

Forest Action Plan and Expanding the Use of Prescribed Fire

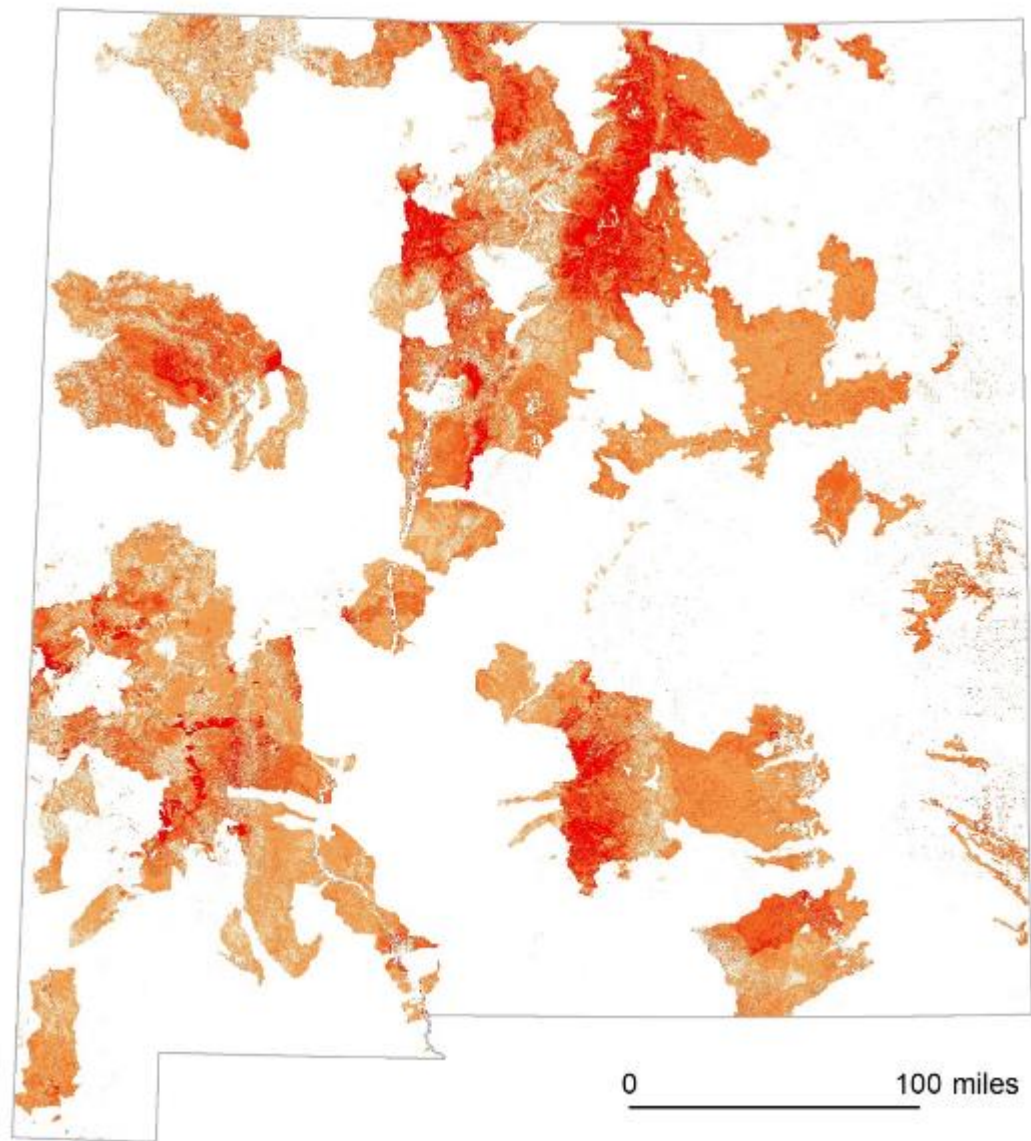


2020 New Mexico Forest Action Plan

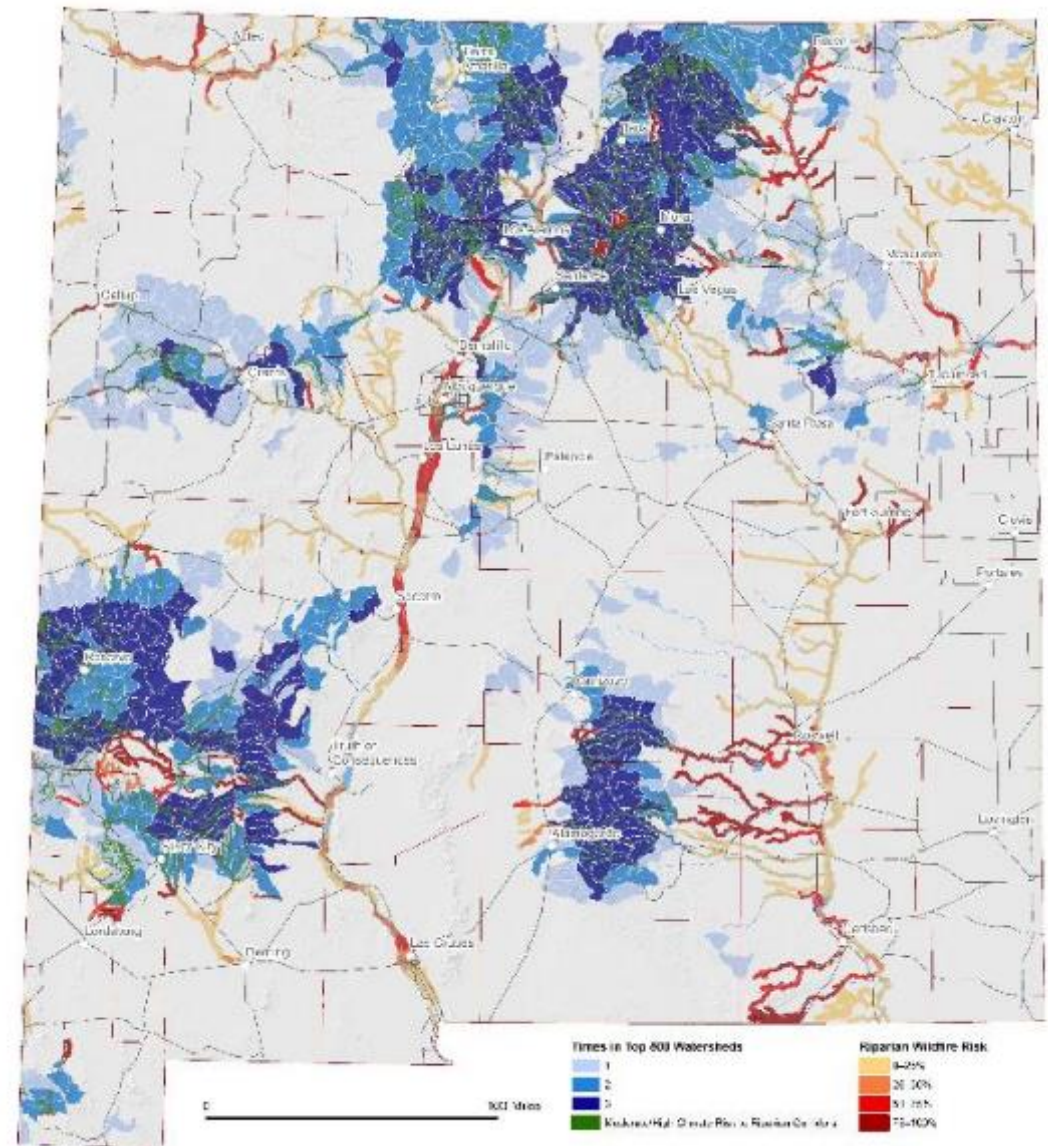
- 2020-2030 timeframe
- Science-based Assessment
- Priority Maps
- Strategies and Actions



<http://www.emnrd.state.nm.us/SFD/statewideassessment.html>



Fire Risk to Communities



All Lands Shared Stewardship Priorities – Top 500

NEW MEXICO



Energy, Minerals and Natural Resources Department

2020 NM Forest Action Plan



Strategy 1: Restore Forests and Watersheds

Addresses the legacy of fire exclusion and current land conditions to mitigate catastrophic wildfires burning much hotter than previously experienced with forest management treatments



Strategy 2: Fire Management

restores the ecological role of fire to foster resilient landscapes and watershed health; sustains wildfire response on state and private lands; supports regional, state, and national wildfire response on all jurisdictions; and fosters collaboration of post-fire response after high severity wildfire.



Strategy 3: Private Lands Stewardship

Provides strategies to improve and support private land stewardship and provide services to assist landowners, including both government agencies and non-governmental organizations (NGOs), with tools for resource stewardship that contributes substantial public benefits



Strategy 4: Utility Rights of Way

Addresses the risk of wildfire ignition and threat of damage to utility infrastructure by increasing vegetation management along right of ways



Strategy 5: Rare Plants

Are addressed by incorporating key actions from the Division's Rare Plant Conservation Strategy to ensure protection of New Mexico's extraordinary plant diversity



Strategy 6: Reforestation

Addresses the need to reforest burned areas and bridge the state's reforestation backlog, and to do so with seedlings that will mature into trees capable of withstanding the anticipated growing conditions of the future



Strategy 7: Urban and Community Forestry

Addresses the need for trees where 80% of New Mexicans live and obtain essential benefits such as cooling shade, clean air and stormwater runoff reduction



Strategy 8: Restoration Economy

is the driving force behind forest management activities and addresses the need to invest in workforce development for all of these strategies, and to rebuild and retool forest industry and wood processing to capture the by-products of restoration and manage forests for resilience in changing climate conditions



Strategy 9: Land Conservation

Provides a statewide blueprint for land conservation to guide the investment of state and federal funds to provide tax credits for conservation easements or purchase land or easements and increase collaboration among local government agencies, non-governmental organizations, and land trusts



Strategy 10: Outdoor Recreation

Is positioned to become a major economic driver in the state and the strategy identifies the importance of forest management to provide beautiful and safe places for recreation



2020 New Mexico Forest Action Plan



Check it out!

<http://www.emnrd.state.nm.us/SFD/statewideassessment.html>

House Memorial 42

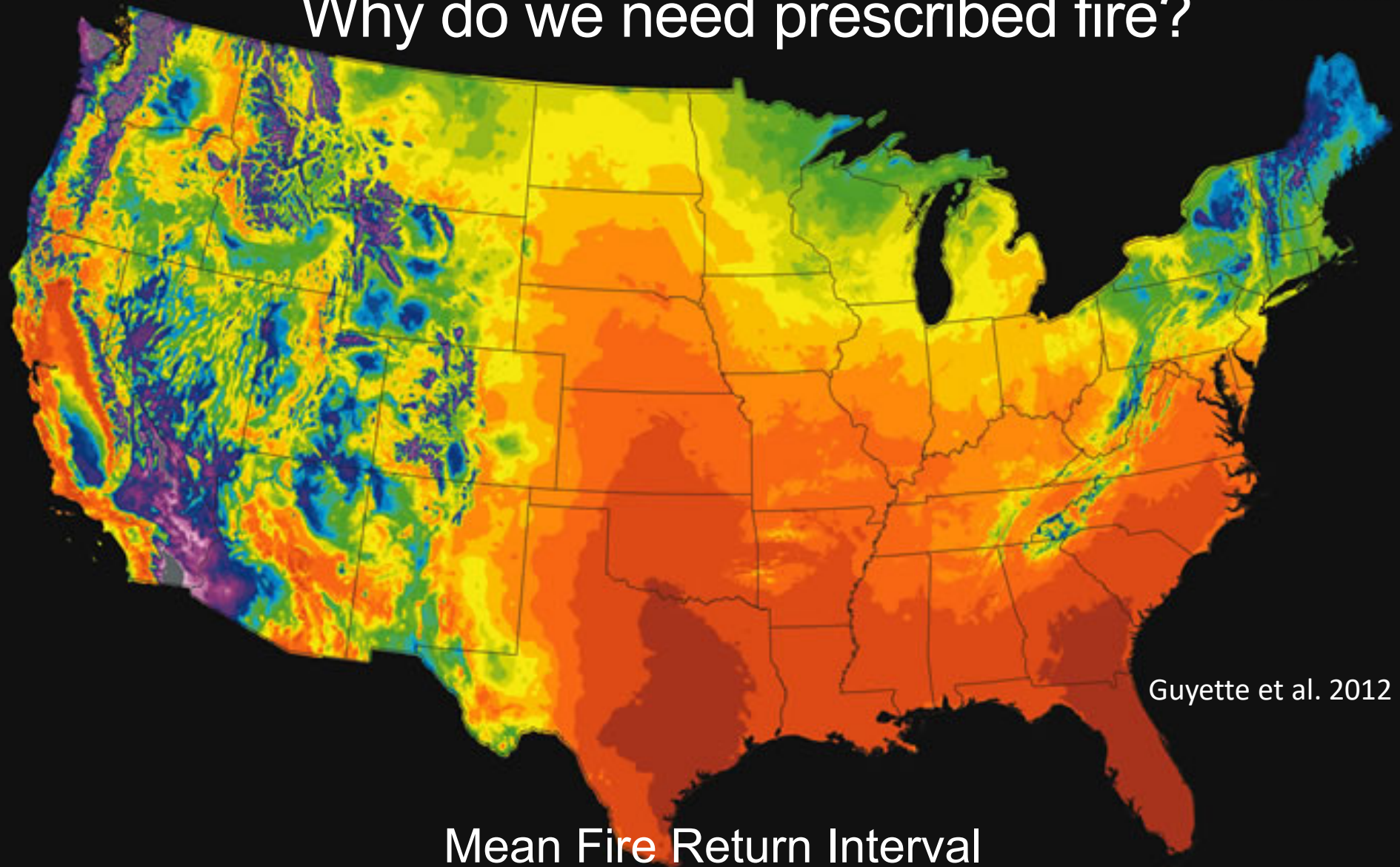
Expanding the Use of Prescribed (Rx) Fire in NM

Download the report: <https://nmrxfire.nmsu.edu>



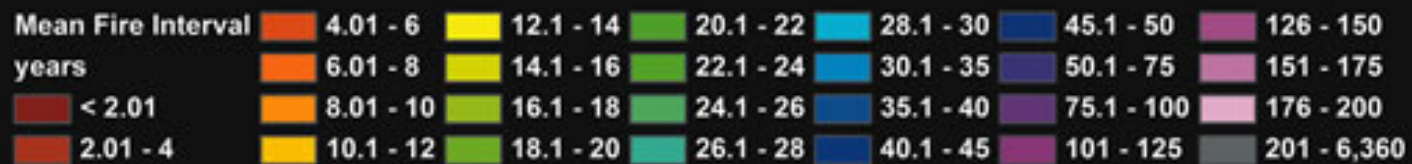
Why do we need prescribed fire?

v. 9.0 MFIAR10f



Guyette et al. 2012

Mean Fire Return Interval



Thinning and Burning Changes Fire Behavior



Untreated



Thinned



Rx Burn



Thinned and Burned

2017 Cajete Fire Example

Wildfire (lower left) burned into area that was thinned and burned (center)
and was contained (upper right)



2016 Black Lake Prescribed Burn: Broadcast fire used near homes in NM



HM42 Working Group Participants

(See full list page 36 (page 4, Sources), Final Report 6.15.20)



United States
Department of
Agriculture

Natural Resources Conservation Service

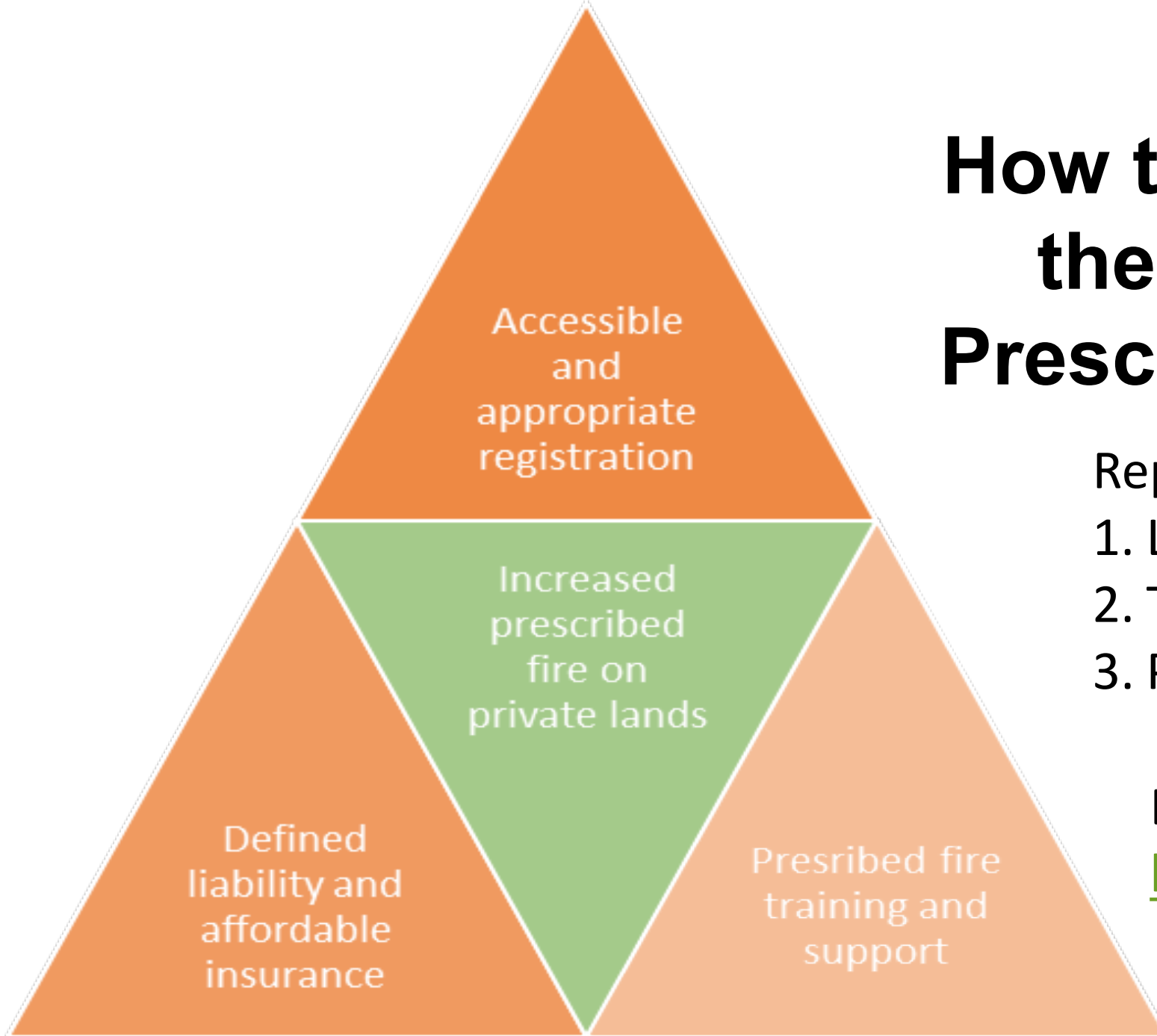
How to Expand the Use of Prescribed Fire

Report Overview

1. Liability
2. Training
3. Permitting

Download the report:

<https://nmrxfire.nmsu.edu>



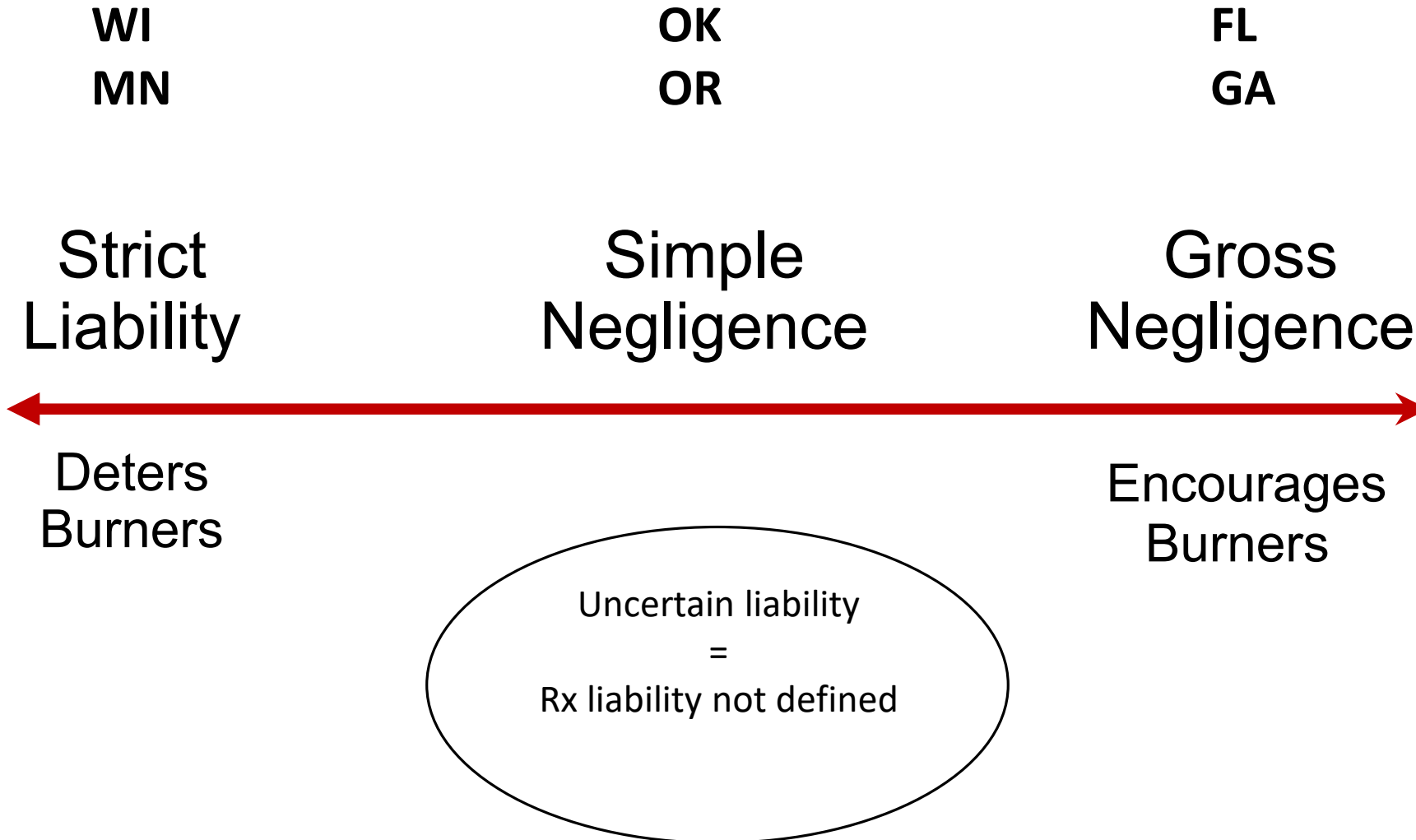
Liability

Emily Hohman

Director, U.S. Fire Learning
Network, The Nature
Conservancy



Rx Fire Liability



Impact of Uncertain Liability

- Insurance is unavailable or limited, expensive
- Uncertainty for private practitioners and landowners reduces use of prescribed fire
- Contractors and non-profit land management organizations are hesitant to invest in NM
- Uncertain liability in New Mexico is possibly the single most critical factor limiting implementation on private lands



Liability Options for NM



Report presented two options:

- Negligence
- Gross negligence

Either standard would:

- Reduce uncertainty
- Improve insurance availability and affordability
- Address most critical barrier to implementation on private lands

Liability Options for NM

Both standards often tied to training or other requirements; this is most common for gross negligence:

- Certification through a training standard
- Permitting

Insurance companies want the insured to meet a recognized industry standard



Additional Options

Report outlined a “tiered” approach option

- Example: Negligence for all practitioners; gross negligence for trained and certified practitioners only
- Tying liability standards or reduction in civil penalties to training and certification provides a strong incentive to participate in a voluntary program



Additional Options

- “Right to burn” language to recognize prescribed fire as an accepted practice and right of the landowner
- Revise current “double damages” statute to actual damages
- Ensure synergy with any changes to training and permitting – issues are highly interconnected (see Table 1, page 29)



Training

**See pages 14 – 21 &
Table 3 page 31,
Final Report 6.15.20**

Dr. Doug Cram, Extension
Forest and Fire Specialist,
Cooperative Extension Service,
New Mexico State University



Training - How to Pass the Torch

Critical Issues:

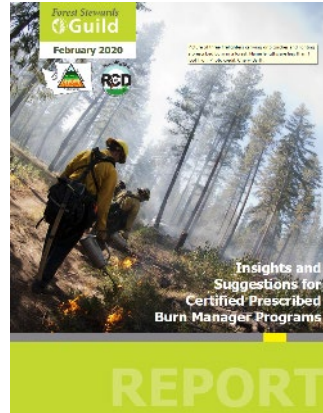
- Limited access to training for private practitioners
 - Perpetuates implementation knowledge gap
 - No training/certification & uncertain liability = limited insurance market
 - National Wildfire Coordinating Group (NWCG):
 - Not designed for private user



Training - How to Pass the Torch

Working Group Considerations:

- Four Curriculum Options
 - Full-, Partial-, Minimum-NWCG or State Specific
 - Insights and Suggestions for Certified Prescribed Burn Manager Programs
- Four Program Delivery & Administration Options



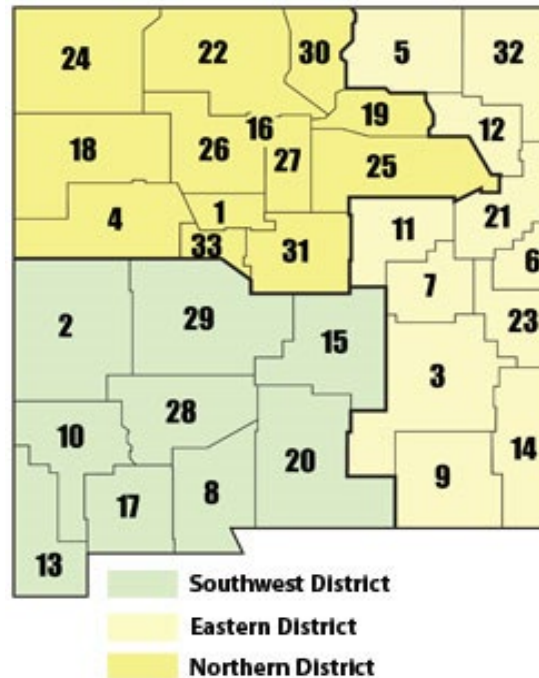
Training - How to Pass the Torch

Curriculum Options:

- Appropriately rigorous & state-specific
 - Not NWCG ≠ Not Rigorous
 - NM topography, vegetation/fuels, weather, culture, statutes, etc.
- Collaborative development
- Delivered by NMSU Cooperative Extension Service
 - One full-time FTE
 - Existing Renewable Resource Extension Act (RREA) funding support for: materials, subject matter expertise stipends, hands-on



New Mexico Cooperative Extension Service



Cooperative Extension Service - provides the people of New Mexico with practical, research-based knowledge and programs to improve their quality of life.

1914 – 2020

100+ Year Anniversary of the Smith-Lever Act

Training - How to Pass the Torch

Curriculum Administration:

Training and Oversight Board:

1. Energy, Minerals, & Natural Resources, State Forestry Division
2. NM Prescribed Fire Council
3. NMSU Cooperative Extension Service



Training - How to Pass the Torch

Key Concepts:

- Voluntary/Optional Participation
- Incentivized Program
 - ✓ Simple or gross negligence for certified burners
 - ✓ Reduction in civil damages (from double to actual cost)
 - ✓ Improved access to insurance products & rates



Permitting

See pages 21 – 27 &
Figures 1 & 2, pages
32 - 33, Final Report
6.15.20

Eytan Krasilovsky, Deputy
Director, The Forest Stewards
Guild



Permitting

Currently 2 types of permits: smoke and ignitions

- Smoke permitting Air Quality Bureau/NMED
- Some (not all) local governments require permits for “open burning”
 - “Open burning” usually understood as small-scale, backyard burning of vegetative matter
 - These ordinances sometimes inapplicable to prescribed fire for land management



Findings of Local Govt Survey:

1. Variability in whether a permit is required and if it applies
2. Inconsistencies that make it more challenging to burn across jurisdictions
3. Variability in what type or amount of burning the permit authorizes
4. Requirements that are sometimes in conflict with state smoke rules
5. Inappropriate requirements as permit was designed for backyard “open burning”
6. Permits pencil-changed by practitioners and local authorities – which may open all parties to liability or scrutiny

Options to Address Permitting

1. Statewide ignition permit:

- a. Permit for burning for land management purposes
- b. Ensures consistency in requirements across jurisdictions
- c. Process could be combined with existing online smoke permit portal
- d. Would not change notifications to local authorities; ability of local governments to place burn bans to issue “open burning” permits

2. Guidelines to Local Governments:

- a. Statute would require local governments to address ignition permitting and would provide permit requirement guidelines for prescribed fire
- b. Local government would retain permitting responsibility for all types of burning
- c. Continued potential for some inconsistencies between jurisdictions
- d. Two separate permits at two levels of government would still be required

Recommendations

**See pages 27-28,
Final Report 6.15.20**

Laura McCarthy, State
Forester, Forestry Division
Director, Energy, Minerals
and Natural Resources
Department



Near-Term Recommendations

1. Adopt “right-to-burn” legislation establishing prescribed fire as a beneficial and accepted landowner right
2. Establish negligence liability standard for all private prescribed fire practitioners
3. Create enabling conditions for development of a voluntary state-specific training and certification program
4. Reduce civil damage liability from double costs to actual costs as an incentive to complete training and certification
5. Establish requirements and criteria for local governments to follow when creating or revising prescribed fire ordinances and ignition permits

Other Considerations

1. Establish a two-tiered liability standard based on status as a state certified prescribed fire practitioner as an incentive to provide certified burners with a gross negligence liability standard
2. Develop a state-specific training curriculum specific to New Mexico's local factors through a collaborative process involving a wide range of SME experienced with Rx fire in the state
3. Develop a state-sponsored certification program
4. If a state-issued ignition permit is required, then fund development of a one-stop, web-based portal in coordination with the existing smoke permit portal managed by NMED



Questions?

