

Agenda Item No.:	1
Work Plan:	Fire Protection
Topic:	Evolving Topic: Governor’s Council on Wildfire Response
Presentation Title:	Senate Bill 762: Wildland – Urban Interface Definition
Date of Presentation:	August 24, 2021
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SUMMARY

The purpose of this agenda item is to seek approval from the Board of Forestry (Board) to hold public hearings regarding establishment of a definition of “Wildland-Urban Interface” in Oregon Administrative Rule 629-044.

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 Response 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 762 captured many of the recommendations of the Governor’s Council on Wildfire Response, providing legislative direction to the Board of Forestry 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

For the purpose of this rulemaking, the Department developed a rules advisory committee comprised of 26 representatives from a broad range of interests including industrial, nonindustrial, federal, county, environmental, tribal, and public (Attachment 1). This advisory committee met four times virtually. A short summary of each meeting is below:

July 27, 2021 – Introduction of Rules Advisory Committee (RAC). Provided background of SB762. Reviewed proposed charter and scope.

August 3, 2021 – Confirmed charter. Provided overview of Wildland-Urban Interface definition exercise to gain group perspective.

August 10, 2021 – Presentation of Oregon Department of Forestry staff recommendation of Wildland-Urban Interface definition. Polled Rules Advisory Committee on several definition options. Introduced components of economic impact statement.

August 17, 2021 – Oregon Department of Forestry staff presented draft staff report and fiscal and economic impact statement to committee. ODF presented initial work plan components, solicited feedback of additional components, provided possible data sources that should be considered and next steps toward definitions of terms needed for the development of a full work plan.

The Department gained extensive feedback through the committee process. The rule advisory committee’s work will continue further, to define the terms within the definition, develop the criteria to identify and classify the Wildland-Urban Interface, and estimate fiscal impact through a separate rulemaking process.

ANALYSIS

Department staff reviewed and presented seven definitions of “wildland-urban interface” that were consistent with national standards (Attachment 2). In addition, the Rules Advisory Committee completed an exercise that used the key words and phrases of the presented definition to allow for an analysis of which words were supported by the committee.

Polling was conducted on three potential definitions with associated poll results on August 10th:

1. “Wildland-Urban Interface means a geographical area where structures and other human development meets or intermingles with wildland vegetative fuels.”
 - a. International Wildland-Urban Interface Code definition – Department recommendation
 - i. 13 Rules Advisory Committee members - Full support
 - ii. 2 Rules Advisory Committee members - Agrees with proposal but would prefer it modified.
 - iii. 8 Rules Advisory Committee members - Refusal to support.

2. “A geographic area of forestland inside a forest protection district where there exists a concentration of structures in an urban or suburban setting.”
 - a. Rules Advisory Committee member recommendation based on discussion.
 - i. 1 Rules Advisory Committee members - Full support
 - ii. 12 Rules Advisory Committee members - Agrees with proposal but would prefer it modified.
 - iii. 8 Rules Advisory Committee members - Refusal to support.

3. “Wildland-Urban Interface means the geographical area where human development meets wildland fuels.”
 - a. Definition exercise compilation of preferred terms.
 - i. 1 Rules Advisory Committee members - Full support
 - ii. 8 Rules Advisory Committee members - Agrees with proposal but would prefer it modified.
 - iii. 11 Rules Advisory Committee members - Refusal to support.

The International WUI definition is, “That geographical area where structures and other human development meets or intermingles with wildland or vegetative fuels.” The second “or” was missing in previous RAC documents and polling.

On August 17th an additional RAC poll was conducted to address the missing word “or,” as a clerical error. The poll asked, “Do you recommend the correctly stated International WUI definition?”

1. “Wildland-Urban Interface means a geographical area where structures and other human development meets or intermingles with wildland or vegetative fuels.”
 - a. International Wildland-Urban Interface Code definition – Department recommendation
 - i. 14 Rules Advisory Committee members - Full support
 - ii. 2 Rules Advisory Committee members - Agrees with proposal but would prefer it modified.
 - iii. 5 Rules Advisory Committee members - Refusal to support.

2. A second poll was also taken upon request, to poll on the additional definition
 - a. “The area where houses meet or intermingle with underdeveloped wildland vegetation.”
 - i. 7 Rules Advisory Committee members - Full support
 - ii. 4 Rules Advisory Committee members - Agrees with proposal but would prefer it modified.
 - iii. 9 Rules Advisory Committee members - Refusal to support.

Under the RAC 1 Charter, a “Consensus” is defined as the members voting “1” (Full Support,) or a “2” (Agrees with proposal but would prefer it to be modified) with no “3” votes (Refusal to support). As a result, a Consensus was not achieved. The Department’s recommendation is the definition that received the largest majority support. The attached meeting summaries, Attachment 6, is a record of the Rules Advisory Committee member statements.

The Rules Advisory Committee also submitted written comment as received by the Department, Attachment 7.

RECOMMENDATION

The Board adopts the following as the definition of wildland-urban interface. “Wildland-Urban Interface means a geographical area where structures and other human development meets or intermingles with wildland or vegetative fuels.”

The Board directs the Department to proceed with the public hearing process and return in October 2021 with draft rule language for Chapter 629, Division 44 wildland urban interface definition.

NEXT STEPS

- Pending the Board of Forestry’s acceptance of these revised rules, the Department will schedule and hold public hearings.
- Following public input, the Department will return to the Board requesting promulgation of the rules.

RULE REVIEW TIMELINE

July 20, 2021 – Oregon Department of Forestry conducted an informational session virtually regarding Senate Bill 762.

July 21, 2021 – Oregon Department of Forestry presented an overview of Senate Bill 762 and requested permission from the Board to initiate the rule making process.

August 23-27, 2021 – Proposed rule presented to the Board of Forestry with request to conduct public hearings.

August 25, 2021 – Notice of Proposed Rulemaking and Fiscal Impact Statement sent to Secretary of State. Notify legislators and interested parties.

September 15 – 30, 2021 – Conduct public hearings.

October 18 - 22, 2021 – ODF submits final proposed rule with public comments to Board of Forestry for final consideration and approval.

October 22, 2021 – Submit rule to Secretary of State and Legislative Counsel for filing. Effective date October 27, 2021.

ATTACHMENTS

1. Rules Advisory Committee members
2. Department’s proposed rule changes to OAR 629-044, strikethrough.
3. Department’s proposed rule changes
4. Oregon Administrative Draft rule filing
5. Wildland-Urban Interface Rules Advisory Committee Charter
6. Rules Advisory Committee Meeting Summaries
7. Rules Advisory Committee Comments