

BEFORE THE PUBLIC UTILITY COMMISSION OF OREGON

In the Matter of

Rulemaking Regarding Electric Utility
Wildfire Mitigation Plan

Docket No. AR 638

**OCTA RESPONSIVE COMMENTS ON
REDLINE PROPOSAL FROM THE
ADMINISTRATIVE HEARINGS
DIVISION**

INTRODUCTION

The Oregon Cable Telecommunications Association (“OCTA”) appreciates this opportunity to provide the Oregon Public Utility Commission (“OPUC” or “Commission”) with comments in response to the redline proposal issued by the Administrative Hearings Division (“AHD”) on March 11, 2022, revising the proposed amendments to the Commission’s Division 24 safety rules. OCTA commends the AHD on crafting revisions to the proposed amendments reflecting the discussion held at the February 8th Special Public Meeting – Commissioner Workshop. OCTA generally supports the approach the AHD has taken and offers several revisions designed to clarify several provisions in the rules. These proposed revisions are set forth in highlighted text in Attachment A, appended hereto.

1. Proposed OAR 860-024-0018(5)

a. Remove “or Occupants”

The alternative to joint inspections proposed by Portland General Electric, PacifiCorp and Idaho Power (“the Joint IOUs”) contemplated that an Operator of electric facilities would inspect all of the poles in its High Fire Risk Zones (“HFRZs”) that it owns or attaches to for violations that could lead to a fire ignition, whether the violation involves electric supply facilities,

communications facilities, or the pole itself.¹ The Joint IOU proposal would then have the IOUs notify communications Operators of communications facility-related violations discovered during these inspections.²

The AHD Redline Proposal, on the other hand, provides that “Public Utility Owners of electric supply facilities [i.e., IOUs] *or Occupants* shall conduct ‘Comprehensive Facility Inspections’ of facilities in High Fire Risk Zones” OAR 860-024-0018(5)(emphasis added). OCTA recommends deleting the words “or Occupants” for several reasons. First, having the Comprehensive Facility Inspection Requirement apply to either the IOUs *or* to Occupants introduces an undue level of uncertainty regarding who will conduct these critical inspections. Second, communications attachers do not have inspectors qualified to inspect electric supply facilities on utility poles, as would be required as part of a Comprehensive Facility Inspection. Nor are communications attachers qualified to make corrections to electric supply facilities because most pole attachment agreements, as well as NESC and OSHA rules,³ prohibit communications attachers from working in the electric space on the pole. This would mean that communications attachers would be unable to immediately repair an electric facility-related violation that poses imminent danger to life or property, as required under proposed rule OAR 860-024-0018(7)(a). Third, the Division 28 attachment rules already include the cost of periodic inspections in the “carrying charge” paid by attachers to pole owners.⁴

Having the IOUs conduct the Comprehensive Facility Inspections is also consistent with proposed OAR 860-024-0018(8). In that subsection of the proposed rules, it is clear that the IOUs

¹ See Joint Utilities Comments, filed February 1, 2022 (“2/1 Joint IOU Comments”), Attachment A, pp. 5-6; *see also*, Joint Utilities Comments, filed February 23, 2022 (“2/23 Joint IOU Comments”), pp. 5-6.

² *Id.*

³ See NESC Rules 235C4 and 238E (creating Communications Worker Safety Zone at least 40 inches below lowest electrical supply line), and OSHA Rule 1910.268(q)(1)(iii) (limiting work in proximity to energized conductors by other than system operators/owners).

⁴ OAR 860-028-0020(19).

will conduct the Comprehensive Facility Inspections and then provide notices to attachers if they discover violations created by the attachments. Subsection 8 also provides that the IOU will correct such violations if not timely corrected by the attacher and charge the attacher for doing so. Nothing in subsection 8 contemplates that communications attachers will conduct the Comprehensive Facility Inspections.

b. Ensure Qualified Inspectors for Communications Facilities

OCTA also recommends that proposed OAR 860-024-0018(5) include a provision that requires the IOUs to utilize inspectors that are qualified to inspect communications attachments. As OCTA has pointed previously in this docket, inspectors of electric supply facilities are not necessarily qualified to properly inspect communications attachments. Given that Comprehensive Facility Inspections require that the IOUs inspect all of the facilities on a pole, including both electric supply facilities and communications facilities, the rule should ensure that qualified inspectors are utilized for each task. Language designed for this purpose is included in Attachment A.

2. OAR 860-024-0018(7) – Add “Comprehensive Facility Inspections”

OAR 860-024-0018(7) sets forth a prioritization scheme for the correction of differing types of safety violations in HFRZs. This rule should provide the same timeframes for correcting violations no matter how the violation was discovered. However, the AHD Redline Proposal would apply these timeframes only to violations which pose a risk of fire ignition “identified by an HFRZ detailed inspection or safety patrol” but not to such violations identified during a Comprehensive Facility Inspection. OCTA recommends correcting this oversight by simply adding “Comprehensive Facility Inspection” between “HFRZ detailed inspection” and “safety patrol.”

3. OAR 860-024-0018(7)(b) – Correction Timeframe to Run from Notice Receipt

OCTA recommends that the deadline for correcting violations which correlate to a heightened risk of fire ignition be modified to allow 180 days from discovery or from receipt of notice of the violation pursuant to OAR 860-024-0018(8), whichever is later. This revision recognizes that the IOUs will be conducting the HFRZ Comprehensive Facility Inspections and safety patrols, not communications attachers. If the IOU discovers a violation created by a communications facility, it must send a notice to the Operator of the communications facility.⁵ While OCTA believes that IOUs will make every effort to send such notices as soon as possible, there will likely be some delay between the IOU's discovery of the violation and receipt of the notice by the Operator of the communications facilities. Accordingly, the Operator of the communications facilities should be provided 180 days from receipt of the notice to make the correction. The proposed language for this revision is set forth in Attachment A.

4. OAR 860-024-0018(8) – Replacement Fee Should Not Apply to Attachments

The proposed rules allow the IOUs to conduct Comprehensive Facility Inspections on poles to which they attach electric supply facilities, but which they do not own, and to replace reject poles if not timely replaced by the pole owner, and to recover from the pole owner replacement costs and a replacement fee of 25% of the total amount of work. This is an entirely new set of rights not otherwise addressed in the Commission's rules. It is, therefore, entirely appropriate to address the details of this new inspection scheme in the Division 24 rules.

IOU inspections of attachments on IOU-owned poles, on the other hand, are already addressed in the Commission's Division 28 attachment rules, which expressly provide that an IOU pole owner may correct attachment violations if not timely corrected by the Occupant, and specify

⁵ See proposed OAR 860-024-0018(8).

what the IOU pole owner may charge for making such corrections, including the actual cost of corrections and a 15% of correction cost sanction.⁶

The proposed rules, however, conflate pole replacement costs and fees with the reimbursement and sanctions for attachment corrections already covered by the Division 28 attachment rules. This creates unnecessary confusion between the Division 24 and Division 28 rules. It could also create the appearance that the new Division 24 rules adopted in this proceeding have, in effect modified the Division 28 rules. The Notice of Rulemaking for AR 638 does not provide sufficient notice of the possibility that the Division 28 rules would be modified, as required under the Administrative Procedures Act.⁷

This unintended overlap of the Division 24 and Division 28 rules can be remedied by making clear that the provisions in proposed OAR 860-024-0018(8) relating to reimbursement costs and fees apply only to replacements by an IOU of reject poles owned by a third party. OCTA's proposed revisions to section 0018(8) to effectuate this are set forth in Attachment A.

5. OAR 860-024-0018(8) – Expand Rights under Oregon Law and Contract

The final sentence of proposed OAR 860-024-0018(8) makes clear that an Operator of electric facilities is not precluded from exercising any other rights or remedies afforded by Oregon law or contract. OCTA recommends that this sentence be revised to make clear that nothing in proposed section 0018 precludes any Owner, Occupant or Operator from exercising any other rights under Oregon law or contract. Singling out only Operators of electric facilities suggests, by negative implication, that somehow the proposed rule would preclude other entities subject to the rules, such as attachers and non-IOU pole owners, from exercising any of their other rights or remedies under Oregon Law or contract.

⁶ See OAR 860-028-0115(4) – (6), OAR 860-024-0120(4) – (6), OAR 860-028-0150(2).

⁷ See ORS 183.335(2).

Revising this language would also make clear that the rights and remedies afforded to pole owners and Occupants under the Division 28 attachment rules are not diminished by the Division 24 rules, as discussed above. It would also make clear that, if there are disputes regarding violations discovered as part of a Comprehensive Facility Inspection or safety patrol, Owners, Occupants and Operators could subsequently avail themselves of remedies under the attachment rules, their attachment agreements, and any other relevant Oregon Law to resolve such disputes. OCTA's proposed revisions to section 0018(8) to effectuate this are set forth in Attachment A.

CONCLUSION

For the foregoing reasons, OCTA recommends that the AHD revise the Redline Proposal as recommended above. OCTA looks forward to participating in April 7th workshop and will be available to respond to any questions regarding the recommendations in these responsive comments.

Respectfully submitted this 25th day of March 2022.

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Attorney for OCTA

ATTACHMENT A

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AMEND: 860-024-0000

RULE TITLE: Applicability of Division 24

RULE TEXT:

(1) Unless otherwise noted, the rules in this division apply to every 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

ATTACHMENT A

AMEND: 860-024-0001

RULE TITLE: Definitions for Safety Standards

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) "Government Entity" means a city, a county, a municipality, the state, or other political subdivision within Oregon.
- (4) "High Fire Risk Zones" are geographic areas identified by Operators of electric facilities in their risk-based wildfire plans.
- (5) "~~Joint Inspection~~Comprehensive Facility Inspection" means an inspection of all equipment on any utility pole, structure, duct or conduit, owned by either the Owner or an Occupant(s).
- (6) "Material violation" means a violation that:
 - (a) Is reasonably expected to endanger life or property; or
 - (b) Poses a significant safety risk to any operator's employees or a potential risk to the general public.
- (7) "Occupant" means any licensee, Government Entity, or other entity that constructs, operates, or maintains attachments on poles, structures or within conduits.
- (8) "Operator" means every person as defined in ORS 756.010, public utility as defined in 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 759.400, telecommunications provider as defined in OAR 860-032-0001, consumer-owned utility as defined in ORS 757.270, cable Operator as defined in 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.
- (9) "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

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Commented [MN1]: Proposal to change the Joint Inspection requirement to a comprehensive facility inspection requirement.

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facilities.

(10) “Pattern of non-compliance” means a course of behavior that results in frequent, material violations of the Commission Safety Rules.

(11) “Reporting Operator” means an 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

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AMEND: 860-024-0005
RULE TITLE: Maps and Records
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

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AMEND: 860-024-0007

RULE TITLE: Location 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

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AMEND: 860-024-0010

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

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AMEND: 860-024-0011

RULE TITLE: Inspections of Electric Supply and Communication Facilities

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 as 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

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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 ~~onsite~~ routine safety patrols of overhead electric supply lines and accessible facilities for hazards to the public consistent with industry best practices. 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

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AMEND: 860-024-0012

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

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 these as follows: repairs that accommodate schedules for local jurisdiction-permitting issues or repairs impacted by planned public works ~~planned road construction~~ projects; and repairs which 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

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AMEND: 860-024-0015
RULE TITLE: Ground Return
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

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AMEND: 860-024-0016

RULE TITLE: Minimum Vegetation Clearance Requirements

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.

(b) "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 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. These records must be made available to the Commission upon request.

(3) Each Operator of electric supply facilities must regularly trim or remove vegetation to maintain clearances from electric supply conductors. Operators of electric supply facilities must develop and regularly update vegetation plans and documentation that confirms compliance with the minimum clearances in section (5) below. Upon request from Commission Staff, Operators must provide that information to Commission Staff. If clearances are not being maintained, the Commission may require the Operator to implement an alternative vegetation management program and/or specific trim cycles.

(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 routine 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.

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Commented [MN3]: We'd like to discuss this change at the next workshop, to better understand the objective of this change proposed by utilities.

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- (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 (5) 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 routine wind conditions; and
 - (f) The amount of trimming or vegetation removal required to minimize Cycle Buster vegetation interference of energized conductors.
- (8) 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.
- (9) Electric utilities performing vegetation management work in High Fire Risk Zones in accordance with this Section are exempt from compliance with any applicable local law governing tree trimming and removal.

STATUTORY/OTHER AUTHORITY: ORS 183, ORS 756, ORS 757, ORS 758
STATUTES/OTHER IMPLEMENTED: ORS 757.035, ORS 758.280 - 758.286

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Commented [MN4]: This proposed change needs to be carefully vetted. Additionally, we will need to discuss whether or not this change can be made during this rulemaking, given notice requirements.

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AMEND: 860-024-0017

RULE TITLE: Vegetation Pruning Standards

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) 2008 Pruning, approved May 1, 2008, 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

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ADOPT: 860-024-0018
RULE TITLE: High Fire Risk Zone Safety Standards
RULE TEXT:

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

(2) Utility supply conductors shall not be attached to live trees and should only be attached to utility owned 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 at a minimum, enhanced "detailed inspections," that may include, but need not be limited to, not limited to, in person, onsite visual checks, or practical tests of all facilities, to the extent required to mitigate fire risk and identify violations of Commission Safety Rules; and (b) for transmission systems energized at or above 50,001 volts, perform and document, at a minimum, detailed inspections, that may include, but are not limited to, via onsite climbing, drone or high-powered spotting scope to identify structural and conductor defects, as well as violations of Commission Safety Rules.

Commented [MN5]: We have left the in-person requirement in this section, but believe this language will allow a utility to forgo such in person inspection to the extent it is not required to mitigate fire risk, as it would be if there were an alternative that produced the same quality of inspection.

(4) In addition to the requirements set forth in 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, in person, fire safety patrols of overhead electric supply lines and accessible facilities for potential patrols, that may include, but are not limited to, fire risks, including but not limited to, off right of way hazard trees, right of way access for first responders, seasonal vegetation damage, vegetation Cycle Buster clearance conditions as defined in 860-024- 0016(1)(a), potential equipment failures, and deteriorated supply or communication facilities.

(5) The requirements set forth in (3) and (4) above do not preclude the use of technology developments that may improve the ease of and quality of inspections. The use of technologies does not eliminate the need for in person fire safety patrols described above.

(6) Beginning on December 31, 2027, Public Utility Owners of electric supply facilities and or Occupants shall participate conduct in "Joint Inspections Comprehensive Facility Inspections" of facilities in High Fire Risk Zones with a frequency that to mitigate fire risk as well as to identify violations of Commission Safety Rules. Comprehensive Facility Inspections shall be conducted utilizing inspectors qualified to conduct inspections of electric supply facilities and communications facilities.

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(7) If dictated by a consumer-owned utility pole Owner, beginning December 31, 2027 Occupants of poles owned by consumer-owned utilities in High Fire Risk Zones will implement detailed inspection cycle alignment to mitigate fire risk and identify violations of Commission Safety Rules.

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(78) A violation of Commission Safety Rules which poses a risk of fire ignition identified by an HFRZ detailed inspection, Comprehensive Facility Inspection, or safety patrol shall be subject to the following correction timeframes: ~~in High Fire Risk Zones affecting energized conductors, structures or pole defects and a heightened risk of wildfire, as identified by the Operator of electric facility, shall be corrected no later than 180 days after discovery, regardless of pole Ownership.~~

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(a) any violation that poses imminent danger to life or property must be repaired, disconnected, or isolated by the Operator immediately after discovery.

(b) any violation which correlates to a heightened risk of fire ignition shall be corrected no later than 180 days after discovery or receipt of a notice provided pursuant to OAR 860-024-0018(8), whichever is later.

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(c) all other violations requiring correction under Section 2 of 860-024-0012 shall be corrected no later than consistent with OAR 860-024-0012.

(8) If an Operator of electric facilities discovers a violation that correlates to a heightened wildfire risk, notice shall be provided to the pole owner or equipment owner. That notice shall state that the violation must be repaired within the time frame set out in these rules. 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 shall repair the equipment or replace the pole. The Operator of electric facilities may and seek reimbursement of all costs and expenses 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% of the total amount of work. This provision section does not preclude the an Operator, Owner or Occupant of electric facilities from exercising any other rights or remedies afforded by Oregon Law or contract.

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STATUTORY/OTHER AUTHORITY: ORS 183, ORS 756, ORS 757, ORS 758
STATUTES/OTHER IMPLEMENTED: ORS 757.035, ORS 758.280-758.286

ATTACHMENT A

AMEND: 860-024-0020

RULE TITLE: Gas Pipeline Safety

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

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ATTACHMENT A

AMEND: 860-024-0021

RULE TITLE: Liquefied Natural Gas Safety

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

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ATTACHMENT A

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AMEND: 860-024-0050

RULE TITLE: Incident Reports

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.

(b) "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.

(c) "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 (6) 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.

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ATTACHMENT A

(4) Except as provided in section (6) 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.

(5) 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.

(6) 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).

(7) 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

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