

Draft ODF WUI Language RAC Worksheet

INSTRUCTIONS and 1/5/22 Noon Deadline:

- 1) Please scan the entire document to see the big picture.
- 2) Go to each section and “track-change” your specific suggestions in the box provided.
 - a. There is one generic box for boilerplate language and a specific box for each of the substantive provisions.
 - b. If you agree with the proposal, you don’t have to do anything in the box.
 - c. One per organization please.
- 3) Save file in Word (Not PDF) as [Organization listed below] OAR Suggestions [XX-YY-202Z]

Organization
1000 Friends
Associated Oregon Loggers
Association of Oregon Counties
Association of Oregon County Planning Directors
Cow Creek Band of Umpqua Tribe of Indians
Department of Land Use & Conservation
Hood River County Planning Commission
Jackson County Fire
League of Oregon Cities
Office of the State Fire Marshal
Oregon Farm Bureau
Oregon Fire Chiefs Association
Oregon Fire Marshall's Association
Oregon Forest Industries Council
Oregon Home Builders
Oregon Property Owner's Association
Oregon Small Woodlands Association
Oregon State University
Oregon State University
Oregon State University – Institute of Natural Resources
Sisters Fire
Special Districts Association
Sustainable Northwest
The Nature Conservancy
Tualatin Valley Fire
Western Environmental Law Center

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- 4) Email to:
 - a. Tim.J.HOLSCHBACH@odf.oregon.gov,
 - b. SamImperati@ICMresolutions.com, and
 - c. SB762.rulemaking@oregon.gov
- 5) We will create the "One Text Discussion Draft," add ODF's feedback, and send the package to you on 1/10/22 for discussion at our 1/13/22 meeting. We will go over the provisions one at a time noting you're just going to LOVE group editing of a legal document in real time!
- 6) Process questions: Call Sam at (503) 314-1156 or email him.

DIVISION 44

Wildland-Urban Interface and Statewide Wildfire Risk Mapping

629-044-1000

Purpose

- (1) The purpose of OAR 629-044-1000 to 629-044-1040 is to implement the provisions Chapter 592, Oregon Laws 2021, Section 7, 31-34.
- (2) The purpose of OAR 629-044-1010 to 629-044-1015 is to establish criteria by which the wildland-urban interface shall be identified and classified pursuant to ORS 477.027
- (3) The purpose of OAR 629-044-1020 to 629-044-1025 is to set forth the criteria by which a statewide wildfire risk map must be developed and maintained pursuant to Chapter 592, Oregon Laws 2021, Section 7.
- (4) The purpose of OAR 629-044-1030 is to set forth the process for notification to property owners pursuant to Chapter 592, Oregon Laws 2021, Section 7.
- (5) The purpose of OAR 629-044-1035 is to set forth the process of integrating public input into the statewide wildfire risk map pursuant to Chapter 592, Oregon Laws 2021, Section 7.
- (6) The purpose of OAR 629-044-1040 is to set forth a property owner may appeal the designation of wildfire risk pursuant to Chapter 592, Oregon Laws 2021, Section 7.

Your specific "Track-change" Suggestions to the above

- (1) The purpose of OAR 629-044-1000 to 629-044-1040 is to implement the provisions Chapter 592, Oregon Laws 2021, Section 7, 31-34.
- (2) The purpose of OAR 629-044-1010 to 629-044-1015 is to establish criteria by which the wildland-urban interface shall be identified and classified pursuant to ORS 477.027
- (3) The purpose of OAR 629-044-1020 to 629-044-1025 is to set forth the criteria by which a statewide wildfire risk map must be developed and maintained pursuant to Chapter 592, Oregon Laws 2021, Section 7.
- (4) The purpose of OAR 629-044-1030 is to set forth the process for notification to property owners pursuant to Chapter 592, Oregon Laws 2021, Section 7.
- (5) The purpose of OAR 629-044-1035 is to set forth the process of integrating public input into the statewide wildfire risk map pursuant to Chapter 592, Oregon Laws 2021, Section 7.
- (6) The purpose of OAR 629-044-1040 is to set forth a property owner may appeal the designation of wildfire risk pursuant to Chapter 592, Oregon Laws 2021, Section 7.

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629-044-1005

Definitions

(1) The definitions set forth in ORS 477.001, shall apply to 629-044-1000 to 629-044-1040, unless the context otherwise requires.

(2) The following words and phrases, when used in OAR 629-044-1000 to 629-044-1040, shall mean the following, unless the context otherwise requires:

Your specific "Track-change" Suggestions to the above

(1) The definitions set forth in ORS 477.001, shall apply to 629-044-1000 to 629-044-1040, unless the context otherwise requires.

(2) The following words and phrases, when used in OAR 629-044-1000 to 629-044-1040, shall mean the following, unless the context otherwise requires:

(a) "Geographic area" means an area of land with similar characteristics that can be considered as a "unit" for the purposes of some classification.

Your specific "Track-change" Suggestions to the above

"Geographic area" means an area of land with similar characteristics that can be considered as a "unit" for the purposes of some classification.

(b) "Hazard rating" means one of the four factors which most influence the potential of a wildfire to spread. The four hazard rating factors are weather, climate, topography, and vegetation.

Your specific "Track-change" Suggestions to the above

"Hazard rating" means one of the four factors which most influence the potential of a wildfire to spread. The four hazard rating factors are weather, climate, topography, and vegetation.

(c) "Other human development" means essential facilities (ORS 455.447) that support community functions, public communication, energy and transportation.

Your specific "Track-change" Suggestions to the above

"Other human development" means essential facilities (ORS 455.447) that support community functions, public communication, energy and transportation.

(d) "Structure" means a permitted building on a lot that is used as a place where one or more people sleep.

Your specific "Track-change" Suggestions to the above

"Structure" means a permitted building on a lot that is used as a place where one or more people sleep.

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(e) “Vegetative fuels” means those plants that during any time of year contain enough plant growth, slash, or debris to constitute a fire hazard. Wildland fuels are not considered to be part of vegetative fuels.

Your specific “Track-change” Suggestions to the above

“Vegetative fuels” means those plants that during any time of year contain enough plant growth, slash, or debris to constitute a fire hazard. Wildland fuels are not considered to be part of vegetative fuels.

(f) “Wildfire Risk” means the likelihood of wildfire occurrence determined by a combination of wildfire frequency and intensity of such wildfires.

Your specific “Track-change” Suggestions to the above

“Wildfire Risk” means the likelihood of wildfire occurrence determined by a combination of wildfire frequency and intensity of such wildfires.

(g) “Wildland fuels” means natural or native vegetation that occurs in an area in which development is essentially non-existent, and may include grasslands, brushlands, rangelands, woodlands, timberlands, or wilderness.

Your specific “Track-change” Suggestions to the above

“Wildland fuels” means natural or native vegetation that occurs in an area in which development is essentially non-existent, and may include grasslands, brushlands, rangelands, woodlands, timberlands, or wilderness.

(h) “Wildland-Urban Interface” means a geographical area where structures and other human development meets or intermingles with wildland or vegetative fuels.

Your specific “Track-change” Suggestions to the above

“Wildland-Urban Interface” means a geographical area where structures and other human development meets or intermingles with wildland or vegetative fuels.

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629-044-1010

Wildland-Urban Interface Identification Criteria

(1) The WUI is a geographic area with a minimum of one structure or other human development per 40 acres and:

Your specific "Track-change" Suggestions to the above

The WUI is a geographic area with a minimum of one structure or other human development per 40 acres and:

(a) A minimum of 50% wildland or vegetative fuels; or

Your specific "Track-change" Suggestions to the above

A minimum of 50% wildland or vegetative fuels; or

(b) A 2.4 kilometer buffer into a community with a minimum of 75% wildland or vegetative fuels; or

Your specific "Track-change" Suggestions to the above

A 2.4 kilometer buffer into a community with a minimum of 75% wildland or vegetative fuels; or

(c) An existing and planned development, within the urban growth boundary or unincorporated communities, that is not identified in (1) or (2).

Your specific "Track-change" Suggestions to the above

An existing and planned development, within the urban growth boundary or unincorporated communities, that is not identified in (1) or (2).

(d) WUI also includes occluded geographic areas with a minimum of one structure or other human development per 40-acres within 2.4 km of an area greater than 2.6km² but less than 5km² with a minimum of 75% wildland or vegetative fuels.

Your specific "Track-change" Suggestions to the above

WUI also includes occluded geographic areas with a minimum of one structure or other human development per 40-acres within 2.4 km of an area greater than 2.6km² but less than 5km² with a minimum of 75% wildland or vegetative fuels.

(2) If a property is greater than 50% within the Wildland-Urban Interface boundary, the entire property will be considered Wildland-Urban Interface, regardless of the locations of the structures on the property.

Your specific "Track-change" Suggestions to the above

If a property is greater than 50% within the Wildland-Urban Interface boundary, the entire property will be considered Wildland-Urban Interface, regardless of the locations of the structures on the property.

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(3) Each property designated as within the Wildland-Urban Interface will be assigned a wildfire risk classification in accordance with 629-044-1020.

Your specific "Track-change" Suggestions to the above

Each property designated as within the Wildland-Urban Interface will be assigned a wildfire risk classification in accordance with 629-044-1020.

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629-044-1015

Periodic Wildland-Urban Interface Lands Identification and Classification

The identification of Wildland-Urban Interface lands shall be reviewed in conjunction with updates to the statewide wildfire risk map, OAR 629-044-1025.

Your specific "Track-change" Suggestions to the above

The identification of Wildland-Urban Interface lands shall be reviewed in conjunction with updates to the statewide wildfire risk map, OAR 629-044-1025.

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629-044-1020

Wildfire Risk Classification and Wildfire Hazard Rating

(1) Wildfire hazard ratings are meant to illustrate wildfire risk to structures and shall be classified as follows:

Your specific "Track-change" Suggestions to the above

Wildfire hazard ratings are meant to illustrate wildfire risk to structures and shall be classified as follows:

(a) A wildfire hazard value xx to xx. A designation of No wildfire risk is typically characterized as non-burnable areas.

Your specific "Track-change" Suggestions to the above

A wildfire hazard value xx to xx. A designation of No wildfire risk is typically characterized as non-burnable areas.

(b) A wildfire hazard value xx to xx. A designation of Low wildfire risk typically characterizes a wildfire that produces a flame length of less than 4 feet, a wildfire that exhibits no to little spotting, torching, or crowning.

Your specific "Track-change" Suggestions to the above

A wildfire hazard value xx to xx. A designation of Low wildfire risk typically characterizes a wildfire that produces a flame length of less than 4 feet, a wildfire that exhibits no to little spotting, torching, or crowning.

(c) A wildfire hazard value xx to xx. A designation of Moderate wildfire risk typically characterizes a wildfire that produces a flame length of 4 to 6 feet, a wildfire that occasionally exhibits spotting, torching, or crowning.

Your specific "Track-change" Suggestions to the above

A wildfire hazard value xx to xx. A designation of Moderate wildfire risk typically characterizes a wildfire that produces a flame length of 4 to 6 feet, a wildfire that occasionally exhibits spotting, torching, or crowning.

(d) A wildfire hazard value xx to xx. A designation of High wildfire risk typically characterizes a wildfire that produces a flame length of 6 to 8 feet, a wildfire that frequently exhibits spotting, torching, or crowning.

Your specific "Track-change" Suggestions to the above

A wildfire hazard value xx to xx. A designation of High wildfire risk typically characterizes a wildfire that produces a flame length of 6 to 8 feet, a wildfire that frequently exhibits spotting, torching, or crowning.

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(e) A wildfire hazard value xx to xx. A designation of Extreme wildfire risk typically characterizes a wildfire that produces a flame length of over 8 feet, a wildfire that exhibits frequent spotting, torching, or crowning.

Your specific "Track-change" Suggestions to the above

A wildfire hazard value xx to xx. A designation of Extreme wildfire risk typically characterizes a wildfire that produces a flame length of over 8 feet, a wildfire that exhibits frequent spotting, torching, or crowning.

(2) It is recognized that natural vegetation is highly variable and that the fuel models used in subsection (1) of this rule may not always accurately reflect expected wildfire behavior, due to variations in local species and vegetation conditions. Therefore, Oregon State University may make such modifications to the hazard rating as it determines is necessary to ensure accuracy.

Your specific "Track-change" Suggestions to the above

It is recognized that natural vegetation is highly variable and that the fuel models used in subsection (1) of this rule may not always accurately reflect expected wildfire behavior, due to variations in local species and vegetation conditions. Therefore, Oregon State University may make such modifications to the hazard rating as it determines is necessary to ensure accuracy.

(3) A designation of Wildfire Risk Class will consist of an average of the wildfire hazard ratings of the property.

Your specific "Track-change" Suggestions to the above

A designation of Wildfire Risk Class will consist of an average of the wildfire hazard ratings of the property.

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629-044-1025

Statewide Wildfire Risk Map

(1) Oregon State University will develop and maintain the Statewide Wildfire Risk Map in a publicly accessible format. The map will be developed:

Your specific "Track-change" Suggestions to the above

Oregon State University will develop and maintain the Statewide Wildfire Risk Map in a publicly accessible format. The map will be developed:

(a) Using current, peer reviewed data sets shall be used when calculating wildfire risk;

Your specific "Track-change" Suggestions to the above

Using current, peer reviewed data sets shall be used when calculating wildfire risk;

(b) wildfire risk value shall be calculated as a combined hazard rating incorporating how often wildfires occur and wildfire burn intensity; and

Your specific "Track-change" Suggestions to the above

wildfire risk value shall be calculated as a combined hazard rating incorporating how often wildfires occur and wildfire burn intensity; and

(c) utilizing a fuel loading measured at the time of year when large wildfires generally occur.

Your specific "Track-change" Suggestions to the above

utilizing a fuel loading measured at the time of year when large wildfires generally occur.

(2) Each wildfire risk class identified in OAR 629-044-1020, shall consist of a value range of the overall wildfire risk. The class value ranges will be determined using a statistically objective methodology.

Your specific "Track-change" Suggestions to the above

Each wildfire risk class identified in OAR 629-044-1020, shall consist of a value range of the overall wildfire risk. The class value ranges will be determined using a statistically objective methodology.

(3) Oregon State University shall update the map and other web-based tools within 12 months after updates to the most current wildfire risk assessment are available.

Your specific "Track-change" Suggestions to the above

Oregon State University shall update the map and other web-based tools within 12 months after updates to the most current wildfire risk assessment are available.

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629-044-1030

Notification

(1) The State Forester shall provide written notice to property owners within areas identified as high or extreme wildfire risk. The notice shall include:

- (a) The wildfire risk class designation; and
- (b) Information about how a property owner may appeal the designation of wildfire risk classification.

Your specific "Track-change" Suggestions to the above

The State Forester shall provide written notice to property owners within areas identified as high or extreme wildfire risk. The notice shall include:

- (a) The wildfire risk class designation; and
- (b) Information about how a property owner may appeal the designation of wildfire risk classification.

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629-044-1035

Public Input

(1) The following locally developed plans may be integrated into the wildfire risk map if the local jurisdiction chooses:

Your specific "Track-change" Suggestions to the above

The following locally developed plans may be integrated into the wildfire risk map if the local jurisdiction chooses:

(a) Community Wildfire Protection plans developed under the Healthy Forests Restoration Act; or

Your specific "Track-change" Suggestions to the above

Community Wildfire Protection plans developed under the Healthy Forests Restoration Act; or

(b) Natural Hazard Mitigation Plans developed under the Robert T. Stafford Disaster Relief and Emergency Assistance Act.

Your specific "Track-change" Suggestions to the above

Natural Hazard Mitigation Plans developed under the Robert T. Stafford Disaster Relief and Emergency Assistance Act.

(2) In addition to section (1) of this rule, prior to the effective date of updates to the Statewide Wildfire Risk Map, the Department shall hold a public meeting.

Your specific "Track-change" Suggestions to the above

In addition to section (1) of this rule, prior to the effective date of updates to the Statewide Wildfire Risk Map, the Department shall hold a public meeting.

(a) Such meeting shall take place at the time and place stated in the notice published by the Department.

Your specific "Track-change" Suggestions to the above

Such meeting shall take place at the time and place stated in the notice published by the Department.

(b) The Department and Oregon State University will present anticipated changes to the Wildland-Urban Interface boundary and changes in wildfire risk class assignment at a county scale.

Your specific "Track-change" Suggestions to the above

The Department and Oregon State University will present anticipated changes to the Wildland-Urban Interface boundary and changes in wildfire risk class assignment at a county scale.

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(c) The meeting shall allocate time to receive from any interested persons objections, remonstrances or suggestions relating to the proposed designations and wildfire risk class assignments.

Your specific "Track-change" Suggestions to the above

The meeting shall allocate time to receive from any interested persons objections, remonstrances or suggestions relating to the proposed designations and wildfire risk class assignments.

(3) Following the public meeting the Department and Oregon State University may make such changes in the proposed designations and wildfire risk class assignments as it finds to be proper, hold additional hearings as it finds necessary, and thereafter shall make final designations and wildfire risk class assignments.

Your specific "Track-change" Suggestions to the above

Following the public meeting the Department and Oregon State University may make such changes in the proposed designations and wildfire risk class assignments as it finds to be proper, hold additional hearings as it finds necessary, and thereafter shall make final designations and wildfire risk class assignments.

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629-044-1040

Appeals

- (1) Any request of an owner of real property to appeal a wildfire risk class designation must be:
- (a) in writing; and
 - (b) received by the State Forester within 30 days after the effective date of the designation of wildfire risk class.

Your specific "Track-change" Suggestions to the above

Any request of an owner of real property to appeal a wildfire risk class designation must be:

- (a) in writing; and
- (a) received by the State Forester within 30 days after the effective date of the designation of wildfire risk class.

- (2) In the written appeal in section (1) of this rule, the owner must specifically state:
- (a) the issue with the designation of the wildfire risk class;
 - (b) the remedy sought; and
 - (c) any pertinent facts that may justify a change in the assignment, in accordance with Chapter 592, Oregon Laws 2021, Section 7.

Your specific "Track-change" Suggestions to the above

In the written appeal in section (1) of this rule, the owner must specifically state:

- (a) the issue with the designation of the wildfire risk class;
- (b) the remedy sought; and
- (c) any pertinent facts that may justify a change in the assignment, in accordance with Chapter 592, Oregon Laws 2021, Section 7.

- (3) Upon receipt of a written appeal of wildfire risk designation, the forester and Oregon State University shall:
- (a) Contact the owner to schedule a time and place that the forester, Oregon State University, and owner may further review the matter, if the owner so desires; and
 - (b) In the event the matter is not satisfactorily resolved, in the judgment of the owner, through the informal review in subsection (a) of this section, the forester and Oregon State University shall:
 - (A) Review the wildfire risk class assignment for data errors;
 - (B) Review the pertinent facts presented by the owner; and
 - (C) Prepare a report describing the issue and proposing final resolution of the matter.

Your specific "Track-change" Suggestions to the above

Upon receipt of a written appeal of wildfire risk designation, the forester and Oregon State University shall:

- (a) Contact the owner to schedule a time and place that the forester, Oregon State University, and owner may further review the matter, if the owner so desires; and

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(b) In the event the matter is not satisfactorily resolved, in the judgment of the owner, through the informal review in subsection (a) of this section, the forester and Oregon State University shall:

(A) Review the wildfire risk class assignment for data errors;

(B) Review the pertinent facts presented by the owner; and

(C) Prepare a report describing the issue and proposing final resolution of the matter.

(4) Any final resolution of the matter raised under section (3) of this rule shall be prepared as a final order, and any further appeal of the Department's final action shall be as prescribed by ORS 183.484.

Your specific "Track-change" Suggestions to the above

Any final resolution of the matter raised under section (3) of this rule shall be prepared as a final order, and any further appeal of the Department's final action shall be as prescribed by ORS 183.484.