

What Gives ODF the Right to Impose the Forest Patrol Assessment on Landowners?

The laws related to wildland fire protection in the State of Oregon and for Oregon Department of Forestry are found primarily in two State statutes; Oregon Revised Statute (ORS) Chapter 477 and ORS 526. A very condensed response to the question is as follows:

All landowners who own forestland within the state of Oregon and within a forest protection district are required by law to provide for the prevention of fires starting on or spreading from their property. In the 1930's the landowners chose, through a public process, to form a forest protection district through the Oregon Dept. of Forestry (ODF) to meet the fire protection requirements stated above. The City of Sumpter is located within the forest protection district boundary. State law requires that all lands within the forest protection district boundary be classified. The lands within the city limits of Sumpter have been classified. As per State Law, all classified lands within the protection district boundary are to pay for fire protection. Finally, ODF is required to assess the cost of fire protection on all classified lands within the protection district boundary, hence the ability to assess within the city limits of Sumpter.

The following is a more comprehensive review of the specific Oregon Revised Statutes and Administrative Rules which govern the Forest Patrol Assessment process.

Oregon law finds that fires which are burning uncontrolled on forestlands are a "nuisance" and that they must be "summarily" abated by the state. ORS 477.066: *"Each owner ... of forestland on which a fire exists or from which it may have spread, notwithstanding the origin or subsequent spread thereof, shall immediately proceed to control and extinguish such fire when its existence comes to the knowledge of the owner ... and shall continue until the fire is extinguished. If the [state] determines the fire is either burning uncontrolled or the owner ... does not then have readily and immediately available personnel and equipment to control or extinguish the fire, the [state] ... shall summarily abate the nuisance thus constituted by controlling and extinguishing the fire."*

ORS 477.210 Duty of owner to protect forestland; (1) During the season of the year when there is danger of fire, every owner of forestland (see definition as per ORS 477.001 below) shall provide adequate protection against the starting or spread of fire thereon or there from, which protection shall meet with the approval of the State Board of Forestry.

- This law requires that all owners of forestland (as per the definition in ORS 477.001) in the State are responsible for preventing the start or spread of a fire from their property. There are three ways for a landowner to comply with this law; have "...a bona fide forest protection plan that meets with the approval of the board...", is a member in good standing in a forest protective association, or "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..."

ORS 477.001 Definitions; "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..."

- This definition captures most of the wildland fuel that will be flammable at any time of the year, from true range ground (grass/sagebrush/juniper) to forested covered landscapes.

ORS 526.320 Investigation of forestlands by committees; determination of adaptability for particular uses... 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 forestland...

- The Baker County Forest Land Classification Committee classified much of the land within the City limits of Sumpter as "forestland"

ORS 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...

- This law requires the State Forester to designate forest protection districts to provide fire protection in the absence of a Board of Forestry approved fire protection plan. The Northeast Oregon protection district was formed through a formal public hearing process in the mid 1930's. The City of Sumpter falls clearly within the protection district boundary.

ORS 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 with the district boundary... (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...

- This law requires that the costs of protecting timberland (Class 2) and grazing land (Class 3) within the district boundary are to be applied to all classified timberland and grazing land.

OAR 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...

- This rule requires ODF to assess all lands that have been classified within the protection district boundaries.