

SM2 Wildfire Study Group

Ben Bajema
Policy Director

Energy, Minerals, and Natural Resources Department (EMNRD)

N E W M E X I C O



Energy, Minerals and Natural Resources Department

November 17, 2025

SM2 Wildfire Study Group Overview

- **Sponsor:** Senator Woods
- **Directive:** New Mexico Legislative Council → EMNRD Forestry Division
- **Purpose:** Establish a stakeholder-driven wildfire study group to:
 - Develop and recommend a statewide strategy to avoid and mitigate wildfires
 - Advise the interim legislative committee on funding needs and potential legislation
 - Identify best practices, policies, and investments — with emphasis on vegetation management
- **Report Objective:** Provide an unbiased summary of stakeholder discussions, highlighting areas of consensus and divergence on wildfire policy
- **Authors:** Benjamin C. Bajema, Laura McCarthy, McLee Kerolle, Rebecca Puck Stair, and Gabriel Kohler

Stakeholders

- State agencies, utilities, insurers, trial attorneys, and wildfire data experts.

1. Forestry Division
2. ECAM
3. DHSEM
4. IAD
5. OSI
6. PRC
7. RETA
8. SLO
9. New Mexico Counties
10. Department of Justice

11. PNM
12. Excel Energy
13. EPE
14. NM Rural Electric Coops
15. Tri-State Electric
16. Central Valley Electric
17. Otero County Electric

18. Rocky Mtn. Insurance Association
19. Property and Casualty Insurance Association
20. American Property Casualty Insurance Association
21. Association of Mutual Insurance Companies
22. Farmer's Insurance

23. NM Trial Lawyers
24. Singleton Schreibner

25. Firescape AI

NEW MEXICO



Energy, Minerals and Natural Resources Department

SM2 Timeline

	Date
Legislation Passed	March 13
SM2: Meeting One – Existing Initiatives	July 8
Sub-committees meet	July 9 – August 4
SM2: Meeting Two – Unmet Needs	August 5
Draft Report Disseminated (Version 1)	September 7
Draft Report Disseminated (Version 2)	October 3
SM2: Meeting Three - Recommendations	October 8
Report Finalization	October 9-30
PRC Wildfire Workshop	October 23
Report Due to the Legislature	November 1
Infrastructure Finance Conference	November 4
WNRC Presentation	November 17

NEW MEXICO



Energy, Minerals and Natural Resources Department

Meeting One - Objectives

1. Familiarize the study group members with policies, programs, practices and investments that already exist. These were covered quickly and at a high level with opportunity to identify follow up needs or next steps with more detail.
2. Identify critical needs and specify the desired outcomes, policies, and information gaps to address in the next meeting. Make assignments for follow up so the next meeting is productive.



Existing efforts that can continue without legislative action

1. Statewide Mapping of Wildfire Risk
2. Mapping and Fuels Treatment in Community Mitigation Buffers
3. NM FAIR Plan Mitigation and Home Hardening
4. Wildfire Prevention and Mitigation with Federal Funds
5. Forest and Watershed Restoration with State Funds
6. Communities Wildfire Protection Plans
7. Communities at Risk Report
8. Wildland Urban Fire Summit and Outreach/Education
9. FEMA Hazard Mitigation and Tribal Hazard Mitigation Planning
10. State Forest Action Plan and Utility ROW strategy
11. Local Government Ordinances for Vegetation Management
12. Federal Community Wildfire Defense Grants
13. BLM-NM Counties Wildfire Risk Reduction Program
14. National Forest Mitigation with Wyden Authority
15. New Mexico Shared Stewardship Portal



Four issues identified for follow-up in working groups

	Working Group	Focus Area
1	Pre-Season Engagement	Early-season coordination each year, stakeholder communication, preparedness planning
2	Data Governance & Sharing	Barriers to data access, interagency data coordination, wildfire data standards
3	Grid Modernization	Infrastructure vulnerabilities and opportunities, service continuity, utility risk mitigation
4	Liability & Negligence	Legal exposure, insurance coverage, compensation frameworks

Consensus Recommendations

- 1 Pre-Season Engagement
 - 2.1 Categorize Data Needs Across Fire Phases
 - 2.2 Clarifying Data Ownership, Access, and Disclosure
 - 3.1 Integrating Wildfire Risk into Grid Modernization Policy
 - 3.2 Enhancing Wildfire Mitigation
 - 3.3 Structuring Equitable Cost Recovery for Wildfire-Related Grid Upgrades
 - 3.5 Clarifying NMPRC Authority and Cost Recovery for Grid Improvements
 - 4.1 Practices and Wildfire Planning to Mitigate Ignition , Slow Spread, and Improve Safety (Conditional Consensus)
 - 4.2 Landowner Access and Responsibility

Recommendation 1

Pre-Season Engagement

EMNRD Forestry Division and DHSEM will jointly organize an annual statewide Pre-Season Fire Meeting beginning February 2026 to coordinate wildfire preparedness across agencies and utilities.

Pre-Season Fire Meetings will aim to:

- **Expand participation in pre-season coordination** to include electric utilities, county and tribal officials, emergency managers, and fire agencies.
- Share projected high-risk areas, discuss rapid initial attack strategies, and prepare for worst-case wildfire scenarios.
- Build a stakeholder group to **convene structured After-Action Reviews** following severe wildfire seasons to formalize lessons learned and improve future response.
- All participating agencies and stakeholders will use these meetings to exchange best practices, strengthen coordination protocols, and **build cross-sector relationships**.

Recommendation 2.1

Categorizing Data Needs Across Fire Phases

EMNRD, DHSEM, and the PRC, in coordination with electric utilities, should establish a centralized, NERC-compliant data governance framework that organizes existing wildfire-relevant data across three phases—before, during, and after fire events—and secures funding to operationalize this data for emergency planning and response. Additional funding needed.

Key Data Assets to Operationalize:

- Vegetation management records
- Generation asset capabilities: backup generation, islanding capabilities, reliability, and vulnerable customer groups that rely on that asset.
- Inspection histories
- Status of line hardening
- Feeder sectionalization maps
- Outage duration estimates by scenario
- Alignment with NERC requirements

Recommendation 2.2

Clarifying Data Ownership, Access, and Disclosure

The Legislature should direct DHSEM and the PRC to establish a statutory framework that defines ownership, access, and disclosure protocols for wildfire-relevant utility data, ensuring secure use by authorized emergency personnel and alignment with NERC standards.

Supporting Actions:

- Define “critical data assets” across fire phases (before, during, after)
- Clarify hosting responsibilities and credentialed access protocols
- Establish appropriate use cases and update frequency standards
- Evaluate IPRA exemptions for sensitive infrastructure data (e.g., NMSA §14-2-1 (M))
- Ensure interoperability across platforms and compliance with federal cybersecurity rules
- Consider DHSEM stewardship via CISA portal and integration with WFDSS

Recommendation 3.1

Integrating Wildfire Risk into Grid Modernization Policy

The Legislature should amend NMSA 1978, §62-8-13(F) to explicitly include wildfire and extreme weather resilience as core objectives of grid modernization, ensuring alignment between utility planning and emerging climate risks.

Supporting Rationale:

- Clarifies legislative intent and strengthens PRC authority to prioritize fire-hardened infrastructure
- Encourages investment in covered conductors, non-expulsion fuses, and distributed energy resources
- Aligns with Wildfire Mitigation Plans and supports cost recovery for resilience upgrades
- Addresses stakeholder concerns about reliability, recovery timelines, and ignition risk
- Recognizes that utilities already consider wildfire risk, but statutory clarity would improve consistency and accountability

Recommendation 3.2

Enhancing Wildfire Mitigation

The Legislature should authorize regulatory flexibility and targeted funding to support utility wildfire mitigation through vegetation management, PSPS and PEDS protocols, and early detection technology.

Supporting Actions:

- Direct EMNRD Forestry Division to develop vegetation management templates and treatment guidelines, consistent with industry standards
- Authorize PRC to establish consistent protocols for Public Safety Power Shutoff (PSPS) and Protective Equipment and Device Settings (PEDS), adaptable to local risk profiles and compliant with NERC standards
- Fund a statewide network of AI-enabled wildfire detection cameras to improve early ignition response and situational awareness
- Ensure mitigation tools are scalable for IOUs and RECs, and integrated into PRC curtailment planning frameworks

Recommendation 3.3

Structuring Equitable Cost Recovery for Wildfire-Related Grid Upgrades

The Legislature should ensure timely, flexible cost recovery mechanisms for wildfire-related grid modernization investments, including those tied to approved Wildfire Mitigation Plans (WMPs) filed at the PRC.

Supporting Actions:

- Clarify that NMSA 1978, §62-8-13 (as amended by HB 93 in 2025) authorizes utilities to seek cost recovery for grid-enhancing technologies through tariff riders or base rates
- Recognize PRC rulemaking in Docket No. 22-00089-UT as a foundation for wildfire-related investment review
- Preserve flexibility to accommodate diverse utility contexts across New Mexico
- Reference models like Utah's HB 212, which directs commissions to allow recovery when investments are cost-effective
- Encourage utilities to pursue non-ratepayer funding (e.g., federal grants, public-private partnerships, bonding) alongside PRC filings

Recommendation 3.5

Clarifying NMPRC Authority and Cost Recovery for Grid Improvements

The Legislature should reaffirm and clarify the PRC's authority to approve and rate-base wildfire-related grid modernization investments, and mandate timely cost recovery—within a defined review schedule—for prudent mitigation activities such as vegetation management and infrastructure hardening. This includes ensuring the PRC has the staffing and technical capacity to carry out this role effectively.

Supporting Actions:

- Ensure PRC can approve wildfire-related investments (e.g., fast-trip relays, reconductoring) through streamlined review and recovery mechanisms
- Reference HB 93 (2025) as statutory foundation for grid modernization and cost recovery
- Allow cost recovery for proactive thinning, right-of-way maintenance, and other fire mitigation measures
- Clarify PRC's role in expanding legislatively set vegetation management standards and incorporating national best practices
- Support PRC staffing and technical resources to accelerate approval timelines and manage wildfire-related filings

Recommendation 4.1

Practices and Wildfire Planning to Mitigate Ignition , Slow Spread, and Improve Safety

The Legislature should formalize evolving wildfire mitigation practices—including vegetation management, grid hardening, and operational protocols—through state-approved Wildfire Mitigation Plans (WMPs) that require periodic audits and regular updates.

Supporting Actions:

- Broad support for codifying WMPs as a structured tool for wildfire prevention and mitigation
- WMPs should reflect a wide range of strategies and include enforceable activity standards
- Stakeholders did not reach consensus on whether WMP compliance should establish a rebuttable presumption of meeting the standard of care (see 4.3.1)
- Further legislative work needed to define WMP components and legal implications


Recommendation 4.2

Landowner Access and Responsibility

The Legislature should establish mechanisms to facilitate utility access to private property for wildfire mitigation when landowner permission is unclear or withheld.

Supporting Actions:

- General support for a process involving landowner outreach and third-party approval, modeled on EMNRD's wildfire suppression authority
- Designated authority needed to interpret and mediate ambiguous access cases
- Utilities raised concerns about liability when access is explicitly denied and hazardous vegetation remains unmitigated
- No consensus on shifting legal responsibility to landowners who deny access
- Further legislative consideration required to address enforcement, documentation, tribal sovereignty, and jurisdictional complexity

Stakeholder	4.2
IOU	
Co-op	
Insurance Carrier	
Trial Attorney	

Non-Consensus Recommendations

- 4.3.1 Mandated Mitigation Practices and Wildfire Planning to Provide Liability Protection through a Rebuttal Presumption of Meeting the Standard of Care
- 4.3.2 Legal Standards and Utility Classification
- 4.3.3 Liability Standards
- 4.3.4 Liability Caps for Utilities
- 4.3.5 State Wildfire Compensation Fund

Disclaimer: Regarding the liability and negligence working group, significant divergence remains on liability standards, mitigation incentives, and whether a claims compensation fund should be considered and, if so, what the mechanism should be.

Recommendation 4.3.1

Mandated Mitigation Practices and Wildfire Planning to Provide Liability Protection

The Legislature should consider whether compliance with a state-approved Wildfire Mitigation Plan (WMP) provides utilities with a rebuttable presumption of meeting the standard of care in wildfire-related lawsuits.

Focus:

- A procedural legal shield tied to PRC-approved mitigation plans
- Would shift the burden of proof in litigation, favoring utilities if they follow approved plans

Key Considerations:

- Utilities support this presumption to reduce litigation risk and incentivize proactive mitigation
- Insurance stakeholders caution it could limit victim compensation and shift financial risk to ratepayers
- PRC raised concerns about potential liability for the PRC if its WMP approvals are later challenged
- Other states (e.g., California's AB 1054) offer precedent, but with complex tradeoffs

Recommendation 4.3.2

Legal Standards and Utility Classification

The Legislature should consider whether New Mexico's legal framework for wildfire-related liability and utility classification adequately reflects differences in risk exposure, operational scale, and mitigation capacity.

Key Considerations:

- New Mexico currently applies a negligence standard, which some stakeholders support for its flexibility and alignment with tort law
- Others propose differentiated standards or cost recovery pathways for IOUs and RECs, citing disparities in ratepayer base and access to capital between the two
- Utilities note they can already petition the PRC for cost recovery of wildfire mitigation activities
- Stakeholders agree on the need for a comprehensive liability framework, but differ on how to structure it across utility types

Recommendation 4.3.3

Liability Standards

The Legislature should consider whether to revise New Mexico's liability standards for utility-caused wildfires and clarify the scope of subrogation rights for insurers.

Focus:

- The substantive legal framework governing fault, reasonableness, and recovery
- Addresses how courts determine utility liability and how insurers recover costs

Key Considerations:

- Some stakeholders support a negligence-based standard with clearer definitions of “reasonable utility conduct”
- Others propose stricter liability to ensure victim compensation and accountability
- Insurers emphasize preserving subrogation rights to recover on behalf of policyholders
- Utilities warn that unrestricted subrogation could increase exposure even when no fault is found and mitigation protocols are followed

Recommendation 4.3.4

Liability Caps for Utilities

The Legislature should consider whether to evaluate targeted liability limitations for utilities in wildfire-related cases, and if so, how such limitations could support financial stability and risk management.

Key Considerations:

- Stakeholders expressed interest in exploring calibrated limits on non-economic and punitive damages, while maintaining full recovery for direct economic losses
- Supporters suggest that clearer liability boundaries may help stabilize insurance markets and reduce financing costs for utilities and ratepayers
- Others emphasize the importance of preserving strong incentives for mitigation and ensuring that risk is not disproportionately shifted to affected communities
- Recent legislation in Kansas (HB2107), Oregon (HB3854), and Utah (SB224) reflects a growing state-level interest in clarifying utility liability and stabilizing wildfire-related financial exposure

Recommendation 4.3.5

State Wildfire Compensation Fund

The Legislature should consider whether to establish a state-managed wildfire compensation fund to support victims and stabilize financial exposure for utilities and ratepayers.

Key Considerations:

- Supporters view a fund as a backstop for uncertain ignition cases, potentially funded through tiered utility contributions, General Fund seeding, and federal matching
- Insurers oppose using insurance mechanisms (e.g., surcharges) to finance the fund, citing market impacts
- Critics warn that if paired with liability caps, a fund could leave uninsured property owners with reduced or no compensation
- Stakeholders disagreed on whether IOU shareholders or RECs could meaningfully participate in a pooled structure
- California's utility-funded pool and Hawaii's securitization model offer reference points, but differ significantly from New Mexico's utility landscape
- Further analysis is needed to assess fund governance, financing tools, and equity impacts across customer classes

Closing Thoughts/Next Steps

1. Focus on areas of consensus

- 1 Pre-Season Engagement (NL)
- 2.1 Categorize Data Needs Across Fire Phases (NL)
- 2.2 Clarifying Data Ownership, Access, and Disclosure (NL)
- 3.1 Integrating Wildfire Risk into Grid Modernization Policy (L)
- 3.2 Enhancing Wildfire Mitigation (L)
- 3.3 Structuring Equitable Cost Recovery for Wildfire-Related Grid Upgrades (L)
- 3.5 Clarifying NMPRC Authority and Cost Recovery for Grid Improvements (L)
- 4.1 Practices and Wildfire Planning to Mitigate Ignition, Slow Spread, and Improve Safety (Conditional Consensus) (L)
- 4.2 Landowner Access and Responsibility (L)

(NL): Non-Legislative
(L): Legislative

2. Consensus recommendations are not intended to be viewed as a comprehensive “wildfire package” and should be viewed as independent policy initiatives

3. The consensus recommendations are attributed to the Wildfire Study Group, not the Office of the Governor or EMNRD.

Thank You.



Ben Bajema

Policy Director, EMNRD

Benjamin.bajema@emnrd.nm.gov



Laura McCarthy

Director, Forestry Division, EMNRD

Laura.mccarthy@emnrd.nm.gov



Rebecca "Puck" Stair

Director, ECAM, EMNRD

Rebecca.stair@emnrd.nm.gov



McLee Kerolle

Technical Advisor, NM PRC

Mclee.kerolle@prc.nm.gov



Gabe Kohler

Renew Forest Works LLC

Gabe.kohler@outlook.com



Questions