



Wildfire Mitigation Rulemaking

Docket AR 638

December 10, 2020



Meeting Agenda

- ▶ Welcome and introductory remarks
- ▶ Participant introductions
- ▶ Background of utility-related wildfire mitigation policy
- ▶ Review of rulemaking process
- ▶ Break
- ▶ Scoping Exercise
- ▶ Next Steps and Wrap-Up



OPUC Rulemaking Team

Utility Safety, Reliability, and Security

- Lori Koho – Staff Lead, Division Administrator
- Lisa Gorsuch – Emergency Preparedness Manager
- Mark Rettmann – Electrical Safety Program Manager
- Yassir Rashid – Electrical Engineer

Utility Resource Planning and Cost Recovery

- Caroline Moore – Staff Co-lead
- Michelle Scala
- Sabrinna Soldavini

Department of Justice

- Sommer Moser
- Natascha Smith

OPUC Executive Office

- Garrett Martin, Commission Policy Advisor

OPUC Administrative Hearings Office

- Nolan Moser – Chief ALJ

Background

- ▶ Wildfires in Oregon becoming more frequent and severe
- ▶ 2018 Camp Fire in California – ignition source was electric utility infrastructure
- ▶ January 2019 - Governor Brown created the Governor's Council on Wildfire Response
- ▶ June 2019 – utilities make their first presentations to the Commission on their wildfire mitigation planning efforts
- ▶ July 2019 – Commission visited with communities in southern Oregon and the Columbia Gorge who might be subject to PSPS

Background – continued

- ▶ August 2019 – Commission hosted West Coast Wildfire Dialogue including regulators from British Columbia, California, Idaho, Nevada, Oregon, and Washington. Best practices, challenges, learnings from past fires were shared
- ▶ December 2019 – Governor’s Council on Wildfire Response publishes report with recommendations
- ▶ 2020 Regular Session of the Oregon Legislature – SB 1536 introduced but did not pass
- ▶ March 2020 – Governor issues EO 20-04 on reduction of GHG emissions which included actions for wildfire mitigation.



Governor's Council on Wildfire Response

Recommendation:

- ▶ Oregon legislature pass legislation requiring utilities to prepare risk-based, wildfire standards and procedures inclusive of criteria for initiating power outages.
- ▶ The Oregon Public Utility Commission (OPUC) use workshops to develop these risk-based standards and procedures.
- ▶ All utilities and transmission and distribution system owners participate in these workshops.

https://www.oregon.gov/gov/policy/Documents/FullWFCReport_2019.pdf



2020 Session – SB 1536 Introduced

Minimum Components of a WMP:

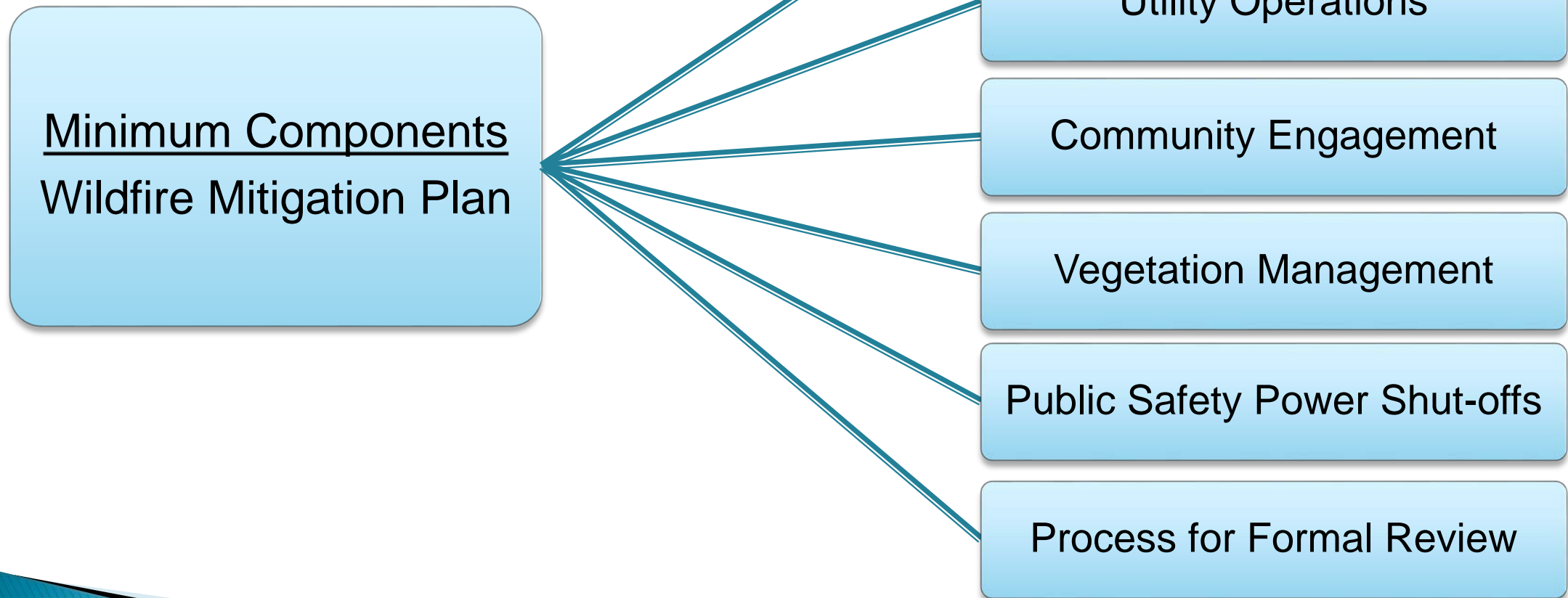
- ▶ Identify areas in service territory with heightened risk of wildfire
- ▶ Identify means for mitigating risk that is cost effective
- ▶ Identify preventive actions and programs that minimize the risk of facilities causing a wildfire
- ▶ Identify protocols for the deenergization of power lines and adjusting power system operations to mitigate wildfires
- ▶ Describe procedures to inspect company infrastructure
- ▶ Describe vegetation management procedures
- ▶ Identify and describe community outreach and public awareness efforts

Governor's Executive Order on Climate Action

- ▶ On March 10, 2020, the Governor signed EO 20-04.
- ▶ Included directives for state agencies to take action to reduce GHG emissions and mitigate the impacts of climate change.
- ▶ Several wildfire-related actions assigned to the PUC, including:
 - ▶ Convene periodic workshops to develop and share wildfire risk mitigation best practices
 - ▶ *Evaluate electric companies' risk-based wildfire protection plans and planned activities...*

Applicability

- ▶ Recommendations from the Governor’s Council on Wildfire Response applied to all utilities
- ▶ Past (SB 1536) and Recent Draft Legislation
 - IOU plans were to be filed with and approved by the Commission.
 - COU plans were to be approved by their governing body
- ▶ Governor’s Executive order
 - Wildfire mitigation plans for IOUs are evaluated by the OPUC
 - Workshops for sharing best practices includes all electric utilities



Community Partnership

- ▶ The minimum components are only the backbone of a WMP and need to be developed.
- ▶ The plans impact everyone in the state.
 - ▶ IOUs
 - ▶ COUs
 - ▶ Counties/Municipalities
 - ▶ Tribes
 - ▶ First Responders
 - ▶ Land Owners
 - ▶ State Agencies
 - ▶ Ratepayers
 - ▶ Federal Agencies
 - ▶ Non-Governmental Orgs.
 - ▶ Legislators
 - ▶ Governor's Office
 - ▶ Interested Oregonians

Please assist us in the outreach

Going Forward

- ▶ We aren't starting from ground zero.
 - Oregon utilities have been working on WMPs for the last several years.
 - California has developed rules for WMPs and PSPS. They are constantly evolving and learning.
 - We have examples from other states to help guide us.

- ▶ Plans have to work for Oregon!

Next - Guidance on participating in a Commission Docket.

Rulemaking Process and Participation Review

- ▶ Legal background and basics
- ▶ Phases - roles
- ▶ Phases - how to participate

What is an administrative rule?

- ▶ An agency directive, standard, regulation, or statement of general applicability that implements, interprets, or prescribes law or policy or describes a procedure or practice requirements of any agency. (ORS 183.310(9))

Rulemakings - Legal Background

- ▶ Quasi-legislative action
- ▶ PUC must give notice and allow public comment
- ▶ No formal evidentiary record
- ▶ No restrictions on communications with Commissioners or ALJ communications (but must be done before deadline)
- ▶ Restrictions on communications among Commissioners
- ▶ Subject to Open Meetings Law

Rulemaking v. Contested Case

- ▶ ALJ assigned, but Staff led
- ▶ Public Process - no "parties" - anyone may be a participant
- ▶ ALJ assigned
- ▶ Staff may participate as a party
- ▶ Parties - Intervenors, Companies - requirements for intervention

Types of Rulemakings

- ▶ Permanent Rules (adopt new, repeal existing, modify existing)
- ▶ Temporary (Emergency) Rules (adopt new, suspend existing, modify existing)
- ▶ Effective for no more than 180 days
- ▶ Minor Corrections
- ▶ Update address, phone number, url, email, or reference to statute or rule.

Rulemakings - Phase 1 (Informal)

Rulemakings are opened by the Commission. The Commission opened AR 638 on August 26, 2020 through Order No. 20-272. During phase 1, Commission Staff leads the rulemaking, and does the following:

- ▶ Draft language with DOJ review
- ▶ Seek stakeholder input informally through workshops or rounds of email comment.
- ▶ Contact Rules Coordinator for docket number and to establish formal process
- ▶ Circulate draft rules
- ▶ Puts draft rules before the Commission to open the formal phase.

The culmination of the informal phase is a public meeting, at which the Commission considers Staff's draft rules, and considers moving the rulemaking forward to the formal phase.

Rulemaking Participation - Phase 1 (Informational)

- ▶ Written and oral comment may be given for the opening of a rulemaking
- ▶ Get on the Service List - basic, important
- ▶ Participate in workshops
- ▶ Submit written comment and information to Staff, or as directed by Staff, submit to the filing center
- ▶ Provide written and oral comment at any public meeting at which rules are reviewed and discussed

Rulemakings - Phase 2 (Formal)

Upon review and subsequent order, the Commission may open a second, formal phase of the rulemaking. During this period, the assigned Administrative Law Judge leads the process and does the following:

- ▶ Develops and issues a schedule for the formal phase
- ▶ Hold a public comment hearing. At the hearing any member of the public may submit comments. Staff will offer a brief history of rulemaking (need, considerations in drafting language, interactions with stakeholders) at the hearing for the record. Staff may also prepare formal comments, as necessary.
- ▶ Collect and summarize written comments on the draft rules.
- ▶ Amend the draft based on review of issues, law, comments.
- ▶ Provide an amended draft for Commission consideration at a public meeting.

The Commission then considers the draft rules for adoption or further change.

An order is issued after adoption at public meeting explaining the decision, and the Rule Coordinator works with the Secretary of State to put the rules into effect.

Rulemaking Participation - Phase 2 (Formal)

- ▶ Written and oral comment may be given at the public meeting opening the formal phase
- ▶ Review schedule - identify date by which formal comment must be received
- ▶ Submit written comments
- ▶ Participate in the hearing, provide oral comments (a written summary is helpful and appreciated)
- ▶ Provide any follow-up written comments by the deadline

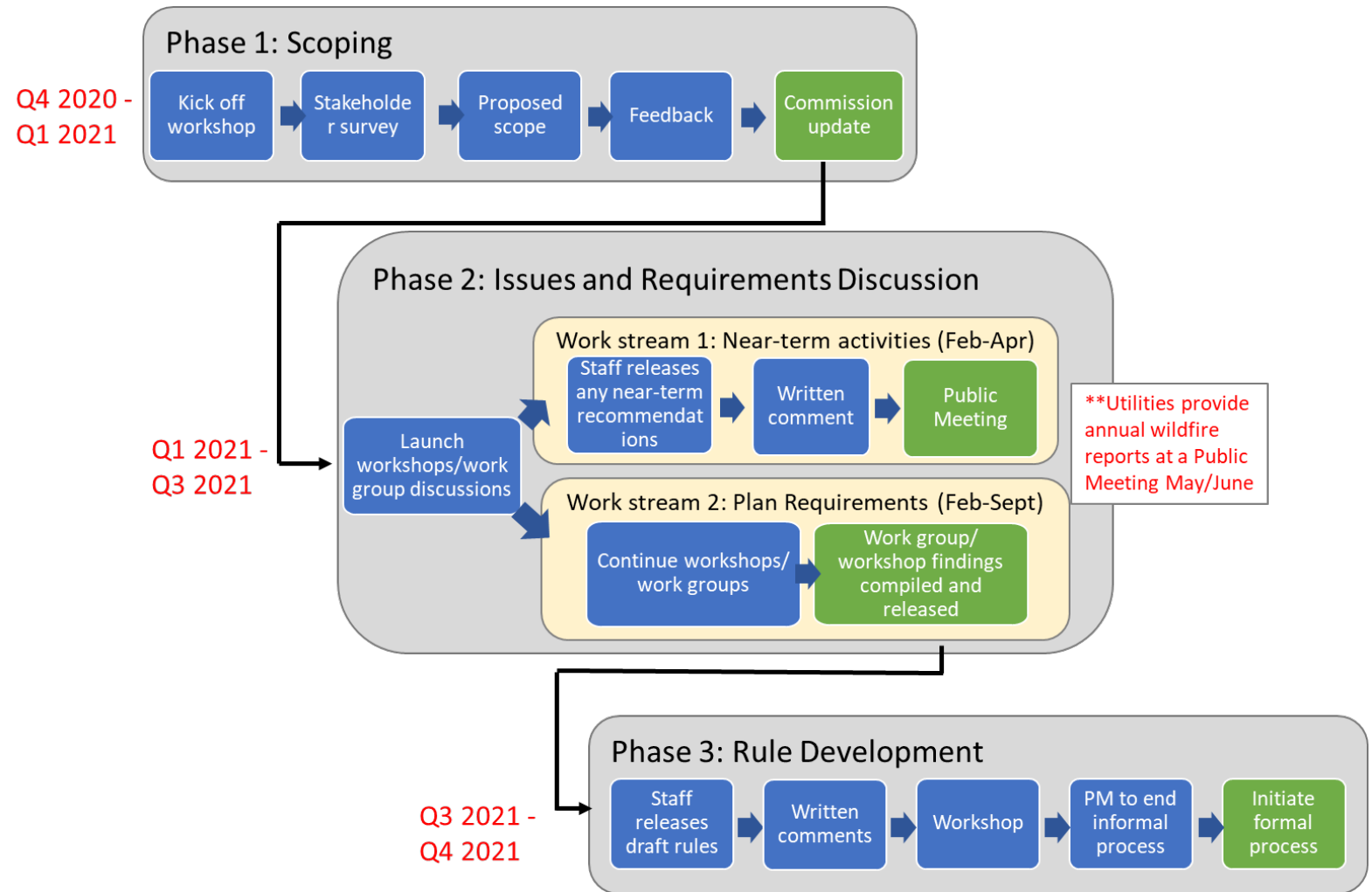
Rulemaking Flow



Questions and Break

Rulemaking Plan and Next Steps

- ▶ Staff release written survey questions
- ▶ Staff release scoping workshop announcement



Scoping exercise

- ▶ What is important to include in a Wildfire Mitigation Plan?
- ▶ What is important for the utilities to consider when developing a Wildfire Mitigation Plan?

Thank you!!

- ▶ Diane Davis – questions about rulemaking process
 - diane.davis@state.or.us
- ▶ Hearings Division – join the service list
 - puc.hearings@state.or.us
- ▶ Garrett Martin – additional thoughts and questions
 - garrett.martin@state.or.us