

Agenda Item 2 – Oregon Forest Land Protection Fund proposed rules

SUMMARY

The purpose of this agenda item is to seek the Emergency Fire Cost Committee (EFCC) adoption of the proposed administrative rule modifications to the EFCC Oregon Forest Land Protection Fund rules, Division 165. This is a decision item.

BACKGROUND

On June 4, the EFCC initiated a collaborative workgroup with the Oregon Department of Forestry to propose new policy to improve fiscal efficiency and effectiveness related to emergency fire costs and to ensure support of recommendations made by a third-party financial consultant after an assessment of ODF's fire finance operations. The EFCC Administrator presented new policy proposals to the EFCC on September 3 that included: proposed rule changes to Chapter 629, Division 165 and a new draft *Eligibility of Firefighting Costs for the Oregon Forest Land Protection Fund Policy*. The EFCC directed the Administrator to proceed with the public hearing process and return in November for a special EFCC meeting to consider adopting the final rule language.

RULE REVIEW TIMELINE

- September 24, 2024 – Notice of Proposed Rulemaking and Fiscal Impact Statement sent to Secretary of State. Notified legislators and interested parties.
- October 1-31, Public comment
- October 22, 2024 – Conducted public hearings.
- November 6, 2024 – Administrator submits the final rule draft language with public comments to EFCC for final consideration and approval.

ANALYSIS

The notice of the rule making was consistent with the [EFCC procedural rules](#). The public comment period was open October 1 – 31, 2024. No public comments were received.

The public hearing was on October 22 and no comments were received. There were two members of the public present. The Hearing Officer's report is Attachment 1.

The final rules are in Attachment 2 (Track Changes) and Attachment 3. Following is a summary of the changes:

629-165-0000 Definitions

The proposed modifications redefine Emergency Fire and Emergency Fire Costs and adds Statistical and Threat fire definitions.

629-165-0005 Emergency Fires

The proposed modifications eliminate this rule that included complex examples of emergency fires that increased complexity.

629-165-0010 Additional Amount Not Considered Emergency Fire Suppression Costs

The proposed modifications delete reference to the eliminated ...0005 reference and updates the \$25,000 deductible language to create further financial incentive for keeping fires small.

629-165-0305 Qualifications for Payment

The proposed modifications change a reference from a form readily available to approved policy.

RECOMMENDATION

The EFCC directs the Administrator to proceed with the promulgation of the proposed rules and rules changes as presented in the draft rule language for Chapter 629, Division 165 (Attachment 2 & 3) to go into effect on January 1, 2025.

NEXT STEPS

Pending the EFCC direction, the Administrator will coordinate with the Oregon Department of Forestry to submit the rule package to the Secretary of State and Legislative Counsel for filing.

ATTACHMENTS

1. Hearing Officer Report
2. Division 165 administrative rules
3. Division 165 administrative rules

Date: October 22, 2024
To: Emergency Fire Cost Committee
From: Ryan Miller
Subject: Hearing Officer's Report on Emergency Fire Cost Committee Rulemaking Hearing

Hearing Information

Proposed Area: Statewide
Hearing Date & Time: October 22, 2024, at 10:00 AM.
Hearing Location: Virtual Zoom meeting
Written Comments Due: October 31, 2024
Hearing Authorized: September 3, 2024
Hearing Officer: Ryan Miller, Administrative Rules Specialist

The Public Hearing on Emergency Fire Cost Committee was formally convened, and info session began at 10:00 a.m. virtually. 10:10 a.m. general intro to the hearing/instruction was given. At 10:11 a.m. formal hearing began and at 10:13 a.m. the hearing concluded, and the meeting was closed.

Summary of Oral Comments

No public comment was received during the hearing.

Summary of Written Comments

No written comments.

Ryan Miller, Administrative Rules Specialist

Chapter 629

Division 165

OREGON FOREST LAND PROTECTION FUND

629-165-0000

Definitions

The definitions set forth in ORS 477.001 are made a part of this division by this reference; and the following definitions also apply:

- (1) "Administrator" means a staff member of the State Forestry Department designated by the State Forester to act as secretary of the committee and to carry out the provisions of ORS 477.440 to 477.460 in such manner as the committee shall direct.
- (2) "Committee" means the Emergency Fire Cost Committee established pursuant to ORS 477.440.
- (3) "District" means a forest protection district pursuant to ORS 477.225.
- (4) "Emergency fire" means a ~~fire that due to the specific circumstances of the fire, requires more suppression resources to control and extinguish than the district can reasonably provide within the approved district budget, based on declared fire season resource levels, whether or not the fire occurs during a declared fire season (see also OAR 629-165-0005); statistical or threat fire.~~
- (5) "Emergency fire suppression costs" means those fire suppression costs attributable to an emergency fire, ~~that exceed:~~
 - ~~(a) The costs of the fire suppression response provided by the approved district budget as further described in OAR 629-165-0005; and~~
 - ~~(b) An additional per fire or per day cost of suppression further defined in OAR 629-165-0010.~~
- (6) "Fiscal year" means the period beginning July 1 of any year and ending June 30 of the next year.
- (7) "Oregon Forest Land Protection Fund (OFLPF or the fund)" means that account established in the State Treasury as a trust fund for the purpose of equalizing emergency fire suppression costs and other listed purposes pursuant to ORS 477.750 to 477.775.

(8) Statistical Fire – A fire requiring suppression action by the Forester or cooperating agencies if it meets one of the following three conditions:

(a) The fire originates on paying forestlands within the forest protection district, including but not limited to:

(A) Fires occurring on Bureau of Land Management (BLM) lands identified in the ODF/BLM Western Oregon Operating Plan.

(B) Fires occurring on federal lands identified in a protection offset agreement for which the Forester has the suppression responsibility.

(b) The fire originates on land protected by another agency or in another protection district, and spreads into the reporting protection district.

(c) The fire originates on land outside of the protection district but the fire spreads towards forestland or is determined by the Forester to be a threat to paying forestland, and:

(A) The fire is not within the boundaries of another protection agency, or;

(B) The fire is within another protection agency boundary; however, suppression is clearly needed to prevent the spread of fire to paying forestland. (This does not include suppression action provided by agreement or pre-planned dispatch.)

(9) Threat Fire – A fire originating on land outside of a protection district but spreads towards forestland or is determined by the Forester to be a threat to paying forestland. Threat fires require a district written request to the OFLPF administrator explaining the circumstances requiring fire suppression action and an explanation of costs and why the incident should be considered eligible for Emergency Fire Cost reimbursement.

Statutory/Other Authority: ORS 321, 477 & 477.770

Statutes/Other Implemented: ORS 183.335, 183.341, 477.440 - 477.460 & 477.750 - 477.775

History:

Renumbered from 629-061-0000 by DOF 3-2013, f. 12-9-13, cert. ef. 1-1-14

FB 3-1996, f. & cert. ef. 3-13-96

FB 1-1995, f. & cert. ef. 1-12-95

FB 1-1981, f. 6-10-81, ef. 7-1-81, Renumbered from 629-044-0100

FB 21, f. 9-25-69

629-165-0005
Emergency Fires

As defined in OAR 629-165-0000 (4), an emergency fire is a fire that due to the specific circumstances of the fire, requires more suppression resources to control and extinguish the fire than the district can reasonably provide within the approved district budget based on declared fire season resource levels, whether or not the fire occurs during a declared fire season. The following are examples of emergency fires:

(1) A fire occurs in August, when the district is at full strength. The pre-planned dispatch for the fire at this time and place (as an example) specifies two engines, six persons and a district dozer. If these forces are inadequate to suppress the fire and additional forces must be hired, it becomes an emergency fire;

(2) If a fire in the same location as in section (1) occurs in February, when the readiness resources are substantially less, the district must still suppress the fire. Hired resources from cooperators will normally be used to supplement limited district resources. The fire becomes an emergency fire when hired and regular district resources exceed the resources equivalent to the fire season pre-planned dispatch of two engines, six persons and a dozer;

(3) An emergency fire situation may occur when there are multiple fires in a district, even though none of the fires individually have exceeded the planned dispatch level, if the total effort of all the fires exceeds the district's budgeted resource level. This situation most frequently occurs during and after widespread lightning events. Additional resources, hired to supplement regular forces in the described multiple fire situation, are emergency fire resources eligible for payment from the OFLPF.

Statutory/Other Authority: ORS 321, 477 & 477.770

Statutes/Other Implemented: ORS 183.335, 183.341, 477.440 - 477.460 & 477.750 - 477.775

History:

DOF 3-2013, f. 12-9-13, cert. ef. 1-1-14

629-165-0010

Additional Amount Not Considered Emergency Fire Suppression Costs

(1) ~~Notwithstanding OAR 629-165-0005, i~~It is a policy of the committee that a district is expected to pay \$25,000 day/per fire if emergency fire costs exceed \$25,000 based on the following: an amount of fire suppression costs in addition to the pre-planned dispatch, before any costs are considered emergency fire suppression costs. This additional amount in most cases will be \$25,000 per day or per fire as follows:

(a) If multiple fires occur on the same day within a district, only one additional amount of \$25,000 may be applied to the sum of the costs of all the fires that began on that day.

(b) If any individual fire or group of fires that began on the same day (or from the same lightning storm that continues into a second day, at the discretion of the committee) burns past midnight, or the suppression action continues for multiple days, only one additional amount of \$25,000 may be applied to the sum of the costs of those fires.

(c) If one fire or a group of fires begin on one day and suppression action continues for multiple days, and then a new fire or group of fires begin on a different day, an additional amount of \$25,000 may be applied to each day that new fires are ignited.

(2) The additional amount described in section (1) may be modified or waived by the committee if conditions so warrant. Conditions that may warrant modification or waiver include, but are not limited to:

(a) The unencumbered balance of the fund is determined to be in excess of the reserve base established in ORS 477.760.

(b) A district requesting waiver has over-expended the regular protection budget for the year in which the waiver request is made.

(3) If the additional amounts described in section (1) of this rule directly result in an increase in a district's annual budget greater than fifteen cents per acre on timberland or six cents on grazing land, the committee may waive that part in excess of these amounts. It is the committee's intent that the maximum effect of section (1) of this rule on a district budget will be limited to an additional fifteen cents per acre on timberland and six cents per acre on grazing land.

Statutory/Other Authority: ORS 321, 477 & 477.770

Statutes/Other Implemented: ORS 183.335, 183.341, 477.440 - 477.460 & 477.750 - 477.775

History:

DOF 3-2013, f. 12-9-13, cert. ef. 1-1-14

629-165-0305

Qualifications for Payment

(1) The administrator must pay only those emergency fire suppression costs as described in this rule, incurred by a district during the fiscal year, if the district has first expended for similar or other emergency fire suppression costs the deductible amount described in OAR 629-165-0100.

(2) When a fire originates in one fiscal year and continues burning in a subsequent fiscal year, all emergency fire suppression costs for that fire shall be included in the expenditures for the year in which the fire started.

(3) Emergency fire suppression costs eligible for payment by the OFLPF include, but are not limited to labor, services, transportation, supplies, reconditioning and rental equipment, and expenses incurred for the recovery of fire suppression costs.

(4) Emergency fire suppression costs, where applicable, are based on the wage rates and equipment rental rates approved by the State Forester.

(5) Notwithstanding section (3) of this rule, the committee may further limit qualifying emergency fire suppression costs, ~~by publishing its qualifications in a form readily available to the districts, prior to the beginning of the fiscal year in which expenses are incurred.~~ Through approved policy.

Statutory/Other Authority: ORS 321, 477 & 477.770

Statutes/Other Implemented: ORS 183.335, 183.341, 477.440 - 477.460 & 477.750 - 477.775

History:

Renumbered from 629-061-0020 by DOF 3-2013, f. 12-9-13, cert. ef. 1-1-14

FB 1-1995, f. & cert. ef. 1-12-95

FB 24, f. 6-11-71, ef. 7-11-71, Renumbered from 629-044-0120

FB 21, f. 9-25-69

Chapter 629

Division 165
OREGON FOREST LAND PROTECTION FUND

629-165-0000

Definitions

The definitions set forth in ORS 477.001 are made a part of this division by this reference; and the following definitions also apply:

- (1) "Administrator" means a staff member of the State Forestry Department designated by the State Forester to act as secretary of the committee and to carry out the provisions of ORS 477.440 to 477.460 in such manner as the committee shall direct.
- (2) "Committee" means the Emergency Fire Cost Committee established pursuant to ORS 477.440.
- (3) "District" means a forest protection district pursuant to ORS 477.225.
- (4) "Emergency fire" means a statistical or threat fire.
- (5) "Emergency fire suppression costs" means those fire suppression costs attributable to an emergency fire.
- (6) "Fiscal year" means the period beginning July 1 of any year and ending June 30 of the next year.
- (7) "Oregon Forest Land Protection Fund (OFLPF or the fund)" means that account established in the State Treasury as a trust fund for the purpose of equalizing emergency fire suppression costs and other listed purposes pursuant to ORS 477.750 to 477.775.
- (8) Statistical_Fire – A fire requiring suppression action by the Forester or cooperating agencies if it meets one of the following three conditions:
 - (a) The fire originates on paying forestlands within the forest protection district, including but not limited to:
 - (A) Fires occurring on Bureau of Land Management (BLM) lands identified in the ODF/BLM Western Oregon Operating Plan.
 - (B) Fires occurring on federal lands identified in a protection offset agreement for which the Forester has the suppression responsibility.

(b) The fire originates on land protected by another agency or in another protection district, and spreads into the reporting protection district.

(c) The fire originates on land outside of the protection district but the fire spreads towards forestland or is determined by the Forester to be a threat to paying forestland, and:

(A) The fire is not within the boundaries of another protection agency, or;

(B) The fire is within another protection agency boundary; however, suppression is clearly needed to prevent the spread of fire to paying forestland. (This does not include suppression action provided by agreement or pre-planned dispatch.)

(9) Threat Fire – A fire originating on land outside of a protection district but spreads towards forestland or is determined by the Forester to be a threat to paying forestland. Threat fires require a district written request to the OFLPF administrator explaining the circumstances requiring fire suppression action and an explanation of costs and why the incident should be considered eligible for Emergency Fire Cost reimbursement.

Statutory/Other Authority: ORS 321, 477 & 477.770

Statutes/Other Implemented: ORS 183.335, 183.341, 477.440 - 477.460 & 477.750 - 477.775

History:

Renumbered from 629-061-0000 by DOF 3-2013, f. 12-9-13, cert. ef. 1-1-14

FB 3-1996, f. & cert. ef. 3-13-96

FB 1-1995, f. & cert. ef. 1-12-95

FB 1-1981, f. 6-10-81, ef. 7-1-81, Renumbered from 629-044-0100

FB 21, f. 9-25-69

629-165-0010

Additional Amount Not Considered Emergency Fire Suppression Costs

(1) It is a policy of the committee that a district is expected to pay \$25,000 day/per fire if emergency fire costs exceed \$25,000 based on the following:

(a) If multiple fires occur on the same day within a district, only one additional amount of \$25,000 may be applied to the sum of the costs of all the fires that began on that day.

(b) If any individual fire or group of fires that began on the same day (or from the same lightning storm that continues into a second day, at the discretion of the committee) burns past midnight, or the suppression action continues for multiple days, only one additional amount of \$25,000 may be applied to the sum of the costs of those fires.

(c) If one fire or a group of fires begin on one day and suppression action continues for multiple days, and then a new fire or group of fires begin on a different day, an additional amount of \$25,000 may be applied to each day that new fires are ignited.

(2) The additional amount described in section (1) may be modified or waived by the committee if conditions so warrant. Conditions that may warrant modification or waiver include, but are not limited to:

(a) The unencumbered balance of the fund is determined to be in excess of the reserve base established in ORS 477.760.

(b) A district requesting waiver has over-expended the regular protection budget for the year in which the waiver request is made.

(3) If the additional amounts described in section (1) of this rule directly result in an increase in a district's annual budget greater than fifteen cents per acre on timberland or six cents on grazing land, the committee may waive that part in excess of these amounts. It is the committee's intent that the maximum effect of section (1) of this rule on a district budget will be limited to an additional fifteen cents per acre on timberland and six cents per acre on grazing land.

Statutory/Other Authority: ORS 321, 477 & 477.770

Statutes/Other Implemented: ORS 183.335, 183.341, 477.440 - 477.460 & 477.750 - 477.775

History:

DOF 3-2013, f. 12-9-13, cert. ef. 1-1-14

629-165-0305

Qualifications for Payment

(1) The administrator must pay only those emergency fire suppression costs as described in this rule, incurred by a district during the fiscal year, if the district has first expended for similar or other emergency fire suppression costs the deductible amount described in OAR 629-165-0100.

(2) When a fire originates in one fiscal year and continues burning in a subsequent fiscal year, all emergency fire suppression costs for that fire shall be included in the expenditures for the year in which the fire started.

(3) Emergency fire suppression costs eligible for payment by the OFLPF include, but are not limited to labor, services, transportation, supplies, reconditioning and rental equipment, and expenses incurred for the recovery of fire suppression costs.

(4) Emergency fire suppression costs, where applicable, are based on the wage rates and equipment rental rates approved by the State Forester.

(5) Notwithstanding section (3) of this rule, the committee may further limit qualifying emergency fire suppression costs through approved policy.

Statutory/Other Authority: ORS 321, 477 & 477.770

Statutes/Other Implemented: ORS 183.335, 183.341, 477.440 - 477.460 & 477.750 - 477.775

History:

Renumbered from 629-061-0020 by DOF 3-2013, f. 12-9-13, cert. ef. 1-1-14

FB 1-1995, f. & cert. ef. 1-12-95

FB 24, f. 6-11-71, ef. 7-11-71, Renumbered from 629-044-0120

FB 21, f. 9-25-69

Agenda Item 3 – Eligibility of Firefighting Costs for the Oregon Forest Land Protection Fund

SUMMARY

The purpose of this agenda item is to seek the Emergency Fire Cost Committee (EFCC) approval of the proposed *Eligibility of Firefighting Costs for the Oregon Forest Land Protection Fund Policy*. This is a decision item.

BACKGROUND

On June 4, the EFCC initiated a collaborative workgroup with the Oregon Department of Forestry to propose new policy to improve fiscal efficiency and effectiveness related to emergency fire costs and to ensure support of recommendations made by a third-party financial consultant after an assessment of ODF's fire finance operations. The EFCC Administrator presented new policy proposals to the EFCC on September 3 that included: proposed rule changes to Chapter 629, Division 165 and a new draft *Eligibility of Firefighting Costs for the Oregon Forest Land Protection Fund Policy*. The EFCC directed the Administrator to proceed with the public hearing process and return in November for a special EFCC meeting to consider adopting the final rule language and to share any feedback received from additional planned meetings with ODF and Association employees on the proposed policy changes.

ANALYSIS

Following the September EFCC meeting, the EFCC staff and the ODF protection finance unit manager have had several individual conversations and formal meetings with the ODF leadership team and operating forest protective associations leaders. Both meetings were scheduled to ensure a complete understanding of the proposed changes, to address questions or concerns, and seek feedback for improvements to the draft eligibility policy proposed. Both meetings resulted in productive learning and an improved understanding of how implementation will work, along with a commitment to work together through that process.

The meetings also improved the understanding of the changes to in-district operational versus management staff eligibility, the helicopter incentive and the nexus to the BLM Western Oregon Operating Plan. Based on the feedback received there were improvements made to the proposed eligibility policy that increase clarity or adds examples. There were no substantive changes to the proposed policy or fiscal. The improvements from feedback are reflected in the next section of this report.

The EFCC staff are committed to working collaboratively with ODF leadership in Salem, and districts and association to ensure a positive experience during implementation of the policy. There is already a clear demonstration from district and association leaders that any challenge in implementation will be met with innovation and creativity to maintain the efficiency and effectiveness gained. One item to note is the EFCC strategic investment in the FireWeb software will be an important tool as a part of the transition.

Changes to the Policy since September. A draft policy was presented to the September 3 EFCC meeting. Since then, the EFCC staff have worked closely with their counterpart at ODF to consider the feedback received and to incorporate changes that aligned with principles that guided the initial work.

Changes are highlighted in **blue** on Attachment 1 and summarized here:

- A header has been added consistent with the ODF policy template.
- Added definitions for Emergency Use Agreement, and Incident Resource Agreement because they were terms referred to in the policy.
- Federal and rural fire departments were added to Eligibility if they meet the other requirements.
- Removes the reference relating to OT eligibility that is specific to ODF and state of Oregon Policy (outside scope of EFCC).
- Reworded list of managers not eligible.
- Added grading or rocking roads as example of repair that is not eligible.
- Added that Federal or rural fire department personnel, equipment, and support costs during mutual aid period on not eligible for reimbursement.
- Added ‘after recoveries’ related to the \$25,000 per day under Deductibles and Incentives. This change is simply clarifying what is already current practice.

Additional work needed

More work is needed to provide further guidance on what fire suppression repair is eligible and not eligible for EFC reimbursement. The EFCC staff are committed to working with ODF Fire Protection Division and field leadership to further strengthen a consistent interpretation on repair.

RECOMMENDATION

The EFCC Administrator recommends the EFCC adopt the new *Eligibility of Firefighting Costs for the Oregon Forest Land Protection Fund Policy* with a January 1, 2025 effective date.

NEXT STEPS

The Administrator will coordinate with the Oregon Department of Forestry to deliver training to Department and Association employees prior to implementation.

ATTACHMENTS

1. Eligibility of Firefighting Costs for the Oregon Forest Land Protection Fund (Track-Change **Highlighted** since September Draft)



EMERGENCY FIRE COST COMMITTEE (EFCC)

Title:	Eligibility of Firefighting Costs for the Oregon Forest Land Protection Fund		
Division/Program:	Emergency Fire Cost Committee		
Applicability:	All ODF & Association Programs, Districts, Employees		
Effective Date:	January 1, 2025	Last Review Date:	January 1, 2025
Approval Name:	Chair EFCC	Review Interval:	As Needed
Signature:		Custodian:	EFCC Administrator

POLICY STATEMENT

It is the policy of the Emergency Fire Cost Committee (EFCC) to define requirements for suppression costs that are eligible for reimbursement from the Oregon Forest Land Protection Fund (OFLPF).

AUTHORITY

ORS 477.770

Oregon Administrative Rule (OAR) Chapter 629, Division 165 Oregon Forest Land Protection Fund.

- OAR 629-165-0000 Definitions
- OAR 629-165-0010 Additional Amount Not Considered Emergency Fire Suppression Costs
- OAR 629-165-0100 Deductibles – Amount per Acre
- OAR 629-165-0300 Claims Processes – Evidence of Necessity
- OAR 629-165-0305 Qualifications for Payment
- OAR 629-165-0310 Payments for Fire Suppression Costs
- OAR 629-165-0315 Collection – Approval
- OAR 629-165-0320 Reimbursement to Account

RESPONSIBILITY

Management: Ensure compliance to this policy within their units. Produce fire reports, perform investigations and pursue cost recovery action in all cases when a person or entity responsible for fire costs is identified.

All Employees: Must have a resource order and supporting documentation, such as a shift ticket signed by a line supervisor, if working on any statistical fire or approved threat fire.

Emergency Fire Cost Committee Administrator: Administrator will conduct audits with the assistance of the EFCC Finance Coordinator and ODF to ensure department-wide compliance. The Administrator will report audit results to the EFCC.

DEFINITIONS

Unless otherwise defined below, terms will have the meanings given in ORS 477.001.

Administratively Determined Worker (AD) – An individual hired by the Forester and paid using administratively determined (AD) or industrial wage rates. An emergency worker may also be referred to as casual labor, AD employee, or an industrial worker.

Area Command An organization that oversees the management of multiple incidents or oversees the management of a very large or evolving situation with multiple ICS organizations.

Call When Needed (CWN) – Aircraft that are hired for a limited period using a pre-determined list of available vendors, and that are not under a longer-term contract.

Classified Forestlands – Lands classified as forestland in accordance with ORS 526.310 or ORS 526.340.

Consumable – Items that “get used up;” something that is capable of being consumed or spent. [A list of consumable items can be viewed here.](#)

Contracted Personnel/Equipment – Typically resources on a fire that are hired through an agreement (i.e. IRA, VIPR, CWN, SPA, Land or Services Use, etc.) or based on services rendered through an invoice from a vendor (i.e. copier machines, camp support items, etc.).

Deductibles – Per Acre and Per Day/Fire amount to be paid by a district as part of the OFLPP district fiscal year claim. Deductible rates are set by the EFCC.

District Personnel – All state and association employees assigned to a forest protection district.

District Warden – An individual appointed under ORS 477.355.

Emergency Fire – A statistical or threat fire (see statistical fire definition).

Emergency Fire Suppression Costs – Expenses incurred on incident including, but not limited to labor, services, transportation, supplies, rental of equipment, and expenses incurred for the recovery of fire suppression costs. (see eligible and ineligible costs below and OAR 629-165-0305 (3)).

Emergency Use Agreement (EUA) – Agreements created on incident, with vendors and contractors, for use on a single incident only. EUA are created for facility, land, equipment, and other services. Facility and land use EUA are valid through the entire duration of an incident. Equipment EUA are only good for the first 48-hours of an incident reported start.

Expanded Dispatch – An organization needed to support a fire, after initial attack, which expands along with the Incident Command System taking action to provide resources as needed for the control efforts of the fire. This organization may support single or multiple fires and is in addition to a protection district’s regular dispatch function.

Fire Suppression Repair – Planned actions taken to repair the damages to resources, lands, and facilities resulting from wildfire suppression actions and documented in the Incident Action or Repair Plan. These actions are usually implemented prior to, or immediately after containment of the wildfire by the incident management organization. Repairs under this activity may be completed to return the value to pre-wildfire management activity condition as practical but may not improve the condition beyond what was existing prior to the incident.

Fiscal Year – The period beginning July 01 of any year and ending on June 30 of the following year.

Forest Protection District – A forest protection district organized under ORS 477.225.

Incident Management Team (IMT) – Those personnel assembled to manage the suppression actions during an emergency response to a fire.

Incident Resources Agreement (IRA) – Pre-season agreements, with vendors and contractors, implemented by the Protection Contract Service Unit (PCSU) that are valid for any incident and any duration of time worked on an incident.

Lend/Lease – The use of a resource originally ordered to an incident that is temporarily used for another incident under the original resource order. Documentation supporting the use of a lend/lease resource must be provided to be eligible.

Multi-Agency Coordination (MAC) Group – MAC Groups are policy setting entities typically comprised of agency administrators/executives, or their designees. Under the National Incident System (NIMS), neither an EOC nor a MAC Group has any direct incident command involvement, and they will often be located some distance from the incident scene.

Non-Consumable – Items that can normally be used more than once. [A list of non-consumable \(durable\) items can be viewed here.](#)

Non-Fire Crew Action (NFCA) – Dispatched incidents that result in no suppression action. NFCA are not reimbursable by the OFLPF.

Non-Classified Forestlands – Lands not classified as forestland in accordance with ORS 526.310 or ORS 526.340.

Non-Statistical Fire – Fire that originates on non-paying forestlands, in which action is taken by a forest protection district.

Offset – Lands swapped for fire protection with another agency. Fires occurring on Federal lands identified in a protection offset agreement to be protected by ODF are reimbursable by the OFLPF.

Fires occurring on lands identified in a protection offset agreement to be protected by the USFS or BLM are **not** reimbursable by the OFLPF.

Oregon Forest Land Protection Fund (OFLPF) – Account established in the State Treasury as a trust fund for the purpose of equalizing emergency fire suppression costs pursuant to ORS 477.750.

Rehabilitation and Restoration – Post-fire activities prescribed and implemented to rehabilitate and restore fire damaged lands. These costs are not eligible for reimbursement.

Special Purpose Appropriation Funded Resources (SPA) – Statewide severity resources funded in part by the Oregon Legislature that are used for immediate readiness to provide aggressive initial attack and to complement a protection district’s regularly budgeted resources.

Statistical Fire – A fire requiring suppression action by the Forester or cooperating agencies if it meets one of the following three conditions:

1. The fire originates on paying forestlands within the forest protection district, including but not limited to:
 - a. Fires occurring on Bureau of Land Management (BLM) lands identified in the ODF/BLM Western Oregon Operating Plan.
 - b. Fires occurring on federal lands identified in a protection offset agreement for which the Forester has the suppression responsibility.
2. The fire originates on land protected by another agency or in another protection district, and spreads into the reporting protection district.
3. The fire originates on land outside of the protection district but the fire spreads to within 1/8 of a mile of forestland or is determined by the Forester to be a threat to paying forestland, and:
 - a. The fire is not within the boundaries of another protection agency, or;
 - b. The fire is within another protection agency boundary; however, suppression is clearly needed to prevent the spread of fire to paying forestland. (This does not include suppression action provided by agreement or pre-planned dispatch.)

Support Costs – Services or supplies used by resources on incident. Examples include travel claims, meals and lodging (as needed), consumable supplies, vehicle transportation costs, etc. Resource order required if support is provided by a vendor or contractor. Cell phone costs are **not** eligible costs.

Threat Fire – A fire originating on land outside of a protection district but spreads to within 1/8 of a mile of forestland or is determined by the Forester to be a threat to paying forestland. Threat fires require a district written request to the OFLPF administrator explaining the circumstances requiring fire suppression action and an explanation of costs and why the incident should be considered eligible for Emergency Fire Cost reimbursement.

Trainee – An individual who has not met full qualifications for their assigned position on a fire. Typically, this individual will shadow a fully qualified person within that position.

Western Oregon Operating Plan (WOOP) – Agreement with the BLM for ODF/Association to protect BLM lands on the west side of Oregon. Fires occurring on BLM lands identified in the ODF/BLM Western Oregon Operating Plan (WOOP) are **not** reimbursable by the OFLPP, unless part of a cost share with ODF jurisdictional lands involved.

OFLPF STANDARDS OF ELIGIBILITY

ELIGIBLE COSTS

A. Incident & Land Type

1. All statistical fires and approved threat fires inside or outside of a protection district.
2. Fires occurring on Federal lands identified in a protection offset agreement to be protected by ODF.

B. Personnel, Equipment & Support

1. All (unless excluded under ineligible) ODF, Association, administratively determined (AD), **Federal, rural fire department**, out-of-state/country, and contracted personnel, equipment, and support costs with a resource order to any statistical fire or approved threat fire.
2. Expanded Dispatch, Payment Teams, Investigators, Area Command, and sub geographical Multi-Agency Coordination (MAC) groups with a resource order.
3. All trainees and support costs when resource ordered to a Type 1 or 2 incident.

C. Aircraft, Retardant & Support

1. All aircraft (Fixed wing, Severity or CWN helicopters, Unmanned Aerial Systems), retardant and support costs, with a resource order for suppression or air attack, to any statistical fire or approved threat fire, when consistent with their contract language.
2. Extended standby when aircraft is still assigned to a fire.

D. Lend/Lease

1. Resources being lent/leased to another incident. These resources typically will not have a resource order to that incident.
 - i. A general message or note on the origin fire resource order stating that this is a lend/lease is required in addition to shift tickets.

E. Water Sources

1. Any water source utilized under a fully executed Emergency Use Agreement **(EUA)**.
 - i. Examples include: Metered water when used from a city water supply, privately owned pumps, electrical costs associated with the use of pumps, or for personnel needed to provide pumping services when using water from creeks, rivers, ponds, lakes, etc. during suppression action.

2. Reimbursement for the refill of significantly depleted private water source levels used for suppression efforts.
3. A resource order and usage log identifying date of fill, equipment identification and gallons used is required.

F. Fire Suppression Repair & Replacement / Property Damage

1. Planned actions taken to repair the damages to resources, lands, and facilities resulting from wildfire suppression actions and documented in the Incident Action or Repair Plan.
 - i. Such as: Water barring of fire trails or control lines to control soil erosion, repair of roads utilized for fire suppression activities, fence lines or other property damaged by firefighting suppression on primary or contingency lines.
2. A resource order does not typically apply to these situations unless it is tied to a piece of equipment, facility/Emergency Use Agreement, which have a resource order.

G. Fire Investigation

1. Legal, court, fire investigation and support costs for incidents that have any eligible costs.

NOT ELIGIBLE COSTS

A. Incident & Land Type

1. NFCA incidents.
2. Non-statistical incidents, unless deemed a threat fire and approved for eligibility with written justification.
3. WOOP agreement incidents (unless part of a cost share with ODF).
4. Offset ODF paying forestlands protected by a federal entity incident.

B. Personnel, Equipment & Support

1. Personnel, contract resources, support costs with no resource order.
2. Any resource or support cost on a fire that are required to have a shift ticket, and the shift ticket is missing or is not signed by a line supervisor.
3. The following ODF or Association personnel and support costs on in-district fires and payment teams: District and Assistant Foresters/Managers, Association Operations and Staff Managers, Unit and Assistant Unit Foresters, Wildland Fire Protection Supervisors, Dispatch Managers, Other Dispatch Staff, Business Managers, Other Administrative Staff.
 - ~~i. These positions can still be "relieved of duties" and become overtime eligible in accordance with DAS Policy 20.005.11, at the district cost.~~
 - ii. Personnel listed above for districts within the Northwest Oregon FPA when assisting each other within the FPA.

- iii. Exceptions for eligibility apply if personnel listed above are assigned to an in-district Type 1 or 2 Incident Management Team or Expanded Dispatch.
4. Agency Administrators and Deputy Agency Administrators personnel and support costs for any fire inside or outside of district.
5. Trainees and their support costs on Type 3 or smaller in or out of district fires.
6. Federal or rural fire department personnel, equipment, and support costs during mutual aid period.
7. District severity move-up/contingency forces and their support costs when not assigned to a statistical fire or threat fire.

C. Aircraft, Retardant & Support

1. Aircraft not used for suppression or air attack (i.e. detection, reconnaissance, administration).
2. Extended standby aircraft and support costs when no longer assigned to a fire.

D. Water Sources

1. Any water source utilized that is NOT acquired under a fully executed **EUA**.
2. Water used from creeks, rivers, ponds, lakes, etc., when used for suppression actions. These water sources are considered “waters of the state.” Use of water for emergency firefighting does not require a water right application, permit, or certificate (reference ORS 537.141.).

E. Fire Suppression Repair & Replacement / Property Damage

1. Planned actions taken to repair the damages to resources, lands, and facilities resulting from wildfire suppression actions NOT documented in the Incident Action or Repair Plan.
 - i. Such as: Mitigation efforts to reduce fuel loads created by the suppression effort. Planned long-term fuel breaks. Current or planned fuels mitigation projects, **grading or rocking roads**.
2. Landowner property damage that was caused by the natural action of the incident (i.e. not caused by firefighting efforts).
3. Private landowner tort claims for damages to property or equipment from suppression actions.
4. ODF, Association or contractor vehicle and equipment repairs.
5. Non-Consumable supplies, including tools and other equipment ([see full list of non-consumable items](#)) replacement or repair costs.
 - i. These can potentially be reimbursed through a Department of Administrative Services risk claim.
6. Insurance premium and deductible costs for risk management, employer liability, general liability, and additional travel/accident hazard.
7. Rehabilitation and restoration of land, caused by wildfire damage.

F. Fire Investigations

1. Legal, court, fire investigation and support costs for incidents that do not have any eligible costs.
2. Costs of arson investigation teams and other personnel working on protection district arson situations.

OFLPF DEDUCTIBLES

- Acre Deductible
 - The EFCC sets the deductible amount for each district on or before January 15 each year (OAR 629-165-0100).
 - This per acre amount may not exceed 10 percent of the total budgeted amount of all districts (ORS 477.770).
- Per Day/Per Fire Deductible
 - Districts pay \$25,000 if emergency fire costs, **after recoveries**, exceed \$25,000.
 - If multiple fires occur on the same day within a district, only one additional amount of \$25,000 may be applied to the sum of the costs of all fires that began on that day.
 - The same incident cannot be assessed a deductible twice.
 - If the calculated daily deductible amount result in an increase in the district's annual budget greater than fifteen cents per acre on timberland or six cents on grazing land, the committee may waive the part in excess of that amount (OAR 629-165-0005 (3)).

OFLPF INCENTIVES

- Per Day/Per Fire Deductible
 - No per day/per fire deductible owed for those incidents with emergency fire costs, **after recoveries**, under \$25,000.
- Helicopter credit applies if District or Association have a contract of 60 days or more for a Type 2 or Type 3 helicopter.
 - Helicopter contract equals \$50,000 credit. If more than one district is sharing the contract, the credit will be applied equally across all Districts and Associations.
 - Limit one credit per District or Association.
 - Credit cannot be more than the final fiscal year claim.

SUPPORTING DOCUMENTATION

- OFLPF Claims Process
- OFLPF Audit Process
- OFLPF Fiscal Year Reconciliation Process

Policy History	
01/01/2025	EFCC Policy Update

Agenda Item 4 – Guidelines for eligibility of firefighting costs for the Oregon Forest Land Protection Fund Directive

SUMMARY

[If Agenda item 3 was approved]. The purpose of this agenda item is to seek the Emergency Fire Cost Committee (EFCC) approval to rescind the current *Guidelines for eligibility of firefighting costs for the Oregon Forest Land Protection Fund Directive* effective at 2400 (midnight) on December 31, 2024.

BACKGROUND

The rescinded directive will be replaced with the new policy approved in agenda item 3 effective January 1, 2025.

ANALYSIS

The new policy will serve the same purpose as the directive did historically. The term policy replaces the outdated directive term.

RECOMMENDATION

If the EFCC approved agenda item 3, the EFCC Administrator recommends the EFCC rescind the *Guidelines for eligibility of firefighting costs for the Oregon Forest Land Protection Fund Directive* effective at COB on December 30, 2024.

NEXT STEPS

The Administrator will coordinate with the Oregon Department of Forestry to codify the decision in their policy tracking system.

ATTACHMENTS

1. [Guidelines for Eligibility of Firefighting Costs for the Oregon Forest Land Protection Fund](#), Agenda item 6, page 32-62