreads to the area on which such hazard exists and for which no release has been granted pursuant to ORS 477.580 (3) or (4); or

(d) Has caused or allowed any burning, including burning regulated by ORS 477.013 or 477.515, whether or not a permit has been obtained and a fire results from or is caused by such burning.

(3) Unless subsection (2)(a) or (c) of this section applies, the owner or operator shall not be obligated to pay that portion of the actual costs provided in ORS 477.068 which are the ordinary costs of the regular personnel and equipment of the forest protection district wherein the forestland is located.

(4) If subsection (2)(b) or (d) of this section applies and subsection (2)(a) and (c) of this section do not apply, the owner or operator shall not be liable to the forester for fire suppression costs in excess of $300,000.

(5) The provisions of subsections (3) and (4) of this section do not apply to the owner or operator if the owner or operator fails to make every reasonable effort.

(6) For the purpose of subsection (2)(b) of this section, if a fire originates while an operation is in progress, there is a presumption, under ORS 40.120, that the fire originated as a result of the operation. [Formerly 477.056; 1971 c.743 §385; 1973 c.46 §2; 1983 c.22 §4; 1989 c.615 §1; 1997 c.274 §48; 2007 c.847 §2]

477.125 Liability of forest protective associations, rangeland protection associations and public bodies; limitations. (1) A forest protective association, rangeland protection association organized under ORS 477.317 or public body as defined in ORS 174.109, or a person acting as an agent of a forest protective association, rangeland protection association or public body, is not liable for any injury to persons or property resulting from carrying out the provisions of this chapter or while acting within the scope of a duty imposed by this chapter.

(2) The exemption from liability provided by subsection (1) of this section does not apply to any injury to persons or property resulting from willful misconduct or gross negligence.

(3) An employee of a forest protective association, or a person acting as an agent of a forest protective association, is an agent of a public body acting within the scope of their duties for purposes of ORS 30.260 to 30.300, if the person:

(a) Engages in fire fighting activities occurring on lands located outside of the forest protection district in which the association is located; and

(b) Acts under the direction and control of the forester. [2003 c.54 §2; 2005 c.105 §1; 2007 c.808 §4]

477.128 Expenditures for criminal defense related to fire suppression activities. (1) As used in this section, “firefighter” means an employee of the State Forestry Department or of a forest protective association, as defined in ORS 477.001, whose duties include the abatement of uncontrolled fire as described in ORS 477.064.

(2) The State Forester may authorize the expenditure of funds from the State Forestry Department revolving account to pay costs and reasonable attorney fees that a firefighter who is charged with a misdemeanor or felony incurs to defend against that charge if the State Forester determines that:

(a) The firefighter was performing fire suppression activities under the direction and control of the State Forester or an authorized representative of the State Forester at the time of the alleged misdemeanor or felony;

(b) The alleged actions underlying the charge, if true, are directly related to the firefighter’s performance of fire suppression activities on forestlands; and

(c) The fire suppression actions of the firefighter were within the range of reasonable fire suppression actions.

(3) This section does not confer any right on a firefighter to hearing or appeal regarding determinations made by the State Forester under subsection (2) of this section.

(4) This section does not authorize the expenditure of moneys to pay costs or attorney fees incurred on appeal or in seeking post-conviction relief. [2011 c.218 §1]

Note: 477.128 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 477 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

477.130 [Formerly 477.058; 1971 c.743 §386; 1973 c.46 §3; 1997 c.274 §3b; repealed by 1999 c.355 §17]

477.132 [Repealed by 1953 c.375 §38]

477.133 [1953 c.375 §31; 1957 c.309 §10; 1965 c.253 §79; renumbered 477.420]

477.134 [Repealed by 1953 c.375 §38]

477.135 [1953 c.375 §32; 1957 c.309 §11; 1965 c.253 §80; renumbered 477.425]

477.136 [Repealed by 1953 c.375 §38]

477.142 [1963 c.454 §2; 1965 c.253 §73; renumbered 477.315]

477.144 [1963 c.454 §3; 1965 c.253 §74; renumbered 477.320]

477.146 [1963 c.454 §4; 1965 c.253 §75; renumbered 477.325]

477.148 [1963 c.454 §5; repealed by 1965 c.253 §48 (477.058 enacted in lieu of 477.148)]

477.152 [Amended by 1953 c.68 §19; 1955 c.450 §1; 1959 c.363 §8; 1961 c.603 §12; 1963 c.107 §5; repealed by 1965 c.253 §153]

477.154 [Amended by 1953 c.68 §19; 1963 c.107 §6; repealed by 1965 c.253 §153]

477.156 [Amended by 1953 c.68 §19; 1965 c.253 §99; renumbered 477.535]

477.158 [Amended by 1953 c.68 §19; 1957 c.32 §2; 1959 c.363 §9; 1965 c.253 §101; renumbered 477.545]

477.160 [Amended by 1953 c.68 §19; 1965 c.253 §100; renumbered 477.540]

477.162 [Amended by 1965 c.253 §102; renumbered 477.550]

477.164 [Amended by 1953 c.302 §2; renumbered 476.715]

477.165 [1953 c.68 §14; 1965 c.253 §94; renumbered 477.510]

NORTHWEST WILDLAND FIRE PROTECTION AGREEMENT

477.175 Definition of “all possible aid” for agreement. As used in the Northwest Wildland Fire Protection Agreement as set forth in ORS 477.200, “all possible aid” means the assistance that a member can provide in response to a request for aid without materially diminishing the overall fire prevention or protection capabilities of the member at the time of the request and for the duration of the response to provide assistance. [1999 c.258 §3]

Note: 477.175 to 477.200 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 477 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

477.180 Ratification of amendment to agreement; withdrawal if Legislative Assembly fails to ratify amendment. If the Northwest Wildland Fire Protection Agreement is amended in accordance with Article IX of the agreement, the Governor shall invoke Article X of the agreement to withdraw from the agreement until such time as the Legislative Assembly ratifies the amendment, or during the interim between legislative sessions, until such time as the State Forester submits the amendment to the Emergency Board for review. The State Forester shall submit any amendment reviewed by the Emergency Board to the next Legislative Assembly for ratification. If the Legislative Assembly does not ratify the amendment prior to adjournment sine die, the Governor shall immediately invoke Article X of the agreement to withdraw from the agreement. [1999 c.258 §4]

Note: See note under 477.175.

477.182 [Amended by 1965 c.253 §111; renumbered 477.645]

477.184 [Amended by 1953 c.68 §19; 1955 c.158 §2; 1965 c.253 §112; renumbered 477.650]

477.185 Use of local fire protection resources. The Governor shall make reasonable efforts to use local available fire protection resources within Oregon before calling on forces from other members of the Northwest Wildland Fire Protection Agreement. [1999 c.258 §5]

Note: See note under 477.175.

477.186 [Amended by 1953 c.68 §19; 1955 c.158 §3; 1957 c.32 §3; 1965 c.253 §113; renumbered 477.655]

477.187 [1953 c.68 §8; 1955 c.158 §4; 1965 c.253 §114; renumbered 477.660]

477.188 [Amended by 1953 c.68 §19; 1955 c.158 §5; 1965 c.253 §115; 1965 c.428 §§13,14; renumbered 477.665]

477.190 Authority of Governor to carry out agreement. The Governor may take any action necessary to carry out the Northwest Wildland Fire Protection Agreement as set forth in ORS 477.200. The Governor may delegate the authority granted under this section or ORS 477.180 and 477.185 to the State Forester. [1999 c.258 §6]

Note: See note under 477.175.

477.195 Ratification of Northwest Wildland Fire Protection Agreement. (1) The Legislative Assembly of the State of Oregon hereby ratifies the Northwest Wildland Fire Protection Agreement set forth in ORS 477.200, and the provisions of such agreement hereby are declared to be the law of this state upon such agreement becoming effective as provided in subsection (2) of this section.

(2) This agreement shall become effective when it has been ratified by one or more of the states eligible to be parties to this agreement and has been consented to by the Congress of the United States as required by section 10, Article I of the Constitution of the United States. [1999 c.258 §1]

Note: See note under 477.175.

477.200 Northwest Wildland Fire Protection Agreement. The provisions of the Northwest Wildland Fire Protection Agreement are as follows:

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ARTICLE I

The purpose of this agreement is to promote effective prevention, presuppression and control of forest fires in the northwest wildland region of the United States and adjacent areas of Canada by providing mutual aid in prevention, presuppression and control of wildland fires and by establishing procedures in operating plans that will facilitate such aid.

ARTICLE II

(1) This agreement shall become effective for those members ratifying it whenever any two or more members, the States of Oregon, Washington, Alaska, Idaho, Montana, the Yukon Territory, the Province of British Columbia or the Province of Alberta have ratified it, and when consented to by an Act of Congress of the United States.

(2) Any state, province or territory not listed in this Article which is contiguous to any member may become a party to this agreement subject to unanimous approval of the members.

ARTICLE III

(1) The role of the members is to determine from time to time such methods, practices, circumstances and conditions as may be found for enhancing the prevention, presuppression and control of forest fires in the area comprising the members’ territory, to coordinate the plans and the work of the appropriate agencies of the members and to coordinate the rendering of aid by the members to each other in fighting wildland fires.

(2) The members may develop cooperative operating plans for the program covered by this agreement. Operating plans shall include definition of terms, fiscal procedures, personnel contracts, resources available and standards applicable to the program. Other sections may be added as necessary.

ARTICLE IV

A majority of members shall constitute a quorum for the transaction of its general business. Motions of members present shall be carried by a simple majority, except as stated in Article II. Each member shall have one vote on motions brought before the members.

ARTICLE V

Whenever a member requests aid from any other member in controlling or preventing wildland fires, the member agrees, to the extent the member possibly can, to render all possible aid.

ARTICLE VI

(1) Whenever the forces of any member are aiding another member under this agreement, the employees of such members shall operate under the direction of the officers of the member to whom they are rendering aid and be considered agents of the member they are rendering aid to and, therefore, have the same privileges and immunities as comparable employees of the member to whom they are rendering aid.

(2) No member or its officers or employees rendering aid within another state, territory or province pursuant to this agreement shall be liable on account of any act or omission on the part of such forces while so engaged or on account of maintenance or use of any equipment or supplies in connection therewith to the extent authorized by the laws of the member receiving the assistance. The receiving member, to the extent authorized by the laws of the state, territory or province, agrees to indemnify and save harmless the assisting member from any such liability.

(3) Any member rendering outside aid pursuant to this agreement shall be reimbursed by the member receiving such aid for any loss or damage to, or expense incurred in the operation of, any equipment and for the cost of all materials, transportation, wages, salaries and maintenance of personnel and equipment incurred in connection with such request in accordance with the provisions of Article V of this agreement. Nothing contained herein shall prevent any assisting member from assuming such loss, damage, expense or other cost from lending such equipment or from donating such services to the receiving member without charge or cost.

(4) For purposes of this agreement, personnel shall be considered employees of each sending member for the payment of compensation to injured employees and death benefits to the representatives of deceased employees injured or killed while rendering aid to another member pursuant to this agreement.

(5) The members shall formulate procedures for claims and reimbursement under the provisions of this Article.

ARTICLE VII

(1) When appropriations for support of this agreement or for the support of common services in executing this agreement are needed, costs will be allocated equally among the members.

(2) As necessary, members shall keep accurate books of account, showing in full the members’ receipts and disbursements, and the books of account shall be open at any reasonable time to the inspection of representatives of the members.

(3) The members may accept any and all donations, gifts and grants of money, equipment, supplies, materials and services from the federal or any local government or any agency thereof and from any person, firm or corporation for any of its purposes and functions under this agreement and may receive and use the same subject to the terms, conditions and regulations governing such donations, gifts and grants.

ARTICLE VIII

(1) Nothing in this agreement shall be construed to limit or restrict the powers of any member to provide for the prevention, control and extinguishment of wildland fires or to prohibit the enactment or enforcement of state, territorial or provincial laws, rules or regulations intended to aid in such prevention, control and extinguishment of wildland fires in such state, territory or province.

(2) Nothing in this agreement shall be construed to affect any existing or future cooperative agreement between members or their respective federal agencies.

ARTICLE IX

(1) The members may request the United States Forest Service to act as the coordinating agency of the Northwest Wildland Fire Protection Agreement in cooperation with the appropriate agencies of each member.

(2) The members will hold an annual meeting to review the terms of this agreement and any applicable operating plans and make necessary modifications.

(3) Amendments to this agreement can be made by simple majority vote of the members and will take effect immediately upon passage.

ARTICLE X

This agreement shall continue in force on each member until such member takes action to withdraw therefrom. Such action shall not be effective until 60 days after notice thereof has been sent to all other members.

ARTICLE XI

Nothing in this agreement shall obligate the funds of any member beyond those approved by appropriate legislative action.

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Note: See note under 477.175.

FOREST PROTECTION DISTRICTS

477.205 Definitions for ORS 477.205 to 477.281. As used in ORS 477.205 to 477.281, unless the context requires otherwise:

(1) “Grazing land” means forestland, within a forest protection district, that has been classified as Class 3, agricultural class, as provided by ORS 526.305 to 526.370.

(2) “Timberland” means forestland, within a forest protection district, that has not been classified as Class 3, agricultural class, under ORS 526.305 to 526.370. [1965 c.253 §56]

477.210 Duty of owner to protect forestland; forester’s duty to provide protection upon noncompliance. (1) During the season of the year when there is danger of fire, every owner of forestland shall provide adequate protection against the starting or spread of fire thereon or therefrom, which protection shall meet with the approval of the State Board of Forestry.

(2) Subsection (1) of this section is considered to have been complied with if, on January 1 of each year, the owner:

(a) Files with the forester a bona fide forest protection plan that meets with the approval of the board; or

(b) Is a member in good standing in a forest protective association maintaining a standard of protection approved by the board.

(3) The forester shall make periodic inspections of the protection facilities provided in order to ascertain compliance by the owner.

(4) In case any owner of forestland shall fail or neglect to file such a fire plan or maintain the standard of protection approved by the board, either through compliance with the fire plan or membership in an approved association, then the forester under the direction of the board shall provide forest protection pursuant to ORS 477.205 to 477.281.

(5) The forester shall provide protection pursuant to ORS 477.205 to 477.281 for forestland owned by the state or by a political subdivision located within a forest protection district, unless adequate protection as required by this section is otherwise provided. [Formerly 477.024; 2003 c.14 §314]

477.212 [Amended by 1953 c.68 §19; 1965 c.253 §104; renumbered 477.615]

477.214 [Repealed by 1953 c.68 §19]

477.215 [1953 c.68 §16; 1965 c.253 §105; renumbered 477.620]

477.216 [Amended by 1953 c.68 §19; repealed by 1957 c.32 §4 (477.217 enacted in lieu of 477.216)]

477.217 [1957 c.32 §5 (enacted in lieu of 477.216); 1959 c.363 §10; 1965 c.253 §117; renumbered 477.565]

477.218 [Amended by 1953 c.68 §19; 1965 c.253 §103; renumbered 477.605]

477.220 Lands not provided protection; lands not included within ORS 477.205 to 477.281. (1) The forester is not required to provide protection for forestland that is either a small parcel or a tract isolated from a forest protection district and which land is found by the forester as not practicable to be included in a forest patrol system.

(2) ORS 477.205 to 477.281 do not apply to federal grazing land or federal timberland within this state for which adequate protection is provided unless the lands have been included within the boundaries of a forest protection district pursuant to a cooperative agreement with the federal government approved by the State Board of Forestry.

(3) Upon written request of the owner of lands that have been incorporated within a rural fire protection district, the forester shall determine whether the lands, or any part thereof, are forestland. Thereafter, those lands that have been so determined shall be included within ORS 477.205 to 477.281 unless excluded pursuant to subsection (1) of this section. [Formerly 477.053; 2005 c.22 §358]

477.225 Establishment and change of forest protection districts; rules. The State Forester, by rule, shall designate areas of forestland within this state as forest protection districts within which the forester is required to provide protection pursuant to this chapter. In establishing new boundaries or changes in boundaries of the districts, the State Forester may, for the purposes of administrative convenience, designate mountain ranges, rivers, streams, roads or other recognizable landmarks as boundaries. Boundaries may be established or changed only after a public hearing. [Formerly 477.026; 1997 c.274 §4]

477.230 Basis for computing cost of protection provided by forester; costs to be in accordance with budget. (1) The annual cost of protection provided by the forester for forestland within a forest protection district shall be as follows:

(a) Grazing land within the district shall be protected by the forester at a pro rata cost per acre for all grazing land within the district boundary. However, forest patrol assessments levied and assessed under ORS 477.270 against such lands that are not owned by public agencies may not exceed one-half of the pro rata cost per acre, exclusive of any assessment per acre under ORS 477.880.

(b) Timberland within the district shall be protected by the forester at a pro rata cost per acre for all timberland within the district boundary. However, forest patrol assessments levied and assessed under ORS 477.270 against such lands that are not owned by public agencies may not exceed one-half of the pro rata cost per acre, exclusive of any assessment per acre under ORS 477.880.

(2) The cost of protection described in this section shall be in accordance with a budget for the district approved by the State Board of Forestry. [Formerly 477.030; 1971 c.60 §1; 1973 c.184 §6; 1977 c.892 §48; 1983 c.16 §1; 1985 c.759 §32a; 1989 c.769 §10; 1997 c.274 §5; 2005 c.22 §359]

477.232 Costs in excess of budget; amounts not expended. Subject to the forest patrol assessment limitations set forth in ORS 477.230:

(1) Actual costs incurred by the forester in the prevention and suppression of fire on grazing land or timberland located within a forest protection district, in excess of the amount budgeted as required by ORS 477.230, but not including those costs eligible for equalization by the Oregon Forest Land Protection Fund, shall be, without regard to proceedings for the collection of the costs:

(a) Included in the budget for the next fiscal year; and

(b) Levied and assessed against the grazing land or timberland in the district.

(2) Budgeted amounts not expended may be carried forward as a credit to the assessment rate for the ensuing year. [2005 c.802 §6]

Note: 477.232 was added to and made a part of 477.205 to 477.281 by legislative action but was not added to any other series. See Preface to Oregon Revised Statutes for further explanation.

477.235 Forester to prepare tentative budget estimates for districts. The forester shall prepare tentative budget estimates for each forest protection district for the ensuing fiscal year beginning July 1, in a manner consistent with accounting and budgetary procedures prescribed by the State Board of Forestry. [Formerly 477.041; 1967 c.429 §3]

477.240 Advisory and guidance committees. In any forest protection district wherein the forester has entered into a cooperative agreement or contract with a forest protective association or agency described in ORS 477.406 (1), and the association or agency has appointed an advisory and guidance committee for the purposes of analysis and review of the protection plans and budgets for the district, the forester shall prepare the protection plans and budgets in conjunction with the committee. [1965 c.253 §63]

477.242 [Amended by 1959 c.363 §11; 1965 c.253 §118; renumbered 477.570]

477.244 [Amended by 1953 c.68 §19; 1961 c.123 §2; 1961 c.603 §13; 1965 c.253 §119; 1965 c.428 §§15,16; renumbered 477.575]

477.245 Owners entitled to be heard on budget matters; public budget meetings to be held in district. (1) All owners of lands assessed under ORS 477.205 to 477.281 shall have an opportunity to be heard on matters pertaining to the budgeting of moneys required to defray the cost of protection in each forest protection district. The forester, under the direction of the State Board of Forestry, shall provide for the holding of a public budget meeting in each district on or before May 1 of each year. The meeting shall be held at any convenient place designated by the forester.

(2) In forest protection districts wherein the board has entered into cooperative agreements or contracts with forest protective agencies, the board may make provision for the holding of the public budget meeting required in subsection (1) of this section on the same date and at the same place as a regular meeting of the agency. [Formerly 477.043]

477.246 [Amended by 1965 c.253 §122; renumbered 477.685]

477.248 [Amended by 1965 c.253 §123; renumbered 477.690]

477.250 Notice of budget meeting; notice of proposed assessment. (1) Not more than four weeks preceding each budget meeting, the forester shall cause notice of such meeting to be published once a week for two consecutive weeks in one or more newspapers published in or having general circulation in each of the counties in the forest protection district and in such other media of communication as the forester finds advisable. However, the final publication shall be made at least one week prior to the date of the meeting. The notice shall state the time and place where the tentative budget for the district may be inspected and shall state the time and place of the meeting.

(2) Whenever the forester determines that any privately owned land should be subject to assessment for forest protection and such land was not subject to the assessment during the preceding year, the forester shall give written notice by mail of the determination to each owner of such land not later than March 1 of the year the assessment is to be made. The notice shall inform the owner of the acreage and tax lot number of the lands to be assessed and the name and address of the nearest representative of the forester the owner may contact if review of the proposed assessment is desired. The notice shall also inform the owner of the procedure for hearing and appeals prescribed in ORS 477.205 to 477.281. [Formerly 477.045; 1979 c.276 §1; 1999 c.355 §5]

477.255 Holding of budget meeting; revision and submission of budget for final approval. (1) The public budget meeting shall be held at the time and place as stated in the published notice, or at such other time and place to which the meeting may be adjourned.

(2) A member of the State Board of Forestry, or the forester, shall act as chairperson of the meeting. The forester shall cause the minutes of the meeting to be preserved as a public record.

(3) During the meeting the chairperson shall receive from any interested persons suggestions, advice, objections or remonstrances as to the proposed budget for that forest protection district. The forester, under the direction of the board, may make changes in the budget proper and consistent with law, and thereafter submit the budget for final approval under ORS 477.265. [Formerly 477.047]

477.260 Appeal to board. (1) Any owner of grazing land or timberland within the boundary of the forest protection district who is adversely affected by the proposed budget may file an appeal within 30 days after the date of the public budget meeting.

(2) Any owner of grazing land or timberland subject to ORS 477.205 to 477.281 shall, upon request, be granted a hearing by the State Board of Forestry on any subject pertaining to the activities of the forester or board affecting the land.

(3) Appeals and hearings shall be conducted by the board in accordance with rules adopted pursuant to ORS 526.016 (4). [Formerly 477.049; 1997 c.274 §6; 1999 c.355 §6]

477.265 Board to deal with budgets annually. The State Board of Forestry shall annually review the forest protection district budgets, make any changes in the budgets that are proper and consistent with law, and pass final approval on all district budgets and the prorated acreage rates therein. [Formerly 477.051; 1999 c.355 §7]

477.270 Budgeted cost of forester to be lien; collection; deposit of amounts collected. (1) Subject to the forest patrol assessment limitations set forth in ORS 477.230:

(a) The budgeted cost of the forester, as provided for in ORS 477.205 to 477.281, in providing protection for privately owned forestland shall be a lien upon such property, shall be reported by the forester to the governing body of the county in which the lands are situated on or after July 1 of each fiscal year, and shall be levied and collected by the governing body with the next taxes on the land in the same manner and with the same interest, penalty and cost charges as apply to ad valorem property taxes in this state. The governing body shall instruct the proper officer to extend the amounts on the assessment roll in a separate account, and the procedure provided by law for the collection of taxes and delinquent taxes shall apply. Upon collection thereof, the governing body shall repay the entire amount collected to the forester.

(b) In lieu of the procedures under paragraph (a) of this subsection, the forester, under the direction of the State Board of Forestry, may make direct billing of the budgeted cost to owners of forestland and receive payment of the cost therefrom. In the event that under such billing procedures any owners fail to make payment, the unpaid budgeted cost shall become a lien against the property so billed and shall be levied and collected with the next taxes on such property as described in paragraph (a) of this subsection.

(c) The budgeted cost of the forester in providing protection for forestland owned by the state or by a political subdivision shall be paid to the forester on or before the first day of January of the fiscal year for which such protection is to be provided.

(2) Except as provided in ORS 477.230 (2), all moneys received by the forester pursuant to this section shall be paid into the State Treasury, credited to the State Forestry Department Account and used exclusively for the purposes of ORS 477.205 to 477.281. [Formerly 477.033; 1983 c.16 §2; 1999 c.355 §8]

477.272 [Repealed by 1953 c.152 §10]

477.274 [Repealed by 1953 c.152 §10]

477.275 [1981 c.321 §14; 1983 c.109 §1; repealed by 1989 c.769 §6]

477.276 [Repealed by 1953 c.152 §10]

477.277 Additional assessment to maintain unencumbered balance of Oregon Forest Land Protection Fund. (1) In addition to any other assessment prescribed by ORS 477.205 to 477.281, in any fiscal year in which the Emergency Fire Cost Committee determines pursuant to ORS 477.760 that the unencumbered balance of the Oregon Forest Land Protection Fund is less than $22.5 million, a surcharge shall be levied and assessed in the amount of $47.50 for each improved lot or parcel, except as provided in ORS 477.760, to defray the increased cost of fire suppression on forestland that is caused by the existence of the improvements.

(2) All surcharge moneys collected pursuant to this section shall be paid into the Oregon Forest Land Protection Fund.

(3) If an owner of forestland files a forest protection plan with the forester which is approved by the State Board of Forestry under ORS 477.210 (2), the owner shall not be required to pay the surcharge levied under subsection (1) of this section.

(4) Contiguous lots included in a combined lot that is described in ORS 477.295 (3)(a) and whose owner has made application to the forester under ORS 477.295 (4) are considered one lot for purposes of subsection (1) of this section.

(5) As used in this section, a lot or parcel is “improved” if it is indicated as improved in the county assessor’s property classification files or if a manufactured dwelling is sited on the lot or parcel. [1989 c.769 §3; 1991 c.639 §2; 1993 c.430 §1; 2003 c.685 §§1,6; 2005 c.802 §7; 2007 c.779 §2]

477.278 [Repealed by 1953 c.152 §10]

477.280 [Repealed by 1953 c.152 §10]

477.281 Limitation on obligation of landowner for fire protection. (1) The obligation of an owner of timberland or grazing land for payment of assessments and taxes for fire protection of forestland is limited to:

(a) The payment of moneys pursuant to ORS 321.015 (2), 477.277, 477.295, 477.760 (4) and 477.880 to maintain the Oregon Forest Land Protection Fund; and

(b) The payment of forest protection district assessments pursuant to ORS 477.060 and 477.205 to 477.281.

(2) As used in this section, “obligation of an owner of timberland or grazing land for payment of assessments and taxes for fire protection of forestland” does not include the duties or obligations of the owner under ORS 477.066, 477.068 or 477.120 or the obligations of an owner of land included in a rural fire protection district pursuant to ORS 478.010. [1989 c.769 §9; 1991 c.639 §3; 1997 c.206 §2; 1999 c.59 §157; 2003 c.685 §§2,7; 2005 c.802 §8; 2009 c.69 §1]

477.282 [1953 c.152 §2; 1965 c.253 §116; renumbered 477.670]

477.284 [1953 c.152 §3; repealed by 1965 c.253 §153]

477.285 [Formerly 477.035; repealed by 1989 c.769 §6]

477.286 [1953 c.152 §4; 1965 c.253 §106; renumbered 477.625]

477.288 [1953 c.152 §5; 1965 c.253 §109; renumbered 477.635]

477.290 [1961 c.603 §14; 1965 c.253 §110; renumbered 477.640]

477.291 [Formerly 477.039; repealed by 1999 c.355 §17]

477.295 Minimum assessment under ORS 477.270; combining lots; fees; rules. (1) For purposes of making the levy and assessment of costs against forestland under ORS 477.270, the minimum cost to provide fire protection or suppression for any lot or parcel of real property separately assessed for ad valorem taxes or other taxes provided by law in lieu thereof, on the current assessment roll shall be not less than $18.75, except as provided in ORS 477.760. Three dollars and seventy-five cents of each minimum assessment shall be paid into the Oregon Forest Land Protection Fund. Otherwise, such assessments shall be determined under ORS 477.230 and 477.270.

(2) In any fiscal year in which the Emergency Fire Cost Committee determines pursuant to ORS 477.760 that the unencumbered balance of the Oregon Forest Land Protection Fund has:

(a) Increased to an amount:

(A) More than $22.5 million but less than or equal to $30 million, the minimum assessment referred to in subsection (1) of this section shall be $16.88 for each lot or parcel. Of that amount, $1.88 of each minimum assessment shall be paid into the Oregon Forest Land Protection Fund.

(B) More than $30 million, the minimum assessment referred to in subsection (1) of this section shall be $15 for each lot or parcel. This amount shall be treated in the same manner as assessments under ORS 477.230 and 477.270.

(b) Decreased to an amount that is at or below $22.5 million, the minimum assessment referred to in subsection (1) of this section shall be $18.75 for each lot or parcel. This amount shall be treated in the same manner as assessments under subsection (1) of this section.

(3) Upon application to the forester under subsection (4) of this section, contiguous lots held under identical ownership shall be considered as one combined lot for purposes of subsection (1) of this section. However, the following may not be included in a combined lot:

(a) Except as provided in this paragraph, a lot on which a structure has been placed or improvements made for the purpose of erecting any temporary or permanent structure. One lot on which a single-family dwelling has been placed, and lots on which the structures and improvements that are appurtenant to that single-family dwelling have been placed, may be included in a combined lot that does not exceed 20 acres.

(b) A lot that is in a subdivision containing lots that have been or are being offered for sale.

(c) A lot that is not designated forest or agricultural land for the purpose of land use or special tax assessment purposes.

(4) To qualify under subsection (3) of this section, an owner of forestland shall make application to the forester no later than April 15 of the fiscal year preceding each fiscal year for which the owner desires the land to be assessed under subsection (3) of this section. The application shall be on a form prescribed by the State Forester. A fee of $25 per combined lot shall be paid to the forester at the time of first application for the combined lot. An additional fee of $25 per combined lot shall be paid to the forester at the time of subsequent application, if an application for the combined lot was not made for the previous fiscal year.

(5) The State Board of Forestry may adopt rules for the administration of the provisions of subsections (3) and (4) of this section.

(6) For the purposes of this section, “lot” and “subdivision” have the meanings given those terms in ORS 92.010. [1965 c.428 §6; 1969 c.204 §1; 1977 c.153 §1; 1977 c.892 §49; 1981 c.321 §13; 1983 c.108 §1; 1989 c.769 §7; 1991 c.623 §1; 1991 c.639 §4; 1997 c.274 §7; 1999 c.355 §9; 2003 c.685 §§3,8; 2005 c.802 §§9,10; 2007 c.779 §3]

477.300 Use of funds in State Forestry Department Account for capital outlay expenditures of district. (1) Moneys available at any time in the State Forestry Department Account for the purposes of this chapter, particularly ORS 477.205 to 477.281, which moneys are not specifically obligated for other purposes, may be used by the forester with the approval of the State Board of Forestry for capital outlay expenditures in any forest protection district. Prior to the making of such capital outlay expenditures, the forester and board may specify that the account shall be reimbursed for all or a part of such expenditures, over a period not to exceed 10 years, from any one or a combination of the following sources:

(a) Forest patrol assessments of the district involved.

(b) Moneys derived from an association under ORS 477.406.

(c) Moneys derived from municipal, county, state or federal agencies under this chapter, for the protection of their forestland from fire.

(2) Any reimbursement of capital outlay expenditures required by the forester and board under subsection (1) of this section shall be a pro rata amount from the source or sources involved, based upon forestland acreage being protected in the district for which the expenditures are made. [Formerly 477.016]

477.302 [Amended by 1965 c.253 §126; renumbered 477.705]

477.304 [Amended by 1965 c.253 §127; renumbered 477.710]

477.305 Forester to enforce prohibition against littering on forestland in districts. The forester is authorized to enforce the provisions of ORS 164.805 insofar as such affects forestland within forest protection districts established under this chapter. [1965 c.428 §2; 1971 c.743 §387]

477.306 [Amended by 1965 c.253 §132; renumbered 477.730]

477.308 [Amended by 1965 c.253 §133; renumbered 477.735]

477.310 [Amended by 1959 c.363 §12; 1965 c.253 §134; renumbered 477.090]

477.312 [Amended by 1959 c.363 §13; repealed by 1965 c.253 §153]

477.314 [Repealed by 1965 c.253 §153]

RANGELAND

477.315 Definition for ORS 477.315 to 477.325. As used in ORS 477.315 to 477.325, “rangeland” means any land:

(1) That is located in that part of the state lying easterly of the summit of the Cascade Mountains;

(2) That has not been classified as Class 1, Class 2 or Class 3 forestland under ORS 526.305 to 526.370; and

(3) That contains isolated tracts of forestland not so classified or not within a forest protection district, or that is primarily rangeland, undeveloped land or undeveloped area containing sagebrush, juniper and similar growths. [Formerly 477.142; 2003 c.14 §315]

477.317 Rangeland protection associations; organization; assistance from forester. (1) Any group of owners of rangeland that is within a rangeland protection system established under ORS 477.320, and that lies wholly outside any forest protection district, may organize a rangeland protection association for the purpose of protecting the rangeland from fire. The forester may enter into cooperative agreements or contracts with a rangeland protection association under the provisions of ORS 477.320 for the purpose of providing the assistance specified in subsection (2) of this section.

(2) The forester may assist a rangeland protection association with organizing the association, training association members and acquiring firefighting equipment for the association. The forester may also assist a rangeland protection association with payment for liability insurance and other administrative expenses of the association, which may not exceed 50 percent of the total of budgeted operating costs and the cash equivalent of in-kind supplies and services of the association in any fiscal year. The costs of assistance specified in this subsection may not be paid from funds assessed from forestland owners under ORS 477.230. [2007 c.808 §2]

477.320 Request of rangeland owners for protection; hearings; determination; cooperative agreements for protection. (1) Owners of rangeland may request the State Board of Forestry to hold a hearing on the subject of providing protection from fire for rangeland. Upon receipt of such request, the board or its authorized representative shall hold one or more public hearings in order to receive from interested persons information relating to the providing of such protection, and shall cause public notice of the time and place of each hearing to be given. The board or its authorized representatives shall keep the records of the proceedings of such hearings as public records.

(2) After the hearing referred to in subsection (1) of this section, the board shall determine whether the rangeland should be included within a protection system. If the board determines that rangeland should be included in a rangeland protection system, the board, in cooperation with interested persons, shall establish the extent and type of protection to be provided and direct the forester or a rangeland protection association organized under ORS 477.317 to provide the protection. Such protection shall be commensurate with the values and uses of the rangeland to be protected.

(3) After proceedings under subsections (1) and (2) of this section, the forester or a rangeland protection association organized under ORS 477.317 shall provide the type and extent of protection determined under subsection (2) of this section for rangeland determined to be included within a protection system under subsection (2) of this section. For the purpose of providing such protection, the forester and a rangeland protection association may enter into cooperative agreements or contracts with each other or, jointly or separately, with owners of rangeland, individuals, associations, corporations, road districts, rural fire protection districts or agencies of the federal government. [Formerly 477.144; 1999 c.355 §10; 2007 c.808 §5]

477.325 Budget for rangeland protection; collection of costs; disposition of receipts. (1) Before June 1 each year, the owners of rangeland to be protected under ORS 477.320, including all rangeland protection associations organized under ORS 477.317, shall prepare in cooperation with the State Board of Forestry or its authorized representative, and submit to the board, a proposed budget for the fiscal year beginning on the next succeeding July 1. The budget shall include the proposed cost of such protection. At the meeting of the board under ORS 477.265, the board shall review the budget, make any changes therein that are proper and consistent with law, and pass final approval thereon.

(2) The cost of protection of rangeland under ORS 477.317 and 477.320 shall be in accordance with the budget approved under subsection (1) of this section. The cost shall be collected pursuant to the cooperative agreement or contract entered into between the forester and the owners of the rangeland under ORS 477.320. All moneys received by the board pursuant to this subsection shall be paid into the State Treasury and credited to the State Forestry Department Account and shall be used exclusively for the purposes of ORS 477.315 to 477.325. [Formerly 477.146; 1999 c.355 §11; 2007 c.808 §3]

FIRE WARDENS

477.355 Fire wardens generally. (1) The State Forester shall appoint one or more district fire wardens for each forest protection district.

(2) The State Forester shall appoint such additional fire wardens as are needed to enforce this chapter. [1965 c.253 §86; 1997 c.274 §8]

477.360 Duties of fire warden for forest protection district. The district fire warden, under the direction of the State Forester, has charge of the fire prevention and suppression system in the forest protection district of the warden and such other duties as are required by law and the rules of the State Board of Forestry. Any other wardens serving in the district are subject to the direction of the district fire warden. [Formerly 477.008; 1999 c.355 §12]

477.365 Duties and powers of wardens. (1) Under instructions from the forester as to their exercise of state authority, all wardens shall:

(a) Take proper steps for the prevention and extinguishment of fires within the localities in which they exercise their functions.

(b) Control the use of fire for clearing land during fire season, as provided by ORS 477.505 to 477.520.

(c) Make such reports of their work and conditions within their localities as may be requested by the forester.

(d) Have the power of peace officers to make arrests or issue citations pursuant to ORS 477.985 for violation of this chapter or rules or orders adopted pursuant thereto.

(e) Enter upon the lands of any owner only in the discharge of their fire prevention and suppression duties, provided that in so entering they exercise due care to avoid doing damage.

(f) Investigate the causes of fires and may secure a fire origin area, at any time, for the purpose of preserving evidence and conducting an investigation pertinent to this chapter and control, restrict or prohibit access by any unauthorized person so long as is reasonably necessary in the judgment of the warden.

(g) Make a written determination, on a form prescribed by the State Forester, of the personnel and equipment reasonably available to an owner or operator who is required to make every reasonable effort pursuant to ORS 477.120 (5) and revise such determination as frequently as is necessary in the judgment of the warden.

(h) Make a written determination, on a form prescribed by the State Forester, of the use of any power-driven machinery in any operation pursuant to ORS 477.670 and revise such determination as frequently as is necessary in the judgment of the warden.

(2) The forester, or any warden coming under the jurisdiction of the forester, may administer oaths in investigations of violations of this chapter and the preparation of reports thereon. [Formerly 477.012; 1971 c.743 §388; 1993 c.697 §4; 1997 c.274 §9; 2003 c.14 §316]

477.370 [Formerly 477.014; 1987 c.158 §104; repealed by 1997 c.274 §55]

477.375 [1965 c.253 §91; repealed by 1997 c.274 §55]

477.405 [1965 c.253 §77; repealed by 1967 c.429 §23 (477.406 enacted in lieu of 477.405)]

COOPERATIVE CONTRACTS OR AGREEMENTS

477.406 Cooperative contracts or agreements for forest protection or forest related activities; negotiation. (1) The forester and a forest protective association may enter into a contract or agreement with each other or, jointly or separately, with a federal or state agency, political subdivision, corporation, responsible organization or responsible landowner or group of landowners for the prevention and suppression of fire on forestland or on land other than forestland, or both, to prevent and suppress fire.

(2) Contracts and agreements under subsection (1) of this section, and all renewals and revisions thereof, must be negotiated in accordance with procedures specified by rules of the State Board of Forestry.

(3) The forester and a forest protective association may enter into a contract or agreement for the accomplishment of forestry related activities.

(4) Contracts and agreements between the forester and a forest protective association under subsections (1) and (2) of this section may include the purchase from the forester of supplies and equipment needed to provide and support fire protection services. [1967 c.429 §24 (enacted in lieu of 477.405); 1969 c.204 §2; 1993 c.415 §1; 1999 c.355 §13]

477.408 Provisions of contract or agreement. Contracts or agreements under ORS 477.406 may provide, among other things, for any or all of the parties to do any one or more of the following:

(1) Exchange services on a cooperative basis.

(2) Provide services, supplies and equipment in return for cash payment or other compensation.

(3) Loan or lease equipment.

(4) Subcontract obligations. [1967 c.429 §26; 1993 c.415 §2]

477.409 Contracts for off-season services for fire prevention and suppression personnel. (1) The Department of Transportation and the Douglas Forest Protective Association, the Coos Forest Protective Association, the Walker Range Forest Protective Association or any successor association may enter into contracts that provide for seasonal fire prevention and suppression personnel employed by an association to render off-season services to the Department of Transportation. Services provided under a contract described in this section must be off-season services that State Forestry Department personnel were authorized to perform under one or more contracts or agreements between the Department of Transportation and the State Forestry Department entered into on or before January 1, 2012.

(2) A contract under this section shall specify the functions or activities to be performed and by what means the functions or activities are to be performed. The contract shall provide for:

(a) Identifying the responsibilities of the parties in ensuring payment of wages to the personnel for the off-season services.

(b) The term or duration of the contract.

(c) The rights of the parties to terminate the contract.

(3) A contract under this section may exclude any clause or condition required by ORS 279B.220, 279B.225, 279B.230, 279B.235, 279B.270 or 279C.500 to 279C.530 from the contract.

(4) If the Department of Transportation enters into a contract under this section, the department shall submit a summary of the contract to the Oregon Department of Administrative Services within the 30-day period immediately following the effective date of the contract. The summary must include the following information:

(a) Names of the parties to the contract.

(b) Date of the contract.

(c) Subject matter of the contract.

(d) The location at which a person may obtain a copy of the contract.

(5) The Department of Transportation shall submit a summary under subsection (4) of this section to the Oregon Department of Administrative Services through electronic means. [2012 c.19 §2]

477.410 Liability of parties; responsibility for equipment; unemployment insurance and workers’ compensation; sovereign immunity. (1) Unless otherwise provided in a contract or agreement, and except as provided in subsection (2) of this section:

(a) A party to a contract or agreement under ORS 477.406, who is performing services for the benefit of another party, is not liable for injury or damages to persons or property inflicted by the actions of such other party.

(b) If equipment is loaned or leased pursuant to a contract or agreement under ORS 477.406, the party to have primary use of the equipment under the contract or agreement is responsible for any and all damages or loss to such equipment or for insuring the equipment against loss or damage in a manner acceptable to the party owning the equipment.

(c) If the services of personnel are involved pursuant to a contract or agreement under ORS 477.406, the party to have primary control over such personnel under the contract or agreement shall provide such unemployment insurance and workers’ compensation coverage as may be required by law.

(2) Nothing in ORS 477.406 to 477.412 or in any contract or agreement under ORS 477.406 constitutes a waiver by the State of Oregon of its immunity from suit under section 24, Article IV of the Oregon Constitution, in addition to any waiver otherwise provided by law. [1967 c.429 §27]

477.412 Disposition and use of moneys received by forester under contract or agreement. All money received by the forester pursuant to a contract or agreement described in ORS 477.406 shall be paid into the State Treasury, credited to the State Forestry Department Account and used pursuant to law for the purposes of the contract or agreement. [1967 c.429 §28]

477.415 Definitions for ORS 477.440 to 477.460. The definitions in ORS 321.005 apply to ORS 477.440 to 477.460. [1965 c.253 §78; 1967 c.429 §35; 1981 c.321 §8]

477.420 [Formerly 477.133; repealed by 1967 c.429 §61]

477.425 [Formerly 477.135; 1967 c.429 §13; 1977 c.182 §2; repealed by 1981 c.321 §12]

477.430 [1965 c.253 §82; 1967 c.429 §5; repealed by 1981 c.321 §12]

477.440 Emergency Fire Cost Committee; members; terms; vacancies. (1) The State Board of Forestry shall appoint an Emergency Fire Cost Committee consisting of four members, who shall be forest landowners or representatives of forest landowners whose forestland is being assessed for forest fire protection within a forest protection district. At least one member shall be selected from each forest region of the state. Members shall serve at the pleasure of the board.

(2) Members of the Emergency Fire Cost Committee shall be appointed by the board for four-year terms. Appointments under this subsection shall be made by the board within 60 days after July 21, 1987. If there is a vacancy for any cause, the board shall make an appointment to become immediately effective for the unexpired term. [Formerly 527.280; 1983 c.759 §12; 1987 c.919 §19]

477.445 Distribution of fire emergency funds by committee. The committee shall supervise and control the distribution of funds from the Oregon Forest Land Protection Fund established under ORS 477.750. [Formerly 527.282; 1967 c.429 §6; 1981 c.321 §7]

477.450 Election of committee chairperson. After July 1, 1961, the committee shall meet and elect one of its members chairperson. The chairperson shall hold office for a period determined by the committee. Whenever the office of chairperson of the committee becomes vacant, the committee at its next regular or special meeting shall elect one of its members to fill the vacancy. [Formerly 527.288]

477.455 Meetings of committee; committee administrator. (1) Regular meetings of the committee shall be held quarterly prior to the day set for meetings of the State Board of Forestry, as otherwise provided by law. Special meetings of the committee may be called by its chairperson or by three members. The act or decision of any three members shall be deemed the act or decision of the committee.

(2) A staff member of the State Forestry Department shall be designated by the State Forester to serve as administrator for the committee. [Formerly 527.296; 1987 c.919 §21; 1991 c.639 §9]

477.460 Duties of administrator; compensation and expenses. (1) The administrator shall act as secretary of the committee and shall carry out the provisions of ORS 477.440 to 477.460 in such manner as the committee shall direct. The salary and other expenses of the administrator shall be paid from the Oregon Forest Land Protection Fund as are other expenses of the committee.

(2) Members of the committee are entitled to compensation and expenses as provided in ORS 292.495. [Formerly 527.292; 1969 c.314 §51; 1981 c.321 §6; 1987 c.919 §22]

FIRE PREVENTION

(Fire Seasons)

477.505 State Forester may declare fire season in district. (1) When conditions of fire hazard exist in a forest protection district or any part thereof, the State Forester may designate for that district or any part thereof the date of the beginning of a fire season for that year. The fire season shall continue for that district or part thereof until ended by order of the State Forester when conditions of fire hazard no longer exist in that district or part thereof.

(2) The State Forester may, during the same year and for the same district under circumstances similar to those described in subsection (1) of this section, designate one or more subsequent fire seasons. [1965 c.253 §93; 1969 c.204 §3; 1997 c.274 §10]

477.510 Acts prohibited during fire season. It is unlawful, during a fire season inside or within one-eighth of one mile of a forest protection district, to:

(1) Smoke while working in or traveling through any operation area.

(2) Use fuse and caps for blasting unless approval is granted by the forester. [Formerly 477.165; 1997 c.274 §11]

477.512 Additional acts prohibited during fire season. (1) As used in this section:

(a) “Exploding target” means a device:

(A) Designed for use or used as a target for small arms ammunition or for other projectiles;

(B) Consisting of a flammable substance or flammable combination of substances; and

(C) Capable of exploding when struck by small arms gunfire or by other projectiles.

(b) “Sky lantern” means an unmanned self-contained luminary device that uses heated air produced by an open flame or produced by another source to become or remain airborne.

(c) “Small arms” means a shotgun, rifle, pistol or revolver.

(d) “Tracer ammunition” means a bullet that contains a flammable substance designed to ignite upon firing of the bullet and to burn with sufficient brightness to allow observation of the bullet trajectory.

(2) A person violates this section if, during a fire season declared under ORS 477.505 for a forest protection district or a part of a forest protection district:

(a) The person releases a sky lantern or discharges an exploding target or tracer ammunition on land that is inside the district or is within one-eighth of a mile of the district; or

(b) A sky lantern released by the person or tracer ammunition discharged by the person crosses above land that is inside the district or is within one-eighth of a mile of the district.

(3) Violation of this section is a Class A violation. In addition to any enforcement officer specifically identified in ORS 153.005, the State Fire Marshal, the State Forestry Department or the State Forester may issue a citation for a violation under this section. [2013 c.223 §2]

Note: 477.512 was added to and made a part of ORS chapter 477 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

(Permits)

477.515 Permits required for fires on forestlands; waiver; permit conditions; cooperative agreements for permit administration; rules. (1) It is unlawful to set or cause to be set an open fire inside or within one-eighth of one mile of a forest protection district, either on one’s own land or on the land of another, without first securing a written permit for burning from the forester and complying with the conditions of the permit. In granting permits for burning:

(a) The forester may waive the requirement that permits be secured prior to burning, except during a fire season or when required under rules adopted pursuant to subsection (4) of this section.

(b) The forester shall prescribe conditions necessary to be observed in setting a fire and preventing it from spreading out of control.

(c) The forester may prescribe conditions necessary to be observed in maintaining air quality.

(2) Any permit obtained through willful misrepresentation is void.

(3) To avoid confusion or duplication of administration and to promote government efficiency, the forester may enter into a cooperative agreement with a county, a city or a rural fire protection district that:

(a) Allows the forester to administer the requirements of this section, in conjunction with the enforcement authority of ORS 477.980 to 477.993, on lands not otherwise subject to the requirements of this chapter; or

(b) Allows the cooperating agency to administer the burning permit requirements of ORS chapter 476 or 478, as appropriate, including applicable enforcement authority, on lands otherwise subject to the requirements of this chapter.

(4) All burning allowed under this section shall comply with applicable rules that may be adopted by the State Board of Forestry and the Department of Environmental Quality.

(5) The provisions of this section do not apply to campfires. [1965 c.253 §95; 1969 c.204 §204; 1969 c.680 §1; 1971 c.297 §1; 1997 c.274 §12; 1999 c.355 §14]

477.520 Refusal, suspension or revocation of permits. The forester may refuse, suspend or revoke a permit authorized by or issued under ORS 477.515 (1), when necessary in the judgment of the forester to prevent danger to life, health, forest resources or property. The forester may also refuse, suspend or revoke a permit authorized by or issued under ORS 477.515 (1), when necessary in the judgment of the forester, and after consultation with the Environmental Quality Commission to prevent air pollution, as defined in ORS 468A.005. [1965 c.253 §96; 1969 c.680 §2; 1997 c.274 §13]

477.525 [1965 c.253 §97; repealed by 1967 c.429 §14 (477.526 enacted in lieu of 477.525)]

477.526 [1967 c.429 §15 (enacted in lieu of 477.525); repealed by 1969 c.204 §8]

477.530 [1965 c.253 §98; repealed by 1997 c.274 §55]

477.532 Regional air quality authority’s functions limited. None of the functions of the Environmental Quality Commission under ORS 477.013, 477.515 and 477.520 shall be performed by any regional air quality authority established pursuant to ORS 468A.105. [1969 c.680 §5; 1997 c.274 §49]

(Restricted Uses)

477.535 Forester may proclaim forestland subject to restricted uses; coordination of state and federal land restrictions. (1) If the forester determines that any forestland inside or within one-eighth of one mile of a forest protection district is particularly exposed to fire danger, by proclamation the forester may designate such forestland as an extra fire hazard and may restrict the use of such forestland.

(2) The proclamation shall designate the area to which and the period during which the restrictions apply, and require that the area be subject to use only upon the condition that entrants comply with all the restrictions for the area.

(3) The proclamation shall designate the type of closure as:

(a) Regulated closure;

(b) Permit closure; or

(c) Absolute closure.

(4) For the purpose of consistency and coordination between all affected agencies in the administration of forestland restrictions, a plan shall be developed by the forester, in cooperation with federal, state and local governmental agencies, landowners and organizations affected by the restrictions. The primary objective of the plan is uniformity of regulations regardless of land ownership. The plan must recognize variation in fire danger and must specify levels of closure by unique but easily recognizable geographic boundaries. [Formerly 477.156; 1967 c.429 §45; 1989 c.615 §3; 1997 c.274 §14]

477.540 Notice of proclamation; suspension or termination; reinstatement. (1) The forester shall cause a notice of the closure proclaimed under ORS 477.535 to be posted in conspicuous locations that are in or near the designated areas. The forester shall cause a notice of each proclamation to be published in at least one newspaper published in each forest protection district containing the designated areas. Each published notice shall describe the area, type, restrictions and effective date of closure, and the manner in which permits may be secured if the area is subject to a permit closure.

(2) The proclamation shall remain in force until the time designated therein expires or until the forester finds that the restricted use is no longer requisite and by order suspends or terminates it. A reinstatement of a closure after a suspension does not require the notices described in subsection (1) of this section. [Formerly 477.160; 1967 c.429 §46; 1969 c.204 §5; 1997 c.274 §15; 1999 c.355 §15]

477.545 Restricted uses during closure. (1) Regulated closures require entrants into designated areas to comply with the requirements set forth in the proclamation under ORS 477.535, which requirements in the judgment of the forester are necessary to prevent danger to life, forest resources or property.

(2) Permit closures make the area subject to entry only through permit issued by the forester. The permit shall contain requirements which in the judgment of the forester are necessary to prevent danger to life, forest resources or property. The forester may, during periods of fire hazard conditions, refuse, suspend, revoke or restrict such permits.

(3) Absolute closures restrict the areas to all forms of use and shall be designated only during periods of extreme fire hazard conditions endangering life, forest resources or property. [Formerly 477.158; 1967 c.429 §47; 1969 c.204 §6; 1997 c.274 §16]

477.550 Violation of restrictions; access for fire fighting permitted. (1) Except as provided in subsection (2) of this section, it is unlawful to enter any restricted area except in compliance with ORS 477.535 and 477.545, or to violate any of the requirements or restrictions under such sections.

(2) Nothing in this section applies to an owner’s right of entry upon the land of the owner or prohibits free access to any area by anyone for the sole purpose of preventing or extinguishing fires. [Formerly 477.162; 1967 c.429 §48]

(Smoke Management)

477.552 Policy. It is the policy of the State of Oregon:

(1) To improve the management of prescribed burning as a forest management and protection practice; and

(2) To minimize emissions from prescribed burning consistent with the air quality objectives of the federal Clean Air Act and the State of Oregon Clean Air Act Implementation Plan developed by the Department of Environmental Quality under ORS 468A.035. [1989 c.920 §2]

477.554 Program establishment; content. (1) With the advice and assistance of the advisory committee established under ORS 477.556, and subject to the review of the State Board of Forestry, the State Forester shall adopt and implement programs for meeting the objectives set forth in ORS 477.013 and 477.552 to 477.562. The programs shall include:

(a) Collection, analysis and distribution of information regarding prescribed burning and other alternative fuel management techniques;

(b) Assistance to landowners wanting to evaluate alternative burning and nonburning fuel management strategies and the collection of data regarding fuel conditions existing before and after treatment;

(c) Aerial monitoring of prescribed burning activity;

(d) Distribution of information to the Department of Environmental Quality on progress toward meeting federal and state air quality standards;

(e) Establishment of a system to track forest burning on a geographically specific basis; and

(f) Collection, analysis and distribution of information regarding emissions from wildfires for comparison with prescribed burning.

(2) The programs shall be administered by the State Forestry Department. [1989 c.920 §3; 1997 c.274 §50; 2007 c.213 §2]

477.556 Advisory committee; membership; terms; staff. (1) An advisory committee shall be created by the State Forester to advise and assist the State Forester in carrying out the programs required by ORS 477.013, 477.515 and 477.552 to 477.562. The advisory committee shall consist of five members as set forth in subsections (2) and (3) of this section.

(2) The following three members shall be appointed by the State Forester:

(a) One member representing a nonindustrial forest landowner;

(b) One member representing an industrial forest landowner; and

(c) One member representing the public.

(3) In addition to the members designated in subsection (2) of this section, representatives of the following federal agencies shall be invited to serve as members of the advisory committee:

(a) A representative of the United States Forest Service.

(b) A representative of the United States Bureau of Land Management.

(4) Each member of the advisory committee shall serve for a term of two years.

(5) Members of the advisory committee are entitled to compensation as provided in ORS 292.495.

(6) A vacancy for any cause occurring before the expiration of a term shall be filled for the unexpired term by a person appointed by the State Forester.

(7) A staff member of the State Forestry Department shall be designated by the State Forester to serve as secretary for the committee. [1989 c.920 §4; 1997 c.274 §51]

477.558 Functions for advisory committee. The advisory committee created under ORS 477.556 shall:

(1) Advise the State Forestry Department in collecting information about prescribed burning operations; and

(2) Advise the State Forestry Department on the collection, analysis and distribution of information required under ORS 477.554. [1989 c.920 §5; 2007 c.213 §3]

477.560 Oregon Forest Smoke Management Account; moneys paid to account; use. (1) The Oregon Forest Smoke Management Account is established separate and distinct from the General Fund in the State Treasury.

(2) The following moneys shall be credited to the Oregon Forest Smoke Management Account:

(a) Nonrefundable registration fees received by the State Forestry Department for Class 1 forestland under ORS 526.324 to be burned west of the summit of the Cascade Mountains, not including Hood River County.

(b) Fees received by the State Forester for Class 1 forestland under ORS 526.324 treated by a prescription burn method under ORS 477.515 (1) west of the summit of the Cascade Mountains, not including Hood River County.

(c) Fees for federal forestland included within the regulated area under ORS 477.013 to be treated by any prescription burn method subject to the provisions of the State of Oregon Clean Air Act Implementation Plan and the federal Clean Air Act received by the State Forester.

(3) The moneys in the Oregon Forest Smoke Management Account are appropriated continuously for and shall be used by the State Forester exclusively for the administration of the smoke management program approved under ORS 477.013 and 477.554. [1989 c.920 §7; 1997 c.274 §52; 2007 c.213 §4]

477.562 Registration fee; rules. (1) The State Forestry Department shall collect a nonrefundable registration fee for Class 1 forestland under ORS 526.324 to be burned west of the summit of the Cascade Mountains, not including Hood River County.

(2) Any owner of Class 1 forestland under ORS 526.324 and any agency managing Class 1 forestland under ORS 526.324 lying within the regulated area as described in the plan required under ORS 477.013 shall register with the State Forester, in accordance with rules adopted by the State Forester, the number of acres to be burned prior to December 31 of the same year.

(3) The State Forester shall establish by rule the amount of fees to be collected under this section. The fees may not exceed:

(a) Fifty cents per acre for registration.

(b) $5 per acre for forestland classified as Class 1 under ORS 526.324 that has been treated by any prescription burn method authorized by the issuance of a permit under ORS 477.515 (1).

(4) Federal lands included within the regulated area under the provision of the smoke management plan approved under ORS 477.013 shall also be subject to the fees authorized under subsection (3) of this section for forestland to be treated by any prescription burn method subject to the provisions of the State of Oregon Clean Air Act Implementation Plan and the federal Clean Air Act.

(5) The State Forester may establish a minimum fee per billing, combining the fees in subsections (1) and (3) of this section. The combined minimum fee may not exceed $30.

(6) In order to efficiently collect fees established by this section, the State Forester is authorized to enter into contracts or agreements with a federal land management agency, a person or a public body as defined in ORS 174.109. Such a contract or agreement may provide for payment methods such as estimated annual payments with periodic adjustment to ensure the recovery of actual fees due, or semiannual or quarterly consolidated billings.

(7) Notwithstanding ORS 291.238, moneys collected under this section shall be deposited in the Oregon Forest Smoke Management Account established under ORS 477.560. [1989 c.920 §8; 1991 c.919 §15a; 1997 c.274 §53; 2007 c.213 §5]

SNAGS; SLASHING AND OTHER DEBRIS

477.565 Felling dead trees and snags; rules. (1) In an operation area on forestland inside or within one-eighth of one mile of a forest protection district:

(a) If power-driven machinery is used at any location to load and assemble forest products, the operator shall fell all dead trees and snags of such size and within such distance of the equipment as may be required by rules promulgated by the State Forester.

(b) On forestland west of the summit of the Cascade Mountains, the operator shall fell all dead trees and snags within the operation area of such size, at such times and in such manner as may be required by rules promulgated by the State Forester.

(2) Rules promulgated under this section shall prescribe such felling as reasonably is necessary to prevent the spread of fire. [Formerly 477.217; 1967 c.429 §49; 1997 c.274 §17]

477.570 [Formerly 477.242; repealed by 1973 c.46 §8]

477.575 [Formerly 477.244; 1969 c.680 §3; 1973 c.46 §4; repealed by 1987 c.154 §1]

477.580 Determination of additional fire hazards; notice to landowner; plan for reducing hazard; release from liability. (1) Following the issuance of a permit pursuant to ORS 477.625, and after slashing has been created in an operation area inside or within one-eighth of one mile of a forest protection district, the forester may make a determination if such slashing and debris exists on the operation area in sufficient quantity and arrangement as to constitute an additional fire hazard that endangers life, forest resources or property, and if such area is in need of additional work or protection to reduce, abate or offset the additional fire hazard. Whenever practical, the forester shall make the determination referred to in this subsection during the administration and enforcement of the Oregon Forest Practices Act.

(2) If the forester determines that an additional fire hazard exists on the operation area sufficient to endanger life, forest resources or property, and that such area is in need of additional work or protection to reduce, abate or offset the additional fire hazard, the forester shall so notify the landowner and operator or their representatives in writing of such determination. Pursuant to rules promulgated by the State Forester, the notice to the landowner or operator shall contain provisions for offsetting the additional fire hazard by burning, improvements, extra protection or other means. The notice shall also specify a reasonable time for completion of the provisions contained therein.

(3) When the forester finds that the provisions set forth in subsection (2) of this section have been complied with or that the additional hazard has been, in the opinion of the forester, sufficiently reduced by other means to offset the hazard, the forester shall immediately issue to the operator or landowner a release from all obligations imposed by ORS 477.120 (2)(c).

(4) If the forester determines that an additional fire hazard exists, the forester shall, at the request of the owner or operator, with the approval of the owner, grant a release upon payment by the owner or operator of such sum of money as the forester finds necessary to provide additional protection or means necessary to reduce or offset the additional hazard created by such slashing and other debris. In no event may this sum exceed the lesser of:

(a) $6 for each 1,000 board feet of timber harvested in an operation;

(b) The forester’s estimated cost of reducing or providing other means to offset the additional hazard; or

(c) $10 for each acre in a stand improvement operation where no timber is harvested.

(5) Moneys received under subsection (4) of this section shall be placed in the State Treasury, credited to the State Forestry Department Account and used exclusively for the purposes of forest protection within the district.

(6) Any owner of forestland may make written request to the forester to assume all obligations for the disposal or reduction of any additional fire hazard determined to exist thereon. If the forester then determines that the owner can comply with such obligation, the forester shall immediately issue to all other persons involved a written release of such obligations.

(7) Any order or determination made by the forester pursuant to this section is final unless modified or vacated in an appeal to the State Board of Forestry taken within 30 days after issuance of the order. [1965 c.253 §121; 1965 c.428 §16; 1967 c.429 §54; 1973 c.46 §5; 1975 c.74 §1; 1979 c.222 §1; 1997 c.274 §18; 2003 c.14 §317]

477.585 [1967 c.429 §56; repealed by 1973 c.46 §8]

MACHINERY REGULATIONS

(Enjoining Violations)

477.605 Enjoining violations of ORS 477.615 and 477.645 to 477.655. Any person violating any provisions of ORS 477.615 and 477.645 to 477.655 may be enjoined in an appropriate judicial proceeding from the further use of such equipment until the person complies with these sections. [Formerly 477.218; 1997 c.274 §19]

477.610 Standardization of fire-fighting equipment used to protect forestland; rules. (1) Notwithstanding any other law, the State Forester, in cooperation with other forest protection associations and agencies, shall carry on a continuous program for the standardization of equipment used for the protection of forestland from fire, and may issue rules, with the approval of the State Board of Forestry, for such standardization where it is the finding of the forester and board that such standardization is economically feasible.

(2) The provisions of ORS 476.410 to 476.440 shall not apply to equipment used for the protection of forestland from fire. [1965 c.76 §§2,3; 1999 c.355 §16]

(General Regulations)

477.615 Additional water supply and equipment; rules. (1) During a fire season inside or within one-eighth of one mile of a forest protection district, when, in the judgment of the forester, an operation is of sufficient size or so planned and operated as to justify additional protection from fire, the owner or operator, when so directed by the forester in writing, shall provide, within such time as is specified in the writing, additional water supply and equipment for use in fire suppression that is in conformity with rules promulgated by the State Forester.

(2) All such equipment shall be kept in constant readiness for instant use in fighting forest fires. However, nothing in this section prohibits the use of the equipment by the operator for sprinkling roads or other uses within the operation area.

(3) Rules promulgated under this section shall prescribe such water supply and equipment as reasonably are necessary to provide immediate and effective suppression of fires on forestland and may provide for the use of alternate methods and equipment. [Formerly 477.212; 1967 c.429 §17; 1995 c.605 §2; 1997 c.274 §20]

477.620 [Formerly 477.215; repealed by 1995 c.605 §1]

477.625 Permit to use fire or power-driven machinery; exception; conditions; waiver of permit. (1) Every person conducting an operation inside or within one-eighth of one mile of a forest protection district that uses fire in any form or power-driven machinery shall first obtain from the forester a written permit, which shall require that the holder of the permit:

(a) Take reasonable precautions that in the judgment of the forester are necessary in the use of fire and power-driven machinery to prevent the spread of fire on or from an operation area.

(b) Designate a representative authorized to act on all matters having to do with fire control, which representatives shall be available at all times by direct means of communication with the forester.

(c) If operating west of the summit of the Cascade Mountains, close down any part or all of the operation during any period of time when notified that, in the judgment of the forester, conditions exist as described in ORS 477.670.

(2) Routine road maintenance is excepted from the requirement to obtain a permit to operate power-driven machinery under this section. As used in this subsection “routine road maintenance” means grading, cleaning ditches, culvert cleaning, spot rocking or mechanical brushing along the roadside to maintain visibility.

(3)(a) The forester may waive the requirement to obtain a written permit under this section when in the judgment of the forester the operation will not constitute a fire hazard sufficient to justify the requirement.

(b) Waiver of the requirement to obtain a written permit under this section does not relieve the owner and operator of the responsibility for complying with other applicable duties, requirements or penalties of this chapter. [Formerly 477.286; 1991 c.634 §1; 1997 c.274 §21]

477.627 [1975 c.185 §3; repealed by 1975 c.185 §6]

477.630 Information in permit. (1) Each permit issued under ORS 477.625 shall include:

(a) The legal description of the area upon which any operation is to be conducted, or an alternate description of the area permitted by the forester;

(b) The name and address of the operator and owner; and

(c) Any other information considered by the forester to be necessary for the administration of the rules promulgated under this chapter.

(2) The information required in subsection (1) of this section shall be provided by the operator or owner, prior to issuance of the permit by the forester. [1965 c.253 §108; 1975 c.185 §1; 1997 c.274 §22]

477.635 Authority to issue, refuse, suspend or revoke permit. The forester may issue the permits required in ORS 477.625 and suspend or revoke such permits because of violation of the terms thereof or noncompliance with this chapter. The forester shall refuse to issue a permit to any person for the conduct of an operation when, in the judgment of the forester, an excessive amount of forest debris in and around the operation area results in an extreme fire hazard that endangers life, forest resources or property. [Formerly 477.288; 1997 c.274 §23]

(Fire Season Regulations)

477.640 Use and refueling of power saws. During a fire season, every person using, operating or fueling a saw powered by an internal combustion engine inside or within one-eighth of one mile of a forest protection district shall comply with the rules of the State Forester relating thereto, promulgated for the prevention and suppression of fire. [Formerly 477.290; 1997 c.274 §24]

477.645 Internal combustion engines; rules. (1) During a fire season every person operating an internal combustion engine inside or within one-eighth of one mile of a forest protection district shall equip and maintain the engine in conformity with rules promulgated by the State Forester. These rules shall prescribe such equipment as reasonably is necessary to prevent the escape of fire from such an engine.

(2) Escape of fire from any engine described in this section is prima facie evidence that it has not been equipped and maintained adequately in compliance with rules promulgated under this section. [Formerly 477.182; 1967 c.429 §18; 1997 c.274 §25]

477.650 Stationary internal combustion engines; rules; waiver. (1) During a fire season every person operating a stationary internal combustion engine inside or within one-eighth of one mile of a forest protection district shall provide at each engine on an operation area a water supply, and equipment for its use in fire suppression, in conformity with rules promulgated by the State Forester. These rules shall prescribe such water supply and equipment as reasonably are necessary to prevent the spread of fire and may provide for the use of alternate methods and equipment.

(2) When a person has equipped one engine as required by subsection (1) of this section, any additional engines operated by the person within 150 feet of the equipped engine shall be exempt from the requirements of subsection (1) of this section.

(3) For the purposes of this section, an internal combustion engine shall be considered stationary if it is operated for a period of more than two days exclusively at one location in an operation area.

(4) The forester in writing may waive any requirement of this section when an operation will not constitute a fire hazard sufficient to justify the requirement. [Formerly 477.184; 1967 c.429 §19; 1997 c.274 §26]

477.655 Fire-fighting tools and equipment at operation area and on trucks; rules. During a fire season inside or within one-eighth of one mile of a forest protection district:

(1) Every person conducting an operation shall provide and maintain, at the operation area or at a location designated by the forester, fire-fighting tools that are in conformity with rules promulgated by the State Forester. The tools shall be used only for fighting fire and for no other purpose.

(2) Each internal combustion engine used in an operation area shall be equipped with fire-fighting tools and equipment that are in conformity with rules promulgated by the State Forester.

(3) All trucks driven over roads through forestland, excepting county roads and state highways, shall be equipped with fire-fighting tools and equipment that are in conformity with rules promulgated by the State Forester.

(4) For purposes of this section, the rules promulgated by the State Forester:

(a) Shall prescribe such type and number of tools and equipment for extinguishing fires as reasonably are necessary to suppress fires, and the manner of storing such tools when not in use.

(b) May provide for the use of alternate methods, tools and equipment.

(5) The tools and equipment prescribed by these rules shall be kept in constant repair and readiness for instant use. [Formerly 477.186; 1967 c.429 §20; 1997 c.274 §27]

477.660 Additional protection facilities or services at operation area. During a fire season when in the judgment of the forester any operation inside or within one-eighth of one mile of a forest protection district has a fire hazard requiring additional protection, the operator shall provide such other facilities or services as the forester by written notice may direct. [Formerly 477.187; 1967 c.429 §21; 1997 c.274 §28]

477.665 Fire watch service; rules; waiver. (1) During a fire season inside or within one-eighth of one mile of a forest protection district, every operator using power-driven machinery in an operation area shall provide fire watch service on the operation area. The fire watch service shall consist of not less than one competent person, who shall be constantly on duty at times prescribed by rules promulgated by the State Forester. These rules shall require fire watch service at such times and at such places as the spread of fire on or from the operation area to forestland reasonably may be expected.

(2) The forester may modify or waive, in writing, any requirement of this section as to any operation whenever the fire hazard is not sufficient to justify the requirement. [Formerly 477.188; 1967 c.429 §22; 1969 c.204 §7; 1997 c.274 §29; 1999 c.59 §158]

477.670 When use of fire or power-driven machinery prohibited. During a fire season inside or within one-eighth of one mile of a forest protection district situated west of the summit of the Cascade Mountains, if the forestland in such district, or any part thereof, is susceptible in the judgment of the forester to damage by fire, the forester shall issue notice to that effect. Thereafter the use of fire in any form by any person in any operation area or the use of power-driven machinery for any operation, is unlawful unless approved by the forester. Approval shall be granted only when in the judgment of the forester the activity will not constitute a fire hazard sufficient to justify the requirement. [Formerly 477.282; 1993 c.415 §3; 1997 c.274 §30]

477.685 [Formerly 477.246; repealed by 1995 c.605 §1]

477.690 [Formerly 477.248; repealed by 1995 c.605 §1]

MISCELLANEOUS

477.695 Removal of flammable material from railroad rights of way. (1) Every person operating a railroad of any kind in this state inside or within one-eighth of one mile of a forest protection district shall annually or more often, if so ordered in writing by the forester, in a manner and to an extent ordered by the forester, destroy or remove all flammable growth and flammable material from the right of way of the railroad. All burning done to comply with this section must be in accordance with ORS 477.505 to 477.520 and 477.625.

(2) The forester shall allow a reasonable period of time for compliance with this order. [1965 c.253 §125; 1971 c.562 §1; 1997 c.274 §31]

477.705 [Formerly 477.302; repealed by 1983 c.327 §16]

477.710 Starting of campfire or other open fire restricted; exceptions. It is unlawful for any person to start a campfire or other open fire without first clearing the area immediately around and above it of material that will carry fire, or leave a campfire or other open fire unattended, or permit a campfire or other open fire to spread. This section does not apply to any activity conducted in compliance with ORS 477.365, 477.515, 477.625, 478.960, 526.041, 526.360 or 527.670. [Formerly 477.304; 1967 c.429 §50; 1993 c.430 §2; 1997 c.274 §32]

477.715 [1965 c.253 §129; repealed by 1971 c.743 §432]

477.720 Accidentally setting fire to forestland; failure to prevent spread. (1) It is unlawful, having accidentally set fire to any forestland, or any place from which fire may be communicated to forestland, to fail to extinguish the fire or use every possible effort so to do.

(2) It is unlawful, having built a fire on or near forestland, through carelessness or neglect to permit the fire to spread to or through the forestland. [1965 c.253 §130]

477.730 [Formerly 477.306; repealed by 1971 c.743 §432]

477.735 [Formerly 477.308; 1971 c.743 §389; repealed by 1987 c.905 §37]

477.740 Unlawful use of fire. A person commits the offense of unlawful use of fire if the person:

(1) In the ignition of a fire:

(a) Unlawfully sets on fire, or causes to be set on fire, any grass, grain, stubble or other material being or growing on any lands within the state;

(b) Intentionally or negligently allows fire to escape from the person’s own land, or land of which the person is in possession or control; or

(c) Accidentally sets any fire on the person’s own land or the land of another and allows it to escape from control without extinguishing it, or making a bona fide effort to do so.

(2) Having knowledge of a fire burning on the person’s own land, or land of which the person is in possession or control, fails or neglects to make a bona fide effort to extinguish the same, regardless of whether or not the person is responsible for the starting or existence thereof. [1971 c.743 §307; 1993 c.697 §7; 1997 c.274 §33]

477.745 Liability of parents for costs of suppressing fire caused by minor child. (1) In addition to any other remedy provided by law, the parent or parents of an unemancipated minor child shall be liable for costs incurred by the forester in suppressing fires on forestland caused by such minor child. However, a parent who is not entitled to legal custody of the minor child at the time of the fire shall not be liable for such damages.

(2) The legal obligation of the parent or parents of an unemancipated minor child to pay damages under this section shall be limited to not more than $5,000 payable to the forester for one or more acts.

(3) When an action is brought under this section on parental responsibility for acts of their children, the parents shall be named as defendants therein and, in addition, the minor child shall be named as a defendant. The filing of an answer by the parents shall remove any requirement that a guardian ad litem be required.

(4) Nothing in subsections (1) to (3) of this section applies to:

(a) Foster parents.

(b) Parents who have filed a petition for the unemancipated minor child under ORS 419B.809. [1995 c.605 §6; 2001 c.622 §52]

477.747 Policies and plans for restoration of burned forestland. The State Forestry Department, the State Parks and Recreation Department, the State Department of Fish and Wildlife, the Department of State Lands and any other state agency with oversight responsibilities for state forestlands shall promote the effective use of state resources by adopting and implementing policies and management plans to begin efforts to restore and recover forestlands burned by fire so that social, economic and environmental values are not lost due to delay. These agencies shall coordinate, to the extent needed, to promote the efficient use of state resources in developing their fire restoration and recovery policies and plans. The Oregon Department of Administrative Services may assist state agencies under this section in developing contract and other procedures to expedite restoration and recovery efforts. The Oregon Department of Administrative Services shall provide appropriate contracting assistance and exceptions as may be necessary to expedite restoration and recovery efforts. [2003 c.456 §1]

Note: 477.747 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 477 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

OREGON FOREST LAND PROTECTION FUND

477.750 Oregon Forest Land Protection Fund; source; use. (1) The Oregon Forest Land Protection Fund is created, separate and distinct from the General Fund. This fund shall be held by the State Treasurer as a trust fund for the uses and purposes provided in ORS 477.750 to 477.775 and 477.880. The State Treasurer shall deposit and invest moneys in the fund as provided by law, taking into account its uses and purposes. Interest earned by the fund shall be credited to the fund.

(2) Notwithstanding any other law and as limited by ORS 477.750 to 477.775 and 477.880, that part of the suspense account created by ORS 321.145 that is derived from the tax levied by ORS 321.015 (2) after refunds and other costs permitted by law, shall be credited to the Oregon Forest Land Protection Fund. [1969 c.524 §2; 1983 c.16 §3; 1985 c.759 §33; 1989 c.769 §12; 1989 c.966 §57]

477.755 Appropriation of fund; limitation on expenditures. (1) As used in this section, “annual expenditure” means the expenses of the Oregon Forest Land Protection Fund obligated in any 12-month period designated by the Emergency Fire Cost Committee by rule, corresponding to the policy period of any insurance for emergency fire costs.

(2) Notwithstanding ORS 291.238, the moneys in the Oregon Forest Land Protection Fund are continuously appropriated to the Emergency Fire Cost Committee for the purposes of:

(a) Equalizing emergency fire suppression costs for safeguarding forestland in any forest protection district;

(b) Paying necessary administrative expenses, not to exceed the limit authorized by the Legislative Assembly each biennium;

(c) Contributing to the payment of emergency fire suppression costs insurance premiums, subject to the payment limitation established in ORS 477.775 (4);

(d) Paying costs related to the availability and mobilization of emergency fire suppression resources on a statewide basis; and

(e) Paying for nonroutine purchases of supplemental fire prevention, detection or suppression resources that will enhance the ability of the forester to perform fire protection responsibilities within a forest protection district.

(3) Notwithstanding any other provision of law, the annual expenditure from the Oregon Forest Land Protection Fund from revenues received from ORS 321.015 (2), 477.277 (1), 477.295 (1) and (2), 477.750 (1) and (2), 477.760 (4) and 477.880 may not exceed the lesser of:

(a) $13.5 million; or

(b) The sum of:

(A) The lesser of $1 million or 50 percent of the eligible annual fire suppression costs determined by the committee;

(B) The lesser of $9 million or the amount by which the eligible annual emergency fire suppression costs exceed $2 million but do not exceed the policy deductible for emergency fire suppression costs insurance purchased under ORS 477.775;

(C) Necessary administrative expenses as determined by the committee and authorized under the limit described in subsection (2)(b) of this section;

(D) Contributions to the payment of emergency fire suppression costs insurance premiums, subject to the payment limitation established in ORS 477.775 (4);

(E) The lesser of $3 million or three-fifths of the actual cost of activities described in ORS 477.777 (1)(b) and (c); and

(F) Any amounts expended for nonroutine purchases described in subsection (2)(e) of this section. [1969 c.524 §3; 1989 c.23 §1; 1991 c.639 §5; 2003 c.685 §§4,9; 2005 c.802 §§11,12; 2013 c.619 §1]

Note 1: The amendments to 477.755 by section 2, chapter 619, Oregon Laws 2013, apply to expenditures for state and district annual budget periods that begin on or after July 1, 2015, and before July 1, 2017. See section 6, chapter 619, Oregon Laws 2013. The text that is applicable to expenditures for state and district annual budget periods that begin on or after July 1, 2015, and before July 1, 2017, is set forth for the user’s convenience.

477.755. (1) As used in this section, “annual expenditure” means the expenses of the Oregon Forest Land Protection Fund obligated in any 12-month period designated by the Emergency Fire Cost Committee by rule, corresponding to the policy period of any insurance for emergency fire costs.

(2) Notwithstanding ORS 291.238, the moneys in the Oregon Forest Land Protection Fund are continuously appropriated to the Emergency Fire Cost Committee for the purposes of:

(a) Equalizing emergency fire suppression costs for safeguarding forestland in any forest protection district;

(b) Paying necessary administrative expenses, not to exceed the limit authorized by the Legislative Assembly each biennium;

(c) Contributing to the payment of emergency fire suppression costs insurance premiums, subject to the payment limitation established in ORS 477.775 (4);

(d) Paying costs related to the availability and mobilization of emergency fire suppression resources on a statewide basis; and

(e) Paying for nonroutine purchases of supplemental fire prevention, detection or suppression resources that will enhance the ability of the forester to perform fire protection responsibilities within a forest protection district.

(3) Notwithstanding any other provision of law, the annual expenditure from the Oregon Forest Land Protection Fund from revenues received from ORS 321.015 (2), 477.277 (1), 477.295 (1) and (2), 477.750 (1) and (2), 477.760 (4) and 477.880 may not exceed the lesser of:

(a) $13.5 million; or

(b) The sum of:

(A) The lesser of $5 million or 50 percent of the eligible annual fire suppression costs determined by the committee;

(B) The lesser of $5 million or the amount by which the eligible annual emergency fire suppression costs exceed $10 million but do not exceed the policy deductible for emergency fire suppression costs insurance purchased under ORS 477.775;

(C) Necessary administrative expenses as determined by the committee and authorized under the limit described in subsection (2)(b) of this section;

(D) Contributions to the payment of emergency fire suppression costs insurance premiums, subject to the payment limitation established in ORS 477.775 (4);

(E) The lesser of $3 million or three-fifths of the actual cost of activities described in ORS 477.777 (1)(b) and (c); and

(F) Any amounts expended for nonroutine purchases described in subsection (2)(e) of this section.

Note 2: The amendments to 477.755 by section 3, chapter 619, Oregon Laws 2013, apply to expenditures for state and district annual budget periods that begin on or after July 1, 2017. See section 7, chapter 619, Oregon Laws 2013. The text that is applicable to expenditures for state and district annual budget periods that begin on or after July 1, 2017, is set forth for the user’s convenience.

477.755. (1) As used in this section, “annual expenditure” means the expenses of the Oregon Forest Land Protection Fund obligated in any 12-month period designated by the Emergency Fire Cost Committee by rule, corresponding to the policy period of any insurance for emergency fire costs.

(2) Notwithstanding ORS 291.238, the moneys in the Oregon Forest Land Protection Fund are continuously appropriated to the Emergency Fire Cost Committee for the purposes of:

(a) Equalizing emergency fire suppression costs for safeguarding forestland in any forest protection district;

(b) Paying necessary administrative expenses, not to exceed the limit authorized by the Legislative Assembly each biennium;

(c) Contributing to the payment of emergency fire suppression costs insurance premiums, subject to the payment limitation established in ORS 477.775 (4);

(d) Paying costs related to the availability and mobilization of emergency fire suppression resources on a statewide basis; and

(e) Paying for nonroutine purchases of supplemental fire prevention, detection or suppression resources that will enhance the ability of the forester to perform fire protection responsibilities within a forest protection district.

(3) Notwithstanding any other provision of law, the annual expenditure from the Oregon Forest Land Protection Fund from revenues received from ORS 321.015 (2), 477.277 (1), 477.295 (1) and (2), 477.750 (1) and (2), 477.760 (4) and 477.880 may not exceed the lesser of:

(a) $13.5 million; or

(b) The sum of:

(A) The lesser of $10 million or 50 percent of the eligible annual fire suppression costs determined by the committee;

(B) Necessary administrative expenses as determined by the committee and authorized under the limit described in subsection (2)(b) of this section;

(C) Contributions to the payment of emergency fire suppression costs insurance premiums, subject to the payment limitation established in ORS 477.775 (4);

(D) The lesser of $3 million or three-fifths of the actual cost of activities described in ORS 477.777 (1)(b) and (c); and

(E) Any amounts expended for nonroutine purchases described in subsection (2)(e) of this section.

477.760 Reserve base of fund fixed; annual determination of excess over base; tax levies and assessments to maintain base. (1) The reserve base of the Oregon Forest Land Protection Fund is $22.5 million. On or about the last day of February of each year the Emergency Fire Cost Committee shall meet and determine the unencumbered balance of the fund as of the preceding February 16.

(2) In order to maintain the reserve base of the fund at $22.5 million, the Emergency Fire Cost Committee may request and the State Treasurer may approve transfers to the fund in accordance with ORS 293.205 to 293.225, if the moneys in this fund fall below the reserve base, whether or not there are sufficient moneys in the fund to pay the obligations of the fund. Repayment of any such transfers shall be made from moneys paid into the fund pursuant to ORS 321.015 (2), 477.277 and 477.880 and from such other moneys as may be credited to the fund therefor.

(3) If the committee determines that the moneys in the fund exceed:

(a) The reserve base, and that no repayment obligations are outstanding from transfers made pursuant to subsection (2) of this section, then the Department of Revenue shall reduce the taxes described in ORS 321.015 (2) by 50 percent for the following calendar year and the surcharge for each improved lot or parcel described in ORS 477.277 and the assessments described in ORS 477.880 shall be reduced by 50 percent for the following fiscal year.

(b) $30 million, and that no repayment obligations are outstanding from transfers made pursuant to subsection (2) of this section, then the Department of Revenue may not collect the taxes described in ORS 321.015 (2) for the following calendar year and the surcharge for each improved lot or parcel described in ORS 477.277 and the assessments described in ORS 477.880 may not be collected until the calendar year or fiscal year following the determination of the committee that the unencumbered balance in the fund is less than or equal to $22.5 million.

(4)(a) Notwithstanding any other provision of law, if the funds referred to in subsection (2) of this section are inadequate to cover repayment of transfers from the State Treasurer or from other sources, the State Forester shall increase the following taxes, assessments and charges in an amount adequate to ensure repayment of the transfers, and any interest accrued thereon, allowing for contingencies in valuation, assessment and collection:

(A) The harvest tax referred to in ORS 321.015 (2).

(B) The surcharge on developed lots referred to in ORS 477.277.

(C) The minimum assessment referred to in ORS 477.295.

(D) The acreage assessments referred to in ORS 477.880 (2).

(b) The increases to taxes, assessments and charges shall be apportioned based upon the proportionate levels of revenues received from each source by the Oregon Forest Land Protection Fund. Any such increases shall be computed on or before January 1 of each year, and shall be based upon revenues received during the previous four quarters. Any such increases shall be made in the appropriate calendar or fiscal year following that in which the requested transfers from the State Treasurer or from other sources are made. [1969 c.524 §4; 1985 c.158 §1; 1985 c.759 §34; 1989 c.769 §4; 1991 c.639 §6; 1993 c.653 §21; 2003 c.685 §§5,10; 2005 c.802 §§13,14]

477.765 [1969 c.524 §5; repealed by 1985 c.759 §40]

477.770 Rules relating to use of fund. The Emergency Fire Cost Committee shall promulgate rules relating to the disposition of moneys from the Oregon Forest Land Protection Fund. Under such rules the committee may require that prior to the payment of moneys from the fund the forest protection district expend an amount for emergency fire suppression not to exceed a per acre amount determined to be 10 percent of the total budgeted amount of all districts as set forth in ORS 477.220 to 477.415 divided by the total protected acres of all districts. However, any such amount per acre shall apply uniformly to each forest protection district. [1969 c.524 §6; 1977 c.182 §3; 1981 c.321 §5; 2007 c.847 §3]

477.775 Emergency fire suppression costs insurance; considerations; payment of premium from fund. (1) Prior to February 1 of each year, the Emergency Fire Cost Committee and the forester shall consult regarding the purchase of emergency fire suppression costs insurance and the level of coverage to purchase for the fire season of that year.

(2) In determining whether the purchase of insurance is advisable, the forester and the committee shall consider:

(a) The cost, coverage and deductible of insurance available from private insurance carriers;

(b) The funding available for fire suppression from the Oregon Forest Land Protection Fund and other sources;

(c) The current condition of forests;

(d) Long-term weather predictions;

(e) Available fire fighting resources; and

(f) Available funds for the purchase of insurance.

(3) If the committee and the forester agree to purchase insurance, the forester shall purchase insurance through the Oregon Department of Administrative Services to cover any lawful expense incurred by the State Forestry Department, or contractors or cooperators, that is payable by the Oregon Forest Land Protection Fund. The insurance may be obtained through negotiation or competitive bids, whichever is in the best interest of the state, its contractors and cooperators.

(4) The Oregon Forest Land Protection Fund may not be charged for payment of more than one-half of any premium for the insurance. [1969 c.524 §10; 1985 c.158 §2; 1989 c.91 §1; 1989 c.769 §11; 1991 c.639 §7; 2005 c.802 §15]

477.777 Budget request required for fire insurance, fire suppression resources and assessment mitigation; report. (1) As part of the preparation of the budget forms submitted to the Oregon Department of Administrative Services pursuant to ORS 291.208 for the State Forestry Department, the State Forester shall prepare, in addition to any amounts budgeted for forest protection districts pursuant to ORS 477.205 to 477.281, a budget request for a General Fund appropriation for the following purposes:

(a) Providing funds for the purchase of emergency fire suppression costs insurance under ORS 477.775.

(b) Acquiring and placing centrally managed fire suppression resources for statewide use.

(c) Acquiring fast-mobilizing, short-term contingency resources to be used based on predictions of severe fire weather, widespread lightning events or serious resource shortage due to a heavy fire season in this state, in the western region of the United States or nationally.

(d) Enhancing forest protection district resources in cases where land productivity or other economic factors seriously limit the ability of the forester to perform fire protection responsibilities.

(e) Mitigating forest patrol assessment rates in cases where land productivity or other economic factors seriously limit the ability of the owners of forestlands in the forest protection district to comply with ORS 477.210 (1).

(2) The State Forester shall utilize critical discretion in the expenditure of the funds provided to the State Forestry Department pursuant to the separate budget request required under subsection (1) of this section.

(3) The State Forester shall report to the Emergency Board, each year, after the close of the fire season, on:

(a) The nature and severity of the fire season;

(b) The moneys expended on fire suppression;

(c) The balance remaining from the biennial appropriation; and

(d) Any matters arising out of the fire season that may require attention or warrant future consideration by the board or the Legislative Assembly. [2005 c.802 §2; 2013 c.619 §4]

477.780 [1969 c.524 §14; repealed by 1985 c.759 §40]

477.805 [1967 c.429 §37; repealed by 1985 c.759 §40]

477.810 [1961 c.689 §2; 1965 c.253 §145; repealed by 1967 c.429 §61]

477.820 [1961 c.689 §3; 1967 c.429 §39; repealed by 1985 c.759 §40]

477.830 [1961 c.689 §§4,5(3); 1969 c.524 §11; 1977 c.182 §4; 1981 c.321 §2; repealed by 1985 c.759 §40]

477.840 [1961 c.689 §5(1),(2); repealed by 1969 c.524 §15]

477.850 [1961 c.689 §6; repealed by 1985 c.759 §40]

ASSESSMENT FOR FIRE SUPPRESSION COSTS

477.880 Acreage assessment; east side forestlands; certain forestlands west of Cascade Mountains; rate. (1) An assessment for the cost of fire protection and suppression is levied upon the owners of all forestland that has been classified under ORS 526.305 to 526.370 and that is protected from the start or spread of fire thereon or therefrom by:

(a) The forester under ORS 477.210 (4), with the approval of the State Board of Forestry;

(b) The United States of America through contract or agreement with the forester or board;

(c) Any forest protective agency under contract or agreement with the forester or board pursuant to ORS 477.406; or

(d) Any forest protective agency, described in paragraph (c) of this subsection, under a contract or agreement with the United States of America wherein such agency agrees to protect specific federal forestlands, and in return, the United States of America agrees to protect specific lands of such agency.

(2) Except as otherwise provided in ORS 477.760, for each fiscal year the assessment levied per acre of ownership of forestland designated in subsection (1) of this section shall be:

(a) Seven and one-half cents for all forestlands east of the summit of the Cascade Mountains and all forestlands which have been classified Class 3, agricultural class, under ORS 526.305 to 526.370; or

(b) Five cents for all forestlands not described in paragraph (a) of this subsection. [1969 c.524 §§7,8; 1981 c.321 §3; 1985 c.759 §35; 1989 c.769 §5; 1991 c.639 §8; 2003 c.14 §318; 2007 c.779 §4]

477.885 [1969 c.524 §9; repealed by 1985 c.759 §40]

477.910 [1959 c.320 §1; 1965 c.253 §146; repealed by 1967 c.429 §61]

477.920 [1959 c.320 §7; repealed by 1985 c.759 §40]

477.930 [1959 c.320 §2; 1967 c.429 §41; repealed by 1985 c.759 §40]

477.940 [1959 c.320 §3; 1967 c.429 §42; 1969 c.524 §12; 1981 c.321 §4; repealed by 1985 c.759 §40]

477.950 [1959 c.320 §4; 1961 c.689 §7; 1965 c.428 §17; repealed by 1969 c.524 §15]

477.960 Collection of assessment. (1) Insofar as applicable, the assessment levied under ORS 477.880 shall be due and payable to the forester in like manner and procedure, including penalties and interest, as set forth for the collection of the protection costs provided in ORS 477.270. Wherever applicable, the assessment levied under ORS 477.880 shall be combined with the budgeted cost certified to the county under ORS 477.270 as one amount for each account listed so that the officer in charge of the roll can extend the amounts on the assessment roll in a separate column in a single figure.

(2) The minimum assessment set forth in ORS 477.295 shall be applied to the combined amount described in subsection (1) of this section. [1959 c.320 §5; 1961 c.689 §8; 1965 c.312 §4; 1967 c.179 §1; 1967 c.429 §43; 1985 c.759 §36; 1991 c.459 §417]

477.970 Disposition of receipts. The receipts from the assessment levied by ORS 477.880 shall be paid into the Oregon Forest Land Protection Fund. [1959 c.320 §6; 1961 c.689 §9; 1967 c.429 §44; 1985 c.759 §37]

PENALTIES

477.980 Enforcement policy; rules; factors considered. The State Board of Forestry, by rule, shall establish the enforcement policy for violations prescribed in ORS 477.993. In determining the enforcement policy, the board may consider the following factors:

(1) Prior violation of the same or similar statutes, rules or orders.

(2) The gravity and magnitude of the violation.

(3) Whether the violations were repeated or continuous.

(4) Whether the cause of the violation was an unavoidable accident or a willful, malicious or negligent act.

(5) Whether the violation directly threatened human life or caused property damage of $10,000 or more. [1993 c.697 §2; 1999 c.1051 §101]

477.985 Enforcement procedure. In addition to any other persons permitted to enforce violations, the State Forestry Department and the State Forester, or any employee specifically designated by the department or by the State Forester, may issue citations for violations established under ORS 477.993 in the manner provided by ORS chapter 153. [1993 c.697 §3; 1999 c.1051 §102; 2011 c.597 §138]

477.990 [Amended by 1953 c.68 §19; subsection (5) of 1957 Replacement Part enacted as 1953 c.68 §17; subsections (11) and (12) of 1957 Replacement Part enacted as 1953 c.152 §§6,7; repealed by 1959 c.363 §14 (subsections (1) to (5) of 477.993 (1963 Replacement Part) enacted in lieu of 477.990)]

477.992 [Repealed by 1959 c.363 §21]

477.993 Penalties. (1) Violation of any of the provisions of ORS 477.510, 477.515, 477.535 to 477.550, 477.565, 477.615, 477.625, 477.635 to 477.670, 477.695, 477.710, 477.720 or 477.740, or any rule or order adopted pursuant thereto, is a violation punishable as follows:

(a) For the first offense, as a Class D violation.

(b) For the second offense, as a Class C violation.

(c) For the third offense, as a Class A violation.

(2) Multiple violations of any single requirement of this chapter, or of any rule or order adopted pursuant thereto, in an operation area shall be considered a single violation. However, each day a violation continues shall be considered a separate violation.

(3) Notwithstanding subsection (1) of this section, violations of any of the statutes listed in subsection (1) of this section which proximately cause human injury, loss of human life or property damage of $10,000 or more, and unauthorized entry into a fire scene secured under the authority of ORS 477.365 (1)(f), may be punishable as a Class A misdemeanor.

(4) Violations and punishments set forth in this section and ORS 477.740 are in addition to and not in lieu of the provisions of ORS 164.305 to 164.335. [Subsections (1) and (2) of 1963 Replacement Part and subsections (1) to (3) enacted as 1959 c.363 §15 (in lieu of 477.990); subsection (6) of 1963 Replacement Part enacted as 1959 c.408 §6; subsection (7) of 1963 Replacement Part enacted as 1959 c.320 §8; subsection (8) of 1963 Replacement Part enacted as 1961 c.689 §11; subsection (5) enacted as 1961 c.603 §15; 1965 c.253 §136; 1971 c.562 §2; 1971 c.743 §390; 1993 c.697 §8; 1995 c.605 §4; 1997 c.274 §34; 1999 c.1051 §103]

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