

Before the
OREGON PUBLIC UTILITY COMMISSION

In the Matter of Rulemaking for Risk-Based)
Wildfire Protection Plans and Planned) Docket No. AR 638
Activities Consistent with Executive Order)
20-04.)

**FURTHER COMMENTS OF CTIA ON
REVISED PROPOSED WILDFIRE MITIGATION RULES**

CTIA offers the following comments in response to the Oregon Public Utility Commission’s (“Commission’s”) revised proposed wildfire mitigation rules, issued in this proceeding on June 10, 2022 (“Revised Proposed Rules”).¹

CTIA appreciates the Commission’s continued work to refine and improve its wildfire mitigation rules in response to stakeholder feedback, including at the June 2, 2022 hearing in this proceeding (“June Hearing”). In particular, CTIA supports the following changes made in the Revised Proposed Rules:²

- In Section 0001 (6), CTIA supports the revision to use the term “HFRZ Ignition Prevention Inspection” to increase clarity and prevent confusion with existing detailed inspection requirements found elsewhere in the Commission’s rules.
- In Section 0018 (2), CTIA supports the included requirements for Operators of electric facilities to describe their inspection programs, and how they classify risk conditions, in their annual plans. This information will help provide needed clarity to attachers.

¹ Memorandum, Docket No. AR 638 (June 10, 2022).

² All following references to Sections are from the Revised Proposed Rules Division 24, 860-024-0000 *et seq.*

- CTIA supports the revisions to the notification requirements in Section 0018 (8)(a) (requiring Operators to notify third parties as soon as practical when disconnecting or isolating hazardous equipment) and (9) (clarifying the timeframe for a violation to be repaired following the required notice).
- CTIA also supports the changes and clarifications to the complaint process in Section 0060, which better protect the due process rights of pole occupants and help ensure recourse for disputes over equipment removal and charges.
 - To further refine this section, CTIA recommends that the Commission add another sentence to the list of required elements of a notice in Subpart 3(a): amend “an explanation of how the attachment violates Commission Safety Rules” to add “including how the violation is related to increase wildfire risk in the HFRZ”. This will provide greater clarity for attachers as to why their attachment was dealt with under the Division 24 HFRZ provisions rather than via standard operating procedure under the Commission’s rules.

CTIA offers the following further suggestions regarding the Revised Proposed Rules for the Commission’s consideration.

I. THE COMMISSION SHOULD MAINTAIN THE EXCLUSION OF JOINT INSPECTIONS FROM THE REVISED PROPOSED RULES

The Revised Proposed Rules prudently maintain the paradigm for HFRZ inspections that eliminates the “joint inspection” requirement found in earlier drafts. CTIA continues to believe the Commission is on the right path by proceeding without a joint inspection requirement.

Parties were asked at the June Hearing whether the Commission should return to the initial “joint inspection” paradigm. As CTIA explained in previous comments, joint inspections

create more problems than they solve.³ Furthermore, changing such a significant underpinning of the rules at this late stage in the process could create significant delay. Time spent reopening the debate over joint inspections is time that could be better used refining the rules and getting them implemented prior to the next wildfire season.

II. THE COMMISSION SHOULD CLARIFY OR ELIMINATE THE “CYCLE ALIGNMENT” OPTION FOR CONSUMER-OWNED UTILITIES

At the June Hearing, OCTA and others noted that the option in Section 0018 (7) for consumer-owned utilities to require occupants to “implement detailed inspection cycle alignment to mitigate risk and identify violations of Commission Safety Rules” lacked clarity. In particular, there was confusion regarding what the Commission means by “inspection cycle alignment,” which is not a defined term and contains no specifics. CTIA agrees that this proposed rule is vague, and suggests the Commission either provide more specifics about this requirement, or strike it from the Revised Proposed Rules.

III. THE COMMISSION SHOULD ADDRESS CONCERNS REGARDING DUE PROCESS OVER THE IMMEDIATE REPAIR SANCTION

In Section 0018 (10), the Commission reverts the sanction Operators can charge for repair of violations from 15% back to 25% (which was in the initial draft of the Rules, but was later rejected in a subsequent draft). CTIA opposes this change.

For one, it misaligns the replacement fee with the existing 15% sanction that can be assessed by pole owners for Division 28 violations.⁴ At the June Hearing, utilities argued that an increase in fee was warranted due to the immediacy of their obligation to remove equipment under the HFRZ regulations. However, one significant difference between the HFRZ regulations and Division 28 is that, under Division 28, an occupant always has the option to correct the

³ See Further Comments of CTIA, Docket No. AR 638 (Nov. 19, 2021) at 5-6.

⁴ OAR 860-028-0150 (2).

violation on their own and avoid sanctions entirely – an option that does not exist for “immediate” violations under the HFRZ regulations.⁵ At worst, this creates an inappropriate incentive for owners, who have the sole discretion to determine what constitutes an “immediate” violation, to perform unnecessary removals.

To address this lack of due process, the Commission should either implement a process to allow occupants to make immediate corrections to violations at their own expense, avoiding a sanction entirely (similar to the Division 28 process), or otherwise ensure Section 0060 (2) requires operators to demonstrate clearly that, in the event of a repair for which a sanction was assessed, the violation was both immediate and directly related to wildfire risk.

CTIA also noted Staff’s submission of a map of deteriorated poles in high fire risk areas to the docket.⁶ To the extent the Commission is seeking to incentivize correction of particular issues via the 25% sanction, such as deteriorated poles, it should limit the increased sanctions to those issues only.

⁵ OAR 860-028-0150 (3).

⁶ Grumbo, Leon. “AR 638 Wildfire Mitigation Rules – UPDATE.” Docket No. AR 638 (June 22, 2022).

IV. CONCLUSION

CTIA looks forward to working with the Commission and stakeholders to continue to refine the Revised Proposed Rules and meet the Commission's goal of wildfire mitigation in the most effective way possible.

Respectfully submitted,

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