

ADVANCING FIRE PROTECTION IN OREGON

WILDFIRE PROGRAMS ADVISORY COUNCIL'S REPORT ON THE IMPLEMENTATION OF OREGON'S
SENATE BILL 762

OCTOBER 2022

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GLOSSARY OF ACRONYMS

BCD	Building Codes Division of the Department of Consumer and Business Services
CCO	Coordinated Care Organization
DCBS	(Oregon) Department of Consumer and Business Services
DFR	Division of Financial Regulation
DLCD	Department of Land Conservation and Development
HECC	Higher Education Coordinating Commission
IJA	Infrastructure Investment and Jobs Act of 2021
IRA	Inflation Reduction Act of 2022
NGO	Nongovernmental organization
OCC	Oregon Conservation Corps
OCF	Oregon Community Foundation
ODF	Oregon Department of Forestry
ORS	Oregon Revised Statutes
OSFM	(Oregon) Office of the State Fire Marshal
OSU	Oregon State University
R327	Oregon Residential Specialty Code: R327.4 Wildfire Hazard Mitigation
RAC	Rules Advisory Committee
SB 762	(Oregon) Senate Bill 762 of 2021
WUI	Wildland-urban interface

EXECUTIVE SUMMARY

Context And Purpose

Like other western states, Oregon faces increasing risks and effects of wildfire. In response to the growing concern over wildfire and its effects, in January 2019 Oregon Governor Kate Brown convened the Governor’s Council on Wildfire Response to assess the issue and provide policy and funding recommendations to the Governor and State Legislature. In November of that year, the Council released its final report, which found a disturbing trend:

Fundamental shifts in wildfire behavior in Oregon have produced record fire losses, costs and damage to communities. Over a century of land management practices and changing policy, starting with the removal of Tribal communities and subsequent loss of their controlled burning practices, followed by widespread fire suppression and shifts in land use, has enabled fuels to accumulate far beyond historic conditions. Population growth has increased human-caused ignitions, putting people and communities in harm’s way. Additionally, fire seasons have become longer, drier and hotter, owing to climate impacts.

Wildfire effects in Oregon have been profound. Air quality has suffered in fire-prone regions like central and southwestern Oregon as well as in Portland and the Willamette Valley. Whether in urban or rural areas, fire frequently impacts Oregon’s most vulnerable populations. Recent power outages in California, driven by increased wildfire risk, are powerful reminders of the breadth and reach of wildfire impacts, especially its threat to vulnerable populations.

Wildfire is a natural force on the landscape and in some regions a necessary catalyst for balance and resilience. But current conditions are out of balance and demand a swift and enduring response. Oregon must enact a cohesive strategy encompassing communities, natural landscapes and effective wildfire response combining immediate investments and policies to address the symptoms of uncharacteristic and harmful wildfire, with long-term investments to help Oregon adapt to a new wildfire reality.¹

Climate change is also exacerbating these factors: “Multiple studies have found that climate change has already led to an increase in wildfire season length, wildfire frequency, and burned area. The wildfire season has lengthened in many areas due to factors including warmer springs, longer summer dry seasons, and drier soils and vegetation.”²

The United States Forest Service, which along with the United States Bureau of Land Management, manages more than 60% of Oregon’s lands, also recognized the urgency with which we must confront the wildfire crisis, explaining:

¹ Governor’s Council on Wildfire Response, https://www.oregon.gov/gov/policies/Documents/FullWFCReport_2019.pdf, p.4.

² U.S. Environmental Protection Agency, “Climate Change Indicators: Wildfires,” <https://www.epa.gov/climate-indicators/climate-change-indicators-wildfires>. Updated July 2022

Wildfires rampaged across the West in 2021, and not for the first time. In 2020, 2017, and 2015, more than 10 million acres—an area more than six times the size of Delaware—burned nationwide. Nearly a quarter of the contiguous United States is at moderate to very high risk from wildfire. Over half of that area is in the West. In the past 20 years, many States have had record wildfires, and fires in two Western States (Alaska and California) have exceeded 1 million acres in size. In 2020, Coloradans saw all three of their largest fires on record. Fires larger than 100,000 acres have become so common that the National Interagency Fire Center has stopped tracking them as exceptional events. “Fire seasons” have become whole fire years, with a year-round workforce for wildland fire suppression and year-round planning and fieldwork in performing postfire recovery and in preparing landscapes for future wildfires.

In short, the Nation faces a growing wildfire crisis, especially in the West. This is a national emergency, and it calls for decisive action. In response, the Forest Service is proposing a comprehensive 10-year strategy for protecting communities and improving resilience in America’s forests.³

Here in Oregon, the 2020 Labor Day fires burned nearly a million acres in a short time, resulting in the loss of over four thousand structures and unfortunately, nine lives.

Responding to these calls to action, and recognizing the opportunities to make Oregonians and their communities safer and more wildfire prepared and resilient, the Oregon Legislature enacted Senate Bill 762 in the 2021 legislative session. Senate Bill 762 set an unprecedented path for 11 state agencies to implement multiple programs intended to transform how Oregon lives with wildfire. These programs work together to modernize fire preparedness and response systems, creating new opportunities to advance fire protection at multiple scales from the individual to the landscape.

A key aspect of this legislation was requirement for a Wildfire Programs Director and Wildfire Programs Advisory Council (“Council”) to guide implementation. The Council was formed with 19 members representing a diverse range of Oregon’s geographies and stakeholder communities. The Council is required to monitor progress, advise and assist the Director, and prepare an annual October report to the Governor and appropriate committees or interim committees of the Oregon Legislative Assembly. This report must describe implementation progress and specifically provide advice and recommendations on:

- Changes necessary to dramatically reduce wildfire risk and ensure defensible space, building codes, and land use applications are appropriate
- How Oregon’s wildfire risk map may inform building codes and land use laws, rules, and decisions in a regionally appropriate manner
- The application of defensible space requirements to vineyards, crops, and other cultivated vegetation

³ *Confronting the Wildfire Crisis: A Strategy for Protecting Communities and Improving Resilience in America’s Forests*, p. 9.

- How to strengthen intergovernmental and multiparty collaboration including government, stakeholders, and the public

This is the first annual report of the Council intended to fulfill this requirement. It represents the efforts of its members and agency support staff.

List of Council Recommendations

These recommendations are based on Council discussion and agency briefings as of September 2022. Some aspects of the bill are under revision or progress at this date (i.e., wildfire risk mapping, land use recommendations). Recommendations may be adjusted in the future based on changes to implementation status and new knowledge.

Wildfire Risk Mapping

Section 7, ODF/OSU

- *ODF must improve its outreach plan with the public, local governments, and sister agencies (OSFM and DCBS).* The agency should work with input from the Council to discuss both the benefits and challenges resulting from the creation of the map and provide significant opportunities for local government and the public to help shape the map before it is finalized. The map criteria were chosen based upon the need for scientific rigor and must also meet Oregonians' needs. Seeking guidance from local governments and the public will help the agency meet that need. Provide education about the purpose of the map for defensible space and home hardening standards with OSFM and DCBS. This plan must be implemented before revised maps are finalized and placed on Oregon Wildfire Risk Explorer.
- *ODF must explain the risk to property arising from its inclusion in each risk class in a plain language manner that is understandable to the public and useful in weighing the risk to each property.* ODF should meet with members of the Oregon legislature and the WPAC to explain, in layperson's terms, the criteria and process used in making risk classifications for each risk class.
- *Before finalizing any future amendments to the map, ODF must investigate and clarify confusing or potentially inaccurate results in the maps raised during the appeals process and by the Council.* ODF did not have adequate time to check the results of the statewide map of wildfire risk for accuracy as applied to individual Oregon properties. Consequently, the map contained anomalies that were consistent with the mapping criteria chosen, but nevertheless were difficult to explain to the public. The workgroup understands that it is not feasible for ODF to ground truth each mapped property, but suggests that ODF coordinate with local governments to conduct a sample to validate variables that can be directly observed, using a small sample of representative properties within each jurisdiction.
- *A method must be created to document and track implemented mitigation efforts, and to direct the insurance industry to recognize completed work.* This would necessitate collection of defensible space data, creation and maintenance of a map layer including

those data and fire service coverage, and considering legislative action necessary to direct the insurance industry. This would need to involve OSFM, BCD, and DFR.

Defensible Space

Sections 8, 9, 10; OSFM

- Regarding SB 762 Section 36(2)(f), allow for an emphasis on education rather than code enforcement in high/extreme risk settings where vineyards, crops, and other cultivated vegetation are irrigated and maintained, or non-irrigated but maintained, throughout the year. Education should focus on vegetative choice/modification, spacing, and undergrowth maintenance.
- Provide sustained funding streams for Fire Adapted Oregon and Response Ready Oregon programs to continue progress.
- Ensure that public education initiatives thoroughly explain the goals and benefits of defensible space requirements.
- Create an internet dashboard where all Oregonians can type in their street address and have access to educational resources, the WUI and risk classification status for their property, OSFM and local government defensible space requirements, DCBS R327 requirements; and wildfire related programs, resources, and grants that may be available to them.

Building Codes

Section 12, DCBS

Funding

- The state should subsidize compliance with R327, prioritizing investment based on need, location, and risk. If funding is available, include those properties owned by or for rent to those making up to 80-120% of area median income located in the high or extreme category and in the WUI. Look to the Oregon Housing and Community Services department for guidance on how this median income group could be provided appropriate funding.

Education

- The state should invest in a broad R327 education campaign, utilizing a variety of media and methods to reach audiences with various language and technology needs
Specifically:
 - Use a direct-mail campaign to property owners.
 - Work with local businesses, such as local hardware stores and home improvement stores, to assist in the education effort.
 - Partner with community partners, such as community-based organizations, local Tribes, service organizations, health care providers, senior centers, local schools, community colleges, OSU Extension, and more to provide information.
 - Provide different types of educational materials (written, video, social media, etc..) and in appropriate languages.
 - Council members should be provided adequate materials to also engage in outreach and be a resource for questions from the public. This could include a

website where all the SB 762 resources and information are readily accessible to the public.

- Develop a program to measure success of the education campaign with frequent review and analysis, and report back to the Council at each Council meeting on their efforts and additional needs.

Policy Gaps

- Wildfire resilient standards should be developed for manufactured homes, both for new homes and for remodeling of existing ones.
- Triplexes should be covered by the revised R327 code, if in the WUI and in a high or extreme risk area.

Electric Utilities

Sections 2-6, PUC

- Existing utility wildfire mitigation plans should be evaluated and given time for implementation before plan requirements are modified.
- Evaluate how state resources can be utilized to provide analysis tools or access to data to better inform and support utilities in implementation of their wildfire protection plans, in order to lighten the burden utilities face in addressing aspects of wildfire mitigation such as access to data modeling tools for risk evaluation or weather forecasting.
- All utility providers should consider the state risk map (Section 7) as they are determining their high fire risk zones and describe in their wildfire protection plans how the state risk map relates to the specific electric utility risk identified as part of these zones.
- Address opportunities for collaboration through the evolution of each utility's wildfire protection plan. Specifically:
 - Encourage collaboration between governmental bodies, utilities, other utility service providers (telecommunications) and the general public; these should be addressed through each utility's wildfire protection plan.
 - Encourage collaboration between local communities, public safety partners, and utilities for the identification of community critical infrastructure that should be addressed as part of a de-energization procedure (i.e., irrigation used as firefighting, telecommunication services)
 - Facilitate data sharing between stakeholders for situational awareness (i.e., weather station networks, wildfire detection camera networks, smoke detection / air quality networks)
 - Coordinate community outreach and education of the general public on wildfire risk and mitigation strategies, specifically de-energization procedures, impacts, and what support services are available to the public.

Public Health

Sections 13-15, OHA, DEQ, DHS

DEQ

- Allocate funding to support long-term positions in DEQ’s program, especially in monitoring, to better recruit and retain staff.
- Explore smoke management tools to assist in smoke mitigation, resilience, and fire response in DEQ’s program, such as prescribed burning, biofuel harvest, incorporating Indigenous forest knowledge, and consulting with groups working in land restoration. Look to Section 18 and programs/partners involved in landscape resiliency for guidance.

DHS

- Clarify DHS’s program regarding its future and success. This would include formalizing a commitment for funding resources to better stabilize the future of this program. This may need to be balanced with community resources to have long-term maintenance, which will entail stronger community support or funding from the state.
- Revisit and diversify community outreach plans in DHS’s program, to better reach the public and eligible entities to increase applications. This can look like an assessment to identify in-need local governments, public education providers, and Tribal nations informed by the identification of communities that are disproportionately impacted by wildfire smoke.
- Expand eligibility for the program to include non-profit community-based organizations and include efforts to assist program recipients to plan for or operate cleaner air shelters as eligible expenses (see SB1536 2022 for language relating to warming and cooling centers for alignment).
- Conduct an analysis of wildfire risk to households that receive assistance from ODHS programs; work with state and local agencies to focus risk reduction measures (e.g., education, evacuation planning, fuels reduction) on those households.

OHA

- OHA and relevant agencies should explore the possibility of attachments of smoke filtration devices in ductless heat pumps installation programs and other energy efficiency programs run by agencies like Energy Trust of Oregon and Oregon Department of Energy.
- OHA should explore the possibility to add smoke filtration systems to medical equipment deployed by CCOs.
- OHA should continue to improve its outreach plan to better identify people or entities that need smoke filtration systems. This can look like a self-assessment form to identify in-need households.

Wildfire Risk Reduction

Sections 18-20, 24; ODF

Landscape resiliency program

- Explore long-term staffing strategy to meet landscape resiliency program requirements. Staffing should be adequate to meet timeframe and scope of work requirements with the assumption being the program is ongoing with future funding.
- Secure long-term funding commitment from the state, including stable funding for additional field and administrative staff to implement the vision of SB 762 for the

landscape resiliency program.

- Establish landscape resilience grants as an ongoing program that allows ODF to work with practitioners to plan projects that can be completed across biennia while still ensuring timely implementation of on-the-ground work. Ongoing maintenance of implemented projects should be considered. Projects may need longer than the currently allowed biennial timeline for completion.
- As part of the 20-year plan, ODF should determine the scale of the eligible acres versus the need and what additional funding is needed to close the gap.
- State agencies should work with federal partners to ensure that new federal investments (i.e., IIJA, Inflation Reduction Act) are leveraged to maximize Oregon's interests. Working with NGOs, Tribes, and other partners is essential to achieve this objective.

Small forestland grant program

- This grant program's eight evaluation criteria included whether properties were high-risk, and if they had forest management plan. These two criteria equated to 200,000 acres (a small percentage of at-risk lands). ODF should assess whether this program should prioritize high-risk landowners with forest management plans.
- Assess if limitations of 160 acres west of the Cascade crest and 640 acres east of the Cascade crest present barriers for treatment and whether it presents a significant concern for accomplishing the scale of needed work for risk reduction outcomes.
- There are landowner data and capacity limitations that need to be addressed. Small landowners do not have the capacity to put together grant proposals or the required data for a proposal.
- An assessment of the most effective means of communications/outreach to landowners is needed.
- Leverage federal funding (IIJA and IRA) to assist communities with limited resources for grant writing.

Prescribed Fire

Sections 25-27, ODF

- Evaluate and develop a process to allow prescribed burns to take place during periods of limited air quality under certain circumstances. This might come into play during narrow windows of weather that would allow burning in areas that have previously experienced fires.
- Improve coordination between ODF & DEQ to appropriately apply the flexible tools within smoke management rules and expand the ability for prescribed fire treatments to be planned and executed.
- Encourage the state to pursue options that increase the pace and scale of prescribed fire by removing identified impediments, including insurance, liability, workforce constraints, and any other limitations that ODF identifies in their June 2023 report.
- Encourage the state to proactively promote and encourage prescribed burning.
- Encourage the state to augment its communications and partnerships with the federal land management agencies (as well as NGOs) that are also burning to increase acres on all ownerships that are under prescribed burn plans.

Sections 21-23, HECC

- Sustain funding for this program.
- Encourage HECC and OCC to conduct outreach and education in southern and eastern areas of the state that were not adequately represented in program outcomes to date. This would include engaging local community leaders and focusing on reaching youth.
- Encourage OCC and HECC to discuss with OCF how to better define expenditure approval processes that align with other program and improve communications.
- Support efforts to make landscape resiliency programs efficient and fostering collaboration between all involved. This would include coordinating and identifying programs (i.e., Youth Conservation Corps and Oregon Conservation Corps, landscape resiliency grant programs, or other programs) to ensure program success throughout the state.

Actions Necessary to Implement Recommendations

The Council’s recommendations largely focus on the need to sustain programs established in SB 762 (Table 1). These are new programs that will require longer timeframes and continued support to achieve their objectives. A \$150 million gap exists for sustaining these programs into the next biennium. At this point, the Council advises to provide a constant level of funding for all programs, given the comprehensive approach and goals of SB762, whether future funding is in whole or part. Should future funding reductions be needed, the Council can offer advice on recommended prioritization at that time.

The Council also calls for an integrated, coordinated, and robust effort for communications, outreach, and education across all of SB 762 programs. This is in addition to specific outreach needs within individual programs.

Further, the Council recognizes the need to subsidize future compliance with aspects of SB 762 in areas of social and economic vulnerability where income may present a barrier to implementation.

Finally, the Council emphasizes the importance of continued prioritization in program implementation when allocating resources to individuals and communities. Specifically, prioritization to target resources to areas with 1) socially and economically vulnerable communities, and 2) high and extreme wildfire risk will be needed to achieve the intent of many aspects of the legislation.

Table 1. Summarized Council recommendations and needed actions, September 2022

SB 762 section	Responsible agency/ies	Council recommendations	Action that would be needed
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Global need across programs	All involved	Organize an integrated, coordinated, robust communications and outreach effort across all of SB 762 programs, including a single website and dashboard.	Legislative action to identify appropriate agency or agencies to establish and maintain such an effort, and provide adequate funding.
Global need across programs		Provide additional capacity to support the Wildfire Programs Director and Wildfire Programs Advisory Council in their roles set out under SB 762	Legislative action to provide funding.
Section 7 Wildfire risk mapping	ODF, OSU	Improve outreach plan with the public, local governments, and sister agencies (OSFM and DCBS). Explain the risk to property arising from its inclusion in each risk class in plain language. Provide education about the purpose of the map for defensible space and home hardening standards.	Legislative action to sustain funding for outreach capacity at ODF and OSU.
		Investigate and clarify confusing or potentially inaccurate results in the maps.	Legislative action to sustain funding for mapping capacity at OSU.
		Create method to document and track implemented mitigation efforts, and fire service coverage, and to direct the insurance industry to recognize completed work (responsibility OSFM, BCD, DFR).	Legislative action to fund tracking and mapping. Legislative action to direct insurance industry.
Sections 8, 9, 10 Defensible space	OSFM	Allow for emphasis on education rather than code enforcement in high/extreme risk settings where vineyards, crops, and other cultivated vegetation are irrigated and maintained, or non-irrigated but maintained, throughout the year.	Legislative action to sustain funding for Fire Adapted Oregon program at OSFM.
		Ensure that public education initiatives thoroughly explain the goals and benefits of defensible space requirements.	Legislative action to sustain funding for Fire Adapted Oregon program at OSFM.
Section 11 Land use	DLCD	The Council will offer recommendations in an addendum following release of DLCD's report in fall 2022.	NA at this time.
Section 12 Building codes	DCBS	Subsidize compliance with R327, prioritizing investment based on need, location, and risk. If funding is available, include properties owned by or for rent to those making up to 80-120% of area median income located in the high or extreme category and in the WUI.	Legislative action to provide new funding.
		Invest in a broad R327 education campaign, utilizing a variety of media and methods to reach audiences with various language and technology needs.	Legislative action to provide new funding.
		Wildfire resilient standards should be developed for new and remodeled manufactured homes.	Legislative action to develop standards.
		Triplexes should be covered by the revised R327 code, if in the WUI and in a high or extreme risk area.	Legislative action to ensure coverage after clarification with BCD.
Sections 2-6 Electric utilities	PUC	Existing utility wildfire mitigation plans should be evaluated in collaboration with local emergency management and given time for implementation before plan requirements are modified.	Issue should be directed at the responsible agency for review and determination if it is within their authority to take action or if they need a legislative change.
		Evaluate how state resources can be utilized to provide analysis tools or access to data to better inform and support utilities in implementation of their wildfire protection plans.	Issue should be directed at the responsible agency for review and determination if it is within their authority to take action or if they need a legislative change.
		All utility providers should consider the state risk map (Section 7) as they are determining their high fire risk zones and describe in their wildfire protection plans how	Issue should be directed at the responsible agency for review and determination if it is within

		the state risk map relates to the specific electric utility risk identified as part of these zones.	their authority to take action or if they need a legislative change.
		Address and support opportunities for collaboration and outreach in evolution of each utility's plan	Issue should be directed at the responsible agency for review and determination if it is within their authority to take action or if they need a legislative change.
Section 13 Public health	DEQ	Allocate funding to support long-term positions in DEQ's program, especially in monitoring, to better recruit and retain staff.	Legislative action to sustain funding at DEQ.
		Explore smoke management tools to assist in smoke mitigation, resilience, and fire response; including connections with landscape resiliency	Issue should be directed at the responsible agency for review and determination if it is within their authority to take action or if they need a legislative change.
Section 14 Public health	DHS	Formalize and clarify funding commitments to this program.	Legislative action to sustain funding at DHS.
		Revisit and diversify community outreach plans to better reach the public and eligible entities to increase applications.	Issue should be directed at the responsible agency for review and determination if it is within their authority to take action or if they need a legislative change.
		Expand eligibility for the program to include non-profit community-based organizations and include efforts to assist program recipients to plan for or operate cleaner air shelters as eligible expenses.	Issue should be directed at the responsible agency for review and determination if it is within their authority to take action or if they need a legislative change.
		Conduct an analysis of wildfire risk to households that receive assistance from ODHS programs; work with state and local agencies to focus risk reduction measures on those households.	Issue should be directed at the responsible agency for review and determination if it is within their authority to take action or if they need a legislative change.
Section 15 Public health	OHA	Explore possibility of attachments of smoke filtration devices in ductless heat pumps installation programs and other energy efficiency programs	Issue should be directed at the responsible agency for review and determination if it is within their authority to take action or if they need a legislative change.
		Explore possibility to add smoke filtration systems to medical equipment deployed by CCOs.	Issue should be directed at the responsible agency for review and determination if it is within their authority to take action or if they need a legislative change.
		Continue to improve outreach plan to better identify people or entities that need smoke filtration systems	Issue should be directed at the responsible agency for review and determination if it is within their authority to take action or if they need a legislative change.
Sections 18-20, 24 Wildfire risk reduction	ODF	Secure long-term funding for the landscape resiliency, small forestland grant program, and 20-year plan.	Legislative action to sustain funding at ODF.
		Establish landscape resilience and small forestland grants as ongoing programs that allow ODF to work with practitioners to plan projects that can be completed across	Issue should be directed at the responsible agency for review and determination if it is within

		biennia while still ensuring timely implementation of on-the-ground work.	their authority to take action or if they need a legislative change.
		For landscape resiliency and small forestland programs, determine the scale of the eligible acres versus the need and what additional funding is needed to close the gap.	Legislative action to sustain funding at ODF.
		For small forestland program, assess and reconsider acreage limitations, landowner capacity, and outreach needs.	Issue should be directed at the responsible agency for review and determination if it is within their authority to take action or if they need a legislative change.
		For small forestland program, ODF should assess whether this program should prioritize high-risk landowners with forest management plans.	Issue should be directed at the responsible agency for review and determination if it is within their authority to take action or if they need a legislative change.
		Work with federal partners to ensure that federal investments are leveraged.	Issue should be directed at the responsible agency for review and determination if it is within their authority to take action or if they need a legislative change.
Sections 25-27 Prescribed fire	ODF	Evaluate and develop a process to allow prescribed burns to take place during periods of limited air quality under certain circumstances to allow burning under conditions that might not otherwise be possible.	Issue should be directed at the responsible agency for review and determination if it is within their authority to take action or if they need a legislative change.
		ODF and DEQ must collaborate to expand ability to implement prescribed fire within smoke management rules.	Issue should be directed at the responsible agency for review and determination if it is within their authority to take action or if they need a legislative change.
		Pursue options that increase the pace and scale of prescribed fire by removing identified impediments, including insurance, liability, and workforce constraints.	Issue should be directed at the responsible agency for review and determination if it is within their authority to take action or if they need a legislative change.
		Augment state communications and partnerships with the federal land management agencies and NGOs to increase acres treated, and proactively promote and encourage prescribed burning.	Issue should be directed at the responsible agency for review and determination if it is within their authority to take action or if they need a legislative change.
Sections 21-23 Oregon Conservation Corps	HECC	Conduct outreach and education in southern and eastern areas of the state not well reached to date.	Legislative action to sustain funding.
		OCC and HECC should discuss with OCF how to better define expenditure approval processes that align with other program and improve communications.	Issue should be directed at the responsible agency for review and determination if it is within their authority to take action or if they need a legislative change.
		Support efforts to collaborate with landscape resiliency partnerships and increase efficiency.	Issue should be directed at the responsible agency for review and determination if it is within their authority to take action or

			if they need a legislative change.
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1. INTRODUCTION

Context

Like other western states, Oregon faces increasing risks and impacts from wildfire. The Governor’s first Council on Wildfire Response, formed in 2019, was tasked with reviewing Oregon’s existing model for wildfire preparation and response, and providing recommendations on how to address these risks. That council provided 37 recommendations and suggested a comprehensive approach aligned with the three goals of the National Cohesive Wildland Fire Strategy:

1. *Create fire-adapted communities* by modernizing emergency response, health systems, electric utilities, and land use, in order to improve structural resiliency, enhance defensible space, ensure access and egress, and reduce human-caused ignitions; with an emphasis on serving vulnerable populations.
2. *Restore and maintain resilient landscapes* by investing in active management of forests and rangelands through prioritized treatments in areas of highest risk.
3. *Respond safely and effectively to wildfire* by modernizing fire response capacity and expanding protection services.

Since these recommendations were made, Oregon experienced the significant 2020 wildfire season in which over 1.2 million acres and 4,000 structures burned, and nine lives were lost. Following that, Senate Bill 762 (SB 762) passed in the 2021 legislative session and set an unprecedented path for action on many of these recommendations. It invested \$195 million in 11 state agencies to implement programs intended to transform how Oregon lives with wildfire, also aligning with the three goals of the Cohesive Strategy. This represented a collective, all-hands-on-deck approach to assessing wildfire risk and prioritizing multiple actions to reduce that risk to communities and landscapes.

Wildfire Programs Advisory Council

A key aspect of SB 762 was requirements for a Wildfire Programs Director and Wildfire Programs Advisory Council to guide implementation. Doug Grafe was appointed as the Wildfire Programs Director. The Wildfire Programs Advisory Council (hereafter “the Council”) was formed with 19 members representing a broad and diverse range of Oregon’s geographies and stakeholder communities. The Council is required to monitor progress, advise and assist the Director, and prepare an annual October report to the Governor and appropriate committees or interim committees of the Oregon Legislative Assembly. This report must describe implementation progress and specifically provide advice and recommendations on:

- Changes necessary to dramatically reduce wildfire risk and ensure defensible space, building codes, and land use applications are appropriate

- How Oregon’s wildfire risk map may inform building codes and land use laws, rules, and decisions in a regionally appropriate manner
- The application of defensible space requirements to vineyards, crops, and other cultivated vegetation
- How to strengthen intergovernmental and multiparty collaboration including government, stakeholders, and the public

This is the first annual report of the Council intended to fulfill this requirement. It represents the efforts of its members and agency support staff. It was developed through a collaborative process centered around three workgroups (*Appendix 1: Wildfire Programs Advisory Committee Roster and Workgroup Participants*). One workgroup served an alignment and editorial function by setting direction, reviewing draft content submitted by each of the other groups, and ensuring that the final report was cohesive and met the requirements of the legislation. The other two groups were responsible for focusing on sections pertaining to land use and the wildland-urban interface and advancing fire protection. These groups met weekly to obtain information from agencies, discuss members’ perspectives, and develop draft content.

Engagement across workgroups occurred at meetings of the full Council held April 8, July 8, and September 26, 2022. Items from the workgroups that required input or a vote of the Council were brought to full meetings. Members were not required to seek consensus. Workgroups sought to clearly document common ground and differing views where they existed. Voting took place at full Council meetings to capture extent and levels of support (full support, support with reservations, do not support, or neutral) and to ensure that all perspectives were heard.

This report provides implementation status to date as of September 2022. Many aspects of SB 762 remain in progress and are not complete. Assessments and recommendations therefore may change in the future. In addition, this report does not contain observations or recommendations related to land use aspects of SB762 due to timing of the report being prepared by the Department of Land Conservation and Development. The Council will submit an addendum in after October 2022 on this topic.

2. SUMMARY OF SB 762 REQUIREMENTS AND ACTIVITIES

SB 762 contains multiple programs that pursue the three goals of the Cohesive Strategy (Figure 1). These programs work together to modernize Oregon’s fire preparedness and response systems, creating new opportunities to advance fire protection at multiple scales from the individual to the landscape. This report section offers a brief summary of each program. For more details, see *Appendix 2: Senate Bill 762 Section-by-Section Summary*.



Figure 1. Programs of SB 762 in support of the three goals of the National Cohesive Wildland Fire Strategy

Readiness And Response

Programs related to readiness and response focus on the preparedness of electric systems and improving state agency response capacity.

The Public Utility Commission is required to convene workshops to help both investor-owned and consumer-owned utilities develop and share wildfire best practices, and evaluate and approve wildfire protection plans prepared by investor-owned utilities that meet specified requirements. Consumer-owned utilities must create and operate in compliance with a governing body-approved wildfire mitigation plans.

Several state agencies are required to increase their response capacity. The Oregon Department of Emergency Management (OEM) is required to update its statewide emergency plan to prepare for or respond to wildfire emergencies, coordinate with local governments on alignment, and provide training and community education. The Oregon Department of Forestry (ODF) is

required to ensure adequate wildfire protection coverage for lands outside of existing protection districts and provide financial assistance for forming or modifying jurisdictions and providing them with necessary training and resources. Counties also must ensure all applicable lands within their boundaries have baseline level or higher wildfire protection. ODF and the Oregon Office of the State Fire Marshal (OSFM) are required to increase their response capacities. ODF must consult and coordinate with OSFM, other state and federal agencies, local fire defense board chiefs, and private stakeholders to determine the adequacy of state, federal, and private wildfire response capacity, and adequacy of available mutual aid to provide wildfire response within the wildland-urban interface (WUI); and establish and maintain an expanded system of automated smoke cameras.

Resilient Landscapes

Programs supporting resilient landscapes provide funding and strategic direction for landscape-scale and small forestland projects to reduce wildfire risk and increase capacity for prescribed burning. This is in recognition of the cross-boundary nature of wildfire risk and the need for coordinated approaches to address it.

ODF is required to implement grant programs for landscape resiliency and small forestland projects and develop a 20-year strategic plan for prioritizing restoration actions and geographies. The plan must be in alignment with Oregon's Shared Stewardship Memorandum of Understanding and ODF must cooperate with federal agencies to increase the effectiveness of federal forest management programs, agreements, and activities in the state. ODF also must establish a Certified Burn Manager program and complete rulemaking that will allow a person to conduct a prescribed fire across land ownership boundaries with a permit, compliance with permit conditions, and consent from landowners.

Fire-Adapted Communities

Programs under this goal focus on improving the preparedness of structures, people, and communities. First, Oregon State University (OSU) and ODF are to develop and maintain a statewide map of wildfire risk that identifies the WUI, five classes of wildfire risk for every tax lot in the state, and socially vulnerable communities. Then the map is used to inform additional policy actions and programs:

- OSFM must establish minimum defensible space standards for lands classified as High and Extreme risk located within the WUI that are consistent with the International Wildland-Urban Interface Code and establish Oregon-specific requirements. OSFM must enforce these standards; provide financial, administrative, technical, or other assistance to local governments for administration and enforcement; and administer a Community Risk Reduction Program.
- The Department of Land Conservation and Development (DLCD) will identify recommendations for needed updates to the statewide land use planning program, local comprehensive plans, and zoning codes in order to incorporate the wildfire risk map and minimize wildfire risk.
- The Building Codes Division (BCD) of the Department of Consumer and Business Services (DCBS) will adopt wildfire hazard mitigation building code standards for new

dwelling and dwelling accessory structures in extreme and high wildfire risk classes identified by the map.

Second, human health, an important aspect of fire-adapted communities, is the focus of several programs. The Oregon Department of Environmental Quality (DEQ) is required to support communities in preparing for and mitigating health impacts of wildfire smoke; and monitor, interpret, and communicate air quality data. The Department of Human Services (DHS) must consult and coordinate with the Oregon Health Authority (OHA) to lead clean air shelter operations and implement a local government grant program, while OHA will establish a grant program to increase the availability of residential smoke filtration systems among persons vulnerable to the health effects of smoke who reside in areas susceptible to wildfire smoke.

Finally, the Oregon Conservation Corps program is established through the Higher Education Coordinating Commission (HECC) to reduce wildfire risk to communities and critical infrastructure, to help create fire-adapted communities, and to engage youth and young adults in workforce training.

Vulnerable Communities

Although this is not an explicit focus or pillar of the Cohesive Strategy, four sections of SB762 contain references to vulnerable communities. There is no single definition of vulnerable communities used consistently across the legislation.

- Section 7: The statewide map of wildfire risk must contain a layer that displays socially vulnerable communities
- Section 8a: Assistance for defensible space must prioritize lands owned by members of socially and economically vulnerable communities, persons with limited proficiency in English, and persons of lower income
- Section 15: Availability of smoke filtration devices must be increased among persons vulnerable to the health effects of wildfire smoke who reside in areas susceptible to wildfire smoke
- Section 22: The grant process for Conservation Corps grants must define and use an equity lens in awarding grants to support populations with greater vulnerability including communities of color, indigenous communities, communities with members who have limited proficiency in English, and communities with lower income members.

3. WILDFIRE RISK MAPPING, DEFENSIBLE SPACE, BUILDING CODES, AND LAND USE

This section of the report reflects the work of Council workgroup #2 (see *Appendix 1* for list of workgroup members) and addresses the components of SB 762 focused on wildfire risk mapping, defensible space, building codes, and land use. It meets the requirement of the Council to assess the progress and appropriateness of defensible space, building codes, and land use applications; and how the wildfire risk map informs those. It provides a summary of agency responsibilities and implementation progress to date, and specifically offers advice and recommendations as directed on the following:

- Changes necessary to dramatically reduce wildfire risk and ensure regional defensible space, building codes, and land use applications are appropriate
- How Oregon’s wildfire risk map may inform building codes and land use laws, rules, and decisions in a regionally appropriate manner
- The application of defensible space requirements to vineyards, crops, and other cultivated vegetation

This section also considers how to strengthen intergovernmental and multiparty collaboration including government, stakeholders, and the public on the above topics.

In addition, this section addresses potential impacts to property insurance rates resulting from the implementation of SB 762 at the request of the Wildfire Programs Director. Although insurance implications were not specified in SB 762 as a focus for the Council, this emerged as an important topic warranting review.

Wildfire Risk Mapping

Agency Responsibilities

ODF is required by Section 7 of Senate Bill 762 to oversee the development and maintenance of a comprehensive map of wildfire risk. The map must display five wildfire risk classes – extreme, high, moderate, low, and no risk.

The risk map must assign a risk classification at the property ownership level. Mapping criteria are set forth by rule adopted by the Oregon Board of Forestry. The risk areas must be established by ODF in consultation with OSU and must be consistent with Oregon Revised Statute (ORS) 477.027 and based upon weather, climate, topography, and vegetation.

Rules adopted by the Board of Forestry must provide opportunities for public input into the assignment of properties into the five risk classes and must require ODF to notify property owners in the extreme and high risk classes of their classification. Property owners and local governments in all risk classifications must be afforded an opportunity to appeal their risk classification.

ODF must also include the boundaries of the WUI on the wildfire risk map, along with a layer displaying locations of socially and economically vulnerable communities. The map must be displayed on the Oregon Wildfire Risk Explorer website. ODF was required to complete the map on or before June 30, 2022 and initiate maintenance of the map following completion.

Implementation Status

Pursuant to its duties under Section 7, ODF established a rules advisory committee (RAC) to assist in the development of recommended draft rules for the Board of Forestry. The RAC held multiple meetings and focused primarily on the definition of the WUI and the creation of an appeals process required by Section 7(6)(c) of SB 762.

Based in part upon the recommendations of the RAC, ODF presented draft rules to the Board of Forestry to satisfy the requirements of Section 7(6). The Board provided notification to the public and opportunities for public input and comment on the draft rules. The Board adopted the rules in June 2022, with an effective date of June 14, 2022. The rules are codified in Oregon Administrative Rule (OAR) Chapter 629, Division 44.

On June 30, 2022, ODF and OSU published the wildfire risk map on the Oregon Wildfire Risk Explorer website.

In mid-July, ODF began holding public meetings around the state to answer questions about the maps. Based upon concerns raised by the public regarding the accuracy of the map and impacts to their property, Oregon State Forester Cal Mukumoto announced a withdrawal of the map and all appeals, effective August 4, 2022. ODF and the Board of Forestry will now engage in a process of refining the map and appeals process for accuracy based on what the agency has heard to date from Oregonians.

Recommendations

- *ODF must improve its outreach plan with the public, local governments, and sister agencies (OSFM and DCBS).* The agency should work with input from the Council to discuss both the benefits and challenges resulting from the creation of the map and provide significant opportunities for local government and the public to help shape the map before it is finalized. The map criteria were chosen based upon the need for scientific rigor and must also meet Oregonians' needs. Seeking guidance from local governments and the public will help the agency meet that need. Provide education about the purpose of the map for defensible space and home hardening standards with OSFM and DCBS. This plan must be implemented before revised maps are finalized and placed on Oregon Wildfire Risk Explorer.
- *ODF must explain the risk to property arising from its inclusion in each risk class in a plain language manner that is understandable to the public and useful in weighing the risk to each property.* ODF should meet with members of the Oregon legislature and the WPAC to explain, in layperson's terms, if possible, the criteria and process used in making risk classifications for each risk class.
- *Before finalizing any future amendments to the map, ODF should investigate and clarify confusing or potentially inaccurate results in the maps raised during the appeals process and by the Council.* ODF did not have adequate time to check the results of the statewide

map of wildfire risk for accuracy as applied to individual Oregon properties. Consequently, the map contained anomalies that were consistent with the mapping criteria chosen, but nevertheless were difficult to explain to the public. The workgroup understands that it is not feasible for ODF to ground truth each mapped property, but suggests that ODF and OSU must collaborate with local governments to conduct a sample to validate variables that can be directly observed, using a small sample of representative properties within each jurisdiction.

- *A method must be created to document and track implemented mitigation efforts, and to direct the insurance industry to recognize completed work.* This would necessitate collection of defensible space data, creation and maintenance of a map layer including those data and fire service coverage, and considering legislative action necessary to direct the insurance industry. This would need to involve OSFM, BCD, and DFR.

Defensible Space

Agency Responsibilities

The responsibilities of the Oregon Office of the State Fire Marshal (OSFM) under Senate Bill 762 are set forth in Sections 8, 8a, 8b, 8c, 9 and 10 of SB 762.

Section 8 defines defensible space as “a natural or human made area in which material capable of supporting the spread of fire has been treated, cleared or modified to slow the rate and intensity of advancing wildfire and allow space for fire suppression operations to occur.” OSFM is responsible for establishing minimum defensible space requirements for wildfire risk reduction. The focus on risk reduction is for lands in areas identified on the statewide map of wildfire risk as within the wildland urban interface (WUI) and designated as extreme or high risk.

OSFM must consult with the Oregon Fire Code Advisory Board to establish the minimum requirements that are consistent with and do not exceed the standards pertaining to defensible space that are set forth in the International Wildland-Urban Interface Code published by the International Code Council, sections 603 and 604 of the code, and best practices specific to Oregon. These requirements will be established on or before December 31, 2022.

Upon enactment, OSFM is tasked with enforcement of the new defensible space rules. Local governments are authorized to administer, consult on, and enforce the new OSFM rules; or designate a local fire district, fire department or fire agency to enforce the OSFM rules, but are not required to do so.

In addition to the creation, adoption, and enforcement of defensible space requirements, OSFM is also charged with administering a community risk reduction program emphasizing education and risk prevention with respect to wildfires, enforcement of the new defensible space rules, and response planning and community preparedness for wildfire.

To implement its community risk reduction program, OSFM is authorized to provide financial, administrative, technical, and other assistance to local governments to assist local government wildfire efforts.

OSFM is required to report biannually to the Oregon legislature regarding the status of its activities under Section 8a of the legislation.

Implementation Status

OSFM has three overarching priorities based on Senate Bill 762: create and adopt the defensible space code, create the Community Risk Reduction Program, and modernize and bolster response. Overall, they are on track and on time to meet these priorities at the time of this report.

Create and adopt the defensible space code: OSFM is still developing the code and has not yet addressed enforcing the code, which will be guided by the statewide risk map. They expect the code development committee will have this completed by the fall of 2022, at which point the rulemaking will begin. The agency is on track to meet the December 2022 deadline for establishment of defensible space rules, which will go into effect in 2023. OSFM is hosting a focus group on vegetation management best practices and working on a robust outreach and input campaign about code development.

Community risk reduction: OSFM has created two new programs in response to the overarching priorities. The first program is Fire Adapted Oregon, which is designed to help local communities with wildfire risk reduction and preparedness, with state support and funding to achieve these initiatives. The 2021 Oregon legislature allocated \$25 million into the Community Risk Reduction Fund, established under SB 762. SB 762 requires local governments to prioritize use of financial assistance provided by OSFM to create defensible space for vulnerable Oregonians, including schools, hospitals, critical or emergency infrastructure; places that serve seniors; and lands owned by members of socially and economically vulnerable communities, persons with limited English proficiency, and persons of lower income.

OSFM started by focusing on schools and hospitals, creating funding opportunities that were open until July 2022. Schools and hospitals were chosen by OSFM to receive funding first because of the life safety potential and because this was a manageable set of institutions to roll out the program. Five hospitals and 227 schools had applied and received funds at the writing of this section, with \$233,000 awarded. OSFM expects this could double by the end of the grant period. The focus of these grants is vegetation management around hospital and school properties.

OSFM has also created a Community Risk Reduction Unit. This Unit is broken into seven districts/zones across the state. Each Unit is now staffed with a OSFM regional fire risk reduction specialist to help educate and initiate programs. The vision is to connect with local communities, engage with fire and local government entities to assist with the technical application of fire prevention actions, assist in community risk reduction; and connect local entities to grants, resources and other funding streams. OSFM identified and developed a process for social and economically vulnerable communities based on the Center for Disease Control and Prevention social vulnerability index and is using census tracts to target areas of most risk, in addition to the areas currently being mapped by ODF and OSU.

Modernize and bolster response: OSFM created Response Ready Oregon to focus on reducing risk through effective and modern response and establishing a proactive approach to keep fires

out of our communities. OSFM received a one-time allocation of \$55 million through SB 762 to fund the program. OSFM created three strategies to implement the program and utilize the legislatively authorized funds. The three strategies are Oregon Fire Mutual Aid System, Capacity Building, and Pre-Conflagration Response Programs. OSFM also created an engine program to purchase and strategically place new firefighting equipment across the state, staffing grants, and defensible space grants to modernize and bolster capacity in the Oregon Fire Mutual Aid System and to help with conflagration response.

Recommendations

- Regarding SB 762 Section 36(2)(f), allow for an emphasis on education rather than code enforcement in high/extreme risk settings where vineyards, crops, and other cultivated vegetation are irrigated and maintained, or non-irrigated but maintained, throughout the year. Education should focus on vegetative choice/modification, spacing, and undergrowth maintenance.
- Provide sustained funding streams for Fire Adapted Oregon and Response Ready Oregon programs to continue progress.
- Ensure that public education initiatives thoroughly explain the goals and benefits of defensible space requirements.
- Create an internet dashboard where all Oregonians can type in their street address and have access to educational resources, the WUI and risk classification status for their property, OSFM and local government defensible space requirements, DCBS R327 requirements; and wildfire related programs, resources, and grants that may be available to them.

Land Use

Due to the timing of implementation for Section 11 of SB 762 and the Department of Land Conservation and Development's (DLCD) report due date of October 1, 2022, Council discussion and recommendations on this topic will be provided as an addendum after this report is published.

Building Codes

Agency Responsibilities

Oregon is unique to other states in that it has a science-based uniform statewide building code that helps ensure an equal level of protection for all Oregonians. At its core, our building code system is based on mitigating risk, so that reasonable safeguards are in place to encourage safe construction. In 2019, the state adopted a comprehensive wildfire-resilient building code. However, due to the absence of a statewide wildfire risk map, the 2019 standards were optional, requiring local action to implement.

Acknowledging a need for statewide protection, Section 12 of SB 762 built upon DCBS's 2019 code work and added a statewide mapping feature to ensure all Oregonians are adequately protected. SB 762 requires DCBS to:

- Adopt and enforce section R327 of the 2021 Oregon Residential Specialty Code (R327) standard for all new dwellings and accessory structures on properties classified as high and extreme wildfire risk in the WUI.
- Amend section R327 to include standards for additions to existing dwellings and accessory structures, and for replacement of existing exterior elements covered in section R327.
- Within 60 days following development of the statewide wildfire risk map, develop an interactive mapping tool that displays, at the property level, these new wildfire mitigation standards to help make sure they are known and followed uniformly statewide. The tool must be free to the public, periodically updated when the relevant building code is updated; and support future inclusion of snow load, seismic and wind building code standards.

SB 762 did not change the overall state system of uniform codes but did clarify which buildings are subject to hardening standards by DCBS: residential dwellings and regulated accessory structures. Commercial buildings, agricultural buildings on farms, manufactured housing, and certain temporary structures, such as RVs, were not included. However, the legislature specifically directed DCBS to include exterior element hardening standards for additions and certain remodels of dwelling and accessory buildings.

Implementation Status

As SB 762 was adopted, the legislature recognized that DCBS, local governments, and Oregonians would benefit from a predictable transition as R327 is implemented statewide. Under SB 762:

- DCBS completed the RAC process in June 2022 and will adopt the updated rules after the wildfire risk map is finalized.
- There will be a six month phase-in period between when the standards are adopted and when they become mandatory, which will be used to educate building inspectors, contractors, and other officials before the hardening standards come into effect.
- Within two years, DCBS must review R327 and make any “necessary adjustments to the applicability of the standards and permitting requirements in the code” as it relates to residential dwellings and accessory structures. This language was included to make sure that DCBS could implement the legislation in an efficient manner.

DCBS is on track to meet these timelines. Additionally, DCBS will be joining OSFM in a combined public information campaign once the rules are adopted and the agencies work towards implementation. DCBS does not need additional resources, data, or information to implement Section 12 of SB 762.

Recommendations

Funding

- The state should subsidize compliance with R327, prioritizing investment based on need, location, and risk. If funding is available, include those properties owned by or for rent to those making up to 80-120% of area median income located in the high or extreme

category and in the WUI. Look to the Oregon Housing and Community Services department for guidance on how this median income group could be provided appropriate funding.

Education

- The state should invest in a broad R327 education campaign, utilizing a variety of media and methods to reach audiences with various language and technology needs
Specifically:
 - Use a direct-mail campaign to property owners.
 - Work with local businesses, such as local hardware stores and home improvement stores, to assist in the education effort.
 - Partner with community partners, such as community-based organizations, local Tribes, service organizations, health care providers, senior centers, local schools, community colleges, OSU Extension, and more to provide information.
 - Provide different types of educational materials (written, video, social media, etc..) and in appropriate languages.
 - Council members should be provided adequate materials to also engage in outreach and be a resource for questions from the public. This could include a website where all the SB 762 resources and information are readily accessible to the public.
 - Develop a program to measure success of the education campaign with frequent review and analysis, and report back to the Council at each Council meeting on their efforts and additional needs.

Policy Gaps

- Wildfire resilient standards should be developed for manufactured homes, both for new homes and for remodeling of existing ones.
- Triplexes should be covered by the revised R327 code, if in the WUI and in a high or extreme risk area.
- How DCBS applies the R327 code to “accessory structures” should be tracked and added to a list of items for the Council to monitor and revisit as this program rolls out.

SB 762 and Property Insurance

Agency Responsibilities

The Oregon Department of Consumer and Business Services (DCBS) is tasked with regulating the private insurance industry in Oregon, including the sale, coverage, and policy terms of property insurance offered to Oregon consumers. DCBS has established the Division of Financial Regulation (DFR) to carry out its obligations. The director of DFR carries the title of Insurance Commissioner. The current Insurance Commissioner for Oregon is Andrew Stolfi.

DFR is not assigned any additional responsibilities or duties relating to property insurance regulation under SB 762. Nevertheless, the Wildfire Programs Director has asked the Council to report on potential impacts to property insurance rates resulting from the implementation of SB

762, and to include its findings and analysis in the annual Council report to the Governor and Oregon Legislature, as required by Section 36(13) of SB 762.

Based on the Director's request, the workgroup met with DFR representatives, including Commissioner Stolfi, and received an update on potential impacts to property owners' insurance resulting from the implementation of SB 762.

Implementation Status

SB 762 does not contain additional requirements for DFR in regulating the sale, coverage, or policy terms of property insurance policies available to Oregon consumers.

Recommendations

The workgroup did not make any recommendations related to insurance. However, further discussions suggested the need for a method to document and track implemented mitigation efforts, and to direct the insurance industry to recognize completed work. This would necessitate collection of defensible space data, creation and maintenance of a map layer including those data and fire service coverage, and legislative action to direct the insurance industry. The Council needs to review California's recent requirement for the insurance industry and consider recommending implementation either by DCBS or through legislative action.

4. ADVANCING FIRE PROTECTION

This section of the report addresses the components of SB 762 focused on advancing wildfire protection through readiness and response of electric and public health systems, and supporting resilient landscapes. It provides a summary of agency responsibilities and implementation progress to date, and offers advice and recommendations. This section also considers how to strengthen intergovernmental and multiparty collaboration including government, stakeholders, and the public on the above topics.

Electric Utilities

Agency Responsibilities

The Public Utility Commission (PUC) is required to periodically convene workshops for electric utilities and system operators to share information related to wildfire best practices, to adopt certain risk reduction standards by rule, and to evaluate and approve Public Utility plans that meet specified requirements within 180 days.

Public utilities (investor-owned utilities: PacifiCorp, Portland General Electric, and Idaho Power) are required to create, and operate in compliance with, a PUC-approved wildfire protection plan; with the first plan submitted by December 31, 2021, with regular updates thereafter. The wildfire protection plans must, at a minimum contain:

- Identified heightened wildfire risk areas within the service territory
- Mitigation strategies that reflect a reasonable balance with costs
- Protocol for de-energization of power system as a mitigation strategy
- Inspection procedures in the identified high fire risk areas
- Vegetation management procedures in the identified high fire risk areas
- Costs for the development, implementation, and administration of the plan
- Community outreach and public awareness efforts

Consumer-owned utilities (rural electric cooperatives, People's Utility Districts, and municipal electric utilities) are required to create, and operate in compliance with, a governing body-approved wildfire mitigation plan with the first plan submitted by June 30, 2022, with regular updates thereafter. A copy of the risk-based wildfire mitigation plan is required to be submitted to the Public Utility Commission (PUC) to facilitate commission functions regarding statewide wildfire mitigation planning and wildfire preparedness. The wildfire protection plans must contain the following:

- Mitigation strategies that protect public safety, reduce risk to utility customers and promote electrical system resilience to wildfire damage
- A wildfire risk assessment of utility facilities

Implementation Status

To fulfill the requirement of periodically convening workshops for electric utilities and system operators to share information related to wildfire best practices, the PUC facilitates the Oregon Wildfire & Electric Collaborative (OWEC). Since July 2020, seven OWEC workshops have been

held to discuss a range of topics where stakeholders are encouraged to participate to enhance collaboration in Oregon regarding wildfire-related operational and policy issues.

The PUC has also developed administrative rules (AR638) that detail specific requirements for public utilities to include in submitted wildfire protection plans. The administrative rules are in alignment with Senate Bill 762 and provide risk reduction standards that the public utilities can be measured against. The rulemaking also includes substantial amendments to safety standards in OAR Division 24 to address wildfires that apply to all electric utilities, including requirements for high fire risk zones identification, vegetation clearance, and equipment inspections. The PUC conducts on-site audits of all electric utilities for compliance with these safety standards.

The public utilities (PacifiCorp, Portland General Electric, and Idaho Power) all submitted wildfire protection plans by December 31, 2021. Through a public process, the PUC evaluated the public utilities plans and provided approval or approval with conditions within the required 180-day timeframe.

As of August 2022, all Oregon consumer-owned utilities have submitted wildfire protection plans to the PUC as approved by their governing body.

Recommendations

- Existing utility wildfire mitigation plans should be evaluated in collaboration with local emergency management and the appropriate fire service, and given time for implementation before plan requirements are modified.
- Evaluate how state resources can be utilized to provide analysis tools or access to data to better inform and support utilities in implementation of their wildfire protection plans, in order to lighten the burden utilities face in addressing aspects of wildfire mitigation such as access to data modeling tools for risk evaluation or weather forecasting.
- All utility providers should consider the state risk map (Section 7) as they are determining their high fire risk zones and describe in their wildfire protection plans how the state risk map relates to the specific electric utility risk identified as part of these zones.
- Address opportunities for collaboration through the evolution of each utility's wildfire protection plan. Specifically:
 - Ensure collaboration between governmental bodies, utilities, other utility service providers (telecommunications) and the general public; these should be addressed through each utility's wildfire protection plan.
 - Ensure collaboration between local communities, public safety partners, and utilities for the identification of community critical infrastructure that should be addressed as part of a de-energization procedure (i.e., irrigation used as firefighting, telecommunication services)
 - Facilitate data sharing between stakeholders for situational awareness (i.e., weather station networks, wildfire detection camera networks, smoke detection / air quality networks)
 - Coordinate community outreach and education of the general public on wildfire risk and mitigation strategies, specifically de-energization procedures, impacts, and what support services are available to the public.

Agency Responsibilities

Health systems for smoke are addressed in sections 13-15 of SB 762. Section 13 requires the Department of Environmental Quality (DEQ) to develop a program for supporting local communities, in detecting, preparing for, communicating, or mitigating the environmental and public health impacts of wildfire smoke. Section 14 requires the Department of Human Services (DHS) to deploy smoke filtration systems to public buildings, including tribal-specific buildings and public schools, to become clean air centers. Section 15 involves the Oregon Health Authority (OHA) deploying smoke filtration devices to residents who are most vulnerable to wildfire smoke and qualify for the Oregon Health Plan or Medicaid.

Implementation Status

DEQ has hired staff to provide technical and grant support for community smoke preparedness and mitigation, completed monitoring needs analysis for public health, and identified new monitoring locations for network expansion. They are currently working to obtain stakeholder input on identified sites.

DHS has opened applications for local governments, public education providers, and tribal nations to apply to receive grants to become a clean air, warming, or cooling center. As of 9/14/2022, they had received over 100 applications. Beginning in June, they purchased 463 air scrubbers and have stored them in Salem, Medford, Bend, and Umatilla. DHS is using an equity rubric, as well as considering emergent needs such as air quality and wildfires to determine prioritization. Currently, they have distributed about 120 air scrubbers around Oregon. They have established a MOU between DHS and grant participants to receive air scrubbers.

OHA has purchased and deployed 5,000 residential smoke filtration devices in summer 2022. Distribution of another 5,000 devices is planned before summer 2023. These devices are intended to be deployed to eligible Oregon Health Plan members through coordinated care organizations (CCOs) in targeted counties (Deschutes, Douglas, Josephine, Jackson, Lake, and Klamath). OHA is working on targeting and outreach, and challenges with creating a distribution system. They have noted that 10,000 smoke filtration devices are insufficient to fill the need, but are not requesting an extension of the program in the agency request budget because CCOs have a durable medical equipment program, which OHA can work with them to add residential smoke filters to that existing program.

Recommendations

DEQ

- Allocate funding to support long-term positions in DEQ's program, especially in monitoring, to better recruit and retain staff.
- Explore smoke management tools to assist in smoke mitigation, resilience, and fire response in DEQ's program, such as prescribed burning, biofuel harvest, incorporating Indigenous forest knowledge, and consulting with groups working in land restoration. Look to Section 18 and programs/partners involved in landscape resiliency for guidance.

DHS

- Clarify DHS’s program regarding its future and success. This would include formalizing a commitment for funding resources to better stabilize the future of this program. This may need to be balanced with community resources to have long-term maintenance, which will entail stronger community support or funding from the state.
- Revisit and diversify community outreach plans in DHS’s program, to better reach the public and eligible entities to increase applications. This can look like a self-assessment form to identify in-need local governments, public education providers, and Tribal nations.
- Expand eligibility for the program to include non-profit community-based organizations and include efforts to assist program recipients to plan for or operate cleaner air shelters as eligible expenses (see SB1536 2022 for language relating to warming and cooling centers for alignment).
- Conduct an analysis of wildfire risk to households that receive assistance from ODHS programs; work with state and local agencies to focus risk reduction measures (e.g., education, evacuation planning, fuels reduction) on those households.

OHA

- OHA and relevant agencies should explore the possibility of attachments of smoke filtration devices in ductless heat pumps installation programs and other energy efficiency programs run by agencies like Energy Trust of Oregon and Oregon Department of Energy.
- OHA should explore the possibility to add smoke filtration systems to medical equipment deployed by CCOs.
- OHA should continue to improve its outreach plan to better identify people or entities that need smoke filtration systems. This can look like a self-assessment form to identify in-need households.

Wildfire Risk Reduction

Agency Responsibilities

Sections 18-20 require the Oregon Department of Forestry (ODF) to design and implement a treatment program to reduce wildfire risk on public or private forestlands and rangelands, and in communities near homes and critical infrastructure, through restoration of landscape resiliency and reduction of hazardous fuels; to consult and cooperate with Oregon State University Extension, state and federal agencies, counties, cities, other units of local government, Indian tribes, public and private forestland and rangeland owners, forest collaboratives, and other relevant community organizations to select projects for treatment; establishes criteria for project selection and design; develop a 20-year strategic plan that prioritizes restoration actions and geographies; report regarding the status of the program development and implementation by January 15, 2022, and again upon completion of projects by June 30, 2023; and prohibits commercial thinning on specified protected lands.

Section 24 directs ODF to establish a small forestland grant program for the purpose of providing grants, on a competitive basis, to support small forestland owners of one to 160 acres west of the Cascades, and one to 640 acres east of the Cascades, in reducing wildfire risk through the

restoration of landscape resiliency and reduction of hazardous fuels on their property; and to set criteria for assessing grant applications and awarding grants.

Implementation Status

ODF has awarded landscape resiliency grants (Section 18) to nine landscape-scale cross-boundary projects through 30 individual agreements. 156,000 acres of work are slated to be completed through \$20 million in grant funding with \$15 million in match funding. This work must be completed by June 30, 2023.

ODF has also begun developing its 20-year strategic plan. To date, a governance structure has been formed and an initial framework drafted that includes a shared vision and plan for how multiple agencies and partners will work together. Groups and committees within this governance structure have been meeting regularly.

ODF has also awarded 23 projects covering 648 private landownerships in the small forestland grant program (Section 24). 3,600 acres will be completed with funds of \$4.2 million allocated. Funds must be expended by June 30, 2023. Firewise Community grants, also administered under this program, have been allocated to 20 communities for 946 projects covering 2,600 acres. \$780,000 has been allocated for this work.

Recommendations

Landscape resiliency program

- Explore long-term staffing strategy to meet landscape resiliency program requirements. Staffing should be adequate to meet timeframe and scope of work requirements with the assumption being the program is ongoing with future funding.
- Secure long-term funding commitment from the state, including stable funding for additional field and administrative staff to implement the vision of SB 762 for the landscape resiliency program.
- Establish landscape resilience grants as an ongoing program that allows ODF to work with practitioners to plan projects that can be completed across biennia while still ensuring timely implementation of on-the-ground work. Ongoing maintenance of implemented projects should be considered. Projects may need longer than the currently allowed biennial timeline for completion.
- As part of the 20-year plan, ODF should determine the scale of the eligible acres versus the need and what additional funding is needed to close the gap.
- State agencies should work with federal partners (such as land management agencies) to ensure that new federal investments (i.e., IJJA, Inflation Reduction Act) are leveraged to maximize Oregon's interests. Working with NGOs, Tribes, and other partners is essential to achieve this objective.

Small forestland grant program

- This grant program's eight evaluation criteria included whether properties were high-risk, and if they had forest management plan. These two criteria equated to 200,000 acres (a small percentage of at-risk lands). ODF should assess whether this program should prioritize high-risk landowners with forest management plans.
- Assess if limitations of 160 acres west of the Cascade crest and 640 acres east of the

Cascade crest present barriers for treatment and whether it presents a significant concern for accomplishing the scale of needed work for risk reduction outcomes.

- There are landowner data and capacity limitations that need to be addressed. Small landowners do not have the capacity to put together grant proposals or the required data for a proposal.
- Establish small forestland grants as an ongoing program that allows ODF to work with practitioners to plan projects that can be completed across biennia while still ensuring timely implementation of on-the-ground work. Ongoing maintenance of implemented projects should be considered. Projects may need longer than the currently allowed biennial timeline for completion.
- An assessment of the most effective means of communications/outreach to landowners is needed.
- Leverage federal funding (IIJA and IRA) to assist communities with limited resources for grant writing.

Prescribed Fire

Agency Responsibilities

Section 25 requires ODF to adopt rules to clarify that prescribed fires may be planned to burn across land ownership boundaries within a single permit if consent is obtained from all persons on whose lands the fire is planned to burn. Rules must be finalized by November 30, 2022.

Section 26 directs ODF to institute a Certified Burn Manager program. It also includes Forest Protective Associations into statutes pertaining to prescribed fire and the Certified Burn Manager program.

Section 27 requires ODF to consult with the Oregon Prescribed Fire Council regarding best practices for conducting the Certified Burn Manager program, initiate rulemaking to establish the program, and report to the legislature on its progress by December 1, 2021. In Section 27a, ODF is directed to cooperate with federal agencies to increase the effectiveness of these activities.

Implementation Status

Section 25: Rulemaking about cross-boundary burning has been completed and has been approved by Board of Forestry.

Section 26: Rulemaking Advisory Committee work on the Certified Burn Manager program is complete after approving draft rules with consensus. The Board of Forestry considered the draft rules at its July 20th meeting. This rulemaking process is ahead of schedule, and ODF anticipates the program will be operational sooner than originally expected as well, even though the statute did not require an implementation date. Once the rules are finalized, ODF will undertake next steps to develop a curriculum outline, appoint an advisory board to advise on minimum requirements, and utilize training providers to advance curriculum into upcoming trainings.

Section 27: To address these requirements for consultation and cooperation, ODF has worked to ensure the different programs charged to ODF are integrated internally. Related to prescribed fire, this includes working closely with the development of the 20-year and landscape resilience

work, both of which include prescribed fire as a core activity to achieve the goals of those directives. Within other state agencies, ODF has been working with OSU and DEQ to address the air quality and smoke impacts of fuels mitigation. With wildfire smoke providing more dangers to communities than prescribed fire smoke, these agencies are working within the confines of the Clean Air Act and using available tools to collaborate. ODF noted that COVID has had an impact on air quality limitations, due to concerns about smoke sensitivity for affected populations.

Recommendations

- Develop and evaluate a process to allow prescribed burns to take place during periods of limited air quality under certain circumstances. This might come into play during narrow windows of weather that would allow burning in some of the large banks of dead fuel that might not otherwise be possible (e.g., the Bootleg fire site). Consider engaging OSU in this process.
- ODF & DEQ must collaborate to appropriately apply the flexible tools within smoke management rules and expand the ability for prescribed fire treatments to be planned and executed.
- Encourage the state to pursue options that increase the pace and scale of prescribed fire by removing identified impediments, including insurance, liability, workforce constraints, and any other limitations that ODF identifies in their June 2023 report. Consider engaging OSU in this process.
- Encourage the state to proactively promote and encourage prescribed burning.
- Encourage the state to augment its communications and partnerships with the federal land management agencies (as well as NGOs) that are also burning to increase acres on all ownerships that are under prescribed burn plans.

Oregon Conservation Corps

Agency Responsibilities

Section 21 defines the purpose of the Oregon Conservation Corps Program. The purpose is reducing the risk wildfire poses to communities and critical infrastructure, helping to create fire-adapted communities, and engaging youth and young adults in workforce training.

Section 22 describes an eligible organization which includes Oregon-based nonprofit youth development organizations and public entities that provide programs of job training, skill development and forest-related or rangeland-related career path training.

Section 23 describes the Oregon Conservation Corps Fund to be used primarily for program grants.

Implementation Status

Oregon Conservation Corps (OCC) received \$11.6 million in funding through SB 762 with three primary areas of focus: 1) reducing risk through fuel reduction projects in the WUI; 2) accomplishing the reduction of risk in the WUI through established workforce training, with a focus underserved communities through skill development and career exposure for youth and young adults ages 16–26; and 3) developing strategic partnerships to help sustain funding through private investment and partnership with the Oregon Community Foundation (OCF).

Successes from implementation of this work to date include:

- Fewer ignitable fuels in the WUI
- Investment in local economies
- Youth workforce program developed
- Program sustainability and community awareness initiatives
- New and expanded partnerships including expanded partnerships with OSFM and ODF
- Continuous communication with ODF on an interagency agreement

Challenges of the program and for the success moving forward include:

- Funding discrepancies and long-term sustainable funding streams
- State program duplication
- Fundraising efforts

Recommendations

- Require HECC and OCC to conduct outreach and education in southern and eastern areas of the state that were not adequately represented in program outcomes to date. This would include engaging local community leaders and focusing on reaching youth.
- Encourage OCC and HECC to discuss with OCF how to better define expenditure approval processes that align with other program and improve communications.
- Support efforts to make landscape resiliency programs efficient and fostering collaboration between all involved. This would include coordinating and identifying programs (i.e., Youth Conservation Corps and Oregon Conservation Corps, landscape resiliency grant programs, or other programs) to ensure program success throughout the state.

5. CONCLUSIONS

Under SB 762, the Wildfire Programs Advisory Council was tasked with developing this annual report to describe progress on implementation and provide recommendations on the following points:

- Changes necessary to dramatically reduce wildfire risk and ensure regional defensible space, building codes, and land use applications are appropriate
- How Oregon's wildfire risk map may inform building codes and land use laws, rules, and decisions in a regionally appropriate manner
- The application of defensible space requirements to vineyards, crops, and other cultivated vegetation
- How to strengthen intergovernmental and multiparty collaboration including government, stakeholders, and the public

The Council recognizes that omnibus legislation SB762 is an unprecedented and multifaceted effort to address wildfire protection in Oregon at individual, community, and landscape scales. It has required the engagement and commitment of numerous agencies and partners.

Implementation of this bill to date has required substantial work on short timeframes. Learning and challenges are to be expected when undertaking such a transformative effort, particularly in implementing broad policy across a state with a diversity of ecological conditions, rural-urban settings, and socioeconomic contexts.

The Council has documented many recommendations as listed in the executive summary. These recommendations point to significant needs for further investment, coordination, collaboration, and communication to build on accomplishments to date and improve implementation going forward. Taken together, Council recommendations across the many aspects of this bill reflect four primary interrelated areas for continued focus.

Outreach, education, and engagement

Many of the programs in SB762 have implications for a large proportion of Oregon's residents and involve new tools, resources, and regulations. There is therefore a substantial need for multiple forms of outreach, education, and engagement. These efforts are needed to support both program-specific implementation, and to offer an overall outreach plan and communication strategy about all of SB762. The lack of a single platform (e.g., a website and dashboard for one source of information), shared communications, and aligned messages across agencies creates confusion and inefficiencies. In conducting these efforts, it will be important to work with partners, including local governments and Tribes, to implement campaigns that can truly connect with local communities and encourage action. It will also be important to provide more straightforward, understandable communication about what constitutes wildfire risk to properties and communities.

Finally, coordinated engagement strategies will be needed to meaningfully connect and have multi-way dialogue with communities within high or extreme risk in the WUI that are socially vulnerable. These communities are the intended target of many SB762 programs, yet some may

be difficult to reach and may require additional relationship investment to build trust and participation. Multiple agencies will be targeting the same set of communities and areas for input and program involvement. This could lead to inefficient and challenging demands on communities if not effectively coordinated. Likelihood of community involvement in programs may also be increased if participation opportunities are aggregated when and where possible, and clearly explained. One-way, top-down information flows are insufficient to partner with these communities. Partnerships with regional and local community organizations and leaders, including non-governmental groups, would be necessary to accomplish this. Multiple modes of engagement to reach populations in multiple languages across different levels of internet access, communication preferences, and education levels would also be needed.

Interagency and partner collaboration

The Council is specifically tasked with providing advice and recommendations about how to strengthen intergovernmental and multiparty collaboration including government, stakeholders, and the public. SB762 requires 11 different agencies and their partner communities to implement new programs. Many of these programs have explicit or potential interconnections that necessitate strong interagency coordination and collaboration to achieve intended outcomes and maximize impact. However, to date this has largely occurred informally and has been limited, likely due to the workload and changes that each agency is facing and a hesitancy to “get in each others’ lanes.” A single position (the Wildfire Programs Director) has been essential but not sufficient to foster necessary collaboration among agencies. The result has been inefficiency, confusion, and missed opportunities.

A variety of strategies could be used to encourage stronger collaboration in the future. These could include:

- The Council recommends that additional capacity be provided to support the Wildfire Programs Director and Wildfire Programs Advisory Council in their roles set out under SB 762.
- *Designating formal interagency teams and positions that are tasked with regularly meeting and developing shared strategies.* These efforts would need to go beyond coordination and sharing updates, and create spaces in which different agencies together can meaningfully develop collaborative approaches and products. Agency leadership would need to encourage a culture of collaboration and support their personnel in doing interagency work, which can be new and challenging.
- *Focusing explicitly on the nexus points between components of SB 762.* These nexus points include the connections between wildfire risk mapping, defensible space, home hardening, and land use; between landscape resiliency efforts/prescribed fire implementation and public health investments; and between community preparedness actions and landscape resiliency projects. For example, planned landscape resiliency projects that include significant prescribed fire components could be better coordinated with efforts to manage smoke and improve smoke mitigation measures for nearby vulnerable communities.
- *Engaging partners in meaningful outreach and implementation.* Numerous non-governmental entities such as nonprofit organizations, coalitions, associations, and community groups are invested in advancing fire protection and equity in Oregon and can

boost and extend interagency collaboration. These entities could be more thoroughly engaged as partners, resources, and messengers for SB 762 programs. They are often able to access key communities or share messages in ways that are not possible for government agencies. Members of the Council represent some of these entities and could be more tightly coordinated to assist with this task.

Investment

The Council has noted needs for sustained funding for programs and positions created by the one-time infusion of monies allotted by SB762, including landscape resiliency programs; or programs that have partial or insufficient funding such as the Oregon Conservation Corps. There is also a need to leverage existing and new resources to strategically complement needs under SB 762. This would include existing agency programs and positions as well as new funding sources such as the IJA. Coordination with NGOs, Tribes, and other partners will also be essential to most effectively coordinate application of resources. In addition, agencies could invest proactively continuing this work despite disruptions from future wildfires or other events. Agencies that have substantial wildfire response or recovery responsibilities may be challenged to maintain focus and progress on wildfire preparedness and resiliency when major wildfires or other events occur. Ensuring dedicated staff and resources to continue this work is important.

Prioritization

Several of the Council's recommendations emphasize the need to strategically focus resources for maximum impact, and specifically to prioritize areas subject to both highest wildfire risk and social vulnerability in program implementation. Prioritization will require the continued revision and provision of wildfire risk mapping and the social vulnerability index to be used in making decisions, as well as timely technical assistance to facilitate their effective use of these tools for their needs. A communications strategy about why and how prioritization occurs may also be necessary. Communities and areas that do not receive investment may question why they are not included or wish to learn more about how they can take action. Questions about equity in prioritization decisions would need to be anticipated and addressed.

APPENDIX 1: WILDFIRE PROGRAMS ADVISORY COMMITTEE ROSTER AND WORKGROUP PARTICIPANTS

Council Roster

Chairperson, Mark Bennett (Baker): Member representing County Government

Vice Chairperson, Chase Browning (Medford): Member who represents fire marshals with wildland-urban interface firefighting experience

Joshua Shaklee (Douglas County): Member who is a land use planning director for a wildland-urban interface county

Jim McCauley (League of Oregon Cities): Member representing City Government

Bradley Clark (Grants Pass): Member who is a land use planning director for a wildland-urban interface city

Nick Browne (Clackamas/Canby): Member who represents fire chiefs with wildland-urban interface firefighting experience

Ian Yocum (Dayton): Member who represents firefighters with wildland-urban interface firefighting experience

Dave Hunnicutt (Hillsboro): Member who represents rural residential property owners whose property is wholly or partially within the wildland-urban interface

Samantha Bayer (Eagle Point): Member who represents farmers whose land is wholly or partially within the wildland-urban interface

John O’Keeffe (Adel): Member who represents ranchers whose land is wholly or partially within the wildland-urban interface

Carol Whipple (Elkton): Member who represents forestland owners whose property is wholly or partially within the wildland-urban interface

Steve Rondeau (Klamath Tribe): Member who represents federally recognized Indian tribes with land wholly or partially within the wildland-urban interface

Allen Berreth (Portland): Member who represents a utility company

Susan Jane Brown (John Day): Member who represents environmental interests

Amelia Porterfield (Portland): Member who represents forest resiliency interests

Mary Kyle McCurdy (Portland): Member who represents state or regional land use planning organizations

Karna Gustafson (Bend): Member who represents land and housing development interests or real estate industry interests

Tamarah Cline (Umatilla): Member who represents public health professionals

Alessandra de la Torre (Phoenix): Member who represents the environmental justice community

Workgroups for Report Development

Workgroup #1: Alignment and editorial

Mark Bennett, Workgroup Chair

Samantha Bayer

Karna Gustafson

Dave Hunnicutt

Jim McCauley

Mary Kyle McCurdy

Joshua Shaklee

Carol Whipple

EJ Davis, Committee Staff

Workgroup #2: WUI and land use

Dave Hunnicutt, Workgroup Co-Chair

Mary Kyle McCurdy, Workgroup Co-Chair

Samantha Bayer

Nick Browne

Chase Browning

Bradley Clark

John O'Keeffe

Amelia Porterfield

Joshua Shaklee

Carol Whipple

Ian Yocum

Susan Millhauser, Committee Staff

Workgroup #3: Advancing fire protection

Allen Berreth, Workgroup Co-Chair

Jim McCauley, Workgroup Co-Chair

Susan Jane Brown

Nick Browne

John O'Keeffe

Amelia Porterfield

Alessandra de la Torre

Ian Yocum
Steve Rondeau
Tamarah Cline
Derek Gasperini, Committee Staff

APPENDIX 2: SENATE BILL 762 SECTION-BY-SECTION SUMMARY

This will be added by DAS and will be the same as used in Doug's reports.

APPENDIX 3: WORKGROUP OBSERVATIONS

Workgroup discussions and observations on each section of the legislation are provided in this appendix. This content includes perspectives and suggestions offered by individual workgroup members, but does not represent consensus recommendations that were agreed upon by all workgroup members. These observations are based on Council discussion and agency briefings as of September 2022. Some aspects of the bill are under revision or progress at this date (i.e., wildfire risk mapping, land use recommendations). Observations may be adjusted in the future based on changes to implementation status and new knowledge.

Wildfire Risk Mapping

Due to the decision by the State Forester to withdraw the map, Council discussion to completely assess the wildfire risk map could not be completed, as the work of ODF remains unfinished at this time. However, several observations are offered based upon the events occurring since the map was introduced and discussions as of the date of this report.

Outreach and Communications

A robust ODF outreach plan with additional time for significantly more involvement by local government and the public is needed before the maps are revised, finalized, and put on the Oregon Wildfire Risk Explorer. The legislative deadline for completing the maps resulted in ODF being unable to review and examine questions and potential issues in the map. Potential anomalies were identified in tax lots or general areas that were mapped consistently with the modeling criteria chosen, but nevertheless were difficult to explain to the public when considering the actual use of the property on the tax lot or in the mapped area.

As part of ODF's communication strategy, it will be important to articulate that the map identifies where risk mitigation measures (defensible space and hardening of homes) are to be applied. These mitigation measures do not mitigate the risk of a fire entering a tax lot – these mitigation measures may make the home and community more “survivable” when a fire does enter into these high and extreme risk areas in Oregon. ODF's communication strategy should emphasize the positive aspects of the map as a tool to support landowner and community preparation for wildfire and target investments and resources.

There is a need to clarify the meaning of the risk classifications. For instance, does “extreme wildfire risk” indicate that a home will always burn in a wildfire? Might burn? Has a higher risk of burning? What is that higher risk, and how can it be quantified so property owners understand? Having a better idea of the impacts in each level of risk might lessen property owners' fears about their risk classifications. Better communication is also needed to clarify that risk classification does not distinguish between fires caused by arson and wildfires. Enacting rules that have regulatory impacts on property owners as a result of arson frustrates property owners.

The WUI definition adopted by the Board of Forestry results in maps that are hard to explain to the public. WUI areas have holes within them, areas that are clearly urban are included in the

WUI even though there is no interface with wildland areas, and areas that are miles from any type of urban development are included due to the presence of two structures in close proximity. The program risks losing public support with these designations. Additionally, ODF should consider a visual change in the map. The red and orange colors for extreme and high risk classes seem threatening.

Risk Mapping and the WUI

There may be legislative changes needed to SB 762 to alter the mapping process. ODF is obligated to perform the tasks required by the legislature and will use the greatest discretion possible within the law to achieve the intended purpose of the map while seeking greater public acceptance.

The map and the legislative requirements do not take into account any effort by the property owner to protect their home from wildfire. Property owners have expressed frustration that the actual use of their property and any actions to make the property safe from wildfire are not factored into risk classification, and that once they are designated, there is no way to change the classification. The map should show areas where property owners have taken steps to make their area less susceptible to wildfire.

Community members have complained about the risk categories not reflecting the actual use of their property, there are concerns about risk not being alleviated if neighbors do not maintain their properties. It would make sense if ODF considered both actual uses and neighboring uses when calculating risk class. If the implementation programs under SB 762 contained both incentives and regulatory tools for property owners refusing to maintain their properties, the wildfire program would likely be more successful and have greater buy in from the property owners impacted. An incentive-based program could result in much greater public acceptance.

The map serves two purposes. The first purpose is to secure funding for various programs. The second purpose is regulatory. ODF should consider two maps – one for regulatory purposes, and the second for use in obtaining state and federal funds.

Appeals Process

ODF needs to significantly improve the appeals and notification process. It is not fair to use appeals from property owners, which may involve a cost to a property owner in terms of legal fees, to refine ODF's mapping challenges; and given the impact that results from being included in the WUI, there needs to be a clear process to appeal that designation as well.

Insurability, Property Values, and Risk Classes

There is fear by the public that the map will result in the inability of property owners in the high or extreme classes to obtain homeowners' insurance or, if insurance can be purchased, that it will be affordable. The Oregon Division of Financial Regulation (DFR) does not believe that casualty insurers will use the map to base underwriting or rate determinations, but the fear exists and threatens public acceptance of the map. DFR's work related to insurance is discussed in further detail in a following section of this report.

Some people perceive that the risk classifications assigned by the legislature have a direct impact on property values. Others assert that impact on property values and insurance rates seems to be due to *actual* wildfires and wildfire risk. The impact may well be beyond individual properties and affect local and regional economies and housing markets. For example, the Oregon Shakespeare Festival (OSF) is at risk of having to change how it has operated for decades due to wildfire and smoke. That's not due to this map – if the OSF, Britt Festival, and other events are constrained or have to close, that will likely have a severe impact on the southern Oregon region and involved organizations. The tools of the map and *all of* SB 762 are part of how to get ahead of that – both to reduce wildfires starting in and growing from wildland and forested areas, but also to reduce the human and structural damage if they do come through a town.

Defensible Space

OSFM sought guidance from the workgroup on SB 762, Section 36(2)(f), which asks WPAC to assist in assessing the application of defensible space requirements to vineyards, crops, and other cultivated vegetation. Fire professionals advised OSFM that if vineyards, crops, and other cultivated vegetation are irrigated and maintained, or non-irrigated but maintained throughout the year, they have much less concern about fire risk in those areas and do not see a need for action in the defensible space code. Rather, the emphasis should be on education on vegetative choice/modification, spacing, and undergrowth maintenance for those within the WUI and high or extreme risk classifications.

OSFM has made significant progress in the Fire Adapted Oregon and Response Ready Oregon programs under SB 762, thanks to one time funding. Unfortunately, this progress and the programs created will not be sustainable if funding does not continue. Risk reduction will go backwards. Momentum and effectiveness will be lost without a funding stream for these programs.

The workgroup discussed that they appreciated and agreed with the approach of these programs but advised that sustainable permanent funding streams be identified and allocated to ensure the forward progress of these programs is not lost.

The workgroup also discussed the relationship between state and local governments regarding the defensible space code. Per SB 762, the defensible state code is a minimum code that OSFM must enforce throughout the state, unless a local government chooses to accept enforcement responsibilities in their jurisdiction. Workgroup members discussed local governments having the ability to supersede the OSFM rules within an established clear framework. It was observed that under SB 762, defensible space requirements are tied to areas around “structures.” There were concerns expressed about wildfire potential in agricultural and forest areas, but under SB 762, OSFM lacks the ability to address these issues through defensible space requirements. It is unclear whether those issues could be addressed in other sections of SB 762. The workgroup raised this issue for council discussion at the July meeting. Council members recognized that separate from SB 762 implementation there may be local solutions that could be developed to address agricultural areas outside of the WUI. Doing so would give the local experts the ability to address local jurisdiction threats that might not be a statewide issue.

The workgroup observed the need for a statewide educational initiative to help the public understand the goals of defensible space requirements, including for homes not in the high or extreme category and in the WUI. Doing so will ensure that in the event of fire, people will be able to evacuate safely and create defensible space to protect life and property, especially for the firefighters who are coming in to save lives, homes, and property. Public education that engenders broad support will aid in decreasing the risk to life and property and this was a significant concern of the workgroup.

Building Codes

Funding

The estimated increased cost to a new home that is required to comply with the revised R327 building code (i.e., in the high or extreme risk classification and in the WUI) could range from \$3,000 to \$12,000. For many Oregonians, this amount of increase will be unaffordable and may serve as a deterrent to appropriately hardening their new homes. This may be particularly true in historically underserved communities.

Resources will likely be needed to assist lower income property owners in meeting the standards of SB 762 and additional resources may be needed to incentivize voluntary hardening for properties and structures outside the scope of SB 762. The group discussed prioritization of properties based on risk designation and need and observed that financial assistance could be relatively easy to administer if the property is income-regulated and owned or managed by a nonprofit housing organization or agency. This might be expandable to Section 8 housing.

Education

DCBS will need to undertake a public information campaign to wider and more diverse audiences than ever before. Under SB 762, all property owners in the high and extreme risk classifications within the WUI must now become familiar with R327 so that they are aware of the requirements for additions and replacement of covered exterior elements, like roofs and siding. A comprehensive education campaign will also lead to voluntary compliance with the R327 building code, even if one's home or other structure is not required to be hardened under the legislation.

DCBS should prioritize educational efforts to limit the potential use of materials not meeting R327 standards in new construction or remodeling projects. The agency will need to do substantial outreach to communities, particularly those in rural areas, and socially and economically vulnerable communities, to build trust, provide technical assistance, and generally inform Oregonians about hardening standards. Given the disparity of fire risk across the state, particularly between rural and more populated urban centers, DCBS will need to focus its efforts on specific geographic regions of highest risk.

Policy Gaps

SB 762 provides that residential dwellings and regulated accessory structures in high and extreme classifications in the WUI are subject to the revised R327 wildfire resilient building code. Commercial buildings, manufactured housing, and certain temporary structures, such as RVs, were not included under SB 762. Triplexes, and perhaps other types of middle housing, are

also not captured by the R327 building codes, which apply only to single dwellings and duplexes, while the commercial building code applies to buildings of four or more units.

The workgroup also heard from BCD that some local governments have previously adopted R327 standards for dwellings throughout the jurisdiction, or in portions of the jurisdiction that may not be mapped as a high or extreme risk area within the WUI.

We understand that DCBS interprets SB 762 as creating a “minimum/maximum” structure for the applicability of the R327 code. That is, the R327 code, as revised under SB 762, applies only in the high and extreme wildfire risk areas that are also in the WUI in the statewide wildfire risk map. Under this interpretation, local jurisdictions are not allowed to require application of the code, or any part of the code, outside that area (although homeowners and developers could voluntarily comply with it).

Finally, we also discussed whether “accessory structures” was overbroad, in that if the goal of SB 762 and the R327 building codes is life safety of residents, should an accessory structure include, for example, a pole barn set away from the home. Therefore, throughout the implementation process, numerous questions were raised about whether hardening standards should be created for other structures, whether the DCBS application of R327 standards to certain “accessory structures” was overbroad, and whether the requirements of SB 762 could be extended to areas not contemplated by SB 762.

The workgroup did not have consensus on (1) whether local jurisdictions that have already adopted the R327 building code and applied it to a geography larger than would be required by SB 762 (for example, to an area that is in the “moderate” risk category and the WUI) should be “grandfathered-in” and (2) whether DCBS or local jurisdictions should have the discretion in the future to apply the R327 code beyond the high and extreme WUI area.

For some workgroup members, whether local jurisdictions should be allowed to be “grandfathered-in” might depend on how many there are; if they are few in number, that seems more manageable. We discussed that those jurisdictions have already had a community conversation on wildfire risk and decided to adopt the code. However, they might also be expecting SB 762 to supersede the local code. We know that the cities of Ashland, Grants Pass, and Medford have adopted the existing R327 code.

Some workgroup members were comfortable ensuring that in the future, all jurisdictions have the discretion to adopt the R327 code; some were not. The workgroup brought the following issues to the Council for further discussion; however, the council did not take any action to decide on recommendations.

- Should local jurisdictions that have already adopted the R327 building code and applied it to a geography larger than would be required by SB 762 be “grandfathered-in”?
- Should DCBS or local jurisdictions have the discretion in the future to apply the R327 code beyond the high and extreme WUI area?

Sb 762 and Property Insurance

As part of the agency's duties, DFR visits wildfire-impacted communities immediately after a wildfire occurs, offering suggestions and guidance on making claims to private insurers to speed recovery efforts.

After a disaster occurs, DFR tracks claims and recovery by the property owner on those claims. There have been 13,220 claims statewide resulting from the 2020 Labor Day wildfires, and carriers have paid over \$1 billion on those claims. Of those claims, 9,557 have been closed with recovery, 2,133 have been closed without recovery, and 1,510 remain open.

DFR also conducts an annual fire outreach program to educate property owners about strategies to protect their property from wildfire.

Consumers access policies from the admitted or standard market (insurance companies that have been approved by a state's department of insurance), surplus lines market (companies that serve high limit and hard-to-place risks), or Oregon FAIR plan for homeowner's insurance coverage (for those unable to obtain coverage through the prior two markets). Most get coverage from the admitted market. Wildfire coverage is part of the base policy for every property owner's policy issued in Oregon in the admitted market. Unlike California, where wildfire coverage is not mandatory and requires the property owner to purchase additional coverage, DFR requires all admitted market policies to provide coverage for wildfire. DFR believes Oregon's model is superior to California's and reduces costs to consumers. However, requiring mandatory wildfire coverage in all policies can also lead to carriers not wanting to offer coverage in areas of higher risk. Currently, over 150 insurance providers operate in Oregon. Both surplus lines and FAIR plan coverage (discussed below) offer less coverage and/or more expensive coverage to homeowners but operate as secondary choices for those that cannot find admitted market coverage.

DFR is currently monitoring DCBS's work on home hardening under Section 12 of SB 762 and OSFM's efforts to establish defensible space provisions under Section 8a of SB 762.

There are significant unknowns currently regarding carrier behavior and reaction to the risk map created by ODF/OSU, although many insurers have informally told DFR they have no current plans to use the risk map because they rely on their own proprietary methods of assessing homeowner risk. DFR believes the maps and the appeals process used to challenge a property's risk classification or inclusion in the WUI could eventually be used by carriers as an additional source for underwriting, but the extent to which carriers will rely upon the maps is unknown, as primary carriers already have their own formulas for assigning risk classification. For example, if there is a difference between the ODF/OSU map and maps/formulas used by a carrier to calculate risk classification, the carrier's behavior may change. The risk analysis done by each carrier may change over time and could be based upon actions taken by property owner in response to OSFM or DCBS requirements.

Home hardening requirements have been used in other states and are mainly used by carriers in underwriting determinations. Carriers have not used discounts as an incentive to encourage policy owners to harden their homes.

Defensible space requirements have also been adopted in other states. To date, insurers have used defensible space requirements only for determining surcharges, which have been as high as 78% over the normal rate. Carriers have not used defensible space standards as a discount on policy rates.

Carriers do not have uniform methods or requirements for defensible space. Each carrier uses its own criteria, which is proprietary and not available to the public, to weigh risk, using factors such as topography, availability of fuel sources, climate patterns in the area, and the availability of emergency services. If a carrier informs the policy holder of any defensible space requirements, compliance by the policy holder will have a significant impact on both premiums and underwriting.

DFR believes carriers will vary in their reliance upon the defensible space regulations enacted by OSFM and will likely evaluate defensible space requirements for each region of the state, and both OSFM and local regulations.

DFR will continue to monitor carrier behavior based on the risk map, defensible space regulations, and hardening requirements as they are promulgated by each agency, and is preparing a survey of carriers about their plans to use the maps and OSFM defensible space requirements.

Reinsurance costs (the costs of secondary policies purchased by primary carriers to cover claims paid directly to property owners) are rising significantly as a result of recent wildfires and other natural disasters. These additional costs are directly impacting primary carrier behavior and are passed on to the property owner in the form of higher premiums.

Oregon has a FAIR Plan policy for property owners who are unable to purchase coverage from a primary carrier due to high risk. To qualify, a property owner must be rejected by at least two primary carriers. FAIR Plan policies are created by primary carriers who enter into the program and provide coverage as a means of pooling risk and limiting claims liability. FAIR Plan coverage is coverage of last resort, and is very basic, with limited recovery compensation allowed for covered losses. DFR is considering requesting a bill in the 2023 legislative session to increase the payout limits under the FAIR Plan.

Electric Utilities

While the PUC has the authority to develop administrative rules that describe the detailed wildfire protection plan requirements for public utilities (in alignment with SB762), it does not have the same authority over the consumer-owned utilities. Each consumer-owned utility's governing body has their own authority to require and approve wildfire protection plan detailed strategies and procedures. However, both public utilities and consumer-owned utilities are held to the common requirements stipulated in SB 762. By requiring all electric utilities to adopt wildfire mitigation plans, the Legislature has ensured that all utilities are evaluating the necessity and manner of mitigation in their unique service territories. The legislation contains requirements for both

investor and consumer-owned utilities, but allows for plan contents to be tailored to the particular service area risks in consultation with the utility’s operational experts and governing authority.

It should also be noted that the development and implementation of wildfire mitigation plans for some smaller utilities can be overly burdensome as the resources available to the public utilities and consumer-owned utilities varies dramatically based on the size of the utility. As such, certain aspects of wildfire mitigation, such as access to data modeling tools for risk evaluation or weather forecasting, can be overly burdensome for some utilities.

An example of a common wildfire mitigation strategy utilizing state resources is the development of a state wildfire risk map. Both the public utilities and consumer-owned utilities are required to identify high fire risk zones, if any, in their service territories. However, there is currently no specific requirement to relate this analysis to the state conducted risk map.

Public Health

DEQ’s collaboration to date has included consultation with 20 local and tribal governments, and partnering with ODF on a smoke management plan. Three of their recipients are focused on alternatives to pile burning. Recently released information indicates the Lakeview Oregon Red Rock Plant may soon be ready to do pilot projects on carbon neutral biofuel from forest fuels. Efforts to create community response plans and develop long-term strategies for sharing smoke information with vulnerable communities have been challenging. There is a long-term need for additional community response planning for remaining Smoke Sensitive Receptor Areas, including crucial plan implementation support, as well as cross agency strategy to track permits and share important fire and smoke information in a single location

DHS worked to pass SB1536 to add definitions and add \$2 million for cooling and warming shelters, partnering with 2-1-1, OHA, and eligible entities. They have been using an equity rubric tool to determine prioritization.

OHA has collaborated with multiple partners to implement their smoke filtration program, including CCOs, vendors, DEQ, and DHS. They are working with vulnerable communities by identifying and prioritizing Oregon Health Plan participants, Medicaid participants, and medically vulnerable groups. They are looking to integrate their smoke filtration program with the Healthy Homes program in 2023.

Wildfire Risk Reduction

Landscape resiliency program

This program is engaging multiple types of partners across the state, including capitalizing on existing relationships with other state agencies and federal agencies—HECC, HECC, OSFM, OSU, and the Natural Resource Conservation Service. There is a need to develop similar relationships with others including the Oregon Department of Water Quality, Oregon Department of Fish and Wildlife, and State of Oregon Environmental Justice Task Force. This program appears to be making a positive impact on vulnerable populations, landowners, and communities through the work implemented to date.

20-year plan

The plan process needs to address prioritization for wildfire risk reduction activities and investment. Decision support tools (QWRA, disproportionate impacts on vulnerable communities) will help prioritize and then direct investments. Infrastructure Investment and Jobs Act (IIJA) and Inflation Reduction Act (IRA) investment should also bring additional investments.

Small forestland grant program

This program has been effective thus far at engaging landowners across the state. To address vulnerable communities' needs, a prioritization metric was developed to identify and target these communities. There are regional differences in the numbers of these communities among different geographic locations in Oregon. Some communities with existing capacity are more successful in obtaining grants than other communities without similar resources or experience, suggesting that there may be some inequity in access to resources. However, there is not enough data to fully assess this and more robust datasets for identifying and reaching vulnerable communities would be useful.

Prescribed Fire

Section 25: This was a simple rule change that added clarity to the agency's practice of not citing cross-boundary burns if jointly planned and conducted. ODF reports this was a seamless addition to rulemaking that was not met with any challenges during the process.

Section 26: In building the Certified burn manager program, ODF and the Rulemaking Advisory Committee utilized the experiences of other states who have their own programs: with program staff from California, Arkansas and Washington helping to build the rules. In looking at program development, ODF sought to identify and prevent bottlenecks and utilize Oregon's strengths. The program is expected to increase technical assistance, education, and understanding around prescribed fire for those participating in them and those adjacent, amplifying public support and building social license for the use of this effective management tool. While the program is still in early phases, some constraints have been identified, including lack of sufficient resources for education and grants, limited weather windows allowing for burns, need for technology to forecast smoke, insufficient capacity and information sharing within the insurance market, and concerns about liability.

Section 27: ODF has enhanced Federal agency partnerships as well. Cross boundary burning has led to collaboration in areas with multiple property ownerships, including working with landowners adjacent to federal lands. Tribal partnerships have also been prioritized, working to address concerns regarding restrictions to cultural resource burning, which generated through discussion as it was not explicitly named in statute.

Oregon Conservation Corps

The challenges the OCC is facing primarily are related to funding. A major source of funding is dependent on private investors and fundraising. Fundraising has unfortunately not been able to be pursued based on capacity and current need to expand program throughout the state. The second challenge the OCC is facing is related to some mission drift in programs. There are many state programs that are duplicating services which also decreases funding for the programs. Instead of investing in one state program, funding is divided between multiple programs. It's important to ensure long term program success by identifying permanent sustainable funding streams, otherwise the development and long-term implementations of these initiatives will not last.

The HECC has developed an equity lens and framework to aid in implementation. They apply this lens in the grant application. They have developed a racial equity impact statement. The focus is to ensure that with implementation of their programs that they are using an equity centered decision-making process. As HECC has evaluated the results of grants offered to underserved populations throughout the state, there wasn't the statewide interest that they thought they were going to have.

There were some unexpected outcomes since implementation. First, HECC was unable to reach areas in the southern and eastern part of the state with the grants or fuel reduction. There were efforts made to reach out statewide but ultimately vulnerable communities in Oregon have not been fully reached. HECC is looking to make revisions in SB 762 for the 25/27 legislative sessions to address and correct the outreach issues. The second interesting outcome was it became clear the need for one advisory board to oversee all youth programming. Currently, there are two advisory boards that have oversight: one each for Oregon Conservation Corps and Oregon Youth Corps. This tends to complicate process and decreases efficiency in the program.