

SELECTED OREGON STATUTES & ADMINISTRATIVE RULES
WHICH RELATE TO
FORESTLAND CLASSIFICATION AND ASSESSMENT
January 2, 2013

Chapter 477

477.001 Definitions. As used in this chapter, unless the context otherwise requires:

(1) "Additional fire hazard" means a hazard that has been determined to exist by the forester pursuant to ORS 477.580.

(2) "Board" means the State Board of Forestry.

(3) "Campfire" means any open fire used for cooking, personal warmth, lighting, ceremonial or aesthetic purposes that is hand built and that is not associated with any debris disposal activities.

(4) "Department" means the State Forestry Department.

(5) "District" means a forest protection district organized under ORS 477.225.

(6) "Every reasonable effort" means the use of the reasonably available personnel and equipment under the supervision and control of an owner or operator, which are needed and effective to fight the fire in the judgment of the forester and which can be brought to bear on the fire in a timely fashion.

(7) "Fire season" means a period designated pursuant to ORS 477.505.

(8) "Fiscal year" means the period beginning on July 1 of any year and ending on June 30 of the next year.

(9) "Forestland" means any woodland, brushland, timberland, grazing land or clearing that, during any time of the year, contains enough forest growth, slashing or vegetation to constitute, in the judgment of the forester, a fire hazard, regardless of how the land is zoned or taxed. As used in this subsection, "clearing" means any grassland, improved area, lake, meadow, mechanically or manually cleared area, road, rocky area, stream or other similar forestland opening that is surrounded by or contiguous to forestland and that has been included in areas classified as forestland under ORS 526.305 to 526.370.

(10) "Forest patrol assessment" means the costs levied and assessed under ORS 477.270.

(11) "Forest protective association" or "association" means an association, group or agency composed of owners of forestlands, organized for the purpose of protecting such forestlands from fire.

(12) "Forest resource" means the various types of vegetation normally growing on Oregon's forestland, the associated harvested products and the associated residue, including but not limited to brush, grass, logs, saplings, seedlings, trees and slashing.

(13) "Forester" means the State Forester or authorized representative.

(14) "Governing body" of a county means the county court or board of county commissioners.

(15) "Grazing land" is defined by ORS 477.205.

(16) "Open fire" means any outdoor fire that occurs in such a manner that combustion air is not effectively controlled and combustion products are not effectively vented through a stack or chimney.

(17) "Operation" means any industrial activity, any development or any improvement on forestland inside or within one-eighth of one mile of a forest protection district, including but not limited to the harvesting of forest tree species, the clearing of land, the use of power-driven machinery and the use of fire, excluding, however, the culture and harvesting of agricultural crops.

(18) "Operation area" means the area on which an operation is being conducted and the area on which operation activity may have resulted in the ignition of a fire.

(19) "Operation in progress" means that time when workers are on an operation area for the purpose of an operation, including the period of time when fire watches are required to be on the operation area pursuant to ORS 477.665.

(20) "Operator" means any person who, either personally or through employees, agents, representatives or contractors, is carrying on or has carried on any operation.

(21) "Owner" means an individual, a combination of individuals, a partnership, a corporation, the State of Oregon or a political subdivision thereof, or an association of any nature that holds an ownership interest in land.

(22) "Political subdivision" includes, but is not limited to, counties, cities and special districts.

(23) "Rangeland" is defined by ORS 477.315.

(24) "Routine road maintenance" is defined by ORS 477.625.

(25) "Side" means any single unit of a logging operation employing power-driven machinery.

(26) "Slashing" means the forest debris or refuse on any forestland resulting from the cutting, killing, pruning, severing or removal of brush, trees or other forest growth.

(27) "State Forester" means the person appointed State Forester pursuant to ORS 526.031 or the person serving in the position on an interim or delegated basis.

(28) "Summit of the Cascade Mountains" is considered to be a line beginning at the intersection of the northern boundary of the State of Oregon and the western boundary of Wasco County; thence southerly along the western boundaries of Wasco, Jefferson, Deschutes and Klamath Counties to the southern boundary of the State of Oregon.

(29) "Timberland" is defined by ORS 477.205.

(30) "Warden" means a fire warden appointed under ORS 477.355. [1959 c.363 §2 (enacted in lieu of 477.002); 1961 c.603 §1; 1965 c.253 §44; 1967 c.429 §34; 1973 c.46 §1; 1983 c.22 §1; 1985 c.759 §32; 1997 c.274 §1; 1999 c.59 §156; 1999 c.355 §2; 2003 c.54 §3]

477.015 Definitions. (1) As used in ORS 477.015 to 477.061, unless the context otherwise requires, "forestland-urban interface" means a geographic area of forestland inside a forest protection district where there exists a concentration of structures in an urban or suburban setting.

(2) As used in ORS 477.015 to 477.057, unless the context requires otherwise:

(a) "Committee" means a county forestland-urban interface classification committee.

(b) "Governing body" means the board of county commissioners or county court of a county, as the case may be. [1997 c.429 §§3,8]

477.017 Legislative findings, policy and purpose. (1) The Legislative Assembly finds that:

(a) The forestland-urban interface situation in Oregon is a result of both past and present conditions and that, given projected trends, the forestland-urban interface situation will continue to grow.

(b) Urban and suburban structures, real property and natural resources are subject to increased risks of catastrophic damage by forestland-urban interface fire events.

(c) There is greater complexity in forestland-urban interface fire protection than in either resource land fire protection or urban structural fire protection.

(d) In dealing with the forestland-urban interface situation, major and long term solutions will involve local actions and efforts by property owners.

(e) One solution or set of solutions will not fit all situations or areas of the state.

(2) The Legislative Assembly declares that:

(a) In order to ensure the protection of human life, the safety of citizens and fire service personnel and the highest possible level of livability in Oregon, it is necessary to provide a complete and coordinated fire protection system within the forestland-urban interface in Oregon.

(b) All forestland-urban interface property owners have a basic responsibility to share in this complete and coordinated protection system by providing efforts against fire.

(c) Public and property owner education and awareness is critical to forestland-urban interface solutions and must occur at multiple levels.

(d) In administration of ORS 477.015 to 477.061, it is the intent of the Legislative Assembly that property owners who will be affected by ORS 477.015 to 477.061 will be:

(A) Involved in the processes of development of administrative rules pursuant to ORS 477.015 to 477.061; and

(B) Notified of the outcomes of classification pursuant to ORS 477.015 to 477.057.

(3) The purpose of ORS 477.015 to 477.061 is to:

(a) Provide a forestland-urban interface fire protection system in Oregon that minimizes cost and risk while maximizing effectiveness and efficiency for protection of the values at risk from fire.

(b) Promote and encourage property owner efforts to minimize and mitigate fire hazards and risks within the forestland-urban interface.

(c) Promote and encourage the involvement and interaction of all levels of government and the private sector that have a direct or indirect interest and role in the forestland-urban interface situation over the long term. [1997 c.429 §§4,5,7; 2007 c.30 §1]

477.023 Fire protection system; integration with existing laws; cooperative agreements.

(1) The forestland-urban interface in Oregon represents a unique fire protection situation that requires that unique and special measures be taken to ensure adequate public safety and protection of property, development and natural resources. Therefore, it is declared to be the public policy of the State of Oregon to encourage and provide a complete and coordinated forestland-urban interface fire protection system.

(2)(a) It is recognized that forestland-urban interface areas are already subject to other laws and to regulations of other agencies. It is the intent of ORS 477.015 to 477.061 to integrate with and not replace those other laws and regulations.

(b) In the event of an apparent conflict between the obligations imposed by ORS 477.015 to 477.061 and by other laws or regulations for which the forester is responsible and has jurisdiction, the forester shall resolve the conflict within the scope of the forester's authority.

(c) Except as provided in paragraph (d) of this subsection, the obligations imposed by ORS 477.015 to 477.061 do not supersede or replace federal law or regulation, other state law or rules, or more restrictive local government ordinance or code.

(d) In the event of an apparent conflict between the obligations imposed by ORS 477.015 to 477.061 and a more restrictive local government ordinance or code, the State Forester may enter into a cooperative agreement with the governing body of a local government, the terms of which provide that ORS 477.015 to 477.061 supersede the local government ordinance or code in specified cases.

(e) In the event of an apparent conflict between the obligations imposed by ORS 477.015 to 477.061 and the declaration, bylaws, rules or regulations of a homeowners association, the State Forester may enter into a cooperative agreement with the homeowners association that allows the declaration, bylaws, rules or regulations of the homeowners association to supersede ORS 477.015 to 477.061 in specified cases. The term of a cooperative agreement entered into under this paragraph may not exceed five years.

(f) When a real property lot includes one or more structures that have multiple owners, the State Forester may enter into a cooperative agreement with one or more of the owners, or a person designated as the representative of the owners, for the purposes of matters related to ORS 477.015 to 477.061. The term of a cooperative agreement entered into under this paragraph may not exceed five years.

(g) Compliance with the obligations imposed by ORS 477.015 to 477.061 does not relieve the owner of land of the requirements of other laws or regulations that might apply to the land in question.

(3) To encourage development of a complete and coordinated forestland-urban interface fire protection system, it is declared to be in the public interest that the State Board of Forestry and the State Forester take a lead role in statewide coordination of the forestland-urban interface situation with other state and federal agencies, local governments and private sector interests that are concerned with fire protection in the forestland-urban interface. [1997 c.429 §6; 2007 c.30 §2]

477.025 Classification of lands to reflect different protection problems. The Legislative Assembly recognizes that the forestland-urban interface in Oregon varies by condition, situation, fire hazard and risk, that different forestland-urban interface fire protection problems exist across the state because of this variability, that these different problems necessitate varied fire prevention and protection practices and that, in order to give recognition to such differences and their effect on the accomplishment of the public policy stated in ORS 477.023, certain classifications of the forestland-urban interface within the State of Oregon are established by ORS 477.027 to 477.057. [1997 c.429 §9]

477.027 Rules for classification of lands. By administrative rule, the State Board of Forestry shall establish criteria by which the forestland-urban interface shall be identified and classified. The criteria shall recognize differences across the state in fire hazard, fire risk and structural characteristics within the forestland-urban interface. The criteria shall include not less than three nor more than five classes of forestland-urban interface. [1997 c.429 §10; 2007 c.30 §3]

477.029 Local land classification committee; members; officers; terms; rules. (1) Pursuant to a request by the State Forester, the governing body of a county containing forestland-urban interface may establish a county forestland-urban interface classification committee of five persons, of whom one shall be appointed by the State Forester, one by the State Fire Marshal and three by the governing body. Of the members appointed by the governing body, one must be an owner of land within the forestland-urban interface who permanently resides on the land. Each appointing authority shall file with the State Forester the name of its appointee or appointees, and the persons so named shall constitute the committee for the county. Unless otherwise provided for by the appointing authority, members of the committee shall serve a term of four years and may be reappointed to any number of terms. Each member of the committee at all times is subject to replacement by the appointing authority, effective upon the filing with the State Forester by that authority of written notice of the name of the new appointee.

(2) The committee shall elect from among its members a chair and a secretary and may elect other officers as it finds advisable. The committee shall adopt rules governing its organization and proceedings and the performance of its duties, and shall keep written minutes of all its meetings. A quorum of the county forestland-urban interface classification committee for official actions is three members, and a quorum of a committee established pursuant to subsection (4)(a) of this section is four members.

(3) The governing body of the county may provide for the committee and its employees such accommodations and supplies and such county funds not otherwise appropriated as the governing body finds necessary for the proper performance of the committee's functions. The members of the committee shall receive no compensation for their services, but the governing body may reimburse them for their actual and necessary travel and other expenses incurred in the performance of their duties. By written agreement between the State Forester and the governing body, the State Forestry

Department may provide the functions or be responsible for part or all of the expenses referred to in this subsection.

(4) In the interest of efficiency, by written agreement between the State Forester and the governing body, if a forestland classification committee is established and active within a county pursuant to ORS 526.305 to 526.340, the members of that committee may also serve on the county forestland-urban interface classification committee established by subsection (1) of this section. In the event that this agreement is made, the State Forester and the governing body shall ensure that either:

(a) A State Fire Marshal appointee and an owner of land within the forestland-urban interface who permanently resides on the land are added to the county forestland classification committee to bring the total number of committee members to seven; or

(b) The State Fire Marshal approves of the current membership of the county forestland classification committee and the committee includes an owner of land within the forestland-urban interface who permanently resides on the land. [1997 c.429 §11; 2007 c.30 §4]

477.052 Hearings on proposed classifications. (1) The county forestland-urban interface classification committee shall hold a public hearing at the time and place stated in the notice published under ORS 477.031 (3), or at such other time and place to which the hearing may be adjourned, to receive from any interested persons objections, remonstrances or suggestions relating to the proposed designations and classifications. Following the hearing the committee may make such changes in the proposed designations and classifications as it finds to be proper, hold additional hearings as it finds necessary, and thereafter shall make final designations and classifications.

(2) All final action by the committee in designating and classifying forestland-urban interface shall be by formal written order, which must include a statement of findings of fact on the basis of which the order is made, and must include a list of all land designated and classified. The committee shall prepare one or more maps showing the final designations and classifications made. The original of the order shall be filed with the county clerk of the county. The order need not meet the requirements of ORS 205.232 to be filed and recorded. A copy of the order certified by the secretary of the committee shall be sent to the State Forester.

(3) Copies of the order, lists of land and maps required by this section shall be maintained in designated offices of the forester where they shall be made available for public inspection. [1997 c.429 §14; 2007 c.30 §6]

477.054 Appeal of classification decisions; procedure. (1) Any owner of land designated and classified under ORS 477.027 to 477.057 who is aggrieved by the designation or classification may, within 30 days after the date of the order making the designation and classification, appeal to the circuit court for the county. Notice of an appeal shall be promptly served on the secretary of the committee or, if the designation and classification was made under ORS 477.057, on the State Forester.

(2) The appeal shall be tried by the circuit court as an action not triable by right to a jury. [1997 c.429 §15; 2007 c.30 §7]

477.057 State Forester to classify land if county fails to act. (1) The State Forester may designate and classify forestland-urban interface, consistent with and as described in ORS 477.031 to 477.054, if a designation and classification of forestland-urban interface is not made by the county forestland-urban interface classification committee within a county in which such land is situated because:

(a) The governing body of the county fails to establish a county forestland-urban interface committee within two years after the State Forester makes a request under ORS 477.029 (1);

(b) The committee fails to make a designation and classification within five years after being appointed, or the committee fails to make a designation and classification within five years of the last designation and classification made by the committee; or

(c) The committee fails to make a designation and classification in a manner consistent with ORS 477.031 to 477.054.

(2) Designation and classification by the State Forester has the same force and effect as though made by a committee for that county. However, designations and classifications made by the State Forester cease to be effective if replaced by designations and classifications made pursuant to ORS 477.052 by the appropriate committee. [1997 c.429 §16; 2007 c.30 §8]

477.060 Considerations in determining cost of protection; special or additional costs. (1)

In determining the annual cost of protection pursuant to ORS 477.230, the forester may consider and include the special or additional cost of fire protection for property owners within a forestland-urban interface classification, including the special or unique costs of assessment processing and administration.

(2) The forester shall identify special or additional costs identified by subsection (1) of this section in the budget required by ORS 477.230 to 477.300. These special or additional costs are in addition to the annual cost of ORS 477.230 (1) and may not exceed \$25 annually for each real property lot. Only those owners of land within a forestland-urban interface classification in a forest protection district shall bear the special or additional cost of fire protection within the forestland-urban interface in a manner consistent with rules promulgated by the State Board of Forestry. [1997 c.429 §18; 2001 c.361 §1; 2007 c.30 §10]

477.205 Definitions for ORS 477.205 to 477.281. As used in ORS 477.205 to 477.281, unless the context requires otherwise:

(1) "Grazing land" means forestland, within a forest protection district, that has been classified as Class 3, agricultural class, as provided by ORS 526.305 to 526.370.

(2) "Timberland" means forestland, within a forest protection district, that has not been classified as Class 3, agricultural class, under ORS 526.305 to 526.370. [1965 c.253 §56]

477.210 Duty of owner to protect forestland; forester's duty to provide protection upon noncompliance. (1)

During the season of the year when there is danger of fire, every owner of forestland shall provide adequate protection against the starting or spread of fire thereon or therefrom, which protection shall meet with the approval of the State Board of Forestry.

(2) Subsection (1) of this section is considered to have been complied with if, on January 1 of each year, the owner:

(a) Files with the forester a bona fide forest protection plan that meets with the approval of the board; or

(b) Is a member in good standing in a forest protective association maintaining a standard of protection approved by the board.

(3) The forester shall make periodic inspections of the protection facilities provided in order to ascertain compliance by the owner.

(4) In case any owner of forestland shall fail or neglect to file such a fire plan or maintain the standard of protection approved by the board, either through compliance with the fire plan or membership in an approved association, then the forester under the direction of the board shall provide forest protection pursuant to ORS 477.205 to 477.281.

(5) The forester shall provide protection pursuant to ORS 477.205 to 477.281 for forestland owned by the state or by a political subdivision located within a forest protection

district, unless adequate protection as required by this section is otherwise provided. [Formerly 477.024; 2003 c.14 §314]

477.220 Lands not provided protection; lands not included within ORS 477.205 to

477.281. (1) The forester is not required to provide protection for forestland that is either a small parcel or a tract isolated from a forest protection district and which land is found by the forester as not practicable to be included in a forest patrol system.

(2) ORS 477.205 to 477.281 do not apply to federal grazing land or federal timberland within this state for which adequate protection is provided unless the lands have been included within the boundaries of a forest protection district pursuant to a cooperative agreement with the federal government approved by the State Board of Forestry.

(3) Upon written request of the owner of lands that have been incorporated within a rural fire protection district, the forester shall determine whether the lands, or any part thereof, are forestland. Thereafter, those lands that have been so determined shall be included within ORS 477.205 to 477.281 unless excluded pursuant to subsection (1) of this section. [Formerly 477.053; 2005 c.22 §358]

477.225 Establishment and change of forest protection districts; rules. The State Forester, by rule, shall designate areas of forestland within this state as forest protection districts within which the forester is required to provide protection pursuant to this chapter. In establishing new boundaries or changes in boundaries of the districts, the State Forester may, for the purposes of administrative convenience, designate mountain ranges, rivers, streams, roads or other recognizable landmarks as boundaries. Boundaries may be established or changed only after a public hearing. [Formerly 477.026; 1997 c.274 §4]

477.230 Basis for computing cost of protection provided by forester; costs to be in accordance with budget.

(1) The annual cost of protection provided by the forester for forestland within a forest protection district shall be as follows:

(a) Grazing land within the district shall be protected by the forester at a pro rata cost per acre for all grazing land within the district boundary. However, forest patrol assessments levied and assessed under ORS 477.270 against such lands that are not owned by public agencies may not exceed one-half of the pro rata cost per acre, exclusive of any assessment per acre under ORS 477.880.

(b) Timberland within the district shall be protected by the forester at a pro rata cost per acre for all timberland within the district boundary. However, forest patrol assessments levied and assessed under ORS 477.270 against such lands that are not owned by public agencies may not exceed one-half of the pro rata cost per acre, exclusive of any assessment per acre under ORS 477.880.

(2) The cost of protection described in this section shall be in accordance with a budget for the district approved by the State Board of Forestry. [Formerly 477.030; 1971 c.60 §1; 1973 c.184 §6; 1977 c.892 §48; 1983 c.16 §1; 1985 c.759 §32a; 1989 c.769 §10; 1997 c.274 §5; 2005 c.22 §359]

477.232 Costs in excess of budget; amounts not expended. Subject to the forest patrol assessment limitations set forth in ORS 477.230:

(1) Actual costs incurred by the forester in the prevention and suppression of fire on grazing land or timberland located within a forest protection district, in excess of the amount budgeted as required by ORS 477.230, but not including those costs eligible for equalization by the Oregon Forest Land Protection Fund, shall be, without regard to proceedings for the collection of the costs:

(a) Included in the budget for the next fiscal year; and

(b) Levied and assessed against the grazing land or timberland in the district.

(2) Budgeted amounts not expended may be carried forward as a credit to the assessment rate for the ensuing year. [2005 c.802 §6]

Note: 477.232 was added to and made a part of 477.205 to 477.281 by legislative action but was not added to any other series. See Preface to Oregon Revised Statutes for further explanation.

477.235 Forester to prepare tentative budget estimates for districts. The forester shall prepare tentative budget estimates for each forest protection district for the ensuing fiscal year beginning July 1, in a manner consistent with accounting and budgetary procedures prescribed by the State Board of Forestry. [Formerly 477.041; 1967 c.429 §3]

477.240 Advisory and guidance committees. In any forest protection district wherein the forester has entered into a cooperative agreement or contract with a forest protective association or agency described in ORS 477.406 (1), and the association or agency has appointed an advisory and guidance committee for the purposes of analysis and review of the protection plans and budgets for the district, the forester shall prepare the protection plans and budgets in conjunction with the committee. [1965 c.253 §63]

477.245 Owners entitled to be heard on budget matters; public budget meetings to be held in district. (1) All owners of lands assessed under ORS 477.205 to 477.281 shall have an opportunity to be heard on matters pertaining to the budgeting of moneys required to defray the cost of protection in each forest protection district. The forester, under the direction of the State Board of Forestry, shall provide for the holding of a public budget meeting in each district on or before May 1 of each year. The meeting shall be held at any convenient place designated by the forester.

(2) In forest protection districts wherein the board has entered into cooperative agreements or contracts with forest protective agencies, the board may make provision for the holding of the public budget meeting required in subsection (1) of this section on the same date and at the same place as a regular meeting of the agency. [Formerly 477.043]

477.250 Notice of budget meeting; notice of proposed assessment.

(1) Not more than four weeks preceding each budget meeting, the forester shall cause notice of such meeting to be published once a week for two consecutive weeks in one or more newspapers published in or having general circulation in each of the counties in the forest protection district and in such other media of communication as the forester finds advisable. However, the final publication shall be made at least one week prior to the date of the meeting. The notice shall state the time and place where the tentative budget for the district may be inspected and shall state the time and place of the meeting.

(2) Whenever the forester determines that any privately owned land should be subject to assessment for forest protection and such land was not subject to the assessment during the preceding year, the forester shall give written notice by mail of the determination to each owner of such land not later than March 1 of the year the assessment is to be made. The notice shall inform the owner of the acreage and tax lot number of the lands to be assessed and the name and address of the nearest representative of the forester the owner may contact if review of the proposed assessment is desired. The notice shall also inform the owner of the procedure for hearing and appeals prescribed in ORS 477.205 to 477.281.

477.255 Holding of budget meeting; revision and submission of budget for final approval.

(1) The public budget meeting shall be held at the time and place as stated in the published notice, or at such other time and place to which the meeting may be adjourned.

(2) A member of the State Board of Forestry, or the forester, shall act as chairperson of the meeting. The forester shall cause the minutes of the meeting to be preserved as a public record.

(3) During the meeting the chairperson shall receive from any interested persons suggestions, advice, objections or remonstrance as to the proposed budget for that forest protection district. The forester, under the direction of the board, may make changes in the budget proper and consistent with law, and thereafter submit the budget for final approval under ORS 477.265.

477.260 Appeal to board. (1) Any owner of grazing land or timberland within the boundary of the forest protection district who is adversely affected by the proposed budget may file an appeal within 30 days after the date of the public budget meeting.

(2) Any owner of grazing land or timberland subject to ORS 477.205 to 477.281 shall, upon request, be granted a hearing by the State Board of Forestry on any subject pertaining to the activities of the forester or board affecting the land.

(3) Appeals and hearings shall be conducted by the board in accordance with rules adopted pursuant to ORS 526.016 (4). [Formerly 477.049; 1997 c.274 §6; 1999 c.355 §6]

477.265 Board to deal with budgets annually. The State Board of Forestry shall annually review the forest protection district budgets, make any changes in the budgets that are proper and consistent with law, and pass final approval on all district budgets and the prorated acreage rates therein. [Formerly 477.051; 1999 c.355 §7]

477.270 Budgeted cost of forester to be lien; collection; deposit of amounts collected. (1) Subject to the forest patrol assessment limitations set forth in ORS 477.230:

(a) The budgeted cost of the forester, as provided for in ORS 477.205 to 477.281, in providing protection for privately owned forestland shall be a lien upon such property, shall be reported by the forester to the governing body of the county in which the lands are situated on or after July 1 of each fiscal year, and shall be levied and collected by the governing body with the next taxes on the land in the same manner and with the same interest, penalty and cost charges as apply to ad valorem property taxes in this state. The governing body shall instruct the proper officer to extend the amounts on the assessment roll in a separate account, and the procedure provided by law for the collection of taxes and delinquent taxes shall apply. Upon collection thereof, the governing body shall repay the entire amount collected to the forester.

(b) In lieu of the procedures under paragraph (a) of this subsection, the forester, under the direction of the State Board of Forestry, may make direct billing of the budgeted cost to owners of forestland and receive payment of the cost therefrom. In the event that under such billing procedures any owners fail to make payment, the unpaid budgeted cost shall become a lien against the property so billed and shall be levied and collected with the next taxes on such property as described in paragraph (a) of this subsection.

(c) The budgeted cost of the forester in providing protection for forestland owned by the state or by a political subdivision shall be paid to the forester on or before the first day of January of the fiscal year for which such protection is to be provided.

(2) Except as provided in ORS 477.230 (2), all moneys received by the forester pursuant to this section shall be paid into the State Treasury, credited to the State Forestry Department Account and used exclusively for the purposes of ORS 477.205 to 477.281. [Formerly 477.033; 1983 c.16 §2; 1999 c.355 §8]

477.277 Additional assessment to maintain unencumbered balance of Oregon Forest

Land Protection Fund. (1) In addition to any other assessment prescribed by ORS 477.205 to 477.281, in any fiscal year in which the Emergency Fire Cost Committee determines pursuant to ORS 477.760 that the unencumbered balance of the Oregon Forest Land Protection Fund is less than \$22.5 million, a surcharge shall be levied and assessed in the amount of \$47.50 for each improved lot or parcel, except as provided in ORS 477.760, to defray the increased cost of fire suppression on forestland that is caused by the existence of the improvements.

(2) All surcharge moneys collected pursuant to this section shall be paid into the Oregon Forest Land Protection Fund.

(3) If an owner of forestland files a forest protection plan with the forester which is approved by the State Board of Forestry under ORS 477.210 (2), the owner shall not be required to pay the surcharge levied under subsection (1) of this section.

(4) Contiguous lots included in a combined lot that is described in ORS 477.295 (3)(a) and whose owner has made application to the forester under ORS 477.295 (4) are considered one lot for purposes of subsection (1) of this section.

(5) As used in this section, a lot or parcel is "improved" if it is indicated as improved in the county assessor's property classification files or if a manufactured dwelling is sited on the lot or parcel. [1989 c.769 §3; 1991 c.639 §2; 1993 c.430 §1; 2003 c.685 §§1,6; 2005 c.802 §7; 2007 c.779 §2]

477.281 Limitation on obligation of landowner for fire protection. (1) The obligation of an owner of timberland or grazing land for payment of assessments and taxes for fire protection of forestland is limited to:

(a) The payment of moneys pursuant to ORS 321.015 (2), 477.277, 477.295, 477.760 (4) and 477.880 to maintain the Oregon Forest Land Protection Fund; and

(b) The payment of forest protection district assessments pursuant to ORS 477.060 and 477.205 to 477.281.

(2) As used in this section, "obligation of an owner of timberland or grazing land for payment of assessments and taxes for fire protection of forestland" does not include the duties or obligations of the owner under ORS 477.066, 477.068 or 477.120 or the obligations of an owner of land included in a rural fire protection district pursuant to ORS 478.010. [1989 c.769 §9; 1991 c.639 §3; 1997 c.206 §2; 1999 c.59 §157; 2003 c.685 §§2,7; 2005 c.802 §8; 2009 c.69 §1]

477.295 Minimum assessment under ORS 477.270; combining lots; fees; rules. (1) For purposes of making the levy and assessment of costs against forestland under ORS 477.270, the minimum cost to provide fire protection or suppression for any lot or parcel of real property separately assessed for ad valorem taxes or other taxes provided by law in lieu thereof, on the current assessment roll shall be not less than \$18.75, except as provided in ORS 477.760. Three dollars and seventy-five cents of each minimum assessment shall be paid into the Oregon Forest Land Protection Fund. Otherwise, such assessments shall be determined under ORS 477.230 and 477.270.

(2) In any fiscal year in which the Emergency Fire Cost Committee determines pursuant to ORS 477.760 that the unencumbered balance of the Oregon Forest Land Protection Fund has:

(a) Increased to an amount:

(A) More than \$22.5 million but less than or equal to \$30 million, the minimum assessment referred to in subsection (1) of this section shall be \$16.88 for each lot or parcel. Of that amount, \$1.88 of each minimum assessment shall be paid into the Oregon Forest Land Protection Fund.

(B) More than \$30 million, the minimum assessment referred to in subsection (1) of this section shall be \$15 for each lot or parcel. This amount shall be treated in the same manner as assessments under ORS 477.230 and 477.270.

(b) Decreased to an amount that is at or below \$22.5 million, the minimum assessment referred to in subsection (1) of this section shall be \$18.75 for each lot or parcel. This amount

shall be treated in the same manner as assessments under subsection (1) of this section.

(3) Upon application to the forester under subsection (4) of this section, contiguous lots held under identical ownership shall be considered as one combined lot for purposes of subsection (1) of this section. However, the following may not be included in a combined lot:

(a) Except as provided in this paragraph, a lot on which a structure has been placed or improvements made for the purpose of erecting any temporary or permanent structure. One lot on which a single-family dwelling has been placed, and lots on which the structures and improvements that are appurtenant to that single-family dwelling have been placed, may be included in a combined lot that does not exceed 20 acres.

(b) A lot that is in a subdivision containing lots that have been or are being offered for sale.

(c) A lot that is not designated forest or agricultural land for the purpose of land use or special tax assessment purposes.

(4) To qualify under subsection (3) of this section, an owner of forestland shall make application to the forester no later than April 15 of the fiscal year preceding each fiscal year for which the owner desires the land to be assessed under subsection (3) of this section. The application shall be on a form prescribed by the State Forester. A fee of \$25 per combined lot shall be paid to the forester at the time of first application for the combined lot. An additional fee of \$25 per combined lot shall be paid to the forester at the time of subsequent application, if an application for the combined lot was not made for the previous fiscal year.

(5) The State Board of Forestry may adopt rules for the administration of the provisions of subsections (3) and (4) of this section.

(6) For the purposes of this section, "lot" and "subdivision" have the meanings given those terms in ORS 92.010. [1965 c.428 §6; 1969 c.204 §1; 1977 c.153 §1; 1977 c.892 §49; 1981 c.321 §13; 1983 c.108 §1; 1989 c.769 §7; 1991 c.623 §1; 1991 c.639 §4; 1997 c.274 §7; 1999 c.355 §9; 2003 c.685 §§3,8; 2005 c.802 §§9,10; 2007 c.779 §3]

477.315 Definition for ORS 477.315 to 477.325. As used in ORS 477.315 to 477.325, "rangeland" means any land:

(1) That is located in that part of the state lying easterly of the summit of the Cascade Mountains;

(2) That has not been classified as Class 1, Class 2 or Class 3 forestland under ORS 526.305 to 526.370; and

(3) That contains isolated tracts of forestland not so classified or not within a forest protection district, or that is primarily rangeland, undeveloped land or undeveloped area containing sagebrush, juniper and similar growths. [Formerly 477.142; 2003 c.14 §315]

477.320 Request of rangeland owners for protection; hearings; determination; cooperative agreements for protection. (1) Owners of rangeland may request the State Board of Forestry to hold a hearing on the subject of providing protection from fire for rangeland. Upon receipt of such request, the board or its authorized representative shall hold one or more public hearings in order to receive from interested persons information relating to the providing of such protection, and shall cause public notice of the time and place of each hearing to be given. The board or its authorized representatives shall keep the records of the proceedings of such hearings as public records.

(2) After the hearing referred to in subsection (1) of this section, the board shall determine whether the rangeland should be included within a protection system. If the board determines that rangeland should be included in a rangeland protection system, the board, in cooperation with interested persons, shall establish the extent and type of protection to be provided and direct the forester or a rangeland protection association organized under ORS 477.317 to provide the protection. Such protection shall be commensurate with the values and uses of the rangeland to be protected.

(3) After proceedings under subsections (1) and (2) of this section, the forester or a rangeland protection association organized under ORS 477.317 shall provide the type and extent of protection determined under subsection (2) of this section for rangeland determined to be included within a protection system under subsection (2) of this section. For the purpose of providing such protection, the forester and a rangeland protection association may enter into cooperative agreements or contracts with each other or, jointly or separately, with owners of rangeland, individuals, associations, corporations, road districts, rural fire protection districts or agencies of the federal government. [Formerly 477.144; 1999 c.355 §10; 2007 c.808 §5]

477.325 Budget for rangeland protection; collection of costs; disposition of receipts. (1) Before June 1 each year, the owners of rangeland to be protected under ORS 477.320, including all rangeland protection associations organized under ORS 477.317, shall prepare in cooperation with the State Board of Forestry or its authorized representative, and submit to the board, a proposed budget for the fiscal year beginning on the next succeeding July 1. The budget shall include the proposed cost of such protection. At the meeting of the board under ORS 477.265, the board shall review the budget, make any changes therein that are proper and consistent with law, and pass final approval thereon.

(2) The cost of protection of rangeland under ORS 477.317 and 477.320 shall be in accordance with the budget approved under subsection (1) of this section. The cost shall be collected pursuant to the cooperative agreement or contract entered into between the forester and the owners of the rangeland under ORS 477.320. All moneys received by the board pursuant to this subsection shall be paid into the State Treasury and credited to the State Forestry Department Account and shall be used exclusively for the purposes of ORS 477.315 to 477.325. [Formerly 477.146; 1999 c.355 §11; 2007 c.808 §3]

477.960 Collection of assessment. (1) Insofar as applicable, the assessment levied under ORS 477.880 shall be due and payable to the forester in like manner and procedure, including penalties and interest, as set forth for the collection of the protection costs provided in ORS 477.270. Wherever applicable, the assessment levied under ORS 477.880 shall be combined with the budgeted cost certified to the county under ORS 477.270 as one amount for each account listed so that the officer in charge of the roll can extend the amounts on the assessment roll in a separate column in a single figure.

(2) The minimum assessment set forth in ORS 477.295 shall be applied to the combined amount described in subsection (1) of this section. [1959 c.320 §5; 1961 c.689 §8; 1965 c.312 §4; 1967 c.179 §1; 1967 c.429 §43; 1985 c.759 §36; 1991 c.459 §417]

Chapter 478

478.010 Formation; territories that may not be included in districts. (1) A rural fire protection district may be formed in the manner set forth in ORS 478.010 to 478.100.

(2) A district may not include:

(a) Territory within a city unless otherwise authorized by law.

(b) Territory within a water supply district organized under ORS chapter 264 if the district has previously been authorized by its electors to exercise the fire protection powers prescribed by ORS 264.340.

(c) Forestlands included within a forest protection district under ORS 477.205 to 477.281 unless the owner consents and notifies the rural fire protection district, however, forestland protected pursuant to ORS 477.205 to 477.281 and not exceeding five acres in one ownership shall be included in the rural fire protection district without the owner's consent if the ownership includes any structures subject to damage by fire. Forestland included in a rural fire protection district under this subsection subjects the forestland to assessments for fire protection by the

rural fire protection district and the forest protection district.

(d) Railroad rights of way or improvements thereon or rolling stock moving thereover unless the owner of such property consents.

(e) Ocean shores as defined by ORS 390.605. [Subsection (2) enacted as 1953 c.144 §1; 1969 c.651 §3; 1969 c.667 §§3, 69; 1971 c.727 §137; 1973 c.124 §1; 1973 c.337 §1a; 2001 c.104 §217]

478.120 Inclusion of forestland in district. The authority to include forestland within a rural fire protection district pursuant to ORS 478.010 (2)(c) applies to forestland within the exterior boundaries of an existing district and to forestland on which structures subject to damage by fire have been added after July 20, 1973. [1973 c.337 §3]

478.130 Certain structures subject to fire damage to be added to tax rolls. Any land upon which structures subject to damage by fire have been built shall be added to the assessment roll for the tax year beginning July 1 following the calendar year in which construction on the structure was begun. [1973 c.337 §4; 1993 c.270 §68]

478.140 Procedure for adding land to district by consent of owner. Any owner consenting to add the forestland of the owner to the district under ORS 478.010 (2)(c) shall do so on forms supplied by the Department of Revenue. The owner shall file the original with the district. The district shall forward a copy to the assessor of each county in which the land is located, within 20 days of receipt. [1973 c.337 §5]

478.150 Conference with State Forestry Department required prior to formation of district or annexation of territory. Prior to the formation of any rural fire protection district or the annexation of any territory to an existing rural fire protection district of any territory within the exterior boundaries of a forest protection district established pursuant to ORS chapter 477, the petitioners of the proposed district or annexation shall confer with the State Forestry Department in determining the boundaries and lands to be included within the rural fire protection district. [1973 c.337 §6]

478.310 Response to fire or public safety incident outside its own territory by district or municipality; liability for costs. (1) When a fire or public safety incident occurs outside the limits of a district or of a city and help is asked of the district or city, the fire-fighting or public safety apparatus and force of the district or city may, with or without a contract to do so, be used for extinguishing the fire or responding to the public safety incident in the other unprotected or inadequately protected district or territory. However, the district or city so responding shall be paid the contract or reasonable value for use, including repairs and depreciation, of the apparatus and equipment so used and other expenses reasonably incurred in furnishing the fire-fighting or public safety service.

(2) When a district or city responds to a call for assistance arising from an incident involving an airplane crash or an occurrence on a transportation route within the city or district, the district or city may recover from the person or property receiving the direct fire or safety services as a result of the incident any cost incurred for the following:

(a) The contract or reasonable value of the use, including repairs and depreciation, of the apparatus and equipment used in accordance with a state standardized-costs schedule issued by the State Fire Marshal; and

(b) Other expenses or costs reasonably incurred in furnishing the assistance, as adopted by the service provider.

(3) As used in this section, "transportation route" means a roadway, waterway or railroad right of way against which no taxes or assessments for fire protection are levied by the district or

city.

(4) The provisions of this section do not apply to fire incidents involving only forest resources that occur on lands protected under ORS chapter 477. [Amended by 1969 c.667 §23; 1983 c.572 §1; 1987 c.834 §2; 1997 c.274 §38]

478.665 Withdrawal of territory from district; inclusion in forest protection district; assessment.

In addition to any other method of initiating proceedings to withdraw territory from a district, the county board may, after appropriate proceedings, order the withdrawal of forestland from a district if:

- (1) Written request for the withdrawal is submitted to the county board by the district board;
- (2) Inclusion of the withdrawn forestland within a forest protection district under ORS 477.205 to 477.281 is agreed to by the State Forester;
- (3) A public hearing for the landowners concerned is held regarding the withdrawal by the county board; and
- (4) Any lands so withdrawn and transferred to a forest protection district for purposes of fire protection shall be assessed for this purpose under ORS chapter 477 and, except as provided by ORS 198.880, shall no longer be assessed for fire protection by the rural fire protection district. [1969 c.651 §2; 1971 c.727 §142]

Chapter 526

526.005 Definitions. As used in this chapter, unless the context otherwise requires:

(1) "Biomass" means any organic matter, including woody biomass, agricultural crops, wood wastes and residues, plants, aquatic plants, grasses, residues, fibers, animal wastes, municipal wastes and other waste materials.

(2) "Board" means the State Board of Forestry.

(3) "Certified Burn Manager" means an individual, other than the forester, who is currently certified under a program established pursuant to ORS 526.360 (3).

(4) "Department" means the State Forestry Department.

(5) "Forester" means the State Forester or the authorized representative of the forester.

(6)(a) "Forestland" means any woodland, brushland, timberland, grazing land or clearing that, during any time of the year, contains enough forest growth, slashing or vegetation to constitute, in the judgment of the forester, a fire hazard, regardless of how the land is zoned or taxed.

(b) As used in this subsection, "clearing" means any grassland, improved area, lake, meadow, mechanically or manually cleared area, road, rocky area, stream or other similar opening that is surrounded by or contiguous to land described in paragraph (a) of this subsection and that has been included in areas classified as forestland under ORS 526.305 to 526.370.

(7) "Forestry carbon offset" means a transferable unit based on a measured amount of carbon storage expressed as a carbon dioxide emission equivalent, or other equivalent standard, and accruing on forestland as live or dead matter in trees, shrubs, forest litter and soil.

(8) "Nonindustrial private forest landowner" means any forest landowner who does not own a forest products manufacturing facility that employs more than six people.

(9) "Nonindustrial private forestland" means any forestland owned by a nonindustrial private forest landowner.

(10)(a) "Woody biomass" means material from trees and woody plants, including limbs, tops, needles, leaves and other woody parts, grown in a forest, woodland, farm, rangeland or wildland-urban interface environment that is the by-product of forest management, ecosystem restoration or hazardous fuel reduction treatment.

(b) "Woody biomass" does not mean:

(A) Wood pieces that have been treated with creosote, pentachlorophenol, copper chrome arsenic or other chemical preservatives;

(B) Wood that must be retained under state or federal regulations;

(C) Wood required for large woody debris recruitment; or

(D) Municipal solid waste. [Amended by 1961 c.123 §3; 1965 c.253 §1; 1977 c.893 §14; 1997 c.274 §41; 1999 c.101 §1; 2001 c.752 §6; 2009 c.69 §2; 2011 c.276 §3]

526.305 Definitions for ORS 526.305 to 526.370. As used in ORS 526.305 to 526.370, unless the context requires otherwise:

(1) "Committee" means a forestland classification committee.

(2) "Governing body" means the board of county commissioners or county court of a county, as the case may be. [1965 c.253 §33; 2009 c.69 §3]

526.310 Forestland classification committees; rules. (1) Pursuant to a request by the State Forester:

(a) The governing body of a county may establish a forestland classification committee of six persons, of whom one shall be appointed by the State Forester, one by the Director of the Oregon State University Extension Service, one by the State Fire Marshal and three by the governing body. Of the members appointed by the governing body, one must be an owner of forestland, and, if the land to be investigated and studied by the committee includes or is expected to include grazing land, one must be an owner of grazing land; or

(b) The governing bodies of two or more counties may, by written agreement, establish a joint forestland classification committee. One member of a joint committee shall be appointed by the State Forester, one by the Director of the Oregon State University Extension Service and one by the State Fire Marshal. The governing body of each participating county shall appoint two members. Of the members appointed by a governing body to a joint committee, one must be an owner of forestland.

(2) Each appointing authority shall file with the State Forester the name of its appointee or appointees, and the persons so named shall constitute the committee. Unless otherwise provided for by the appointing authority, members of the committee shall serve a term of four years and may be reappointed to any number of terms. Each member of the committee at all times is subject to replacement by the appointing authority, effective upon the filing with the State Forester by that authority of written notice of the name of the new appointee.

(3) The committee shall elect from among its members a chair and a secretary and may elect other officers as it finds advisable. It shall adopt rules governing its organization and proceedings and the performance of its duties, and shall keep written minutes of all its meetings.

(4)(a) The governing body of a county may provide for the committee and its members such accommodations and supplies and such county funds not otherwise appropriated as the governing body finds necessary for the proper performance of the committee's functions.

(b) The forester may provide for the committee and its members such accommodations and supplies and such forest protection district funds as the forester finds necessary for the proper performance of the committee's functions.

(5) The members of the committee shall receive no compensation for their services but a governing body or a forest protection district may reimburse them for their actual and necessary travel and other expenses incurred in the performance of their duties. [Amended by 1965 c.253 §34; 1967 c.429 §30; 1997 c.274 §42; 2009 c.69 §4]

526.320 Determination of forestland. Upon establishment of a forestland classification committee under ORS 526.310, the committee shall periodically investigate and study all land

within the boundaries of its county or counties and determine which of the land is forestland. Such determination shall take into consideration climate, topography, elevation, rainfall, soil conditions, roads, extent of fire hazards, recreation needs, scenic values, and other physical, economic and social factors and conditions relating to the land involved. [Amended by 1965 c.253 §35; 1967 c.429 §31; 2009 c.69 §5]

526.324 Classification of forestland by committee; publication. (1) Upon the basis of its investigation and determination under ORS 526.320, a committee shall assign all forestland within the boundaries of its county or counties and within a forest protection district to one of the following classifications:

(a) Class 1, timber class, includes forestland suitable for the production of timber and may include lands on which structures are present.

(b) Class 2, timber and grazing class, includes forestland suitable for joint use for timber production and the grazing of livestock and may include lands on which structures are present.

(c) Class 3, agricultural class, includes forestland suitable for grazing of livestock or other agricultural use and may include lands on which structures are present.

(2) The committee shall adopt preliminary classifications and shall cause notice thereof to be published once a week for two consecutive weeks in one or more newspapers of general circulation within the boundaries of its county or within the boundaries of each of its counties and to be posted in three public places within the boundaries of its county or within the boundaries of each of its counties. The notice shall state the time and place for the public hearing required pursuant to ORS 526.328 and where maps of the preliminary classifications may be inspected. [1965 c.253 §37; 1967 c.429 §32; 2009 c.69 §6]

526.328 Hearing; final classification. (1) The committee shall hold a public hearing within the boundaries of its county or within the boundaries of each of its counties at the time and place stated in the notice published under ORS 526.324 (2), or at such other time and place as the hearing may then be adjourned to, to receive from any interested persons objections, remonstrances or suggestions relating to the preliminary classifications. Following the hearing the committee may make such changes to the preliminary classifications as it finds to be proper, and thereafter shall adopt final classifications.

(2) All action by the committee in adopting final classifications shall be by formal written order that must include a statement of findings of fact on the basis of which the order is made and must include a list of tax lots affected by the classifications or reclassifications. The committee shall prepare one or more maps showing the final classifications, but the maps may not be included as part of the formal written order. The original of the order shall be filed with the county clerk of its county or with the county clerk of each of its counties. The order need not meet the requirements of ORS 205.232, 205.234 and 205.236 to be filed and recorded. A copy of the order certified by the secretary of the committee shall be sent to the State Forester. [1965 c.253 §38; 2009 c.69 §7]

526.332 Appeal. (1) Any owner of land classified under ORS 526.328 or 526.340 who is aggrieved by the classification may, within 30 days after the date of the order making the classification, appeal to the circuit court for the county in which the property is located. If the forestland classification committee has been established for more than one county and the property is located in more than one of those counties, the owner of the land may appeal to the circuit court for any of those counties. Notice of an appeal shall be promptly served on the secretary of the committee or, if the classification was made under ORS 526.340, on the State Forester.

(2) The appeal shall be tried by the circuit court as an action not triable by right to a jury.

[1965 c.253 §39; 1979 c.284 §163; 2009 c.69 §8]

526.340 Classification by State Forester. (1) The State Forester may identify and classify forestland in a county, consistent with ORS 526.324 and 526.328, if:

- (a) The governing body of a county has failed to establish a forestland classification committee within two years after the State Forester made a request under ORS 526.310 (1);
- (b) A forestland classification committee has failed to adopt and file a final classification pursuant to ORS 526.328 within the five-year period after the date the forestland classification committee was first established; or
- (c) A forestland classification committee has failed to act in a manner consistent with ORS 526.310, 526.320, 526.324 and 526.328.

(2) Classifications by the State Forester have the same force and effect as though made by a forestland classification committee. However, classifications made by the State Forester cease to be effective if replaced by classifications made pursuant to ORS 526.320, 526.324 and 526.328. [Amended by 1965 c.253 §40; 1997 c.274 §43; 2009 c.69 §9]

526.350 Policy in administering forest and fire laws; contracts for care of forestland. (1)

All forest laws relating to forestland classified pursuant to ORS 526.328 or 526.340, and all rules promulgated under such laws, shall be so administered as best to promote the primary use for which that land is classified. Any contract by the State Board of Forestry or the State Forester with any forest protective association or agency for the care of any such forestland shall provide that the care shall be in accord with the provisions of this section relating to that land.

(2) It shall be the policy of the board and the forester as to all forestland classified in:

- (a) Class 1, to give primary consideration to timber production and reforestation, in preference to grazing or agricultural uses, not excluding, however, recreation needs or scenic values.
- (b) Class 2, to give equal consideration and value to timber production and the development or maintenance of grazing, either as a temporary use for the interim between logging and reforestation or as a permanent or semi-permanent joint use.
- (c) Class 3, to give primary consideration to the development of grazing or agriculture, in preference to timber production.

(3) The forester, on forestland classified pursuant to ORS 526.328 or 526.340, shall administer the forest laws of this state in accordance with the policy stated in this section as it applies to the land involved. [Amended by 1965 c.253 §41]

FORESTLAND CLASSIFICATION RULES

629-045-0020

Definitions

(1) The definitions set forth in ORS 477.001, 477.205, 526.005, and 526.305 shall apply to OAR 629, division 045, unless the context requires otherwise.

(2) The following words and phrases, when used in OAR 629, division 045, shall mean the following unless the context requires otherwise:

(a) "Actively managed" means that vegetation management activities are conducted on a continuing, annual basis and periodically through a calendar year, as is necessary to accomplish the landowner's objectives.

(b) "Class 1" means timber class, and includes forestland suitable for the production of timber and may include lands on which structures are present.

(c) "Class 2" means timber and grazing class, and includes forestland suitable for joint use for timber production and the grazing of livestock and may include lands on which structures are present.

(d) "Class 3" means agricultural class, and includes forestland suitable for grazing of livestock or other agricultural use and may include lands on which structures are present.

(e) "Forest Patrol Assessment roll" means the assessment roll process and the direct billing process described in ORS 477.270(1).

(f) "Locale" means the general geographic area which is contiguous to or which surrounds a specific site.

(g) "Periodically" means at least once every five years.

(h) "Potential" means the ability of a site to grow vegetation, notwithstanding current or past uses of the site nor the current or past presence of structures on the site, and regardless of how the site is zoned or taxed.

(i) "Routinely" means at least once each calendar year.

(j) "USDA" means the United States Department of Agriculture.

Stat. Auth.: ORS 526.041, Sec. 11, Ch. 69 OL 2009

Stats. Implemented: ORS 477.205, 477.230, 526.305 - 526.370

Hist.: DOF 1-2010, f. & cert. ef. 5-19-10

629-045-0025

Identification of Forestland by a Committee

(1) A committee shall periodically identify all lands which meet the following criteria:

(a) Is within the county or counties of its jurisdiction; and

(b) Is a woodland, brushland, timberland, grazing land or clearing that, during any time of the year, contains enough forest growth, slashing or vegetation to constitute, in the judgment of the forester, a fire hazard, regardless of how the land is zoned or taxed. As used in this subsection, "clearing" means any grassland, improved area, lake, meadow, mechanically or manually cleared area, road, rocky area, stream or other similar opening that is surrounded by or contiguous to land described in the first sentence of this subsection

(c) And that has been included in areas classified as forestland under ORS 526.305 to 526.370.

(2) All lands which meet the criteria set forth in section (1) of this rule shall be considered to be forestland.

Stat. Auth.: ORS 526.041, Sec. 11, Ch. 69 OL 2009

Stats. Implemented: ORS 477.205, 477.230, 526.305 - 526.370

Hist.: DOF 1-2010, f. & cert. ef. 5-19-10

629-045-0030

Classification of Forestland by a Committee

(1) All lands identified as forestland, pursuant to OAR 629-045-0025, within a forest protection district, shall be classified by a committee as:

(a) Class 1, in accordance with the criteria set forth in section (2) of this rule;

(b) Class 2, in accordance with the criteria set forth in section (3) of this rule; or

(c) Class 3, in accordance with the criteria set forth in section (4) of this rule.

(2) Forestland shall be classified as Class 1 if;

(a) It is located west of the summit of the Cascade Mountains, or

(b) East of the summit of the Cascade Mountains, located in Wasco County and is primarily used for timber production.

(3) Forestland shall be classified as Class 2 if:

(a) It is located east of the summit of the Cascade Mountains; and

(b) It has a potential site productivity of at least 20 cubic feet per acre per year, at culmination of mean annual increment, for one or more tree species native to the locale.

(4) Notwithstanding the requirements of sections (2) and (3) of this rule, forestland may be classified as Class 3 if at least one of the following criteria applies:

(a) The forestland has a potential site productivity of less than 20 cubic feet per acre per year, at culmination of mean annual increment, for one or more tree species native to the locale;

(b) The forestland is actively managed to support vegetation that does not include tree species native to the locale; or

(c) The forestland routinely contains enough flammable vegetation to meet the definition of "forestland" but historically has not supported natural growth of a tree species native to the locale.

Stat. Auth.: ORS 526.041, Sec. 11, Ch. 69 OL 2009
Stats. Implemented: ORS 477.205, 477.230, 526.305 - 526.370
Hist.: DOF 1-2010, f. & cert. ef. 5-19-10

629-045-0035

Classification Requirements and Limitations

In classifying lands pursuant to OAR 629-045-0030:

(1) A committee may determine potential site productivity:

(a) Directly, by tree growth and stocking measurements made in a locale; or

(b) Indirectly, by using applicable USDA Natural Resources Conservation Service soil survey information, USDA Forest Service plant association guides, Oregon Department of Revenue site class maps, or other information determined by the State Forester to be of comparable quality.

(2) If western juniper is present in a locale, a committee may consider western juniper to be a tree species which is native to the locale.

(3) If trees that meet the definition of "Christmas tree" in ORS 571.505 are present in a locale, a committee shall consider such "Christmas trees" to be a tree species which is native to the locale.

(4) A committee may not consider the existence of structures, improvements, or clearings, when making classification decisions.

(5) A committee may not consider the existence of city limits, urban growth boundaries, zoning, or the absence or presence of an organized structural fire protection provider, when making classification decisions.

(6) Notwithstanding the requirements of OAR 629-045-0025 and 629-045-0030, if lands are actively managed for an agricultural purpose, such as by irrigation, plowing, or other practices that result in a substantially reduced likelihood of wildfire spread across the lands, such that the lands do not meet the definition of "forestland," a committee is not required to classify such lands.

Stat. Auth.: ORS 526.041, Sec. 11, Ch. 69 OL 2009
Stats. Implemented: ORS 477.205, 477.230, 526.305 - 526.370
Hist.: DOF 1-2010, f. & cert. ef. 5-19-10

629-045-0040

Mapping Requirements and Boundary Recommendations

(1) On the maps required by ORS 526.324 and 526.328, a committee shall set forth the outer boundaries of all forestland classified by the committee pursuant to OAR 629-045-0030 and 629-045-0035.

(a) Natural geographic features, human-made land features, public land survey lines, or political boundary lines shall be used to describe the outer boundaries.

(b) No outer boundaries shall enclose an area of less than 40 acres in size.

(c) No outer boundaries shall extend outside of a forest protection district.

(2) A committee shall recommend to the State Forester any changes to the boundary of a forest protection district it believes are warranted.

(3) A committee shall recommend to the appropriate county governing body the creation of or changes to the boundary of Zone 1 lands, which have been or may be established pursuant to ORS 476.310 to 476.320, if the committee believes such creation or changes are warranted.

Stat. Auth.: ORS 526.041, Sec. 11, Ch. 69 OL 2009
Stats. Implemented: ORS 477.205, 477.230, 526.305 - 526.370
Hist.: DOF 1-2010, f. & cert. ef. 5-19-10

629-045-0045

Community Meetings

(1) Prior to holding the public hearing required by ORS 526.328(1), a committee shall hold one or more community meetings in each county of its jurisdiction.

(2) At a community meeting required by section (1) of this rule, a committee shall:

(a) Present to any interested persons information about its:

(A) Forestland identification process, completed pursuant to ORS 526.320 and OAR 629-045-0025; and

(B) Preliminary classification decision process, completed pursuant to ORS 526.324 and OAR 629-045-0030 and 629-045-0035.

(b) Make available for inspection the preliminary classification maps required by ORS 526.324.

Stat. Auth.: ORS 526.041, Sec. 11, Ch. 69 OL 2009

Stats. Implemented: ORS 477.205, 477.230, 526.305 - 526.370

Hist.: DOF 1-2010, f. & cert. ef. 5-19-10

629-045-0050

Formal Written Order Requirements

A committee shall file the formal written order required by ORS 526.328(2) with the county clerk(s) within thirty days of its adoption by the committee. Any delay in meeting this thirty day requirement shall be promptly reported in writing to the State Forester. The State Forester may thereafter extend, in writing, the thirty day limitation.

Stat. Auth.: ORS 526.041, Sec. 11, Ch. 69 OL 2009

Stats. Implemented: ORS 477.205, 477.230, 526.305 - 526.370

Hist.: DOF 1-2010, f. & cert. ef. 5-19-10

629-045-0055

Limitations and Requirements for Forest Protection District Actions

(1) The forester shall make adjustments to the forest patrol assessment rolls to give effect to all forestland classification or reclassification decisions made by a committee, pursuant to OAR 629-045-0030 and 629-045-0035, within six months of the date the applicable formal written order was filed with a county clerk pursuant to ORS 526.328(2). Any delay in meeting this six month requirement shall be promptly reported in writing to the State Forester. The State Forester may thereafter extend, in writing, the six month limitation.

(2) Forest patrol assessment rolls shall be continuously maintained to reflect correct information with regard to ownership, acreage, subdivision of lots, lot line adjustments, combination of contiguous lots as provided in ORS 477.295, etc., however, neither the forester nor a county assessor is authorized to change the classification of forestland applied to a parcel of land, as filed with the county clerk by a forestland classification committee under ORS 526.328, or by the State Forester under ORS 526.340, except:

- (a) As provided in section (1) of this rule;
- (b) As necessary to correct obvious or minor administrative errors; or
- (c) As necessary to reflect court decisions arising from an appeal made pursuant to ORS 526.332.

Stat. Auth.: ORS 526.041, Sec. 11, Ch. 69 OL 2009
Stats. Implemented: ORS 477.205, 477.230, 526.305 - 526.370
Hist.: DOF 1-2010, f. & cert. ef. 5-19-10

629-045-0060

Limitations and Classification by the State Forester

- (1) Pursuant to ORS 526.340, the State Forester may identify and classify forestland in a county, consistent with ORS 526.324 and 526.328, if:
 - (a) The governing body of a county has failed to establish a committee within two years after the State Forester made a request for such establishment pursuant to ORS 526.310(1);
 - (b) A committee failed to adopt and file a final classification, pursuant to ORS 526.328, within five years after the committee was first established; or
 - (c) A committee failed to act in a manner consistent with ORS 526.310 to 526.328.
- (2) Prior to identifying and classifying forestland in a county, pursuant to ORS 526.340(1)(b), the State Forester shall:
 - (a) Allow a committee to work for at least two years after the committee was first established, before approaching the county governing body to identify and resolve any issue which might be creating an unreasonable delay in the committee's progress toward fulfillment of its responsibilities.
 - (b) Work with the county governing body to identify and resolve any issue which might be creating an unreasonable delay in the committee's progress toward fulfillment of its responsibilities.
- (3) Prior to identifying and classifying forestland in a county, pursuant to ORS 526.340(1)(c), the State Forester shall work with the county governing body to identify and resolve any issue which might be causing the committee to act in a manner inconsistent with ORS 526.310 to 526.328.
- (4) If the State Forester determines it is desirable or necessary to remove and replace some or all of a committee's members in order to properly or timely fulfill a committee's responsibilities, the State Forester shall request the appropriate appointing authority to remove and replace such members, pursuant to ORS 526.310(2).

Stat. Auth.: ORS 526.041, Sec. 11, Ch. 69 OL 2009
Stats. Implemented: ORS 477.205, 477.230, 526.305 - 526.370
Hist.: DOF 1-2010, f. & cert. ef. 5-19-10

629-045-0065

Length of Committee Member Terms

The amendments to ORS 526.310(2), which become effective January 1, 2010, establish a four-year term for members of forestland classification committees, in the absence of other direction from the appointing authority. Unless otherwise provided for by the appointing authority, a committee member serving on January 1, 2010 may not serve more than four years after that date unless the member is reappointed. If a member is reappointed after January 1, 2010, the term of the reappointed member shall be four years, unless the appointing authority provides otherwise.

Stat. Auth.: ORS 526.041, Sec. 11, Ch. 69 OL 2009

Stats. Implemented: ORS 477.205, 477.230, 526.305 - 526.370

Hist.: DOF 1-2010, f. & cert. ef. 5-19-10

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