

**BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON**

AR 638

In the Matter of

Rulemaking for Risk-based Wildfire  
Protection Plans and Planned Activities  
Consistent with Executive Order 20-04.

ORDER

**DISPOSITION: NEW RULES ADOPTED**

In this order, we memorialize our decision at the August 4, 2022 Special Public Meeting to adopt and amend Division 24 and Division 300 rules addressing risk-based Wildfire Mitigation Plans consistent with Senate Bill (SB) 762 (2021). These rules represent the culmination of significant work and coordination between Commission Staff and public utilities, municipal and cooperatively-owned utilities, industry trade groups, and Oregon cities. We appreciate the work that all participants have done to help ensure that Oregon utilities have proactive measures in place to mitigate wildfire risk and address wildfire impacts. We order that the rules put forth by the Administrative Hearings Division (AHD) in its August 2, 2022 Report be adopted with the change discussed herein. The new rules will be effective upon filing with the Secretary of State.

**I. INTRODUCTION**

This proceeding arose in part out of SB 762, passed in 2021, and in part from the Commission's own observation that wildfire risk was rapidly evolving and necessitated rules governing Public Safety Power Shutoffs (PSPS), utility wildfire mitigation planning, and a review of the existing safety rules.

Through the winter and spring of 2021, Commission Staff worked with stakeholders to scope and prioritize wildfire mitigation issues. Recognizing the PSPS tool could be utilized during the 2021 fire season and that the larger rulemaking and pending legislative concepts would require more time and stakeholder engagement, the Commission prioritized temporary rules related to PSPS. On May 27, 2021, Commission adopted temporary rules in Order No. 21-167 governing PSPS protocols and ignition reporting requirements. Those rules expired on November 24, 2021.

SB 762 lays out standards for utility Wildfire Protection Plans, statewide risk analysis, and wildfire smoke mitigation. Particularly relevant here, Sections 1 through 6(b) of

SB 762 list elements to be included in electric utility Wildfire Protection Plans and also direct the Commission to promulgate rules more specifically delineating the requirements for those plans.

SB 762 required utilities to file their first plans no later than December 31, 2021. On August 31, 2021, a separate rulemaking was opened in docket AR 648 to adopt permanent rules addressing certain procedural and filing requirements in SB 762 in order to facilitate that deadline. Ultimately in that docket, the Commission adopted new rules in Order No. 21-440 that pertain to basic wildfire planning requirements and processes.

This phase of the AR 638 proceeding was opened on August 25, 2021, in order to provide additional detail and requirements for wildfire mitigation and planning, to update the expiring PSPS rules, and to update safety rules as necessary. During the fall, Commission Staff conducted a number of workshops on issues such as vegetation management and system hardening, risk analysis, PSPS, and community engagement. At the end of the stakeholder engagement period, and using experience developed over the 2021 fire season, Staff concluded that much of the detail in the temporary rules for PSPS and Community Engagement was overly prescriptive.

On September 29, 2021, Staff filed its comprehensive initial draft rules. Subsequently, it held a workshop and received written comments from numerous stakeholders. It presented its proposed rules to the Commission at a Special Public Meeting on January 18, 2022. At that time, we adopted Staff's recommendation and opened a formal rulemaking on the comprehensive proposed rules. We also scheduled a further Commission workshop to identify alternatives to the "Joint Inspection" concept in the rules, by which utilities and communications providers would be required to jointly inspect co-located facilities for fire risk. That workshop was held on February 8, 2022.

Following the opening of the formal phase of the rulemaking and given the importance of ensuring that updated PSPS rules were in place before the 2022 wildfire season, this proceeding was bifurcated—the PSPS rules contained in Division 300 were put on an expedited track and considered separately from the remaining Division 300 rules and the Division 24 rules. We held a rulemaking hearing on the PSPS rules on April 7, 2022, and they were filed with the Secretary of State and became effective on May 24, 2022.

In the meantime, AHD conducted proceedings on the "other than PSPS" rules in Division 24 and Division 300 that are the subject of this order. During that time, it held two workshops and received several rounds of written comments. We also held a final Commission workshop on those rules on June 2, 2022. Final written comments were due on July 21, 2022.

Following the June 2, 2022 Rulemaking Hearing, this proceeding was bifurcated again and the issue of whether and how local ordinances might need to be preempted in High Fire Risk Zones (HFRZ) will be reserved for a later stage of the proceeding.

We discussed the proposed rules at our Special Public Meeting on August 4, 2022, and adopted the rules attached as Appendix A and made the decisions reflected in this order during that meeting

## II. DISCUSSION

Below, we address significant issues we considered in adopting these rules. In this discussion, we summarize comments from participants in this rulemaking, including utilities and stakeholders. We provide our decision and where appropriate clarify the implications of the adopted rules.

### A. Inspection and Remediation of Risks Associated with Co-located Facilities

Significant amounts of discussion in this proceeding have centered around the question of how to ensure that third-party facilities attached to electric utility poles and electric facilities attached to third-party owned poles are properly inspected—and any ignition hazards are repaired—when they are located in HFRZs. Staff’s proposal at the time the formal rulemaking was initiated was that electric utilities and the owners of co-located facilities would conduct joint inspections to ensure that all ignition risks were seen at the same time and repaired promptly. A number of participants objected to joint inspections as logistically burdensome, and additional Commission and AHD-led workshops in this proceeding focused on developing an alternative construct that would be practical to implement and ensure that ignition hazards were not left unaddressed in HFRZ, regardless of the owner of the facility creating the risk.

The final rules proposed by AHD eliminate the joint inspection framework and instead place the responsibility on electric utilities to conduct HFRZ Ignition Prevention Inspections. Those inspections will include ascertaining whether co-located facilities that are not owned or operated by the electric utility may pose an ignition risk. If an ignition risk on a co-located facility is found, the proposed rules require that the electric utility issue a notice to the pole owner or equipment owner within 15 days of discovery and that the notice state that the violation must be repaired within the time frame set out in the draft rules.

Responsibility for the risk and its remediation remains with the owner. However, if the electric utility performing the inspection cannot find or establish contact with an owner of the co-located facility that is still a financially solvent entity, the electric utility must remediate the ignition risk itself. In addition, the electric utility may remediate the

ignition risk itself if the pole owner or equipment owner does not do so within the time specified in the notice. If the electric utility does do so, the proposed rules authorize the utility to charge the owner a 25 percent surcharge on the cost of the work. If the electric utility elects not to remediate the ignition risk in those circumstances, it must file a complaint with the Commission to compel remediation by the facility owner in a procedure discussed below.

A number of stakeholders offered comment on these sections of the proposed rules in their written comments. We consider these comments below.

***1. Amount of Surcharge***

*a. Comments*

The participants in this proceeding have different views about the appropriate amount of a surcharge should an electric utility undertake repairs or remediation of ignition risk on co-located facilities. Currently, the pole attachment portion of the Commission’s rules, which are applicable across a utility’s system as a whole, state in OAR 860-028-0150(2):

A pole owner may impose a sanction on a pole occupant that is in violation of OAR 860-028-0120(5). Sanctions imposed under this section must not exceed 15 percent of the actual cost of corrections incurred under OAR 860-028-120(5).

The communications industry groups participating in this proceeding—CTIA and the Oregon Cable Telecommunications Association (OCTA)—advocate that a maximum surcharge of 15 percent be allowed, in accordance with the current rules. OCTA notes the conflict with the provision cited above and states that limiting the 25 percent surcharge to foreign-owned reject poles<sup>1</sup> would be a reasonable compromise. CTIA also asks that to the extent the Commission is seeking to incentivize repair of particular issues, such as deteriorated poles, it limit the 25 percent surcharge to those items only. CTIA notes its concern that it will not have an opportunity to correct “immediate” violations under the rules.

The electric utilities argue for retention of the 25 percent surcharge as it appears in the proposed rules. The Joint Utilities’ comments state that the higher fee reflects the high-priority nature of the work in HFRZs. The comments filed by the Oregon Municipal Electric Utilities Association, the Eugene Water and Electric Board, and the Oregon People’s Utility District Association (collectively, COUs) argue that the 25 percent

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<sup>1</sup> That is, poles on a utility that are owned by third parties (“foreign owned”) and that need to be removed (“reject”).

surcharge would communicate the urgency related to violations in HFRZs and that the current 15 percent adder does not appear to be working to incentivize those repairs.

*b. Commission Decision*

We will adopt AHD’s recommendation for a 25 percent surcharge. We also clarify, in response to OCTA’s concern, that this surcharge will apply only when notice is given and the owner of the facilities in question have failed to respond to that notice and remediate the ignition risk within the time required. Because we believe our interpretation is consistent with the text of the proposed rule, we will not make edit the text of the proposed rules.

The 25 percent surcharge is appropriate due to the urgency that arises when there is an ignition risk within a HFRZ and the need to set incentives accordingly. It is also appropriate because the tight timeframes involved in fixing ignition risks can impose real constraints on utilities, which may need to reallocate staff to ensure permits are obtained, materials are ordered, and work is completed in a timely manner.

**2. *Applicability to Municipally-owned Facilities***

*a. Comments*

The City of Portland (City), which has participated in this proceeding as a stakeholder, filed comments describing certain co-located facilities with Portland General Electric (PGE)—namely a 10-mile 57 kV line that the City contracts with PGE to maintain. The City is concerned that the proposed rules would allow PGE to identify an ignition risk and then “if/when” the City cannot complete the repair within 180 days, “PGE could perform the work itself, bill the City and charge 25% extra.” The City notes that the maintenance budget for these facilities comes out of the City’s general fund.

The City asks that equipment owned by municipal governments be excluded from Sections 8 through 10 of the proposed rule 860-024-0018 and also suggests that “heightened wildfire risk” be better defined using federal or independent organization standards.

*b. Commission Decision*

We do not adopt the City’s recommendation. We understand the City’s concerns regarding maintenance budgets and the constraints of its general fund. However, given the risks involved with keeping an identified ignition hazard in place, we do not believe a blanket exemption is advisable. To the extent that the City, or any facility owner, believes these rules are being used unreasonably by electric utilities to extract the 25

percent surcharge, both the new complaint process we are adopting by this order and our general waiver request procedures could be used to address that concern. In general, however, we do not expect those procedures to be necessary on a frequent basis; we expect that ignition hazards on the system should be repaired on the timelines these rules lay out and only clear abuse of the surcharge (*e.g.*, compelling evidence that ordinary conditions were falsely designated as hazardous) is likely to warrant Commission action.

### 3. “Abandoned” Facilities

#### a. Comments

OCTA expresses concerns that the proposed rules do not sufficiently obligate electric utilities to reach out to third-party owners prior to deeming the facilities in question “abandoned.” It requests that the language in OAR 860-024-0018(12) be amended to read (proposed additions underlined):

If an Operator of electric facilities discovers a violation in a HFRZ that correlates to a heightened wildfire risk and is unable, after good faith efforts, to ascertain who the pole owner or equipment owner is and to contact such owner; or if that pole owner or equipment owner is no longer a going concern with a legally responsible successor, then it is the obligation of the Operator to remove that equipment or otherwise remedy the condition correlating to a heightened risk of ignition.

The Joint Utilities express a separate disagreement with this section. First, they note that the term “a going concern” may be confusing and potentially lead to misinterpretation. Second, the Joint Utilities believe that the *obligation* to remove abandoned equipment will serve as an incentive to abandon that equipment. They request that the wording be changed to state that the Operator “*may* remove the equipment.”

The Joint Utilities also take issue with the “abandoned facilities” clause in draft rule OAR 860-024-0060(6)<sup>2</sup>. That provision reads:

If at the conclusion of the Complaint process, the Commission determines that the facilities are not the responsibility of the Respondent and/or that the Respondent is no longer a going concern such that it is capable of remedying the violation, than the Commission may deem the facilities “abandoned” and require the electric Operator of the facilities to remedy the electric ignition hazard in accordance with OAR 860-024-0018(10).

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<sup>2</sup> In the proposed rules attached to the Staff Report, this proposed rule was numbered -0060” but because that numbering was used once for a temporary rule that has now expired, the rule in the appendix to this order is numbered “-0061.”

The Joint Utilities argue that this provision should be deleted, noting that “it is unclear how a Complaint could be filed against an entity that is not a ‘going concern’ and how an entity that is not a ‘going concern’ could respond to a complaint.” The Joint Utilities also note that the Commission already has a pole attachment rule that allows a pole owner to request an order from the Commission authorizing removal of a pole Occupant’s attachments that they believe makes this provision unnecessary. That provision is in OAR 860-028-0180 and applies to pole occupants that are not government entities; it provides only for requests for authorization to remove pole attachments.

*b. Commission Decision*

We adopt OCTA’s proposed language changes, which are reasonable additions to ensure that good faith efforts are made to contact any responsible owner. We also adopt the clarifying language in AHD’s proposed rules, which changes the vaguer term “going concern” to more specific language that states that facilities are abandoned when “the pole or equipment owner is no longer financially solvent and is without a legally responsible successor.”

However, we do not adopt the Joint Utilities’ position that would make the removal of abandoned facilities permissive rather than mandatory. To do so could leave ignition risks connected to the electric system that no entity has an obligation to remediate. That is unacceptable and we stress that removal of ignition risks that would not be addressed by any other entity is part of providing safe and reliable electric service to customers. Nor do we think the provision in OAR 860-024-0060(6)<sup>3</sup> lacks clarity; it exists in case the Commission determines in a complaint proceeding that the respondent is not actually responsible for the facilities in question and that they are actually abandoned facilities.

We do, however, adopt the Joint Utilities’ proposed language, incorporated into AHD’s proposed rules, stating that an electric utility that removes abandoned facilities may seek recovery of prudently incurred costs in rates. We view that in the nature of a clarification rather than a substantive change in the proposed rules.

**B. New Complaint Process**

Proposed new OAR 860-024-0061<sup>4</sup> would establish a new complaint process by which operators of electric systems and owners of equipment co-located with those systems could address violations of the Commission’s rules and disputes over alleged violations of those rules. Electric utilities would be required to use this complaint process if the

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<sup>3</sup> This is now shown in the appendix to this order as OAR 860-024-0061.

<sup>4</sup> In the proposed rules attached to the Staff memo, this was numbered as “-0060” but because that numbering was once used for a temporary rule that has now expired, we have changed it to “-0061”.

owners of third-party facilities do not remediate an ignition hazard in an HFRZ in the time stated in the notice unless they choose to remediate that ignition hazard themselves. Third-party owners may also use the complaint process to contest a notice or bill received from an electric utility, including the surcharge authorized by the Commission.

AHD stated in a comment to its proposed rules that its intention would be to initiate a new proceeding after the close of this one that would adopt a simplified complaint form and procedures that would allow complaints to be brought in an expedited fashion and would not normally require the complainant to retain counsel.

The participants are generally supportive of the complaint process. However, in their final written comments they raise certain issues for our consideration.

***1. Demonstration of Heightened Wildfire Risk***

*b. Comments*

OCTA seeks to amend the proposed rules to require that a complaint brought under the new process must demonstrate that the “alleged violation(s) correlate(s) to a heightened wildfire risk in an HFRZ.”

The rule currently requires that the complaint provide the written notice sent to the respondent and that notice must include “an explanation of how the attachment violates the Commission safety rules.” CTIA suggests that this provision be revised to also state “including how the violation is related to increased wildfire risk in the HFRZ.” That, it states, will provide greater clarity for attachers “as to why their attachment was dealt with under the Division 24 HFRZ rules rather than via standard operating procedures under the Commission’s rules.”

*b. Commission Decision*

We adopt AHD’s proposal and include CTIA’s formulation in the rules. We will not include OCTA’s. Under CTIA’s proposal, owners will receive an explanation of the ignition risk with the initial notice; giving them that information upfront will help ensure that the correct repairs are made and, because the notice must be attached to any eventual complaint, will also ensure that the Commission is informed if a complaint becomes necessary. We do not adopt OCTA’s proposal because the complaint process is intended to be streamlined; to the extent the Commission ultimately needs additional information about whether the condition in question constituted an ignition risk, the complaint procedures allow it to obtain additional evidence beyond what was submitted with the complaint.

## 2. *Scope of Complaint Filed by Third-Party Equipment Owners*

The COUs do not object to the complaint process being accessible to third-party equipment owners but do note that “the scope of the complaint should be spelled out in the rule. For example, the complainant should not be permitted to dispute or bargain down imposition of the surcharge authorized by OAR 860-024-0018(10).”

We agree that this clarification is warranted and that complainants may contest the *applicability* of the surcharge but not the appropriate percentage. In general, we intend this complaint process to be a streamlined process addressing a finite number of issues. It should not be used to litigate against the general framework laid out by these rules.

## C. **Definitions for Safety Standards**

The proposed rules reference the concept of “Good Utility Practice,” which is defined in Section 0001 as:

a practice, method, policy, or action engaged in or accepted by a significant portion of the electric industry in a region, which a reasonable utility official would expect, in light of the facts reasonably discernable at the time, to accomplish the desired result reliably, safely and expeditiously.

This term is used in two places in the proposed rules, both concerning inspections of facilities for ignition risks. First, OAR 860-024-0011(2)(c) states that operators of electric utilities must “[p]erform routine safety patrols of overhead electric supply lines and other accessible facilities for hazards consistent with Good Utility Practice and of detection quality materially equivalent to onsite inspection.” Second, OAR 860-024-0018(3) states that operators of electric utilities must “conduct HFRZ Ignition Prevention Inspections that follow Good Utility Practice as required to mitigate fire risk.”

This definition of Good Utility Practice already appears in the Commission’s Division 39 Net Metering Rules at OAR 860-039-0005(3)(j).

### 1. *Comments*

Several participants commented stating that they would prefer that the term “Good Utility Practice” be substituted with a term from the National Electric Safety Code (NESC) – “Accepted Good Practice.” They would take a definition from the NESC for that term; as proposed by each of the participants who commented on this issue, it would read:

“Accepted Good Practice” means a practice based on given local conditions known at the time by those responsible for the construction or maintenance of the communication or supply line and equipment.

The COUs argue that the definition of Good Utility Practice “may not account for regional differences in approach by consumer-owned utilities (COUs) vs. investor-owned utilities (IOUs).” They also state that “[i]t makes sense to hold electric operators to a higher standard with respect to our own equipment versus equipment owned by telecommunications or cable attachers.” The Joint Utilities argue that the term Good Utility Practice “is problematic when applied to the methods and practices used in conducting inspections in” an HFRZ given that “a utility must have the ability to tailor such inspections based on local conditions known at the time by those responsible for constructing and maintaining the utility’s lines and equipment.” OJUA is concerned that the term “creates ambiguity” as to what constitutes a “significant portion of the electric industry in a region” and what a “reasonable utility official would expect.”

## **2. *Commission Decision***

We do not accept the alternative term “Accepted Good Practice” or the associated definition. We appreciate concerns that, for instance, small utilities will generally not have precisely the same programs or technology as larger utilities. However, we think it is clear that the definition of “Good Utility Practice” captures that concept, and the addition of the phrase “and given applicable local conditions” should make clear that we are not demanding a one-size-fits-all solution with no reference to on-the-ground conditions faced by operators.

The initial draft rules proposed by Staff used the phrase “consistent with industry best practices.” Participants raised concerns that, for instance, a small utility might be required to own the same expensive and state-of-the-art equipment as a larger utility. The term “Good Utility Practice” was adopted in order to make clear that we were not creating such a requirement. However, it is also not our intent to eliminate any standard against which utility practices can be compared.

The proposed definition of Accepted Good Practice does not include an operative standard for the Commission to apply and therefore does not provide either an assurance or clarity as to how it will be interpreted. Conversely, the proposed definition of Good Utility Practice, which is in large part already used in our rules, contains a “reasonableness” standard against which we can measure an operator’s actions and is thus a more useful definition.

Finally, we also note that regardless of the particular language used in our rules, utilities are required to do what is necessary to provide safe and reliable service. Particularly

when something as critical as wildfire ignition hazards is at stake, utilities should remain conscious of their duty of care.

## **D. Correction Timelines**

### **1. Comments**

The Joint Utilities and COUs seek to add language to OAR 860-024-0018(5)(b) that would allow them to impose a shorter correction timeframe in their notices to owners of co-located facilities where circumstances require it. More specifically, their new provision would read:

any violation which correlates to a higher risk of fire ignition shall be corrected no later than 180 days after discovery unless an occupant receives notification under OAR 860-028-120(6) that the violation must be corrected in less than 180 days to alleviate a significant safety risk to any operator's employees or a potential risk to the general public.

CUB offers more substantial revisions to these provisions, to which the Joint Utilities replied in opposition. In particular, CUB would require:

- That repairs be prioritized by zones of highest wildfire risk and that that plan be subject to the Commission's approval.
- That where repairs are deferred, the operator file a request for deferral explaining why the violation poses little or no foreseeable risk of danger and include plan detailing how it will remedy each such violation.

The Joint Utilities note in their opposition that repairs that *do* pose a foreseeable risk are subject to the heightened correction timelines elsewhere in the rules and thus that prioritizing them by zones of highest wildfire risk is unnecessary.

Next, CUB would change the timeline on which violations that correspond to a heightened risk of ignition shall be corrected from 180 days to no later than 60 days after discovery. The Joint Utilities oppose this as well, stating the proposed rules provide that violations will be corrected *no later than* 180 days and individual operators may establish quicker timeframes.

### **2. Commission Decision**

The Joint Utilities and COUs offer a reasonable clarification in cross-referencing an existing section of the rules and we adopt it. The reference here and in the original rule

both state that a shorter timeframe is allowed specifically to alleviate a significant safety risk to the operator's employees or a potential risk to the general public. That acts as a limitation on the utilities' abilities to shorten the correction timeframe and thus is not *carte blanche* to impose a shorter timeframe across the board.

We do not adopt CUB's proposal. We do understand and emphasize the urgency of remediating ignition risks—and, indeed, are imposing a requirement that imminent risks must be remediated immediately. However, we are also conscious that making unexpected repairs on an electric system can involve significant effort to move a particular repair to the top of the queue. More importantly, operators can and should operate their electric system to mitigate ignition risks that are still in place—for instance, if they know there is a lag on obtaining parts or permits or assigning labor to a repair, operators might have a lower threshold for declaring a PSPS on that circuit. Thus, we will leave the 180-day repair timeline in place, recognizing that these rules require utilities to have eyes on their system every year, giving them the information needed to operate their system based on the conditions that are in place at the time.

#### **E. Limitation of Liability Provision**

The proposed rules add at OAR 860-024-0018(10), relating to inspections of co-located facilities, a provision stating that “[n]othing in this section is intended to alter liability under existing law or under provisions contained in existing contractual arrangements between Owners, Occupants, and Operators.” While the participants generally agree that such a provision should exist, the COUs request that language be added stating “Nor is anything in this section intended to require additional electric operator training to conduct the HFRZ Ignition Prevention Inspections of equipment not owned by the electric operator.” Similarly, the COUs request that language be inserted into the rules noting that “a reasonable electric operator will not be held to the same standard as telecommunications or cable operators when it comes to the inspection of telecommunications or cable equipment in HFRZs.”

We do not adopt these suggestions. The framework in these rules does require electric utility operators to ensure that their inspectors have been briefed and trained (or that they have contracted with specialized instructors or inspectors) as necessary to ensure they can recognize potential ignition hazards caused by pole attachments or foreign-owned poles on their system. We have adopted this framework in lieu of the earlier-proposed joint inspection requirement in part due to representations by both communications and electric utility operator participants in this proceeding that joint inspections were impractical and that there are relatively few potential conditions that involve co-located equipment creating such hazards. Our understanding is that that an electric inspector can be trained how to spot such conditions in relatively short order and, accordingly, we expect necessary training to be limited.

To be clear, these rules do not require that electric inspectors do a full inspection of communications facilities in the manner that a telecommunications company would do so. These inspections are limited to ignition risks created by pole attachments and foreign poles in HFRZs.

#### **F. Issues Specific to COUs**

In the proposed rules, AHD posed the question of whether OAR 860-024-0018(2) should be retained in the Division 24 rules in any form as opposed to being moved to Division 300 in its entirety. To the extent that provision is retained in Division 024, it would apply to consumer-owned utilities whereas the Division 300 provision does not. The provision, as contained in the draft rules, states:

Operators of electric facilities will include details regarding their inspection programs and how they determine, and instruct their inspectors to determine, conditions that could pose an ignition risk in their annual wildfire mitigation plan.

The COU's argue that this should be struck from the Division 24 rules and retained only in the Division 300 rules; other commenters concur. In particular, the COUs note that while this provision specifies annual updates, SB 762 states that COUs must update their plans regularly "on a schedule [their] governing body deems consistent with prudent utility practices." Further, their plans are to be "approved by the utility governing body" and then submitted to the PUC for informational purposes rather than approved by the PUC.

We agree with the COUs and others that this provision is more appropriate in the Division 300 rules and that it is not generally applicable to COUs. Thus, we delete it from the Division 24 rules.

#### **G. Other Division 24 Issues**

##### ***1. "Adverse" vs. "Routine" Wind Conditions***

The proposed rules require that minimum line clearances be maintained "[u]nder reasonably anticipated operational conditions, as well as adverse weather and wind conditions." The Joint Utilities seek to insert the word "routine" before "wind conditions" in OAR 860-024-0016(4) and (6)(e). The Joint Utilities "request stakeholder discussion and clarity on how a utility should be expected to reasonably measure 'adverse weather and wind conditions'" and "[i]n the absence of a reasonable explanation for the omission of the word 'routine,'" propose to include it.

We reject the Joint Utilities' proposal. We expect utilities to plan for adverse conditions—both weather and wind—that can be reasonably foreseen on their systems. This means designing systems so that minimum line clearances can be maintained in HFRZs even when winds are higher than under “normal” or “routine” seasonal conditions.

However, we clarify that we do not expect minimum line clearances be maintained in *extreme* adverse weather and wind conditions. We recognize that extreme adverse conditions are happening more frequently and we also recognize that utilities cannot maintain minimum line clearances in all of them. We also recognize that vegetation outside the utility right of way may be an even more significant source of risk in extreme wind conditions.

## **2. *Inspection Requirements***

The Joint Utilities offer several comments on the proposed rules' inspection requirements. First, in OAR 860-024-0018(3)(b), which concerns HFRZ Ignition Prevention Inspections on transmission systems, the Joint Utilities seek to delete language that would specify that inspectors look for “violations of Commission Safety Rules and other circumstances that could lead to electrical ignition.” In their opinion, the reference to “violations of Commission Safety Rules” as a whole detracts from the rules' narrow focus on ignition risk. They would also delete language requiring that “[i]nspections [] include an in person component except and to the extent remote technology can conduct an equivalent enhanced inspection.”

Second, in OAR 860-024-0011(2)(c), the proposed rules require electric utility operators to “[p]erform routine safety patrols of overhead electric supply lines and other accessible facilities for hazards consistent with Good Utility Practice and of detection quality materially equivalent to onsite inspection.” The Joint Utilities request that in addition to changing Good Utility Practice to “Accepted Good Practice,” as discussed above, that the phrase “and of detection quality” be deleted.

The Joint Utilities also propose striking the clause regarding violations of Commission Safety Rules “to ensure that these rules remain focused on ignition prevention.” They propose striking the in-person inspection requirements in both clauses on the theory that the addition of the term “Good Utility Practice” or “Accepted Good Practice” will be sufficient “to ensure that utilities will perform high-quality inspections.”

We reject the suggested deletions. As to the clause regarding violations of Commission safety rules, utilities are to specifically look for violations of Commission safety rules that could lead to electrical ignition. We do not believe that language as it stands creates

an unduly broad inspection requirement, as it specifically refers to both violations and other circumstances “that could lead to electrical ignition.”

As to the in-person inspection requirement, we believe in this instance it is important to create additional clarity around what types of inspections are required. While we are not mandating in-person inspections, given the evolving technology enabling high quality remote inspections, remote inspection technology is not allowable in HFRZs where it is not *at least* equivalent to in-person inspections. At the same time, we recognize that remote technology may soon surpass the quality achievable today from in-person inspections in many instances, and we encourage these rules to be interpreted to encourage use of such technology.

### ***3. Minimum Vegetation Clearance Requirements***

The proposed rules, in OAR 860-024-0016(1)(b)(A), define “readily climbable” as vegetation that, among other things, has limbs within 8 feet from the ground. The Joint Utilities argue that this is arbitrary and unnecessary and that it has not been vetted by stakeholders.

We delete the 8-foot standard from the rules. That noted, we understand that this was proposed by Staff in accordance with current audit standards, and do not intend to direct our audit teams to change their current practices at this time. To the extent that our safety audit teams find that they need additional written standards, we will revisit this rule at a future time.

### ***4. Right-of-Way Access for First Responders***

The Joint Utilities express concerns about a provision addressing right-of-way access for first responders in OAR 860-024-0018(4). That section requires Operators of Electric Facilities to perform annual fire season “safety patrols” to assess potential risks including but not limited to “right of way access for first responders where feasible given the terrain.” The Joint Utilities are concerned that this could require utilities to create new first responder access where doing so would be unduly burdensome.

The intent of this provision is for fire safety patrols to identify whether *existing* right-of-way access for first responders is generally clear of hazards. For example, a safety patrol would note a large fallen tree is over a route that would have previously been accessible to a fire vehicle, and ensure that it is cleared to the extent a utility has the existing responsibility to do so. We will delete the clause “where feasible given the terrain” and alter the language to refer to the ‘status of existing right-of-way access for first responders’ to clarify the nature of the provision.

## 5. *Conductors Attached to Trees*

Section OAR 860-024-0018(2) prohibits utilities from attaching utility supply conductors to “live trees” in HFRZs. OJUA has two comments on this provision. First, it states that it is “unclear why ‘live trees’ are mentioned but not dead trees.” Second, it states that it is unclear why the provision refers to “utility owned poles” as other entities, such as telecommunications companies or local governments, could also own poles to which utility supply conductors are attached. It recommends changing the language to read “[t]he supporting of supply conductors on trees shall be avoided.”

We agree that both points OJUA raises create ambiguity and thus strike the words “live” and “utility owned” from the section so that conductors must be attached to poles, generally, rather than to trees. We do adopt OJUA’s language as that would eliminate any mandate or requirement coming out of the provision which it has not justified. Our understanding is that there are relatively few conductors attached to trees, particularly in HFRZs. This provision would require utilities to phase that practice out by the end of 2027, which should provide sufficient time to allow for negotiations with property owners who may object to the installation of poles on their property or to handle other obstacles to pole installation.

## 6. *Mapping*

CUB filed comments discussing ways in which utilities map HFRZs. While it does not propose specific changes to the rule language, CUB does raise questions about how best quantitative risk can be captured in the mapping done by utilities and whether the Commission’s rules have sufficient specificity to determine that process is followed. CUB also asked whether and to what extent the Oregon Wildfire Risk Explorer tool would be used in these plans. The Joint Utilities filed comments in reply stating that that statewide map is useful to understand but not comprehensive or fully reflective of wildfire risk due to the fact that it does not take into account individual utility systems.

While CUB has not asked for specific rule changes, we acknowledge these comments because we agree that the question of how utilities map fire risk on their systems is an important one going forward and one that should be refined from year-to-year in individual utility wildfire mitigation plans. We agree with the Joint Utilities that utilities need to consider multiple risk factors outside those on the statewide map, including their individual system configurations, as well as risk factors created by other local conditions that might not be transparent on the state map. We expect that as we see plans each year, we will consider the inputs that went into those plans, including how the HFRZs themselves were drawn.

## H. Remainder of Division 300 Rules

While the Division 300 rules involving PSPS were handled in an earlier stage of this proceeding, the Joint Utilities and CUB<sup>5</sup> made some additional comments on the remainder of the Division 300 rules. Those are addressed here.

### 1. *Ratepayer Impacts*

In its comments, CUB raised a number of concerns regarding the ratepayer impacts of wildfire mitigation investments and proposed several edits to the Division 300 rules that it believes will mitigate those impacts. In particular, it proposes that the Wildfire Mitigation Plans include analysis of:

how action protects public safety; considers low-income and vulnerable populations; and promotes energy system resilience, with special attention to areas with high likelihood of PSPS.

CUB would also have the Wildfire Mitigation Plans include a summary of the previous year's expected costs and actual costs to dates. And it would require the plans to include a "summary of safety violations and repair for the past two years."

The Joint Utilities suggest that AR 653 is a better place to address these impacts and that the language in the draft rules be left as is. The Joint Utilities also note that the safety summary CUB proposes appears to be for the entire state instead of HFRZs only and thus expands the scope of the plans.

We reject CUB's proposal. Ratepayer impacts, including equity, are important in the area of wildfire mitigation, as they are to other areas regulated by the Commission, and failing to include these proposed changes in these proposed rules should not be understood to minimize those concerns. Rather, we recognize that this process cannot incorporate all issues, and there are other Commission dockets where they are better addressed at this time. The utilities will file to recover the costs associated with wildfire mitigation, and stakeholders can and should raise ratepayer concerns at that time. These issues can also be raised in distribution system planning proceedings.

We note that we have established reporting requirements that will examine equity as related to wildfire mitigation; for instance, utilities will report on whether certain

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<sup>5</sup> CUB submitted a number of substantive comment at the close of the written comment period that had not been made earlier in the proceeding. We appreciate that CUB did submit these comments and consider them substantively here. However, the timing of those comments meant that they could not be discussed at either the Staff or AHD-led workshops and vetted throughout the proceeding. We have noted in several places that we may want to consider in future proceedings some of CUB's suggestions that we decline here.

populations are experiencing more impacts from PSPS or system outages and whether system hardening is being done in a way that advantages some populations and disadvantages others.

## **2. *Standards to be Applied***

Section 860-300-0020(3) of the proposed rules provides that Wildfire Mitigation Plans and Updates must be based on, among other things, “all applicable rules and standards adopted by the Commission.” The Joint Utilities would have the rules provide that only standards *adopted by rule* would be binding under this subsection.

We reject this proposal. The Wildfire Mitigation Plans and Updates should also incorporate other Commission guidance, as relevant. Most basically, regulated electric utilities must file their plans with the Commission for approval. The orders approving or rejecting those plans may well provide additional guidance and expectations that should be incorporated into revised and future plans.

## **3. *Risk Analysis Items***

CUB would require the Wildfire Mitigation Plans to include an analysis of “multiple wildfire risk models, a discussion of the wildfire risk model chosen, ignition data,” and, in addition to other already-specified items, a discussion of how the utility’s risk model makes decisions regarding wildfire ignitions. The Joint Utilities argue that they are already accomplishing these goals but that the draft language provides an appropriate amount of flexibility as to how that gets done.

We do not adopt CUB’s proposal at this time. The rules as they stand provide for a significant amount of analysis and we have the ability to request more when the utilities file their individual plans. If, as planning cycles proceed, we find that the proposed rules are not effective in soliciting sufficiently robust analyses we will reconsider the language.

Next, proposed OAR 860-300-0030 requires utilities to account for “baseline” risks which include “elements of risk that are expected to remain fixed for multiple years.” “Climate” is included in that list rather than in the list of items constituting “seasonal wildfire risk.” The Joint Utilities have objected to this on the ground that climate is generally considered dynamic.

We will adopt the two lists as they are spelled out in the proposed rules. While climate is certainly dynamic over time, it is broader than the particular climactic conditions that create wildfire risk in a particular season and which is captured in the “seasonal wildfire risk” category. To the extent necessary, we clarify in this order that utilities preparing

Wildfire Mitigation Plans should consider the dynamic aspects of climate as necessary in their seasonal wildfire risk assessments, and the rule as drafted is intended to capture that.

**4. *Wildfire Mitigation Plan Engagement Strategies***

In OAR 860-300-0040, subsection (2)(a) requires utilities to “include plans to disseminate informational materials and/or conduct trainings” that cover PSPS issues and emergency preparedness. The Joint Utilities seek to strike the clause “and/or conduct trainings” because they believe conducting trainings “falls outside the reasonable scope of the subsection’s intent.”

We reject this change. The subsection is intended to require utilities to have an effective plan to disseminate information to the public. As drafted, it gives reasonable discretion to the utilities to develop such a plan that may or may not include in-person or on-line trainings.

**5. *Cost Recovery***

Currently, OAR 860-300-0080, which neither Staff or AHD proposed to modify in this proceeding, states:

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

The Joint Utilities would add the following language, which tracks the language of SB 762, passed last year:

The commission shall establish an automatic adjustment clause, as defined in ORS 757.210, or another method to allow timely recovery of the costs.

We reject this addition. These rule are not intended to reiterate Oregon law or to prospectively rule on a rate relief mechanism. When utilities file for rate relief, we will determine how and to what extent their proposals are in accordance with law and consistent with our regulatory principles.

**III. ORDER**

IT IS ORDERED that:

1. The rule modifications are adopted as set forth in Appendix A to this order.

2. The rule modifications will be effective upon filing with the Secretary of State.

Made, entered, and effective Sep 08 2022.



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**Megan W. Decker**  
Chair



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**Letha Tawney**  
Commissioner



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**Mark R. Thompson**  
Commissioner

A person may petition the Public Utility Commission of Oregon for the amendment or repeal of a rule under ORS 183.390. A person may petition the Oregon Court of Appeals to determine the validity of a rule under ORS 183.400.

Division 300

AMEND: 860-300-0001

RULE TITLE: Scope and Applicability of Rules

RULE SUMMARY: Defines scope of Division 300 rules.

RULE TEXT:

(1) The rules in this division prescribe the filing requirements for risk-based Wildfire **Protection Mitigation** 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

AMEND: 860-300-0020

RULE TITLE: **Public Utility Wildfire Protection ~~Protection~~ Mitigation Plan Filing Requirements**

RULE SUMMARY: Outlines requirements of a plan.

RULE TEXT:

(1) Wildfire **Protection Mitigation** Plans and Updates must, at a minimum, contain the following requirements as set forth in Sections 3(2)(a)-(h), chapter 592 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, **including a PSPS communication strategy consistent with OAR 860-300-0040 through 860-300-0050,**

(f) Identification of the community outreach and public awareness efforts that the Public Utility will use before, during and after a wildfire season, **consistent with OAR 860-300-0040 and OAR 860-300-0050.**

(g) 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, **consistent with OAR 860-024-0018.**

(h) 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, **consistent with OAR 860-024-0016.**

(i) 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.

(j) Description of participation in national and international forums, including workshops identified in section 2, chapter 592, Oregon Laws 2021, 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.

**(k) Description of ignition inspection program, as described in Division 24 of these rules, including how the utility will determine, and instruct its inspectors to determine, conditions that that could pose an ignition risk on its own equipment and on pole attachments.**

**(2) A Public Utility's Initial Wildfire Protection Plan must be filed no later than December 31, 2021 per section 5 chapter 592, Oregon Laws 2021. Subsequent Wildfire Protection Plans must be updated annually and filed with the Commission no later than December 15<sup>th</sup>. Wildfire Mitigation Plans must be updated annually and filed with the Commission no later than December 31 of each year. Public Utilities are required to provide a plan supplement explaining any material deviations from the applicable Wildfire Mitigation Plan acknowledged by the Commission. A Public Utility's initial Wildfire Protection Plan must be filed no later than December 31, 2021, per section 5, chapter 592, Oregon Laws 2021.**

(3) Within 180 days of submission, Wildfire **ProtectionMitigation** 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 **ProtectionMitigation** 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 **ProtectionMitigation** Plan or Update does not establish a defense to any enforcement action for violation of a **C**ommission 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: 860-300-0030

RULE TITLE: Risk Analysis

RULE SUMMARY: Requirements for the review of risks associated with a plan.

RULE TEXT:

**(1) The Public Utility must include in its Wildfire Mitigation Plan risk analysis that describes wildfire risk within the Public Utility's service territory and outside the service territory of the Public Utility but within the Public Utility's right of way for generation and transmission assets. The risk analysis must include, at a minimum:**

**(a) Defined categories of overall wildfire risk and an adequate discussion of how the Public Utility categorizes wildfire risk. Categories of risk must include, at a minimum:**

**(A) Baseline wildfire risk, which include elements of wildfire risk that are expected to remain fixed for multiple years. Examples include topography, vegetation, utility equipment in place, and climate;**

**(B) Seasonal wildfire risk, which include elements of wildfire risk that are expected to remain fixed for multiple months but may be dynamic throughout the year or from year to year; Examples include cumulative precipitation, seasonal weather conditions, current drought status, and fuel moisture content;**

**(C) Risks to residential areas served by the Public Utility; and**

**(D) Risks to substation or powerline owned by the Public Utility.**

**(b) a narrative description of how the Public Utility determines areas of heightened risk of wildfire using the most updated data it has available from reputable sources.**

**(c) a narrative description of all data sources the Public Utility uses to model topographical and meteorological components of its wildfire risk as well as any wildfire risk related to the Public Utility's equipment.**

**(A) The Public Utility must make clear the frequency with which each source of data is updated; and**

**(B) The Public Utility must make clear how it plans to keep its data sources as up to date as is practicable.**

**(d) The Public Utility's risk analysis must include a narrative description of how the Public Utility's wildfire risk models are used to make decisions concerning the following items:**

**(A) Public Safety Power Shutoffs**

**(B) Vegetation Management;**

**(C) System Hardening;**

**(D) Investment decisions; and**

**(E) Operational decisions.**

**(e) For updated Wildfire Mitigation Plans, the Public Utility must include a narrative description of any changes to its baseline wildfire risk that were made relative to the previous plan submitted by the utility, including the Public Utility's response to changes in baseline wildfire risk, seasonal wildfire risk, and Near-term Wildfire Risk.**

**(2) To the extent practicable, the Public Utility must confer with other state agencies when evaluating the risk analysis included in the Public Utility's Wildfire Mitigation Plan.**

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

Statutes/Other Implemented: ORS 756.040, ORS 757.035

ADOPT: 860-300-0040

RULE TITLE: Wildfire Mitigation Plan Engagement Strategies

RULE SUMMARY: Requirements for collaboration with certain public partners.

RULE TEXT:

**(1) The Public Utility must include in its Wildfire Mitigation Plan a Wildfire Mitigation Plan Engagement Strategy. The Wildfire Mitigation Plan Engagement Strategy will describe the utility's efforts to engage and collaborate with Public Safety partners and Local Communities impacted by the Wildfire Mitigation Plan in the preparation of the Wildfire Mitigation Plan and identification of related investments and activities. The Engagement Strategy must include, at a minimum:**

**(a) Accessible forums for engagement and collaboration with Public Safety Partners, Local Communities, and customers in advance of filing the Wildfire Mitigation Plan. The Public Utility should provide, at minimum:**

**(A) One public information and input session hosted in each county or group of adjacent counties within reasonable geographic proximity and streamed virtually with access and functional needs considerations; and**

**(B) One opportunity for engagement strategy participants to submit follow-up comments to the public information and input session.**

**(b) A description of how the Public Utility designed the Wildfire Mitigation Plan Engagement Strategy to be inclusive and accessible, including consideration of multiple languages and outreach to access and functional needs populations as identified with local Public Safety Partners.**

**(2) The Public Utility must include a plan for conducting community outreach and public awareness efforts in its Wildfire Mitigation Plan. It must be developed in coordination with Public Safety Partners and informed by local needs and best practices to educate and inform communities inclusively about wildfire risk and preparation activities.**

**(a) The community outreach and public awareness efforts will include plans to disseminate informational materials and/or conduct trainings that cover:**

**(A) Description of PSPS including why one would need to be executed, considerations determining why one is required, and what to expect before, during, and after a PSPS.**

**(B) A description of the Public Utility's wildfire mitigation strategy.**

**(C) Information on emergency kits/plans/checklists.**

**(D) Public Utility contact and website information.**

**(b) In formulating community outreach and public awareness efforts, the Wildfire Mitigation Plan will also include descriptions of:**

**(A) Media platforms and other communication tools that will be used to disseminate information to the public.**

**(B) Frequency of outreach to inform the public.**

**(C) Equity considerations in publication and accessibility, including, but not limited to:**

**(i) Multiple languages prevalent to the area.**

**(ii) Multiple media platforms to ensure access to all members of a Local Community.**

**(3) The Public Utility must include in its Wildfire Mitigation Plan a description of metrics used to track and report on whether its community outreach and public awareness efforts are effectively and equitably reaching Local Communities across the Public Utility's service area.**

**(4) The Public Utility must include a Public Safety Partner Coordination Strategy in its Wildfire Mitigation Plan. The Coordination Strategy will describe how the Public Utility will coordinate with Public Safety Partners before, during, and after the fire season and should be additive to minimum requirements specified in relevant Public Safety Power Shut Off requirements described in OAR 860-300-0050. The Coordination Strategy should include, at a minimum:**

**(a) Meeting frequency and location determined in collaboration with Public Safety Partners.**

**(b) Tabletop Exercise plan that includes topics and opportunities to participate.**

**(c) After action reporting plan for lessons learned in alignment with Public Safety Partner after action reporting timeline and processes.**

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

Statutes/Other Implemented: ORS 756.040, ORS 757.035

Division 24

AMEND: 860-024-0000

RULE TITLE: Applicability of Division 24

RULE SUMMARY: Rules applicable to operators.

RULE TEXT:

(1) Unless otherwise noted, the rules in this division apply to every ~~o~~Operator, as defined in OAR 860-024-0001.

(2) Upon request or its own motion, the Commission may waive any of the division 24 rules 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 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

AMEND: 860-024-0001

RULE TITLE: Definitions for Safety Standards

RULE SUMMARY: Defines terms used in Division 24.

RULE TEXT:

For purposes of this Division, except when a different scope is explicitly stated:

(1) “Commission Safety Rules,” as used in this section, mean the National Electric Safety Code (NESC), as modified or supplemented by the rules in OAR chapter 860, division 024.

(2) “Facility” means any of the following lines or pipelines including associated plant, systems, supporting and containing structures, equipment, apparatus, or appurtenances:

(a) A gas pipeline subject to ORS 757.039;

(b) A power line or electric supply line subject to ORS 757.035; or

(c) A telegraph, telephone, signal, or communication line subject to ORS 757.035.

**(3) “Good Utility Practice” means a practice, method, policy, or action engaged in or accepted by a significant portion of the electric industry in a region, which a reasonable utility official would expect, in light of the facts reasonably discernable at the time and given applicable local conditions, to accomplish the desired result reliably, safely and expeditiously.**

(34) “Government Entity” means a city, a county, a municipality, the state, or other political subdivision within Oregon.

**(5) “High Fire Risk Zones” or “HFRZ” are geographic areas identified by Operators of electric facilities in their risk-based wildfire plans.**

**(6) “HFRZ Ignition Prevention Inspection” means an inspection that identifies potential sources of electrical ignition on any utility pole, structure, duct, or conduit owned by either the Owner or an Occupant in a High Fire Risk Zone. The inspection can be combined with other safety or detailed inspections as required by rule.**

(47) “Material violation” means a violation that:

(a) Is reasonably expected to endanger life or property; or

(b) Poses a significant safety risk to any ~~o~~Operator's employees or a potential risk to the general public.

**(8) "Occupant" means any licensee, Government Entity, or other entity that constructs, operates, or maintains attachments on poles, structures or within conduits.**

~~(59)~~ "Operator" means every person as defined in ORS 756.010, public utility as defined in ORS 757.005, electricity service supplier as defined in OAR 860-038-0005, telecommunications utility as defined in ORS 759.005, telecommunications carrier as defined in ORS 759.400, telecommunications provider as defined in OAR 860-032-0001, consumer-owned utility as defined in ORS 757.270, cable ~~O~~operator as defined in ORS 30.192, association, cooperative, or government entity and their agents, lessees, or acting trustees or receivers, appointed by court, engaged in the management, operation, ownership, or control of any facility within Oregon.

**(10) "Owner" means a public utility, telecommunications utility, or consumer-owned utility that owns or controls poles, structures, ducts, conduits, right of way, manholes, handholes or other similar facilities.**

~~(611)~~ "Pattern of non-compliance" means a course of behavior that results in frequent, material violations of the Commission Safety Rules.

~~(712)~~ "Reporting ~~O~~operator" means an ~~O~~operator that:

(a) Serves 20 customers or more within Oregon; or

(b) Is an electricity service supplier as defined in OAR 860-038-0005 and serves more than one retail electricity customer.

STATUTORY/OTHER AUTHORITY: ORS 183, ORS 756, ORS 757, ORS 759

STATUTES/OTHER IMPLEMENTED: ORS 756.040, ORS 757.035, ORS 757.039, ORS 757.649, ORS 758.215, ORS 759.005, ORS 759.045, Oregon Laws 2021, ch. 592, sect. 1-6b

AMEND: 860-024-0005

RULE TITLE: Maps and Records

RULE SUMMARY: Requirements for development and keeping of maps.

RULE TEXT:

(1) Each utility shall keep on file current maps and records of the entire plant showing size, location, character, and date of installation of major plant items.

(2) Upon request, each utility shall file with the Commission an adequate description or maps to define the territory served. **Maps must include all recently identified High Fire Risk Zones.** All maps and records which the Commission may require the utility to file shall be in a form satisfactory to the Commission **Staff**.

STATUTORY/OTHER AUTHORITY: ORS 183, ORS 756, ORS 757

STATUTES/OTHER IMPLEMENTED: ORS 756.040, ORS 757.020

AMEND: 860-024-0007

RULE TITLE: Location of Underground Facilities

RULE SUMMARY: Standard for management of underground facilities.

RULE TEXT:

An Operator and its customers shall comply with requirements of OAR chapter 952 regarding the prevention of damage to underground facilities.

STATUTORY/OTHER AUTHORITY: ORS 183, ORS 756, ORS 757, ORS 759

STATUTES/OTHER IMPLEMENTED: ORS 757.542 - 757.562, ORS 757.649, ORS 759.045

AMEND: 860-024-0010

RULE TITLE: Construction, Operation, and Maintenance of Electrical Supply and Communication Lines

RULE SUMMARY: Standards for electric and communication lines.

RULE TEXT:

Every Operator shall construct, operate, and maintain electrical supply and communication lines in compliance with the standards prescribed by the 2017 Edition of the National Electrical Safety Code approved April 26, 2016, by the American National Standards Institute.

[Publications: Publications referenced are available for review from the Commission.]

STATUTORY/OTHER AUTHORITY: ORS 183, ORS 756, ORS 757, ORS 759

STATUTES/OTHER IMPLEMENTED: ORS 757.035

AMEND: 860-024-0011

RULE TITLE: Inspections of Electric Supply and Communication Facilities

RULE SUMMARY: Requirements for inspections of electric and communication equipment.

RULE TEXT:

(1) An Operator of electric supply facilities or an Operator of communication facilities must:

(a) Construct, operate, and maintain its facilities in compliance with the Commission Safety Rules; and

(b) Conduct detailed inspections of its overhead facilities to identify violations of the Commission Safety Rules.

(A) The maximum interval between each detailed inspection cycle is ten years, with a recommended inspection rate of ten percent of overhead facilities per year. During the fifth year of each detailed inspection cycle, the Operator must:

(i) Report to the Commission that 50 percent or more of its total facilities have been inspected pursuant to this rule; or

(ii) Report to the Commission that less than 50 percent of its total facilities have been inspected pursuant to this rule and provide a plan for Commission approval to inspect the remaining percentage within the next five years. The Commission may modify the plan or impose conditions to ensure sufficient inspection for safety purposes.

(B) Detailed inspections include, but are not limited to, visual checks, **pole test and treat programs (only required for pole Owners)** or practical tests of all facilities, to the extent required to identify violations of Commission Safety Rules. Where facilities are exposed to extraordinary conditions (**including High Fire Risk Zones**) or when an Operator has demonstrated a pattern of non-compliance with Commission Safety Rules, the Commission may require a shorter interval between inspections.

(c) Conduct detailed facility inspections of its underground facilities on a ten-year maximum cycle, with a recommended inspection rate of 10 percent of underground facilities per year.

(d) Maintain adequate written records of policies, plans and schedules to show that inspections and corrections are being carried out in compliance with this rule and OAR 860-024-0012. Each Operator must make these records available to the Commission upon its request.

(2) Each Operator of electric supply facilities must:

(a) Designate an annual geographic area **(including High Fire Risk Zones if identified by Operators of electric supply facilities)** to be inspected pursuant to subsection (1)(b) of this rule within its service territory;

(b) Provide timely notice of the designation of the annual geographic area to all Owners and Occupants. The annual coverage areas for the entire program must be made available in advance and in sufficient detail to allow all Operators with facilities in that service territory to plan needed inspection and correction tasks. Unless the parties otherwise agree, Operators must be notified of any changes to the established annual geographic area designation no later than 12 months before the start of the next year's inspection. **For High Fire Risk Zones, Operators must be notified of any changes to the designation of a High Fire Risk Zone no later than 60 days before the start of the year's inspection;** and

(c) Perform routine safety patrols of overhead electric supply lines and other accessible facilities for hazards ~~to the public~~ **consistent with Good Utility Practice and of detection quality materially equivalent to onsite inspection.** The maximum interval between safety patrols is two years, with a recommended rate of 50 percent of lines and facilities per year.

(d) Inspect electric supply stations on a 45 day maximum schedule.

**~~(3) Effective Dates~~**

**~~(a) Subsection (2)(a) of this rule is effective January 1, 2007.~~**

**~~(b) Subsection (1)(b) of this rule is effective January 1, 2008.~~**

STATUTORY/OTHER AUTHORITY: ORS 183, ORS 756, ORS 757, ORS 759

STATUTES/OTHER IMPLEMENTED: ORS 757.035

AMEND: 860-024-0012

RULE TITLE: Prioritization of Repairs by Operators of Electric Supply Facilities and Operators of Communication Facilities

RULE SUMMARY: Guidance for how operators prioritize certain repairs.

RULE TEXT:

(1) A violation of the Commission Safety Rules that poses an imminent danger to life or property must be repaired, disconnected, or isolated by the Operator immediately after discovery.

(2) Except as otherwise provided by this rule, the Operator must correct violations of Commission Safety Rules no later than two years after discovery.

(3) An Operator may elect to defer correction of violations of the Commission Safety Rules that pose little or no foreseeable risk of danger to life or property to correction during the next major work activity.

(a) In no event shall a deferral under this section extend for more than ten years after discovery.

(b) The Operator must develop a plan detailing how it will remedy each such violation.

(c) If more than one Operator is affected by the deferral, all affected operators must agree to the plan. If any affected operators do not agree to the plan, the correction of violation(s) may not be deferred.

**(4) After December 31, 2027, the only allowable conditions for deferrals as set forth in section (3) are as follows: repairs that accommodate schedules for permitting issues, repairs impacted by planned public works projects, and/or repairs that cannot be performed within the two-year correction timeframe due to circumstances outside the Operator's reasonable control. Plans for correction for deferrals due to these conditions must be submitted to Commission Staff for review and tracking.**

STATUTORY/OTHER AUTHORITY: ORS 183, ORS 756, ORS 757, ORS 759

STATUTES/OTHER IMPLEMENTED: ORS 757.035

AMEND: 860-024-0015

RULE TITLE: Ground Return

RULE SUMMARY: Power line ground return guidance.

RULE TEXT:

Every Operator with either alternating or direct current power lines or equipment within Oregon may use a connection to ground only for protection purposes. A ground connection shall not be used for the purpose of providing a return conductor for power purposes.

STATUTORY/OTHER AUTHORITY: ORS 183, ORS 756, ORS 757, ORS 759

STATUTES/OTHER IMPLEMENTED: ORS 757.035, ORS 757.649, ORS 759.045

AMEND: 860-024-0016

RULE TITLE: Minimum Vegetation Clearance Requirements

RULE SUMMARY: Operator requirements for vegetation management.

RULE TEXT:

(1) For purposes of this rule:

**(a) "Cycle Buster" means vegetation that will not make it through the routine trim cycle without encroaching on the required minimum clearances and, therefore require pruning midterm before the routine cycle is completed.**

**(ab)** "Readily climbable" means vegetation having both of the following characteristics:

(A) Low limbs, accessible from the ground and sufficiently close together so that the vegetation can be climbed by a child or average person without using a ladder or other special equipment; and

(B) A main stem or major branch that would support a child or average person either within arms' reach of an uninsulated energized electric line or within such proximity to the electric line that the climber could be injured by direct or indirect contact with the line.

(c) "Vegetation" means trees, shrubs, and any other woody plants.

(d) "Volts" means nominal voltage levels, measured phase-to-phase.

(2) The requirements in this rule provide the minimum standards for conductor clearances from vegetation to provide safety for the public and utility workers, reasonable service continuity, and fire prevention. Each ~~O~~operator of electric supply facilities must have a vegetation management program and keep appropriate records to ensure that timely trimming is accomplished to keep the designated minimum clearances **in section (4) below**. These records must be made available to the Commission upon request. **If clearances are not being maintained, the Commission may require the Operator to implement an alternative vegetation management program and/or specific trim cycles.**

(3) Each ~~O~~operator of electric supply facilities must trim or remove **readily climbable** vegetation ~~to maintain clearances from electric supply conductors as specified in section (4) of this rule to minimize the likelihood of direct or indirect access to a high voltage conductor by a member of the public or any unauthorized person.~~

~~(4) Each operator of electric supply facilities must trim or remove readily climbable vegetation as specified in section (5) of this rule to minimize the likelihood of direct or indirect access to a high voltage conductor by a member of the public or any unauthorized person.~~  
(5) Under reasonably anticipated operational conditions, as well as adverse weather and wind conditions, an Operator of electric supply facilities must maintain the following minimum clearances of vegetation from conductors:

(a) Ten feet for conductors energized above 200,000 volts.

(b) Seven and one-half feet for conductors energized at 50,001 through 200,000 volts.

(c) Five feet for conductors energized at 600 through 50,000 volts.

(A) Clearances may be reduced to three feet if the vegetation is not readily climbable.

(B) Intrusion of limited small branches and new tree growth into this minimum clearance area is acceptable provided the vegetation does not come closer than six inches to the conductor.

~~(6)~~ For conductors energized below 600 volts, an Operator of electric supply facilities must trim vegetation to prevent it from causing strain or abrasion on electric conductors. Where trimming or removal of vegetation is not practical, the Operator of electric supply facilities must install suitable material or devices to avoid insulation damage by abrasion.

~~(7)~~ In determining the extent of trimming or vegetation removal required to maintain the clearances required in section ~~(4)~~ of this rule, the Operator of electric supply facilities must consider at minimum the following factors for each conductor:

(a) Voltage;

(b) Location;

(c) Configuration;

(d) Sag of conductors at elevated temperatures and under wind and ice loading;

(e) Growth habit, strength, and health of vegetation (including rates of tree mortality) growing adjacent to the conductor, with the combined displacement of the vegetation, supporting

structures, and conductors under adverse weather or wind conditions; **and**

**(f) The amount of trimming or vegetation removal required to minimize Cycle Buster vegetation interference of energized conductors.**

**(7) Each Operator of communications facilities must ensure vegetation around communications lines do not pose a foreseeable danger to the pole or electric supply Operator's facilities.**

STATUTORY/OTHER AUTHORITY: ORS 183, ORS 756, ORS 757, ORS 758

STATUTES/OTHER IMPLEMENTED: ORS 757.035, ORS 758.280 - 758.286

AMEND: 860-024-0017

RULE TITLE: Vegetation Pruning Standards

RULE SUMMARY: Standards for pruning.

RULE TEXT:

An Operator that is an electric utility as defined in ORS 758.505 must perform tree and vegetation work associated with line clearance in compliance with the American National Standard for Tree Care Operations, ANSI A300 (Part 1) Pruning, approved ~~May 1, 2008~~2017, by the American National Standards Institute.

[Publications: Publications referenced are available from the Agency.]

STATUTORY/OTHER AUTHORITY: ORS Ch. 756, ORS 757, ORS 758

STATUTES/OTHER IMPLEMENTED: ORS 757.035, ORS 758.280-758.286

ADOPT: 860-024-0018

RULE TITLE: High Fire Risk Zone Safety Standards

RULE SUMMARY: Operator requirements for high fire risk zones.

RULE TEXT:

**(1) Operators of electric facilities must, in High Fire Risk Zones, remove or de-energize permanently out of service or abandoned electrical equipment as determined by the Operator during fire season.**

**(2) Utility supply conductors shall not be attached to trees and should only be attached to poles and structures designed to meet the strength and loading requirements of the National Electrical Safety Code. This section does not apply to customer-supplied equipment at the point of delivery. Compliance with this section must be achieved prior to December 31, 2027.**

**(3) In addition to the requirements set forth in OAR 860-024-0011, Operators of electric facilities in High Fire Risk Zones must:**

**(a) Conduct HFRZ Ignition Prevention Inspections that follow Good Utility Practice as required to mitigate fire risk; and**

**(b) For transmission systems energized at or above 50,001 volts, perform and document HFRZ Ignition Prevention Inspections that may include, but are not limited to, onsite climbing, drone or high-powered spotting scope to identify structural and conductor defects, as well as violations of Commission Safety Rules and other circumstances that could lead to electrical ignition. Inspections must include an in-person component except and to the extent remote technology can conduct an equivalent or enhanced inspection.**

**(4) In addition to the requirements set forth in OAR 860-024-0011, Public Utility Operators of electric facilities must conduct annual fire season “safety patrols” in High Fire Risk Zones. Public Utility Operators of electric facilities shall perform and document fire safety patrols of overhead electric supply lines and accessible facilities for potential fire risks, including but not limited to, off right of way hazard trees, status of existing right-of-way access for first responders, seasonal vegetation damage, vegetation Cycle Buster clearance conditions as defined in OAR 860-024-0016(1)(a), potential equipment failures, and deteriorated supply or communication facilities.**

**(5) A violation of Commission Safety Rules which poses a risk of fire ignition identified by**

**an HFRZ Ignition Prevention Inspection or safety patrol in an HFRZ shall be subject to the following correction timeframes:**

**(a) Any violation that poses imminent danger to life or property must be repaired, disconnected, or isolated by the Operator immediately after discovery. If in doing so, the Operator disconnected or isolated equipment belonging to a third-party, the Operator will notify the equipment Owner as soon as practicable.**

**(b) Any violation which correlates to a heightened risk of fire ignition shall be corrected no later than 180 days after discovery unless an occupant receives notification under OAR 860-028-0120(6) that the violation must be corrected in less than 180 days to alleviate a significant safety risk to any operator's employees or a potential risk to the general public.**

**(c) All other violations requiring correction under section 2 of OAR 860-024-0012 shall be corrected consistent with OAR 860-024-0012.**

**(6) If an Operator of electric facilities discovers a violation identified in an HFRZ that correlates to a heightened wildfire risk, notice shall be provided to the pole owner or equipment owner within 15 days of discovering the violation. That notice shall state that the violation must be repaired within the time frame set out in these rules; that time frame will begin on the day the violation was discovered or 15 days before the notice was sent, whichever is later.**

**(7) If the pole owner or equipment owner does not replace the reject pole or repair the equipment within the timeframe set forth in the notice, then the Operator of electric facilities may repair the equipment or replace the pole and seek reimbursement of all work related to correction or replacement of the reject pole or equipment including, but not limited to, administrative and labor costs related to the inspection, permitting, and replacement of the reject pole. The Operator of electric facilities is also authorized to charge the pole owner or equipment owner a replacement fee of 25 percent of the total amount of work.**

**(8) If the Operator of electric facilities does not repair equipment as permitted under section 7 of this rule, the operator must pursue a remedy under Oregon law, contract, or through a Complaint before the Commission as specified in OAR 860-024-0061. Nothing in this provision precludes the Operator of electric facilities from pursuing remedies through multiple forums. This section does not preclude an Operator, Owner or Occupant from**

**exercising any other rights or remedies afforded by Oregon Law or contract.**

**(9) If an Operator of electric facilities discovers a violation in a HFRZ that correlates to a heightened wildfire risk and is unable after good faith efforts to ascertain pole or equipment ownership or to contact that owner; or if that pole or equipment owner is no longer financially solvent and is without a legally responsible successor, then it is the obligation of the Operator to remove that equipment or otherwise remedy the condition correlating to a heightened risk of ignition. An electric utility or telecommunications utility Operator may recover the prudently incurred costs of any actions performed pursuant to this section in its rates.**

**(10) Nothing in this rule is intended to alter liability under existing law or under provisions contained in existing contractual arrangements between Owners, Occupants, and Operators.**

STATUTORY/OTHER AUTHORITY: ORS 183, ORS 756, ORS 757, ORS 758

STATUTES/OTHER IMPLEMENTED: ORS 757.035, ORS 758.280-758.286

AMEND: 860-024-0020

RULE TITLE: Gas Pipeline Safety

RULE SUMMARY: Safety standards applicable to gas pipelines.

RULE TEXT:

Every gas Operator must construct, operate, and maintain natural gas and other gas facilities in compliance with the standards prescribed by:

(1) 49 CFR, Part 191, and amendments through No. 27 — Transportation of Natural and Other Gas by Pipeline; Annual Reports and Incident Reports in effect on July 1, 2020.

(2) 49 CFR, Part 192, and amendments through No. 126 — Transportation of Natural and Other Gas by Pipeline; Minimum Safety Standards in effect on July 1, 2020.

(3) 49 CFR, Part 199, and amendments — Control of Drug and Alcohol Use in Natural Gas, Liquefied Natural Gas, and Hazardous Liquid Pipeline Operations in effect on April 23, 2019.

(4) 49 CFR, Part 40, and amendments — Procedure for Transportation Workplace Drug and Alcohol Testing Programs in effect on April 23, 2019.

[Publications: Publications referenced are available from the agency.]

STATUTORY/OTHER AUTHORITY: ORS 183, ORS 756, ORS 757

STATUTES/OTHER IMPLEMENTED: ORS 757.039

AMEND: 860-024-0021

RULE TITLE: Liquefied Natural Gas Safety

RULE SUMMARY: Safety standards applicable to liquefied gas pipelines.

RULE TEXT:

Every gas **Operator** must construct, operate, and maintain liquefied natural gas facilities in compliance with the standards prescribed by:

(1) 49 CFR, Part 191, and amendments through No. 27 — Transportation of Natural and Other Gas by Pipeline; Annual Reports and Incident Reports in effect on July 1, 2020.

(2) 49 CFR, Part 193, and amendments through No. 25 — Liquefied Natural Gas Facilities; Minimum Safety Standards in effect on March 6, 2015.

(3) 49 CFR, Part 199, and amendments — Control of Drug and Alcohol Use in Natural Gas, Liquefied Natural Gas, and Hazardous Liquid Pipeline Operations in effect on April 23, 2019.

(4) 49 CFR, Part 40, and amendments – Procedure for Transportation Workplace Drug and Alcohol Testing Programs in effect on April 23, 2019.

[Publications: Publications referenced are available from the agency.]

STATUTORY/OTHER AUTHORITY: ORS 183, ORS 756, ORS 757

STATUTES/OTHER IMPLEMENTED: ORS 757.039

AMEND: 860-024-0050

RULE TITLE: Incident Reports

RULE SUMMARY: Requirements for reporting of serious injuries and losses.

RULE TEXT:

(1) As used in this rule:

**(a) "Self-propagating fire" means a fire that is self-fueling and will not extinguish without intervention.**

**(ab)** "Serious injury to person" means, in the case of an employee, an injury which results in hospitalization. In the case of a non-employee, "serious injury" means any contact with an energized high-voltage line, or any incident which results in hospitalization. Treatment in an emergency room is not hospitalization.

**(bc)** "Serious injury to property" means:

(A) Damage to operator and non-operator property exceeding \$100,000; or

(B) In the case of a gas operator, damage to property exceeding \$5,000; or

(C) In the case of an electricity service supplier (ESS) as defined in OAR 860-038-0005, damage to ESS and non-ESS property exceeding \$100,000 or failure of ESS facilities that causes or contributes to a loss of energy to consumers; or

(D) Damage to property which causes a loss of service to over 500 customers (50 customers in the case of a gas operator) for over two hours (five hours for an electric operator serving less than 15,000 customers) except for electric service loss that is restricted to a single feeder line and results in an outage of less than four hours.

(2) Except as provided in section **(56)** of this rule, every reporting operator must give immediate notice by telephone, by facsimile, by electronic mail, or personally to the Commission, of incidents attended by loss of life or limb, or serious injury to person or property, occurring in Oregon upon the premises of or directly or indirectly arising from or connected with the maintenance or operation of a facility.

**(3) As soon as practicable following knowledge of the occurrence, all investor-owned electric utilities must report by telephone, by facsimile, by electronic mail, or personally to**

**the Commission fire-related incidents:**

**(a) that are the subject of significant public attention or media coverage involving the utility's facilities or is in the utility's right-of-way; or**

**(b) where the utility's facilities are associated with the following conditions:**

**(A) a self-propagating fire of material other than electrical and/or communication facilities; and**

**(B) the resulting fire traveled greater than one linear meter from the ignition point.**

(34) Except as provided in section (56) of this rule, every reporting operator must, in addition to the notice given in sections (2) and (3) of this rule for an incident described in sections (2) and (3), report in writing to the Commission within 20 days of **knowledge of** the occurrence **using Form 221 (FM 221) available on the Commission's website**. In the case of injuries to employees, a copy of the incident report form that is submitted to Oregon OSHA, Department of Consumer and Business Services, for reporting incident injuries, will normally suffice for a written report. In the case of a gas operator, copies of incident or leak reports submitted under 49 CFR Part 191 will normally suffice.

(45) An incident report filed by a public or telecommunications utility in accordance with ORS 654.715 cannot be used as evidence in any action for damages in any suit or action arising out of any matter mentioned in the report.

(56) A Peoples Utility District (PUD) is exempt from this rule if the PUD agrees, by signing an agreement, to comply voluntarily with the filing requirements set forth in sections (2) and (3).

(67) Gas operators have additional incident and condition reporting requirements set forth in OARs 860-024-0020 and 860-024-0021.

STATUTORY/OTHER AUTHORITY: ORS 183, ORS 654, ORS 756, ORS 757, ORS 759  
STATUTES/OTHER IMPLEMENTED: ORS 654.715, ORS 756.040, ORS 756.105, ORS 757.035, ORS 757.039, ORS 757.649, ORS 759.030, ORS 759.040, ORS 759.045

ADOPT: 860-024-0061

RULE TITLE: **Resolution of Violations of Commission Safety Rules in High Fire Risk Zones**

RULE SUMMARY: **Procedures for addressing safety violations in high fire risk zones amongst utilities.**

RULE TEXT:

**(1) This rule establishes a process to initiate a complaint alleging failure to address a violation consistent with the requirements in OAR 860-024-0018(8).**

**(2) The complaint may be filed by an Owner, Occupant, or Operator. The party filing the complaint under this rule is the "Complainant." The other party, against whom the complaint is filed, is the "Respondent." An Operator may file a complaint regarding the failure of an Owner or Occupant to remedy a noticed violation of the Commission's rules. If the Complainant has made the correction itself or the alleged violation remains uncorrected by the Respondent for an additional seven calendar days following the correction timeframe set forth in the notice, the Complainant may then file a complaint with the Commission. Owners, Occupants, and Operators may initiate complaints regarding disputes over payment for remedying violations of the Commission's rules, including if an Occupant or Operator wishes to contest a bill sent by an Operator for remediation of a violation.**

**(3) If the Complaint is filed due to the failure of an Owner or Occupant to remedy a violation of the Commission's rules, the following will apply:**

**(a) The Complainant must be able to demonstrate that it issued a written notice of the violation(s) to the Respondent. The notice must contain, at a minimum: notice of each attachment allegedly in violation; an explanation of how the attachment violates Commission Safety Rules including how the violation creates an ignition risk in an HFRZ; the pole number and location; an explanation of where the alleged violation(s) are located within the HFRZ; and the timeframe(s) within which the Respondent was expected to address each attachment allegedly in violation.**

**(b) The Complaint must contain each of the following:**

**(A) A copy of the Complainant's notice of violation, that is in conformance with criteria described in section (3)(a) of this rule;**

**(B) If applicable, a description of any actions taken by the Complainant to address the violation(s), including actions permitted by Chapter 860, Division 028 rules and Chapter 860, Division 024 rules;**

**(C) A description of the relief sought by the Complainant from the Commission; and**

**(D) Any other information the Complainant deems relevant to the complaint.**

**(4) The Commission will serve a copy of the complaint upon the Respondent. Service may be made by electronic mail if the Commission verifies the Respondent's electronic mail address prior to service of the complaint and a delivery receipt is maintained in the official file. Within seven calendar days of service of the complaint, the Respondent must file its response with the Commission, addressing in detail each claim raised in the complaint and a description of the Respondent's position on the alleged violation(s).**

**(5) If the Commission determines after a hearing that the Respondent failed to address a violation of Commission Safety Rules pursuant to OAR 860-024-0018(8), the Commission may order any relief it deems just and reasonable including**

**(a) Ordering interim relief where appropriate pending a final resolution;**

**(b) Ordering Respondent to repair the violation or remove the attachment from the pole within a prescribed timeframe;**

**(c) Ordering Respondent to take any necessary actions to avoid future non-compliance;**

**(d) Imposing a penalty upon the Respondent pursuant to ORS 757.990(1); and/or**

**(e) Ordering reimbursement to Complainant for work it has done to remedy the violation as specified in OAR 860-024-0018(9). If the Commission deems that a party was wrongfully assessed for repairs, it may order such monetary relief as it deems necessary to make that party whole.**

**(6) If at the conclusion of the Complaint process, the Commission determines that the facilities are not the responsibility of the Respondent and/or that the Respondent is no longer a fiscally solvent entity such that it is capable of remedying the violation, then the Commission may deem the facilities "abandoned" and require the electric Operator of the facilities to remedy the electric ignition hazard in accordance with OAR 860-024-0018(9).**