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**NOTICE OF PROPOSED RULEMAKING**  
INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 860  
PUBLIC UTILITY COMMISSION

**FILED**

09/14/2021 9:38 AM  
ARCHIVES DIVISION  
SECRETARY OF STATE

FILING CAPTION: Wildfire Mitigation Phase I, Wildfire Protection Plans - AR 648

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 10/21/2021 4:00 PM

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

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Filed By:  
Diane Davis  
Rules Coordinator

**HEARING(S)**

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

DATE: 10/18/2021

TIME: 10:00 AM

OFFICER: Chief ALJ Nolan Moser

ADDRESS: By Zoom

See information in Special Instructions

Salem, OR 97310

**SPECIAL INSTRUCTIONS:**

Join Zoom Meeting

[https://opuc-state-or-](https://opuc-state-or-us.zoom.us/j/88471573056?pwd=MXdub3JWY0s0MWM3ZFF0WStiZnIYZz09)

[us.zoom.us/j/88471573056?pwd=MX](https://opuc-state-or-us.zoom.us/j/88471573056?pwd=MXdub3JWY0s0MWM3ZFF0WStiZnIYZz09)

[dub3JWY0s0MWM3ZFF0WStiZnIYZ](https://opuc-state-or-us.zoom.us/j/88471573056?pwd=MXdub3JWY0s0MWM3ZFF0WStiZnIYZz09)

[z09](https://opuc-state-or-us.zoom.us/j/88471573056?pwd=MXdub3JWY0s0MWM3ZFF0WStiZnIYZz09)

Meeting ID: 884 7157 3056

Passcode: !!pD3BT2tk

One tap mobile

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60231659# US (Portland)

Dial by your location

+1 971 247 1195 US (Portland)

Meeting ID: 884 7157 3056

Passcode: 4160231659

Find your local number: <https://opuc-state-or-us.zoom.us/j/kcIPLAQjVG>

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NEED FOR THE RULE(S):

2021 Senate Bill (SB) 762, Section 3, requires public electric utilities to submit risk-based wildfire protection plans to the Public Utility Commission (PUC or Commission). Section 3, Subsection 7 requires the PUC to adopt rules for the implementation of the section. These rules are needed to establish procedures and requirements for submission of Wildfire Protection Plans (Plan) to enable compliance with SB 762.

The Commission encourages participants to file written comments as early as practicable in the proceedings so that other participants have the opportunity to consider and respond to the comments before the deadline. Please reference Docket No. AR 648 on comments and attach them to an e-mail to the Commission's Filing Center at [PUC.FilingCenter@puc.oregon.gov](mailto:PUC.FilingCenter@puc.oregon.gov).

Interested persons may review all filings online at

<https://apps.puc.state.or.us/edockets/DocketNoLayout.asp?DocketID=22920>. For guidelines on filing and participation, please see OAR 860-001-0140 through 860-001-0160 and 860-001-0200 through 860-001-0250 found online at <https://secure.sos.state.or.us/oard/displayDivisionRules.action?selectedDivision=4027>.

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DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

The Governor's Executive Order No. 20-04 (EO 20-04), Executive Order on Climate Action, March 20, 2020, found online at [https://www.oregon.gov/gov/Pages/carbonpolicy\\_climatechange.aspx](https://www.oregon.gov/gov/Pages/carbonpolicy_climatechange.aspx)

The Governor's Executive Order No. 19-01, Establishing the Governor's Council on Wildfire Response, Jan. 30, 2019, found online at [https://www.oregon.gov/gov/Documents/executive\\_orders/eo\\_19-01.pdf](https://www.oregon.gov/gov/Documents/executive_orders/eo_19-01.pdf)

Final Report and Recommendations of the Governor's Council on Wildfire Response, Nov. 2019, found online at [https://www.oregon.gov/gov/policy/Documents/FullWFCReport\\_2019.pdf](https://www.oregon.gov/gov/policy/Documents/FullWFCReport_2019.pdf)

PUC Order No. 21-167, Temporary Rulemaking Regarding Public Safety Power Shut-off (PSPS), AR 638, 2021 found online at <https://apps.puc.state.or.us/orders/2019ords/19-254.pdf>

2021 SB 762 found online at <https://www.oregonlegislature.gov/liz/2021R1/Measures/Overview/SB762>

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FISCAL AND ECONOMIC IMPACT:

The passage of Senate Bill (SB) 762 (2021) created requirements for investor owned utilities (IOUs) operating in Oregon

to, among other things, prepare a Wildfire Protection Plan, conduct outreach with their communities on these plans, and submit the plans for approval by the Commission. SB 762, Section 3, Subsection 8 instructs that the costs associated with developing, implementing, or operating a Plan are recoverable in the rates of the Public Utility from all customers.

The rules also include an option to retain an independent evaluator to facilitate review of the Plans within in the 180-day review period as required by SB 762. It is not currently possible to determine the need for these evaluators.

Staff time will need to be dedicated to the implementation of the rules and the Commission anticipates that one additional FTE will be required. While SB 762 creates requirements for other state agencies, the Commission does not anticipate that these Phase I rules will impose costs on other state agencies.

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**COST OF COMPLIANCE:**

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

As noted above, the PUC will be economically affected by the rules and will need to devote Staff resources to review and approval of utility Plans. It is not possible to estimate the number and types of agencies and units of local government or small businesses subject to this rule because of the broad range of participation of stakeholders participating in PUC proceedings on wildfires, but examples include regional, state, and local entities, including municipalities and ratepayers. These organizations may incur nominal costs for employee time to participate in workshops on wildfire best practices or in the utility's outreach efforts regarding wildfire preparedness and planning.

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

Small business were not involved in the development of the proposed rules. This rulemaking adopts the requirements articulated in SB 762, and the state legislative process provided the forum for interested parties to comment.

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**WAS AN ADMINISTRATIVE RULE ADVISORY COMMITTEE CONSULTED? NO IF NOT, WHY NOT?**

This rulemaking adopts the requirements of SB 762 to facilitate the submission of Plans by December 31, 2021 as required by Section 5.

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**RULES PROPOSED:**

860-300-0001, 860-300-0002, 860-300-0003, 860-300-0004

ADOPT: 860-300-0001

RULE SUMMARY: The purpose of this rule is to explain the general scope and applicability of the rules.

CHANGES TO RULE:

**860-300-0001**

**Scope and Applicability of Rules**

**(1) The rules in this division prescribe the filing requirements for risk-based Wildfire Protection Plans filed by a Public Utility that provides electric service in Oregon pursuant to ORS 757.005.¶**

**(2) Upon request or its own motion, the Commission may waive any of the rules in this division for good cause shown. A request for waiver must be made in writing, unless otherwise allowed by the Commission.**

Statutory/Other Authority: ORS 183, ORS 654, ORS 756, ORS 757, ORS 759

Statutes/Other Implemented: ORS 756.040, ORS 757.035, ORS 757.039, ORS 757.649, ORS 759.030, ORS 759.040, ORS 759.045

RULE SUMMARY: The purpose of this rule is to articulate the requirements of Wildfire Protection Plans and provide for the possibility of an Independent Evaluator assisting in assessment of the Plans, to allow for a decision within the 180-day time frame mandated by SB 762. The rule provides the requirements for community engagement, description of vegetation management activities, a requirement to describe the process used to develop administrative costs, as well as the timing and process for filing and review of the Plans.

CHANGES TO RULE:

860-300-0002

Wildfire Protection Plan Filing Requirements

(1) Wildfire Protection Plans and Updates must, at a minimum, contain the following requirements as set forth in [SB 762 Section 3(2)(a)-(h)] and as supplemented below:¶

(a) Identified areas that are subject to a heightened risk of wildfire, including determinations for such conclusions, and are:¶

(A) Within the service territory of the Public Utility, and¶

(B) Outside the service territory of the Public Utility but within the Public Utility's right-of-way for generation and transmission assets.¶

(b) Identified means of mitigating wildfire risk that reflects a reasonable balancing of mitigation costs with the resulting reduction of wildfire risk.¶

(c) Identified preventative actions and programs that the Public Utility will carry out to minimize the risk of utility facilities causing wildfire.¶

(d) Discussion of outreach efforts to regional, state and local entities, including municipalities, regarding a protocol for the de-energization of power lines and adjusting power system operations to mitigate wildfires, promote the safety of the public and first responders and preserve health and communication infrastructure. ¶

(e) Identified protocol for the de-energization of power lines and adjusting of power system operations to mitigate wildfires, promote the safety of the public and first responders, and preserve health and communication infrastructure.¶

(f) Description of procedures, standards, and time frames that the Public Utility will use to inspect utility infrastructure in areas the Public Utility identified as heightened risk of wildfire.¶

(g) Description of the procedures, standards, and time frames that the Public Utility will use to carry out vegetation management in areas the Public Utility identified as heightened risk of wildfire.¶

(h) Identification of the development, implementation, and administrative costs for the plan, which includes discussion of risk-based cost and benefit analysis, including consideration of technologies that offer co-benefits to the utility's system.¶

(i) Identification of the community outreach and public awareness efforts that the Public Utility will use before, during, and after a wildfire season.¶

(j) Description of participation in national and international forums, including workshops identified in [SB 762, Section 2], as well as research and analysis the Public Utility has undertaken to maintain expertise in leading-edge technologies and operational practices, as well as how such technologies and operational practices have been used to develop and implement cost-effective wildfire mitigation solutions.¶

(2) A Public Utility's initial Wildfire Protection Plan must be filed no later than December 31, 2021. Wildfire Protection Plans must be updated annually and filed with the Commission. ¶

(3) Within 180 days of submission, Wildfire Protection Plans and Wildfire Protection Plan Updates may be approved or approved with conditions through a process identified by the Commission in utility-specific proceedings, which may include retention of an Independent Evaluator (IE). For purposes of this section, "approved" means the Commission finds that the Wildfire Protection Plan or Update is based on reasonable and prudent practices including those the Public Utility identified through Commission workshops identified in [SB 762, Section 2], and designed to meet all applicable rules and standards adopted by the Commission. ¶

(4) Approval of a Wildfire Protection Plan or Update does not establish a defense to any enforcement action for

violation of a commission decision, order, or rule, or relieve a Public Utility from proactively managing wildfire risk, including by monitoring emerging practices and technologies.

Statutory/Other Authority: ORS 183, ORS 654, ORS 756, ORS 757, ORS 759

Statutes/Other Implemented: 2021 Senate Bill 762, ORS 756.040, ORS 756.105, ORS 757.035, ORS 757.649

ADOPT: 860-300-0003

RULE SUMMARY: The purpose of this rule is to explain how utility costs associated with the development of the Plan will be recovered. This rule mirrors SB 762, Section 3, Subsection 8.

CHANGES TO RULE:

860-300-0003

Cost Recovery

All reasonable operating costs incurred by, and prudent investments made by, a Public Utility to develop, implement, or operate a Wildfire Protection Plan are recoverable in the rates of the Public Utility from all customers through a filing under ORS 757.210 to 757.220.

Statutory/Other Authority: ORS 183, ORS 654, ORS 756, ORS 757, ORS 759

Statutes/Other Implemented: 2021 Senate Bill 762, ORS 757.020

ADOPT: 860-300-0004

RULE SUMMARY: This rule provides timing for customer-owned utilities to submit their Plans to the Commission. This rule mirrors SB 762 Section 6.

CHANGES TO RULE:

860-300-0004

Consumer-owned Utility Plans

Municipal electric utilities, people's utility districts organized under ORS chapter 261 that sell electricity, and electric cooperatives organized under ORS chapter 62 must file with the Commission a copy of its approved risk-based wildfire mitigation plan or plan update within 30 days of approval from its governing body.

Statutory/Other Authority: ORS 183, ORS 654, ORS 756, ORS 757, ORS 759

Statutes/Other Implemented: 2021 Senate Bill 762, ORS 757.035