

Agenda Item No.:	6
Work Plan:	Fire Protection
Topic:	Wildfire Hazard Map and Procedural Rules
Presentation Title:	Overview of proposed rules June 6, 2024
Date of Presentation:	Chris Cline, (Interim) Chief – Fire Protection
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SUMMARY

The purpose of this agenda item is to seek the Board of Forestry (Board) adoption of the proposed administrative rule modifications to the Department’s Procedural rules, Division 01, and Wildfire Hazard Map administrative rules, Division 44. This is a decision item.

BACKGROUND

Following the 2013-2015 fire seasons, two parallel review processes were initiated, the Secretary of State Audit and the Fire Program Review. Both efforts are aligned to help continue a highly functioning wildfire protection system for Oregon into the future. The Oregon Department of Forestry (Department) has fully embraced the findings and recommendations from both final reports. The 2017-2018 fire seasons experience reinforced the need for the agency to continue efforts on these recommendations. Additionally, the Governor issued Executive Order 19-01 creating the Governor’s Council on Wildfire Response.

The Secretary of State Performance Audit offered a third-party review of the Department’s ability to sustain its multiple missions, as increased demand to support the fire protection effort has been required from the entire agency.

The Fire Protection Review Committee was coordinated with all agency partners through a transparent process including legislators, governor’s office, forest landowners, and cooperators to reach for continuous improvement in Oregon’s complete and coordinated fire protection system.

The Governor’s Council on Wildfire Response offered 37 recommendations to improve Oregon’s wildfire protection system. Many of the recommendations required legislative action to be carried out.

Senate Bill (SB) 762 captured many of the recommendations of the Governor’s Council on Wildfire Response, providing legislative direction to the Board regarding the wildland-urban interface; statewide fire risk mapping; prescribed fire; directed the Department to

review and clarify the enforcement of rules pertaining to forestland; and baseline standards for unprotected and under-protected lands in Oregon.

CONTEXT

The original wildfire risk map was launched in July of 2022, meeting the statutory deadline. In August, it was taken down to undergo revisions. The Department and Oregon State University received substantial feedback from the public and appeals of risk classifications. Responses were analyzed to identify themes and trends. Items that were immediately addressed were fuel components of hay and pasturelands that were showing as elevated, as well as identifying avenues to address irrigated agricultural.

Furthermore, Senate Bill 80 in the 2023 Legislative session modified the framework of the wildfire risk map in the following ways:

- Established the intent of the map;
 - o Educate Oregon residents and property owners about the residents' and property owners' wildfire exposure by providing transparent and science-based information;
 - o Assist in prioritizing fire adaptation and mitigation resources for the most vulnerable locations; and
 - o Identify where defensible space standards and home hardening codes will apply.
- Renamed the wildfire "risk" map to wildfire "hazard" map;
- Modified 5 risk classes to 3 hazard classes;
- Modified the appeals process from a Department determined process to a contest case hearing;
- Modified the notification requirements, to only those property owners within the wildland-urban interface and designated as high hazard; and
- Required the Department to meet with county commissioners and staff in 8 meetings throughout the state.

The Department, along with Oregon State University, Oregon State Fire Marshal, Building Codes Division, and the Department of Financial Regulations, met with county commissioners and staff of all 36 counties throughout September and October 2023.

Following those meetings, the Department assembled a Rules Advisory Committee to assist with determining how to best consider irrigated agricultural lands. This group was composed primarily of county personnel and commissioners, as well as the Oregon Farm Bureau and the Oregon Cattleman's Association.

At the June 2024 Board Meeting, the Department presented administrative rule modifications to both the Department's procedural rules and the wildfire hazard map, with a recommendation to conduct public hearings on the proposed administrative rule modifications. The Board also requested more information of how the modifier regarding irrigated agriculture would be applied (Attachment 4).

Over the month of June, the Department, with agency partners, held 6 town hall meetings to meet with the public and talk about changes to the hazard map, answer questions regarding all of the wildfire programs created through Senate Bill 762, receive feedback, and to provide information before the public comment periods started. These town halls were conducted to facilitate small discussions with the public. Locations included Redmond, La Grande, Medford, Grants Pass, Klamath Falls, and The Dalles. These locations encompass over 90% of the tax lots in high hazard areas and within the Wildland-Urban Interface.

The Department initiated the public hearing process with the Secretary of State July 1, with a 45-day comment period on the proposed rules. The Department held three virtual public hearings as well during this period. A summary of the comments received is in the Hearing Officer's report, Attachment 1.

Additionally, Senate Bill 80 required an opportunity for the public to comment on the draft map. This was conducted between July 18 and August 18. The Department issued releases announcing the comment period, which were picked up by 32 local media outlets between July 18 and August 10. The Department received approximately 2000 comments, across a blend of subjects, summarized below.

- Insurance – 37% of commenters reference insurance impacts, either non-renewals or higher rates, or that insurance companies needed to be more regulated.
- Firewise community – 18% referred to being in a Firewise community and a desire to receive credit for that and a lower hazard rating.
- Defensible Space/Building Codes – 18% commented on the impact of new codes, or currently in compliance with the proposed codes and wanting a lower hazard rating.
- Irrigation – 17% of commenters referenced irrigation as a means to lower hazard whether for agricultural or ranching purposes, or home systems. Many stated that the presence of water should reduce the hazard to low.
- Home values – 11% claimed that the map will result in a decline in home values.
- Federal Land Management – 10% referred to federal land management as an issue.

All comments received that pertained to the map or referenced a specific property were referred to OSU for review. Comments that were received that did not pertain to the hazard map, such as insurance, building code, defensible space and such, were referred to the respective agencies for review.

OAR 629-044-1021 allows for the Department and OSU to review and refine the hazard ratings as necessary to ensure accuracy.

The publication of the hazard map does not automatically trigger any instant regulations. Both the draft defensible space code and the draft building code have to be adopted by rule. The draft building code has a 6 month phase in after adoption, which will not take place until after the appeal process is complete. The defensible space code is being implemented in an education posture.

ANALYSIS

A significant portion of the proposed modifications are directly related to the passage of Senate Bill 80. Based on the comments and questions received, the following edits have been made to the rule sets presented in June.

629-001-0010

Edits were made to align this rule with the Department of Justice Model Rules regarding the agency representative program.

Alternates considered – modifying the rule to allow for electronic transmittal and verify entities that are still in business.

629-001-0015

Edit was made to remove a process that was no longer statutorily supported.

629-001-0020

Edit was made to remove a process that was no longer statutorily supported.

629-044-1026

Alternates considered – At the June Board meeting, several comments were provided that a 3 of 5-year standard would be more sufficient than the 1 of 5-year standard presented in the draft rules. The Board had substantial discussion following the comments presented.

Comments received from the public were supportive of the 1 of 5-year standard. There were no comments in support of a more restrictive standard.

RECOMMENDATION

The Board directs the Department to proceed with the promulgation of the proposed rules and rules changes in September 2024, as presented in the draft rule language for Chapter 629, Division 01 and Division 44.

NEXT STEPS

Pending the Board of Forestry's direction, the Department submits the rule package to the Secretary of State and Legislative Counsel for filing.

RULE REVIEW TIMELINE

- June 6, 2024 – ODF presents proposed rules to BOF to seek permission to conduct public hearings.
- June 15, 2024 – Notice of Proposed Rulemaking and Fiscal Impact Statement sent to Secretary of State. Notify legislators and interested parties.
- July 2024 – Conduct public hearings.

- September 4, 2024 – ODF submits the final rule draft language with public comments to BOF for final consideration and approval.
- September 15, 2024 – Submit rule to Secretary of State and Legislative Counsel for filing. Effective date September 30, 2024.

ATTACHMENTS

1. Hearing Officer Report
2. Division 001 administrative rules
3. Division 044 administrative rules
4. OSU Irrigated Agricultural: Summary of Data and Methods
5. Written comments

**Presiding Officer’s Report to the Board of Forestry
RE: Administrative Rulemaking Hearing**

Date: August 18, 2024
To: Oregon Board of Forestry
From: Tim Holschbach
Subject: Wildfire Hazard Map & Procedural Rules Hearing

Hearing Dates: July 30, 31, and August 1,2024
Hearing Locations: Virtual Zoom Meetings
Title of Proposed Rule: Wildfire Hazard Mapping & Procedural Rules

This report contains summaries of the public hearings and oral comments.

Wildfire Hazard Map & Procedural Rules Hearing, July 31, 2024, at 10:00 AM

The public hearing on the Wildfire Hazard Map & Procedural Rules was formally convened at 10:00 AM. An information session began at 10:02 AM along with a general introduction to the hearing process and instructions. At 10:19 AM the formal hearing began and at 10:47 AM the hearing concluded, and the meeting was adjourned.

Summary of Oral Comments – July 31, 2024, 10:00 AM

Sheila Dooley- Speaking as a citizen. Sheila commented that it appears that the map is not accurate in some places. Sheila stated that there are areas in the Mozier area where she lives that are designated as moderate in the middle of a high-risk area. This area is not in the WUI but stated that she does not understand why her two tax lots would be designated as moderate. Sheila also commented that in the rules it refers to Firewise as an action plan and Sheila feels that this should be promoted so that neighbors can help each other with defensible space work. Currently there is the Microwave fire in the Mozier area and previously there was the Mozier Creek fire where firefighters were busy protecting houses and structures instead of putting the fire out.

Jan C.- Jan commented that when looking at his neighborhood on the map, he noticed quite a few issues with layers of burn probability and fire intensity. Jan noted that irrigated agriculture, pastures and hay fields were supposed to be reduced. Jan noticed when looking at the map that there are many fields that are completely irrigated and are yet still designated as high in some spots, anywhere from 25-50%. These are orchards, hemp fields, pastures, hay lands, etc. This puts the layers into question. Same issue with fire intensity. There are blocks in the middle of Oaks Savannah that all of a sudden have an area that is 12 ft or greater flame length. These are, in his opinion, very uniform areas and feels this doesn’t fit. When checking the footprint of his house and landscape, Jan also checked other areas that matched his footprint. The only difference that he could come up with was tax lot size. Jan can’t dilute out anything that is determined to be higher burn probability. Someone on 2 to 5 acres with the same footprint averaged out

over tax lot. Jan is surrounded by irrigated pasture and hay land and is rated high whereas others with bigger tax lots are lower. Jan questions the final outcome.

Jan added a comment stating that when reviewing the first map in 2020, it wasn't a fine enough analysis to meet what was going on the ground and feels that this current map is a better effort however, there is still some fine tuning that needs to be done along with ground truthing.

Cathy Smith- Cathy is a manager of a large homeowner's association down south of Sunriver and comments on behalf of her community. Cathy commented that the community is a new development with man-made lakes and the area has been cleared of fuels. The community is showing high hazard for one half and moderate hazard for the other half with a few random high hazard properties in the middle of the moderate zone. She is concerned that the map is not accurate and would like to have someone with feet on the ground to take a look at these places. She also questioned what the process is to present an appeal.

Eric Krueger- Representative for Rocky Point Fire & EMS currently working under a CWDG grant. Eric commented that there are a lot of concerns with the new map. Echoing what others have said, he feels that there are a lot of inconsistencies. Eric commented that they are going out and putting boots on the ground with the grant that they were provided. He has been a federal firefighter for 32 years, understands fire behavior modeling, and would like a little more transparency on what was done. Was under the understanding that local fire experts were used and was never contacted nor was Rocky Point or any of the fed agencies contacted. Is unclear on who the local fire experts were that were used. Eric would gladly volunteer to sit in on any boot on the grounds assessments if any were done. He feels that there are certainly some mistakes. There are some moderate ratings and then two or three properties mixed in there that are either low or high and none of them are correct according to my assessments. Eric would also like a little more clarification on the appeals process as his community is going to have a lot of appeals. Eric lives in Klamath Falls and where he lives came in as high and will be appealing his own property as well as a few of his neighbors. Eric commented that from the first map that came out, he can see the effort was better but feels that without putting boots on the ground and going out to talk to people, walking around properties, the map can't be very accurate. He knows that would cost more money and that there probably aren't enough people that can do it but suggests reaching out to the public to find folks like himself that are retired and would be willing to act as a local fire expert that experience fighting fire in the wildland urban interface that can give more accurate readings.

Pat Wickwire- Pat would like clarification on the difference between the appeals process and comments. Pat commented that she has been doing fuel reduction for 30 years and worked for the Forest Service. Pat had the Firewise group out helping her on her property and was told that there were no problems protecting the area. $\frac{3}{4}$ of the property is irrigated pasture land. Pat would like to start the process for an appeal and wants more understanding of the process.

Gene Rogers- Gene spent 34 years as a federal wildland specialist since 1969. Gene authored and revised the original Klamath County CWPP. Gene was involved in parcel service through Klamath County starting in 2006 and got up to around 14 to 15,000 individual parcels with full assessment. Gene commented that he bought his two lots that he is on right now 20 years ago and the first thing he did was clear them and continues to maintain them. Klamath County fire district 1 fuels trailer made a second visit to his place this season and was taken away yesterday full of material. Gene understands the problem with fringe properties. He is adjacent to a parcel that's owned by the city of Klamath Falls, 544 acres that is mostly forested. Gene has accomplished treatment on about 150 of those acres. Gene commented that when you pull up the map and look at his parcel and then look at his neighbor's parcel and see the satellite imagery that the trees are thinned, and the fuels are removed. Gene is rated high, and the neighbors are rated moderate and haven't raked a leaf. Gene stated that the parcels on the fringe are going to be the majority of the angst in and feedback from the public.

Marilyn Ronfeld- Marilyn commented that information was given that the map would be updated. Marilyn has irrigated lands and does not understand why her land is still showing high risk even though the parcel is irrigated.

Stephen Sabel- Stephen wanted to comment that he reiterates many of the comments that are being heard during this hearing which is that many people are interested in knowing how to appeal and will all be issuing appeals. Stephen stated that he feels this looks arbitrary and feels that so many have a distrust in the organization and the way the government is handling this and has handled it, along with the way that fire is controlled which is the worst part of it. Stephen stated that these problems have been man created by not actually managing the forests correctly and now the residents are having to suffer. Stephen commented that he is looking forward to appealing and wants to be on record that he and his neighbors around him are getting ready to appeal and wants these comments to be put into a report for record.

Bryan Baumgartner- Bryan comments today in regard to the draft 2024 Wildfire Hazard mapping for irrigated lands. Bryan resides in Jackson and has been in agriculture for 40+ years and has served in the fire service for 34+ years both including urban, suburban, rural, and wildland. Currently serves on the Roque River Valley irrigation board for 15+ years and is also a current member of the Oregon Water resources. Recently attended the Rules Advisory Committee meeting that reviewed the irrigated lands to reassess the impacts on wildfire and how those lands should be classified. Bryan submitted verbal and written comments during that process and appreciated the opportunity. I do agree with the additional adjustments to the hazard map modifying the irrigated lands fuel model, reductions, and classification and he also believes they should be classified as low. Bryan has reviewed different irrigated land parcels within Jackson County through the ODF Wildfire Risk Explorer which have some irrigated land parcels classified as moderate and some as high. Bryan believes the mapping program needs additional modifications based on the adjustments process in the rules advisory committee which was to classify these irrigated lands as low. In addition, Bryan would like to clarify that he does support the irrigated lands being identified as a key to risk mitigation. Irrigated

lands should not be rated as a wildfire hazard. Bryan does support the 1 in 5 years review and update to the wildfire hazard map for irrigated lands. Bryan also notes in the rule making committee meeting that there was discussion many times to complete this review more often than 1 in 5 years. The majority of the committee did agree that it would be appropriate for 1 in 5 but also would like to point out that this remains consistent with he states water use law requirements within the state of Oregon. In closing, Bryan would like to thank the Oregon Department of Forestry Board along with the Rules Advisory Committee participants for reviewing and modifying the Wildfire hazard map to better represent on the ground needs and impacts.

Steve Ronfield- Steve comments in regard to the Santiam fire that burned in 2020. Looking at that area, part of the parcels are listed on the map as moderate and that fire burned over 400,000 acres and destroyed over 1500 structures, killed 5 people and has a moderate designation. In Eastern Oregon gets basically a high hazard and Steve doubts that there's been 1500 structures lost in Eastern Oregon in the last 30 to 40 years.

There were no additional comments. The hearing was adjourned.

Wildfire Hazard Map & Procedural Rules Hearing, July 31, 2024, at 2:00 PM.

The public hearing on the Wildfire Hazard Map & Procedural Rules was formally convened at 2:00 PM. An information session began at 2:02 PM along with a general introduction to the hearing process and instructions. At 2:36 PM the formal hearing began and at 2:58 PM the hearing concluded, and the meeting was adjourned.

Summary of Oral Comments – July 31, 2024, 2:00 PM

Scott- Scott stated that he is high risk in WUI and has not yet received a packet for appeals and questions when the packet will be sent out and how long will the appeals process go on for. Realizes that questions can't be answered at this time.

Eric Krueger- Representing Rocky point Fire and EMS making a comment for record on the map. Eric suggests utilizing other tools that are out there for on the ground assessments. Eric doesn't feel that there were enough on the ground assessments which is why we are seeing discrepancies from the map before and now. There are many properties that have been mislabeled and misread. One example is the Oregon State Fire Marshals Office has an assessment program with an incentive to get 250.00 if you ask for an assessment and do some clearing. Why can't OSU utilize some of those assessments assuming they were done by someone who knows what they are doing and incorporate that into the map.

Joseph Rice- Joseph commented that he is from Grants Pass and has lived in the area since 2003. In looking at the map, his property is shown to have a high hazard rating. He has concerns with Insurance companies that are not supposed to take action but states that this is not true as his neighbor directly across the street has had their insurance renewal denied because of this hazard map. Joseph states that insurance companies absolutely are

using it as an assessment tool for insuring properties. Joseph lives in a heavily irrigated area that has always been considered a green zone. His next-door neighbor is an ODF crew boss, and they have never seen a threat of wildfire. Joseph commented that he believes the map is incorrect, very sloppy, and there should be some mechanism for them to have a ground assessment done. Joseph stated that his wife is a 30-year wildland firefighter on the aviation side for the forest service and BLM. The properties on his street are very well mitigated and appears that the fire map was painted with a broad brush and there were not surveys done on the ground. Joseph commented that the classification of his street and neighborhood is inaccurate and that will have an impact on them in a variety of ways. Joseph restated that his comment is that the map is sloppy and there needs to be actual ground surveys done or have a mechanism that allows homeowners to request ground service in a reevaluation of the assessment.

Steve Ronfeld- Steve stated that yesterday the map did not show him in the urban interface and today it does. This is a concern to him that it would change overnight. Secondly, is the irrigation issue. Steve stated that he has been irrigating for 35 years and has some green foliage that is taller than the deer that graze in it and is concerned that he does not fall under an irrigation exemption. Lastly, Steve commented that he would like the Oregon Department of Forestry to go to Salem and inform our elected politicians that landowners in Oregon do not want or need a wildfire hazard map. The state and federal agencies need to properly manage the resources in Oregon to which they are responsible for. When the land is properly managed as it was years ago, we no longer have catastrophic fire events. We know that there are different fire zones in Oregon. There's the coast range, the cascades, and there's the high desert. There are different areas in the state that have different capabilities and fire issues, but he doesn't think we need a map to figure that out. The money that is being spent on this whole process could be used as education for landowners throughout the state teaching them how to safely live in the landscape and that would be beneficial to the state. Steve feels that this map is a governmental landgrab tool.

Bob Hart- Bob Hart, Roque River resident, made several comments and is submitting a written summary of his comments.

Pat Wickwire- Resident of Hood River County. Pat commented that the assessments of high and moderate risk are very inaccurate. There should be on the ground reviews. There are some neighbors that are high risk, and they have no trees while there are other neighbors interspersed that maybe have done an appeal and are moderate risk. Pat commented that insurance companies are using the risk map in one way or another. The insurance she was using dropped her and have decided not to insure personal properties anymore because they don't want to have to go through any loss. Pat has talked to many people who are assessed high risk, and they have trouble getting insurance coverage or they want something like \$20000.00 a year. Pat also commented that the irrigation properties on the map that Tim showed hardly show any of Hood River County and there is a lot of irrigation done there. Pat wants that area to be reappraised. Pat stated that she would also write out her comments to send in and say thank you for allowing her to comment.

Virginia- Resident of Josephine County. Virginia commented that if she is going to be classified as a high hazard then there should be a way to mitigate that individually and individual properties should be looked at. Virginia states if she does all the right things and manages her property and its all green and gorgeous and she is still at high risk then there's not really much motivation on the homeowners to go through all of the expenses and efforts of doing these things if there's no benefit or way of getting out of the risk factors. Virginia also commented that she thinks public lands should go first and manage their own land. She is surrounded by BLM which is not maintained in any way, shape, or form. They may not have a structure in the middle, but it is putting all of their properties at risk by being a jungle. There is no logging and there is no forest management anymore, which she thinks is a large part of the explosion of the fire issues that we've had in the last 10 or 20 years. If the Government would manage their own property first, then we would all be at lower risk. The homeowner should be looked at on an individual basis and not strictly on geographical areas that they can't control. This is putting an undue burden on homeowners and especially seniors. Virginia closes by stating that she would like to see the whole structure of the map and doesn't see any benefit of it in the first place.

Wildfire Hazard Map & Procedural Rules Hearing, August 1, 2024, at 6:00 PM.

The public hearing on the Wildfire Hazard Map & Procedural Rules was formally convened at 6:00 PM. An information session began at 6:02 PM along with a general introduction to the hearing process and instructions. At 6:22 PM the formal hearing began and at 6:45 PM the hearing concluded, and the meeting was adjourned.

Summary of Oral Comments – August 1, 2024, 6:00 PM

Mike & Hilda- Hilda commented that people got the letters originally and right now the only information that's being reached out is the news articles. Feels like a lot of people don't know this is happening until October. There is this comment period where people can comment and there is also the Rules Advisory Committee with 19 people but feels there should have been more interaction with the public. Doesn't feel anyone in her neighborhood knows about this because they don't read the newspaper. Hilda posed the question if this had been promoted in any way. Hilda understood that questions cannot be answered during the comment period of the hearing and proceeded to her next comment. Hilda also does not feel that there are enough boots on the ground. She could not believe that her property was in the 9%. She lives on a proper block with at least a dozen houses. People walk to school from her neighborhood. She does not live in a rural area at all. Hilda is aware that there is an appeal process but feels that everything is being rushed. Michael commented next that it is very sad that ODF is being used in a political way. Michael loves ODF and the firefighters. People are already losing their insurance. Michael has already had to move insurance companies from the first fire map. Michael proposes that the map go away and then ODF get the resources that is needed to fight the fires. Concerned that this will cause people to lose their homes and the Government will

be able to dictate how homeowners use their land and finds that extremely sad and proposes the map just go away completely.

Mike and Hilda commented a second time stating they are in a neighborhood that is just two blocks away from the city, so if they walk two blocks down, all of sudden they are in a moderate zone which doesn't make sense. So many people are going to be so messed up by this. It would be great to be able to see the maps that ODF and BLM are working so hard on through OSU, to see where the funds and prescriptions can be followed, and a diagnosis made to take care of the situation. This is setting up a bankruptcy situation and it's unfair and shouldn't be done to people. They are really concerned. They have great respect for ODF and the firefighters, but they don't think people realize that once these codes and regulations are in effect, they will never go away again. Going back to the concept of community engagement and getting people involved, when there was an open house a couple months ago, there was a 10-to-15-minute discussion, but nobody was talking to them, they were instructing as to how things were to going to go and wasn't allowed to speak up. Community engagement is a very important aspect of this.

Gordon and Olga Nielsen- Gordon commented that he agrees with Mike and Hilda that there wasn't enough notice, and it hasn't been properly handled. Gordon has insurance concerns and states that there are places in California where insurance has tripled because of the same sort of thing that we are doing now. Gordons commented that the biggest question they have, and they are aware that questions can't be answered but he hopes for some sort of a response from somebody. Gordon asks why was this not a referendum for the public who are the ones to vote on this and states that's they are not given enough time to do anything and that is the problem. Another question Gordon asks is who paid for the study to be done by Oregon State University, which he graduated from and believes is a very good university. This is going to put them in a position where a lot of people are going to have to pay much higher insurance rates. Insurance companies pulled out of California because of the wildfires. Gordon feels this is being put on the taxpayer. Gordan and Olga just moved to Grants Pass from Brookings Oregon and is in an area that is listed as a high hazard. The areas of low hazard are in the big cities. The population of Oregon in 2024 is 4.1 million and high of the people are in moderate to high. This really puts a burden on the taxpayer. Gordon was upset about it the first time they got a notice and is still upset this time. They are to the point of moving to Idaho.

Gordon made a second comment stating that this is highly discriminatory and needs to go to the public to be voted on. This is being pushed through, there hasn't been enough notice, and there are going to be a lot of people upset about this when they find out about it later. Insurance rates will go up. It will double or triple and people will not be able to afford their homes. Olga stated that this map is not scientific. Gordon feels that this the state is trying to push people into the cities.

KWH- Goes by pen name of KWH. Commented that he does not support the wildfire map as it is targeting the rural areas and raising insurance rates 3 to 4 times. Heard from a news station that local fire experts were not consulted. Not impressed with ODF. States that he found out that ODF is doing prescribed burns and a couple of them got out of

control and have burned down people's houses. An ODF burn officer was arrested for that. Asks if anyone would like to join him with banning ODF from conducting prescribed burns. KWH gave his phone number for people to call if anyone wanted to join him in this petition. Feels this is not natural as we had one of the wettest winters this year and doesn't believe in climate change. KWH commented that the UN is basically pushing this to ODF. New Mexico sued for starting a fire that got out of control. States that ODF is exempt from the rules as a federal agency. Wants ODF abolished. Doesn't believe in lightning strikes starting fires. Why is ODF always on the scene first. References Applegate and suspicions. Asks for others to join him with petition. KWH also stated that he agrees that this should be put up to the people to vote. Doesn't want to give money to ODF if ODF is following UN policies.

Bob Hart- Bob commented that he looks at the number of participants in all three of the meetings that have occurred for this and there are less than 100 people and that includes staff and people from the media. So, the actual public that is involved is less than what he would think was appropriate for this kind of a program. The notification requirement in 629044 says that it has to give people an opportunity to appeal but it doesn't say that's all that occurs after all of the comment periods are all done. Bob commented that he thinks there would be a better response to really know what the public is thinking if the letters go out first and another opportunity for a comment period before it gets finalized and the only recourse is an appeal.

Marian Szewc- Marian commented that what she noticed about the map is that it doesn't seem scientific to her. Specifically for the Grants Pass area. It looks like the border ran along the city in the urban growth boundary. Specifically in a neighborhood that she is aware of, on the same street is red for the highest hazard and on the same street across the street it is purple. The difference is one house is county and the house in the lower hazard zone is city. Marian finds that very odd, not very scientific and its concerning because in the literature that she has looked at, it looks like if you want to appeal, there has already been a decision that that process is going to be difficult with not a lot of flexibility or understanding in getting variances to the hazard map. Marian feels that it is almost like a there's this painted brush for city and county and homeowners have to prove that they are not in a hazard zone of red. This will not only raise everyone's insurance rate, but it will also make it almost impossible to sell your home or be able to buy a home because they will either cancel you or won't be able to get insurance for a buyer. People won't be able to afford their insurance or mortgage payment anymore and will start to see bankruptcies. Marian opposes this map in its entirety. Marian grew up in Oregon and has never seen so many fires as in the last 10 years. When she was young, they didn't have these fires. Marian commented that there's a better answer than painting all the county red and making homeowners prove they are not in a hazard zone. This is bigger than a map. This is about homeownership and being able to live in a county and that is a threat with this map and that is very clear when you look at it.

Val- Val tried to make a comment but was experiencing issues with her sound. Information was given out on how she could send in a written comment.

Summary of Written Comments

The comment period was open from July 1, 2024, through August 15, 2024. The Department received 87 written comments, which are attached to this report.

Comment Analysis Re: Wildfire Hazard Map & Procedural Rules

112 people provided comment on the proposed administrative rules regarding the Wildfire Hazard Map & Procedural modifications through the formal administrative rule hearing process, 87 comments being written and 25 comments presented orally. 24 comments about the map were received after the comment period deadline, with only 1 pertaining to the draft administrative rules. Nearly all comments were opposed to the current and the proposed rule modifications.

In the text below, the hearing officer has provided summary of the comments received regarding the rules presented before the Board of Forestry.

629-001-0000

Comments were provided regarding the removal of the specified list of entities to be mailed rulemaking notifications.

Department response: Since the drafting of this rule in 2007, provisions have changed in the Administrative Procedures Act. Agencies are required to maintain a list of interested parties, commonly known as a listserv. This facilitates electronic transmittal of rule noticing. Many of the entities in this rule are also no longer in business.

Additional to the listserv requirement, the Department issues press releases regarding any rulemaking processes being undertaken.

629-044-1026

The irrigation rule proposed was largely supported when commented on specifically. Support for aligning the modifier frequency with current water right laws was specifically mentioned.

IrrMapper – The use of IrrMapper as the data source was commented on as well, with recommendations to consider local water district sources for data.

Department response: Multiple data sources exist regarding irrigation data; however, few are at a statewide scope. IrrMapper fits the necessity for a statewide consistent dataset that aligns with the statewide scope of the hazard map.

Additional comments were received outside of the scope of the proposed rules, consisting of mitigation credit, federal land management, government overreach, insurance, property values, buying and selling of homes, development concerns, and statewide removal of local adoption of higher standards.

629-001-0000

Administrative Rule Notification

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

1. In the Secretary of State's Bulletin referred to in ORS 183.360 at least 21 days prior to the effective date.
2. By mailing a copy of the notice to persons on the Forester's mailing list established pursuant to ORS 183.335(8)(c), at least 28 days prior to the effective date.

629-001-0003

Definitions

The following words, when used in this division shall mean the following unless otherwise required by context:

1. "Board" means the State Board of Forestry.
2. "State Forester" means the State Forester or the duly authorized representative of the State Forester.

629-001-0005

Model Rules of Procedure

The Model Rules of Procedure under the Administrative Procedures Act, promulgated by the Attorney General effective January 1, 2024 are hereby adopted as the rules of procedures of the Board of Forestry and the State Forester.

629-001-0010

Agency Representation by Officer or Employee

1. Subject to the approval of the Attorney General, an officer or employee of this agency is authorized to appear on behalf of the agency in the following types of hearings conducted by this agency:
 - a. Hearings arising out of any finding or proposed order of the State Forester issued under ORS 527.610 to 527.798, 527.992; and
 - b. Hearings arising out of any finding or proposed order of the State Forester issued under ORS 477.490.
2. The agency representative may not make legal argument on behalf of the agency.
 - a. "Legal argument" includes arguments on:
 - A. The jurisdiction of the agency to hear the contested case;
 - B. The constitutionality of a statute or rule or the application of a constitutional requirement to an agency; and
 - C. The application of court precedent to the facts of the particular contested case proceeding.

- b. "Legal argument" does not include presentation of motions, evidence, examination and cross-examination of witnesses or presentation of factual arguments or arguments on:
 - A. The application of the statutes or rules to the facts in the contested case;
 - B. Comparison of prior actions of the agency in handling similar situations;
 - C. The literal meaning of the statutes or rules directly applicable to the issues in the contested case;
 - D. The admissibility of evidence; or
 - E. The correctness of procedures being followed in the contested case hearing.

629-001-0015

Rules of Procedure for Contested Cases; Applicability

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

1. Appeal of civil penalties assessed under ORS 527.687;
2. Appeal of "any finding or order" under ORS 527.610 through 527.770 and 527.992;
3. Hearings requested by persons adversely affected or aggrieved by an operation requiring a written plan under ORS 527.700(3) through (9);
4. Appeal of temporary orders to cease further activity under ORS 527.680(3) and 527.680(4);
5. Appeal of repair orders issued under ORS 527.680(2)(b) and 527.690(1);
6. Appeal of orders prohibiting new operations under ORS 527.680(5);
7. Review of State Forester's proposal to conduct repair work at state expense under ORS 527.690(2);
8. Appeals of decisions on land exchanges under OAR 629-033-0055; and
9. Appeals of all property assignments on the wildfire hazard map, including high hazard zones as provided under ORS 477.490(7)(d).

629-001-0020

Requesting Hearings

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

629-001-0025

Conduct of Hearings

1. Unless otherwise provided by law or order of the board or State Forester in a specific case, contested case hearings will be conducted by an administrative law judge, who shall prepare a proposed order for consideration by the board or State Forester.
2. Unaccepted proposals of settlement shall be privileged and shall not be admissible as evidence in the proceeding.
3. In civil penalty proceedings, conferences and hearings shall be held at locations which are within the forest practices region of the person being assessed the penalty, unless otherwise agreed to by the State Forester and parties.
4. The issues for hearing shall be limited to those raised by the parties or by the State Forester in a request for hearing or other pre-hearing filings.
5. Timing of hearings and orders are stated as follows, unless all parties agree to an extension of the time limits:
 - a. For appeals from orders of the State Forester under ORS 527.700(1), hearings shall be commenced within 14 days after receipt of the request for hearing, and a final order shall be issued within 28 days of the request for hearing.
 - b. For appeals by persons adversely affected or aggrieved by an operation under ORS 527.700(3), hearings shall be commenced within 21 calendar days after receipt of the request for hearing. The board's comments shall be issued within 45 days after the request for hearing was filed.
 - c. For appeals by persons adversely affected or aggrieved by a proposed or amended stewardship agreement, hearings shall be commenced within 45 calendar days after receipt of the request for hearing. A final order shall be issued within 45 calendar days of the concluded hearing.
 - d. Hearings on notices of civil penalty under ORS 527.687 shall not be held less than 45 days from the date of service of the notice of penalty. The hearing shall be held not more than 180 days following issuance of the notice.
6. In order to comply with statutory timelines, the administrative law judge may establish time limits different from those under OAR 137-003-0580 for making and responding to motions for ruling on legal issues. The administrative law judge shall not consider a motion for ruling on a legal issue if the agency requests that the case proceed to a hearing on that issue.

629-001-0030

Transmittal of Questions to the Agency

1. Questions transmitted to the agency, as provided for in OAR 137-003-0635 in the Attorney General's Model and Uniform Rules, shall be transmitted to the State Forester.
2. Response may be made by the State Forester or the State Forester's delegate.

629-001-0035

Immediate Review by Agency

1. Matters referred to the agency for immediate review, as provided for in OAR 137-003-0640 in the Attorney General's Model and Uniform Rules, shall be transmitted to the State Forester.
2. Rulings on requests for immediate review may be made by the State Forester or the State Forester's delegate.

629-001-0040

Exceptions to Proposed Orders

1. In all cases in which the administrative law judge is to issue a proposed order, exceptions by a party or the agency must be filed in the manner and time specified by the administrative law judge, making allowance for any statutory timeline applicable to the proceeding. If no time is specified, exceptions must be filed with the administrative law judge within seven days after the proposed order is issued.
2. The exceptions shall:
 - a. be confined to factual and legal issues which are essential to the ultimate and just determination of the proceeding, and shall be based only on grounds that:
 - A. A necessary finding of fact is omitted, erroneous, or unsupported by the preponderance of the evidence on the record;
 - B. A necessary legal conclusion is omitted or is contrary to law or the board's policy; or
 - C. Prejudicial procedural error occurred;
 - b. and be numbered and shall specify the disputed finding, opinions, or conclusions. The nature of the suggested error shall be specified and the alternative or corrective language provided.
3. A proposed order will become a final order if no exceptions are filed within the time specified, unless the agency notifies the parties and the administrative law judge that the agency will issue the final order. All proposed orders shall include a statement to this effect.

629-001-0045

Final Orders in Contested Cases

1. Following hearing, the administrative law judge will prepare the record and proposed order for filing with the board as expeditiously as possible. In the case of hearings related to orders of the State Forester pursuant to ORS 527.700, the record and proposed order shall be filed with the board within five working days of the close of hearing unless an extension has been agreed to by the parties and State Forester. Except as provided in section (2) of this rule, no less than a majority of the board shall then review and consider the proposed order and record, hold a meeting or telephone conference, and take final action as provided for in this rule.
2. If upon a determination by the board chairperson, the board cannot complete a final order within applicable statutory time limits, the chairperson may delegate authority to issue a final order to the administrative law judge.

3. After reviewing and considering the proposed order and record, the board may do any of the following:
 - a. Schedule written or oral argument from the State Forester and any party that filed exceptions to the proposed order. The board chairperson shall determine whether oral argument, written argument, or both will be permitted after consulting with the board members.
 - A. Oral argument shall be allowed only if the board determines it is necessary or appropriate to assist in the proper disposition of the case, and shall be:
 - i. Limited to matters raised in written exceptions; and
 - ii. Conducted under such time limits as the board chairperson determines are appropriate.
 - B. The board chairperson shall notify the agency and parties of the form of argument, if any, to be allowed.
 - b. Remand the matter to the administrative law judge for further hearing on such issues as the board specifies, and to prepare a revised proposed order as appropriate, under OAR 137-003-0655(2).
 - c. Enter a final order adopting the recommendation of the administrative law judge.
 - d. Enter an amended proposed order or final order that modifies or rejects the recommendation of the administrative law judge. If the board decides to modify or reject the proposed order, the board must comply with OAR 137-003-0655 and 137-003-0665.

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

629-001-0050

Reconsideration and Rehearing

As a condition of judicial review, a party must file a petition for reconsideration or rehearing with the person or body which rendered the final order in the proceeding. The petition must state with specificity the grounds for objection to the order, and the remedy sought.

629-001-0055

Delegation of Authority to State Forester

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

1. Execute any written order, on behalf of the board, which has been consented to in writing by the person or persons adversely affected by the order;
2. Prepare and execute written orders, on behalf of the board, implementing any action taken by the board on any matter;
3. Prepare and execute orders, on behalf of the board, upon default where:

- a. The adversely affected party or parties have been properly notified of the time and manner in which to request a hearing and have failed to file a proper, timely request for a hearing; or
 - b. Having requested a hearing, the adversely affected person or persons have failed to appear at the hearing.
4. Prepare and execute written orders related to OAR 629-044-1041.

629-001-0057

Delegation of Authority to State Forester — Responding to Claims under ORS 195.305

1. This rule delegates to the State Forester certain duties and responsibilities to carry out the authorities of the Board of Forestry and the Department in responding to claims under ORS 195.305. This rule further provides for review and modification by the Board of Forestry of certain actions taken by the State Forester pursuant to this delegation of authority.
2. The State Forester is vested by the Board of Forestry with authority to respond to claims under ORS 195.305 by:
 - a. Reviewing claims;
 - b. Denying claims;
 - c. Recommending approval of claims by modifying, removing, or not applying the statute(s) or rule(s) that are the basis of the claim; or
 - d. Recommending payment of claims. These actions shall be done in compliance with Department of Administrative Services administrative rules relating to ORS 195.305.
3. The State Forester shall submit to the Board any recommendation made under paragraph (2)(c) or (d) of this rule. The Board may accept or modify the State Forester's recommendation.
4. The State Forester shall establish procedures to provide notice of any action on a claim under ORS 195.305 as required by Department of Administrative Services administrative rules relating to ORS 195.305.
5. Actions by the Board of Forestry or State Forester on claims under this rule are actions under ORS 195.305, and are not orders under ORS 527.700.

DIVISION 44

Wildland-Urban Interface and Wildfire Hazard Mapping

629-044-1000

Purpose

- (1) The purpose of OAR 629-044-1000 to 629-044-1040 is to implement the provisions of ORS 477.027 and ORS 477.490.
- (2) The purpose of OAR 629-044-1010 to 629-044-1015 is to establish criteria by which the wildland-urban interface shall be identified and classified pursuant to ORS 477.027
- (3) The purpose of OAR 629-044-1020 to 629-044-1026 is to set forth the criteria by which a wildfire hazard map must be developed and maintained pursuant to ORS 477.490.
- (4) The purpose of OAR 629-044-1030 is to set forth the process for notification to property owners pursuant to ORS 477.490.
- (5) The purpose of OAR 629-044-1035 is to set forth the process of integrating public input into the wildfire hazard map pursuant to ORS 477.490.
- (6) The purpose of OAR 629-044-1040 is to set forth the process of how a property owner or local government may appeal the assignment of wildfire hazard pursuant to ORS 477.490.

629-044-1005

Definitions

- (1) The definitions set forth in ORS 477.001, shall apply.
- (2) The following words and phrases, when used in OAR 629-044-1000 to 629-044-1040, shall mean the following:
 - (a) "Geographical area" means an area of land with similar characteristics that can be considered as a "unit" for the purposes of classification of the wildland-urban interface.
 - (b) "Intermingles with wildland or vegetative fuels" means a minimum of 50% coverage of wildland or vegetative fuels.
 - (c) "Meets with wildland or vegetative fuels" means located within a 1.5-mile buffer from the edge of an area greater than 2 square miles with a minimum of 75% cover of wildland or vegetative fuels.
 - (d) "Occluded geographical area" means an area with a minimum of one structure or other human development per 40-acres within 1.5 miles of an area greater than 1 square mile but less than 2 square miles with a minimum of 75% cover of wildland or vegetative fuels
 - (e) "Other human development" means essential facilities, special occupancy structures, or hazardous facilities as defined in ORS 455.447 that support community functions, public communication, energy, or transportation.
 - (f) "Structure" means any building that is at least 400 square feet.
 - (g) "Unincorporated community" has the meaning provided in OAR Chapter 660, Division 22.
 - (h) "Urban growth boundary" has the meaning provided in OAR Chapter 660, Division 15.
 - (i) "Vegetative fuels" means plants that constitute a wildfire hazard.

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

(k) "Wildfire Hazard" is a numerical value describing the likelihood and intensity of a wildfire, based on specific factors or conditions of weather, climate, topography, and vegetation, as modeled for a given pixel.

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

629-044-1011

Wildland-Urban Interface Identification Criteria

(1) The Wildland-Urban Interface is a geographic area comprised of tax lots, or portions of tax lots that includes:

- (a) an average density of one structure or other human development per 40 acres and either:
 - (A) meets with wildland or vegetative fuels; or
 - (B) intermingles with wildland or vegetative fuels; or
 - (C) is an occluded geographical area.

(2) The Wildland-Urban Interface also includes:

- (a) lands identified within an urban growth boundary or unincorporated community boundary by local comprehensive plans that meet the criteria in (1)(a); or
- (b) a planned development, within the urban growth boundary or unincorporated communities, that is not identified in 1(a) but that is approved for development that meets the criteria in 1(a).

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

(4) Each tax lot in the State of Oregon shall be assigned a wildfire hazard zone in accordance with 629-044-1021.

629-044-1016

Periodic Wildland-Urban Interface Lands Identification and Classification

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

629-044-1021

Wildfire Hazard Rating

1. Wildfire hazard zones are established as follows:
 - a. Low Wildfire Hazard. A hazard value less than 0.001911.
 - b. Moderate Wildfire Hazard. A value between 0.001911 to 0.137872.
 - c. High Wildfire Hazard. A value greater than 0.137872.
2. It is recognized that natural vegetation is highly variable and that the fuel models used in subsection (1) of this rule may not always accurately reflect expected wildfire behavior, due to variations in local species and vegetation conditions. Therefore, consistent with peer reviewed methods, modifications may be made to the hazard rating as necessary to ensure accuracy.

3. Each wildfire hazard zone assignment shall be based on the average pixel-level wildfire hazard values within each tax lot.
4. Each wildfire hazard zone shall consist of a value range. The value ranges that correlate to a given wildfire hazard zone shall be determined using a statistically objective methodology.

629-045-1026

Wildfire Hazard Map

1. Oregon State University shall develop and maintain the Wildfire Hazard Map in a publicly accessible format. The map shall be developed:
 - a. using current, peer reviewed data sets when calculating wildfire hazard;
 - b. calculating wildfire hazard as a combined value incorporating annual burn probability and wildfire intensity;
 - c. and utilize the most representative fuel characteristics practical;
 - d. to include a layer that geospatially displays the locations of socially and economically vulnerable communities; and
 - e. to include adjustments for irrigated agricultural, in locations identified as irrigated at least one of five years within the most recent IrrMapper dataset, prior to updates in accordance with Section 2 of this rule.
2. Oregon State University shall update the map and other publicly available web-based tools, in consultation with the State Forester and other agency partners, within 12 months after updates to the most current wildfire risk assessment data sets are available.

629-044-1031

Notification

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

9. Following the public meeting the Department, in consultation with Oregon State University, may make changes in the proposed wildfire hazard zone assignments, hold additional meetings, and thereafter shall make final wildfire hazard zone assignments.

629-044-1036

Locally Developed Wildfire Plans

1. The following types of locally developed wildfire plans may be integrated into the wildfire hazard mapping portal if the local jurisdiction chooses.
 - a. Community Wildfire Protection Plans developed under the Healthy Forests Restoration Act;
 - b. Natural Hazard Mitigation Plans developed under the Robert T. Stafford Disaster Relief and Emergency Assistance Act; or
 - c. Firewise USA Action Plans developed under the Firewise USA Program administered by the National Fire Protection Association.
2. Information in the types of locally developed wildfire plans identified in subsections (1)(a) thru (c) above, may complement, but does not supplant or supersede the Wildfire Hazard Map.

629-044-1041

Appeal of Wildfire Hazard Assignment

1. Any affected property owner or local governments may appeal the assignment of properties to the wildfire hazard zones. All appeals of the assignment shall be referred for a contested case hearing in accordance with ORS Chapter 183, OAR 629-001-0003 to OAR 629-001-0055, and this rule. The Administrative Law Judge assigned the matter shall be authorized to issue a Proposed Order. The State Forester shall issue the Final Order.
2. The notification described under OAR 629-044-1031 shall serve as a Notice of Proposed Agency Action for property owners in the high hazard zone and also within the Wildland-Urban Interface. The posting of the hazard map on the Oregon Explorer Map Viewer website shall serve as the agency's Notice of Proposed Agency Action for all other property owners who have a right to appeal under ORS 477.490.
3. An affected property owner may appeal the assignment of a wildfire hazard zone to property by submitting a written hearing request to the Department. Such request must be made within 60 days of the following events, whichever is later:
 - a. The date that the wildfire hazard map or an update to the hazard map is posted on Oregon Explorer Map Viewer website; or
 - b. The date that a correctly addressed notice, issued in accordance with OAR 629-044-1031(2), is deposited with the postal service for mailing to the affected property owner.
4. A local government may appeal the assignment of a wildfire hazard zone by submitting a written hearing request to the Department. Such request must be made within 60 days of the following events, whichever is later:
 - a. The date that the wildfire hazard map or an update to the hazard map is posted on Oregon Explorer Map Viewer website; or
 - b. The date that a correctly addressed notice, issued in accordance with OAR 629-044-1031(2), is deposited with the postal service for mailing to the local government.
5. The written hearing request must specifically state:
 - a. the issues to be addressed;
 - b. The criteria of the hazard map being contested; and
 - c. the relief sought.
 - d. Additionally, the appeal must include the following contact information for referral:

- (A) Property owner name;
- (B) Mailing address;
- (C) Property address and tax lot number; and
- (D) Phone number

This specific response is required based on the agency's determination that, due to the complexity of the program and category of cases involved, a more specific response is warranted. The requester may amend their response, except when doing so would be unduly prejudicial. Failure to raise an issue as provided in this rule shall constitute a waiver of the opportunity to raise the issue in a contested hearing.

6. Upon receipt of a written request for hearing under this section, the Department may contact the property owner or local government to seek additional information and attempt to informally resolve the appeal.
7. The Department shall provide information to the public describing changes to the map that result from appeals. The information shall be posted on the Department's public website.
8. The State Forester will issue a Final Order resolving appeals under this section, based on the record established through the contested case hearing. The Forester's Final Order is subject to appeal as prescribed by ORS 183.482.

Representing Irrigated Agriculture in Oregon's Wildfire Hazard Map: Summary of Data and Methods

Prepared by: Andy McEvoy^{1,2}, Dr. Chris Dunn¹, Shannon Murray¹
Prepared for: Board of Forestry
Prepared on: August 8, 2024

Background

In the wake of the initial wildfire hazard map release in 2022, many individuals reached out to ODF and OSU expressing concern that hazard reduction benefits of irrigation was not represented in the map. In the 2022 version of the map, irrigation status was not accounted for in hazard calculations and some irrigated fields in fire prone regions were classified as high or extreme risk. Many individuals felt that irrigated crop fields represent a persistent fire deterrent and therefore that characteristic ought to be reflected in the hazard map.

There is little scientific research that specifically address how often, where, and to what degree irrigated crop fields reduce wildfire hazard. However, looking at more than thirty years of spatial fire records does indicate that when wildfires encounter irrigated cropland, irrigated fields mostly deter fire spread. This follows the intuitive understanding that many individuals expressed in their appeals and public comments: irrigation increases fuel moisture which makes the vegetation less susceptible to igniting and burning. In doing so, irrigated fields likely slow or stop fire spread, and give operators a safe place to control the fire. However, they do not impede ember transmission or fires burning in unirrigated portions of the property, including fence lines or ditches that often have accumulated vegetation.

In continued discussions with stakeholders and relevant experts³ on this subject, OSU identified three questions that needed to be answered:

1. **Does irrigation represent a persistent characteristic of the vegetation such that reliably reduces hazard?** This question is relevant because Senate Bill 762 directs OSU to consider only climate, weather, topography and vegetation when calculating hazard. If irrigation is a human risk mitigating action, then it does not fit the four criteria and cannot be considered. If, however, irrigation represents a persistent characteristic of the vegetation, then it can be accounted for in hazard calculations.
2. **What land use type is considered for irrigation status under this rule?** This question is relevant because landowners irrigate for different reasons (e.g., agriculture, defensible

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³ Included county commissioners, county planners, ranchers and farmers, water resource managers, and wildland fire science professionals.

space, landscape maintenance, etc.) and the quality of data characterizing irrigation use varies across irrigation types.

- 3. If irrigation is determined to be a persistent characteristic of the vegetation, then how do we determine which lands are considered irrigated?** This question is relevant because the irrigated status of any land can vary from year to year, or even throughout a single fire season, because of land tenure, farming practices, water rights, and environmental factors (e.g., drought). If irrigation is going to be included in hazard calculations, it is our belief we need to be reasonably certain that the specific location will actually be irrigated at the time a fire occurs, which is highly uncertain.

Regarding question number two above, after reviewing available spatial data, OSU determined that there was adequate spatial data to identify where and how often agricultural fields are irrigated. OSU had much lower confidence in the quality of available spatial data pertaining to non-agricultural irrigation uses. Accordingly, in the spring of 2024, the Oregon Dept. of Forestry convened a Rulemaking Advisory Committee (RAC) to evaluate questions one and three above within the context of agricultural irrigation only.

The remainder of this memo summarizes existing data available to identify irrigated agricultural areas and how that data can be used to account for irrigated agricultural land in hazard calculations.

Available Science

As with the rest of the hazard and wildland-urban interface (WUI) mapping, data used to identify irrigated agricultural areas needs to be (1) readily available statewide and (2) created with a peer-reviewed scientific method. There are two datasets that meet these requirements.

1. IrrMapper⁴ estimates the distribution of irrigation for every year from 1986 to 2021 across all croplands in Oregon. This dataset references 134 different inputs to evaluate existing landcover and determine in each year whether it is irrigated or not, and if its irrigated, whether it represents agricultural land use or non-agricultural uses. The annual evaluation is made at a 30-meter resolution. We consider it the best available science for identifying irrigated croplands, particularly at a statewide scale.
2. In 2022 the Oregon Water Resources Department, with the Desert Research Institute, created a spatial dataset representing the maximum extent of irrigated agricultural lands from 1985 – 2020. They compiled USDA Common Land Unit data, various satellite imagery and hand-drawn fields to create the most comprehensive map of agricultural fields in Oregon.

⁴ Ketchum, D.; Jencso, K.; Maneta, M.P.; Melton, F.; Jones, M.O.; Huntington, J. IrrMapper: A Machine Learning Approach for High Resolution Mapping of Irrigated Agriculture Across the Western U.S., *Remote Sens.* 2020, 12, 2328.

How Data Can be Used to Inform Hazard Calculations

When combined, IrrMapper and the OWRD Field Boundaries data can be used to identify areas irrigated at a minimum annual frequency (Table 1) and filtered so that only agricultural irrigation is included. Then, we reduce burn probability and fire intensity – the two components of wildfire hazard – for all areas that meet the minimum irrigation frequency before calculating wildfire hazard. The result is reduced wildfire hazard in the fields or portions of fields that verifiably meet or exceed the irrigation frequency threshold⁵.

Table 1. Summary of total acres statewide that meet a range of irrigation frequency thresholds and the resulting impact on the number of tax lots statewide that meet the criteria for regulation (i.e. both high hazard and in the wildland-urban interface (WUI)). Columns B and C represent the extent of Oregon classified as irrigated for any use (B) and irrigated specifically for agriculture (C). While column E represents the number of properties that could be affected by regulation immediately under each irrigation frequency criteria, column D illustrates the number of tax lots whose hazard class is lowered by the irrigated agriculture adjustment and therefore, absent other constraints, could develop the property without meeting defensible space or fire hardening standards and codes.

(A) Irrigation Frequency Criteria	(B) Total Acres Which Meet Irrigation Frequency Criteria	(C) Acres Identified as Agriculture and Which Meet Irrigation Frequency Criteria	(D) Total # Parcels in High Hazard	(E) # Parcels in both High Hazard and WUI
Irrigated ≥ 1 of 5 years	3,103,791	2,721,916	159,314	100,284
Irrigated ≥ 2 of 5 years	2,809,347	2,512,023	159,962	100,774
Irrigated ≥ 3 of 5 years	2,529,511	2,287,902	160,473	101,149
Irrigated ≥ 4 of 5 years	2,225,920	2,030,532	160,931	101,512
Irrigated ≥ 5 of 5 years	1,714,688	1,580,454	161,710	102,181
No Irrigation Adjustment	--	--	184,322	104,521

Proposed Rule Language and Potential Impacts

Based on available data, the proposed rule is meant to establish a confidence threshold so we are reasonably confident that locations identified as irrigated agriculture in the map will be irrigated in any given year and therefore the hazard mitigation associated with irrigated agriculture will be present in any given year.

⁵ Adjustments and calculations are made for individual pixels (30-meter resolution). Within any property, hazard is only adjusted in the pixels identified as irrigated and may or may not change the property-level hazard classification depending on the total proportion of irrigated pixels within the property and the magnitude of hazard in non-irrigated portions of the property.

After discussion, the RAC recommended that all fields irrigated at least one of the last five years be classified as irrigated (a persistent vegetation characteristic that reduces property hazard level) and subject to the adjustments described in the previous section. The recommendation was used to develop draft wildfire hazard maps and draft property-level wildfire hazard classifications that were shared with the public on July 18, 2024.

If adopted, an immediate impact of the proposed rule would be 4,237 fewer properties that meet the criteria for new defensible space and structure hardening codes (i.e. High hazard and in the WUI; Table 1 Column E). In the long term, 25,008 tax lots⁶ which would have been high hazard without an irrigated agriculture adjustment will be downgraded to low or moderate and could, absent other constraints⁷, be developed without meeting defensible space and fire hardening standards (Table 1 Column D).

Conclusion

Although research regarding the effect of irrigated agriculture on wildfire hazard is very limited, there is adequate data on which to base a decision to account for irrigation when calculating wildfire hazard. IrrMapper is a peer-reviewed data source that can be used with confidence to identify which parts of Oregon have been irrigated in any given year and, when combined with OWRD Field Boundaries, to specifically identify the location and extent of irrigated agriculture in each year. Still, uncertainty remains as to whether a specific field will be irrigated in any given year because of land management practices, water rights, and environmental factors. Setting a minimum irrigation frequency threshold in administrative rule is a way to establish a minimum confidence level that the vegetation will be irrigated and therefore that a reduced hazard value is accurate and appropriate.

⁶ Calculated by subtracting 159,314 from 184,322 to represent the number of tax lots that are low or moderate hazard because of the irrigated agriculture adjustment but would otherwise be high hazard.

⁷ All 25,008 properties are not equally developable and other factors will influence how many of these properties could be developed without meeting defensible space and structure hardening requirements. For instance, whether the property is within an urban growth boundary, or the zoning associated with the property.



Board of Forestry Public Meeting

Agenda Item 6, Attachment 5 Link:

oregon.gov/odf/board/bof/20240904-bof-item-6-attach-5.pdf

The Department received 87 written comments in response to the Wildfire Hazard Map and Procedural Rulemaking.

Please see the link above to view all submitted written comments in detail.