

Prescribed Fire Subcommittee
January 12, 2024
Zoom Meeting
Meeting Summary

ATTENDANCE

Participants: Daniel Beveridge, Lesley Dahlkemper, Clark Hemker, Eric Howell, Katie McGrath-Novack, Mike Morgan, Steve Orr, Jody Shadduck-McNally, Rocco Snart, Parker Titus, Kevin Whelan, Brendan Witt,

Facilitation: Heather Bergman and Will Benkelman

PRESENTATION ON FEDERAL FIRE COMMISSION PRESCRIBED FIRE RECOMMENDATIONS

Director Mike Morgan, Division of Fire Prevention and Control (DFPC), presented the Federal Fire Commission's (FFC) recommendations on prescribed fire management. Below are the highlights from the presentation.

- The FFC published its report in September 2023 with 148 recommendations. By statute, the FFC exists six months after the report's publication and then disbands. The FFC will end on March 25, 2024
- The strategies needed to address wildfire issues will take decades, not years. Success will be dependent on holistic management across the nation.
- Below are the FFC's prescribed fire recommendations.
 - *Recommendation 10:* Congress should advance legislation to support compensation or claims funds for burn damages to third parties that can quickly provide financial relief in instances when burn practitioners adhere to identified best practices.
 - *Recommendation 11:* Congress should consider and clarify the extent to which the Federal Tort Claims Act provides protection to Tribes and non-federal cooperators burning on federal lands.
 - *Recommendation 12:* Federal agencies should work with Tribes, states, and local partners to develop a strategic plan for the implementation of prescribed fire at a national scale.
 - *Recommendation 13:* Establish a prescribed fire target based on natural fire regimes as determined locally.
 - *Recommendation 14:* Congress should instruct the agencies to develop the necessary administrative systems to allow resource ordering for prescribed fire to be as seamless as it is for wildfire response.
 - *Recommendation 15:* Congress should require the Bureau of Indian Affairs to acknowledge that federally recognized Tribes may develop fire programs on Tribal trust land under approved Tribal laws, regulations and policy, or other Tribal decision-making processes.
 - *Recommendation 16:* Congress should acknowledge Tribal cultural burning in federal law, ensure it is not confused with prescribed fire, and grant agencies the authority to coordinate with Tribes on the conduct of Tribal cultural burning on federally administered lands.
 - *Recommendation 17:* Invest in fuels reduction treatments.
 - *Recommendation 18:* Congress should support and expand the Collaborative Forest Landscape Restoration Program.

- o *Recommendation 19:* Congress should invest in wood processing facilities and the wood utilization sector more generally.
- o *Recommendation 20:* Fund more research and pilot projects for biofuels and biomass utilization technologies and opportunities through a new collaboration between the Forest Service Research & Development and the Department of Energy.
- o *Recommendation 21:* Incentivize the adoption of new technologies and processing systems to produce value-added and demand-driven innovative wood products.

Questions from the FFC Prescribed Fire Recommendations Presentation

Prescribed Fire Subcommittee members asked questions following Director Morgan's presentation. Below is an overview of the questions. Their questions are indicated below in italics, with corresponding responses in plain text.

Were there more concrete next steps for prescribed burns?

The work of the FFC ties into the work that the Prescribed Fire Subcommittee was already doing. The FFC is designed to provide recommendations to Congress, but Congress cannot tell a county commissioner in Colorado what to do in their county. Congress can help incentivize what the state and local governments can do. The hope is stakeholders can build collaborations between local, state, and federal governments.

What are other states doing for prescribed fire work?

Most prescribed fire activities happen at the state level. Public safety and natural resource agencies conduct the prescribed fire work. There is a trend to move prescribed fire activity to public safety agencies. Not a single state said they had figured out prescribed fire issues. Colorado is ahead of other states conducting this work with groups like the Prescribed Fire Subcommittee. There is a need to get the Colorado Department of Public Health and Environment involved on prescribed fire. Managing the impact of smoke is an issue that managers will need to solve.

What should be Colorado's priority regarding prescribed fire?

It seems that Colorado is in a good place right now. There is a framework in place, and stakeholders are having conversations. There will be funding to conduct mechanical vegetation treatment in the future. The state has an air curtain burner. Managers must find a way to handle the burn piles they create on the landscape realistically. Managers need to support workforce improvements. There is a need to get the Colorado State Forest Service more resources for grant opportunities. Finally, there is a need to build a strategic plan for prescribed fire in Colorado.

Additional Comments from the FFC Prescribed Fire Recommendations Presentation

Prescribed Fire Subcommittee members made additional comments in response to the presentation from Director Morgan. Below are the highlights from the comment period.

- Addressing prescribed fire issues in Colorado will be a big lift. Managers will need the help of certified burners working on private land.
- DFPC is not to blame for liability issues relating to prescribed fire work. There will always be risks when managers use fire as a tool. People need to understand that risk and work to progress beyond past events.
- Elected officials want to know what managers need relating to prescribed fire. Showing those decision-makers the hurdles managers face in using prescribed fire is essential to success.

- The goal of the Prescribed Fire Subcommittee should be working to achieve “A+” results for prescribed fire implementation. Managers must use prescribed fire in the right way. Managers cannot take too long to implement solutions, even if the solutions are not perfect.
- California and Oregon have a five-year state-funded program for insurers who provide prescribed fire liability policies. Educating the insurance agency on the conditions in Colorado specifically could be a helpful strategy. There are differences between the conditions in California and Colorado.
- There have been a lot of conversations about insurance in Colorado. There is a concern that insurance providers will leave the state. The Western Fire Chiefs Association has had conversations to see what other Western states are doing with insurance challenges.
- Questions exist on how decisions to address wildfire challenges impact the insurance market. For example, what insurance impacts Colorado investing in new fire response helicopters?
- Separating homeowner and burner insurance challenges will be important in the future.

NEXT STEPS

The Colorado Fire Commission’s next meeting is January 19 in Lakewood, Colorado. The Prescribed Fire Subcommittee will provide an update to Colorado Fire Commission on recent events.

APPENDIX

Below are the FFC's prescribed fire-related recommendations and the context of each recommendation provided in Director Morgan's presentation.

- *Recommendation 10:* Congress should advance legislation to support compensation or claims funds for burn damages to third parties that can quickly provide financial relief in instances when burn practitioners adhere to identified best practices.
 - Practitioners have named the potential financial implications associated with prescribed fire liability and risk as a primary hurdle in the ability to scale up prescribed and cultural burns. Furthermore, according to a recent survey, most non-governmental organizations reported that they would increase their prescribed fire implementation if costs for insurance premiums and deductibles were reduced (Huber-Stearns et al., 2023b). A federally supported compensation or claims fund would help mitigate some of these financial concerns and allow for injured parties to recover damages from federal actions that would otherwise go uncompensated due to the Federal Tort Claims Act. This claims fund should be designed to complement and bridge, not replace, traditional insurance, and should further require burn practitioners adhere to identified best practices to be eligible for a burn to received coverage.
- *Recommendation 11:* Congress should consider and clarify the extent to which the Federal Tort Claims Act provides protection to Tribes and non-federal cooperators burning on federal lands.
 - Tribes and non-federal cooperators that participate in prescribed and cultural burns on federal lands usually enter into cooperative burn agreements with federal agencies. These agreements typically clarify liability between partners; in most cases, each party is responsible for their own protections. However, these agreements do not address the topic of liability consistently (Shively et al., 2022). Liability-related concerns and uncertainties, along with the challenges in obtaining private insurance, are a widespread deterrent for non-federal entity involvement in prescribed and cultural burns on federally administered lands even though federal agencies are increasingly looking to partners for added capacity
- *Recommendation 12:* Federal agencies should work with Tribes, states, and local partners to develop a strategic plan for the implementation of prescribed fire at a national scale.
 - A national strategic plan, with specific goals and strategies for increasing the use of prescribed fire, would help create the incentive and the direction necessary for addressing the current deficit in using this practice. In particular, the Secretaries of Agriculture and the Interior should be instructed to develop a 10-year strategic plan for prescribed fire at a national level. Such a plan should: (1) be developed by a panel of agency and non-agency scientists, managers, and other experts; (2) identify ecologically appropriate targets for prescribed fire use at a regional scale; (3) assess current scope and scale of prescribed fire use; (4) include a plan for annual monitoring and report on use of prescribed fire relative to targets and to assess its impacts and effectiveness; and (5) identify barriers and enabling conditions, such as workforce and state and federal policies, to achieving the scope and scale of prescribed fire deemed necessary through the process of defining targets.

- *Recommendation 13:* Establish a prescribed fire target based on natural fire regimes as determined locally.
 - Though federal land management agencies receive funding for prescribed fire, “neither DOI nor the Forest Service have a specific prescribed fire target, making it difficult to track these agencies’ use of and success with this tool (Shultz et al., 2022). While the Commission ultimately supports moving towards more holistic outcome-based performance measures, prescribed fire may not be incentivized to the same extent as other land management activities if no annual outcome goal is established. Creating a dedicated target may serve as a bridge to outcomes-based metrics and encourage and track the use of prescribed fire as a critical restoration tool.
- *Recommendation 14:* Congress should instruct the agencies to develop the necessary administrative systems to allow resource ordering for prescribed fire to be as seamless as it is for wildfire response.
 - The coordination and mobilization of management and suppression resources for wildfire response has long relied on an effective resource ordering system which allows entities to rapidly request resources from one another with confidence that costs will be settled after the need has been met and the incident has been concluded. However, resource ordering for prescribed fire has historically not had equivalent ease of use, often requiring individual agreements between agencies and other entities such as non-governmental organizations and fire departments. Agreement development is time-consuming and has resulted in less resource availability for prescribed burns.
- *Recommendation 15:* Congress should require the Bureau of Indian Affairs to acknowledge that federally recognized Tribes may develop fire programs on Tribal trust land under approved Tribal laws, regulations and policy, or other Tribal decision-making processes.
 - Fire management on Tribal trust lands would be improved if Tribes had more autonomy to apply Tribal laws, policies, and processes on Tribal trust lands, rather than being required to follow Bureau of Indian Affairs (BIA) processes for burn plans and other fire management documents. Increased autonomy and flexibility would both facilitate increased use of beneficial fire by Tribes on trust lands under their jurisdiction and further Tribal sovereignty. Tribally-developed programs authorized under this recommendation should include, among other items, Tribally-developed planning documents, determination of necessary qualifications for participants implementing burns, and mechanisms for approval.
- *Recommendation 16:* Congress should acknowledge Tribal cultural burning in federal law, ensure it is not confused with prescribed fire, and grant agencies the authority to coordinate with Tribes on the conduct of Tribal cultural burning on federally administered lands.
 - Congress should ensure agencies acknowledge the ceremonial and spiritual aspects of cultural use of fire and grant federal agencies the authority to coordinate with Tribes regarding Tribal cultural burning on federally administered lands. Implementing this recommendation would require an agreement or other mechanism to be developed between the relevant agency and Tribe to establish a framework for how to enable cultural burning, including an agreed-upon process for coordination, communication, and managing risk. The agreement would outline the conditions (i.e., general locations, vegetation characteristics, seasonality, extent,

notification procedures, etc.) under which cultural burning would occur. Agency authority to enter into agreements regarding cultural burning should be compliant with federal law. Such agreements or mechanisms should be programmatic; cultural burning would be carried out as an ongoing activity, rather than requiring re-negotiation on a burn-by-burn basis. The Commission also feel it is important that such agreements are recognized as being based on a sovereign-to-sovereign relationship between a Tribe and the federal government.

- *Recommendation 17:* Invest in fuels reduction treatments.
 - Effectively addressing the current backlog of fuels reduction treatments (as well as the ongoing maintenance of those treatments) requires investments at an unprecedented scale. The Forest Service alone has set a goal of using thinning and beneficial fire to treat 20 million acres of national forest land and to support the treatment of 30 million acres of other federal, state, Tribal, and private lands over the next decade in order to mitigate wildfire hazard in the highest priority landscapes (USFS, 2022c). Department of Interior (DOI) has also identified needs to implement more active management work to maintain past treatments and address additional areas to reduce wildfire risk and improve wildfire resilience (United States Department of the Interior [DOI], 2022). This potentially amounts to enormous costs, with estimates for prescribed fire ranging from \$125 to \$489 per acre and mechanical thinning ranging from \$700 to more than \$2,000 per acre (CBO, 2022). In addition to a scaling up of investments to meet federal lands fuels reduction needs, Congress should work with states and other partners to provide and incentivize funding for treatments on other jurisdictions to effectively address landscape-scale approaches.
- *Recommendation 18:* Congress should support and expand the Collaborative Forest Landscape Restoration Program.
 - The Collaborative Forest Landscape Restoration Program (CFLRP) is a leading program for catalyzing collaboratively driven ecosystem restoration projects at scale. Not only does the program provide an influx of funding for the implementation of critical forest and watershed restoration projects, it also explicitly requires collaboratively developed project proposals and multi-party monitoring, the latter of which facilitates accountability and opportunities for adaptive management. Through these design elements, CFLRP serves as a highly successful model for how federal programs can institutionalize collaborative approaches and be more responsive to local community needs and desires. The Commission notes that the program should, at a minimum, receive appropriations for the full authorized amount and should potentially be increased.
- *Recommendation 19:* Congress should invest in wood processing facilities and the wood utilization sector more generally.
 - In vegetation management projects, trees, and parts of trees (e.g., branches and treetops) that cannot be used for commercial purposes may be left behind on the landscape. This material can exacerbate wildfire intensity if a fire occurs in the area (Prichard et al., 2021). Disposal strategies such as open pile burning may degrade air quality through smoke production and release carbon that contributes to climate change.

- *Recommendation 20:* Fund more research and pilot projects for biofuels and biomass utilization technologies and opportunities through a new collaboration between the Forest Service Research & Development and the Department of Energy.
 - Research and innovation have the potential to lead to economically viable uses for biomass generated by forest and rangeland projects. Boosting commercial demand and utilization for otherwise low-value biofuels and biomass could help improve the overall financial outlook for mechanical fuels reduction projects.
- *Recommendation 21:* Incentivize the adoption of new technologies and processing systems to produce value-added and demand-driven innovative wood products.
 - When biomass utilization technologies become available for commercial use, there is also a role for the federal government to support their broader adoption. This support could take the form of subsidies to mechanical treatments or the use and authorization of longer-term contracts in order to generate longer-term supply of harvestable timber that is ecologically appropriate and aligned with wildfire risk reduction. Pilot projects in particular should be emphasized.