

WILDFIRE EMERGENCY ORDER

The Director of the Oregon Department of Consumer and Business Services (“Director”), acting under the authority in ORS 731.870, has determined that the wildfire disaster in numerous counties throughout Oregon, which resulted in a state of emergency,¹ substantially interferes with the public’s ability to carry on its normal course of business. Therefore, the Director issues this Order (“Order”) to all insurers² transacting insurance in Oregon (“insurers”).

This Order is directed to all admitted insurers³ that provide any type of insurance coverage in Oregon, including life, health, property, casualty, and all other lines of insurance. The Order applies to all insurance policies issued, delivered, or covering a risk in the affected geographic areas as specified by bulletins issued by the Director.⁴ The bulletins will inform insurers of the Affected Areas, specified by ZIP codes, that are subject to this Order.

This Order shall be construed to effectuate the intent and purposes expressed therein and to afford maximum consumer protection.

This Order takes effect on Sept. 18, 2020, and will be in force through Oct. 17, 2020, but the director may extend the duration of the Order.

The Director FINDS that:

1. On Aug. 20, 2020, Oregon Gov. Kate Brown signed Executive Order 20-35, which declares a statewide state of emergency under ORS 401.165 due to critical fire danger throughout Oregon.
2. On Aug. 31, 2020, Oregon Gov. Kate Brown signed Executive Order 20-36, declaring that the White River Fire poses a threat to life, safety, and property.⁵
3. On Sept. 8, 2020, Oregon Gov. Kate Brown signed Executive Orders 20-39 and 20-40, declaring that the Beachie Creek and Lionshead fires,⁶ as well as the Holiday Farm fire,⁷ pose a threat to life, safety, and property.

¹ See Oregon Gov. Kate Brown’s Executive Order declaring a state of emergency (EO No. 20-35), issued Aug. 20, 2020. EO 20-35 is at https://www.oregon.gov/gov/Documents/executive_orders/eo_20-35.pdf

² The term “insurer” is defined in ORS 731.106 as “every person engaged in the business of entering into policies of insurance.” For purposes of this order, the term includes all insurance companies, health care service contractors, multiple employer welfare arrangements, and all similar entities engaged in the business of insurance in Oregon.

³ The term “admitted insurer” is defined in ORS 735.405 as “an insurer authorized to do an insurance business in this state.”

⁴ For the purposes of workers’ compensation insurance under ORS chapter 656, this Order applies to policies covering an employer with a principal place of business in an Affected Area.

⁵ EO 20-36 is at https://www.oregon.gov/gov/Documents/executive_orders/eo_20-36.pdf

⁶ EO 20-39 is at https://www.oregon.gov/gov/Documents/executive_orders/eo_20-39.pdf

⁷ EO 20-40 is at https://www.oregon.gov/gov/Documents/executive_orders/eo_20-40.pdf

4. On Sept. 9, 2020, Oregon Gov. Kate Brown signed Executive Order 20-41,⁸ invoking statewide the Emergency Conflagration Act due to extreme fire danger.
5. On Sept. 14, 2020, Oregon Gov. Kate Brown signed Executive Orders 20-43, 20-44, and 20-45, declaring the Powerline,⁹ Almeda,¹⁰ and Slater¹¹ wildfires pose a threat to life, safety, and property.
6. The wildfire disasters in Oregon have resulted in the loss of life and property, created imminent health and safety risks, and caused widespread disruption to the normal course of business.
7. The nature of the destruction caused by the wildfires and resulting smoke requires an immediate and massive response from insurers and other regulated entities.
8. The wildfires and resulting smoke have created hazardous conditions, necessitated evacuation orders, damaged critical infrastructure, destroyed or prevented access to records and insured property, and otherwise inhibited persons from accessing resources necessary to make premium payments, submit claims, and perform other duties in accordance with the terms of their insurance contracts.
9. Providing, as a temporary measure, extended grace periods for premium payments, postponement of cancellations and nonrenewals, relief from reporting and other required communications related to claims submission and processing for insureds, and relief from other duties of insureds that may be burdensome, will help mitigate the negative effect of the wildfire disaster.
10. The disruption to the normal course of business caused by the wildfire disaster will continue for at least the period of time that the Order will be in force.

The Director CONCLUDES that:

11. Under ORS 731.870, when the governor declares a state of emergency under ORS 401.165, the Director has the authority to issue an order addressing all of the following issues:
 - a. Reporting requirements for claims;
 - b. Grace periods for payment of insurance premiums and performance of other duties by insureds; and
 - c. Temporary postponement of cancellations and nonrenewals.
12. An order issued under ORS 731.870 may not be effective for more than 30 days, but may be extended at the Director's discretion if circumstances warrant it for an additional period of not more than 30 days or for subsequent additional periods of not more than 30 days.

⁸ EO 20-41 is at https://www.oregon.gov/gov/Documents/executive_orders/eo_20-41.pdf

⁹ EO 20-43 is at https://www.oregon.gov/gov/Documents/executive_orders/eo_20-43.pdf

¹⁰ EO 20-44 is at https://www.oregon.gov/gov/Documents/executive_orders/eo_20-44.pdf

¹¹ EO 20-45 is at https://www.oregon.gov/gov/Documents/executive_orders/eo_20-45.pdf

13. Under Oregon Administrative Rules 836-050-0300 and 836-050-0305, authorized by ORS 731.870, the circumstances of the declared state of emergency, as described in paragraphs 1 to 10 in this Order, prevent insureds from using normal methods of reporting claims; payment of insurance premiums and performance of other duties; and communication of notices of cancellation or nonrenewal from insureds to their insurers and communication from insurers to their insureds.

Now therefore, the Director ORDERS:

14. All insurers must immediately take the following actions regarding reporting of claims and other communications regarding claims with insureds in the Affected Areas subject to this Order:

- a. Extend all deadlines for policyholders to report claims or submit other communications related to claims. Deadlines that must be waived include, but are not limited to, deadlines to submit initial claims or to respond to communications related to claims payment and processing, grievances and appeals, or utilization review requirements.¹²
- b. Take all practicable steps to provide opportunities for insureds to report claims or provide required communications related to claims considering any potential limitations for an insured's access to communication tools due to wildfires.

15. Insurers must immediately institute a grace period for premium payment for all insurance policies issued, delivered, or covering a risk in the affected areas subject to this order, ending no earlier than the date this order is no longer in effect.¹³

16. Insurers must immediately take the following actions regarding cancellations and nonrenewals for all active insurance policies issued, delivered, or covering a risk in the Affected Areas subject to this order:

- a. Except as provided in subsection (e), insurers must suspend all cancellations and nonrenewals until this Order is no longer in effect.
- b. For insurance policies not yet cancelled or nonrenewed as of the date of this Order, but for which a notice of cancellation or nonrenewal has been delivered after the applicable date referenced in the bulletin listing the Affected Areas, insurers must withdraw the issued notice and provide insureds with a notice that cancellation and nonrenewal is suspended until this Order is no longer in effect.
- c. For policies extended beyond the normal date of cancellation or nonrenewal as a result of this Order, the premium for the extended coverage may be determined by the insurer in accordance with the terms of the policy, if applicable. Insurers may continue to bill insureds for this premium amount, but may not cancel or nonrenew coverage due to nonpayment of the extended premium amount until the Order is no longer in effect.

¹² This provision does not apply to the requirements of ORS 656.262 for workers' compensation insurance.

- d. An insurer may not cancel or nonrenew a policy solely because of a claim directly resulting from the circumstances of the wildfire disaster, except in cases of fraud or intentional misrepresentation of a material fact as prohibited by the terms of the policy.
- e. This Order does not prevent a health insurer from terminating enrollment in an individual insurance policy that was purchased using advance premium tax credits upon the exhaustion of the three-month grace period applicable to such policies in accordance with 45 CFR § 156.270(g).

17. Nothing in this Order shall be construed to relieve insureds of the obligation to pay premiums that are due under the terms of the insurance policy.

SO ORDERED this 18th day of September 2020.



Andrew R. Stolfi, Insurance Commissioner and Director
Department of Consumer and Business Services