

Options for Consideration by the Wildland-Urban Interface Subcommittee
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Options

- A. No further consideration, do not include on Statewide Hearing Options List
- B. Need more information, staff research to answer the following questions:
- C. Include on Statewide Hearing Options List as a general concept
- D. Include on Statewide Hearing Options List as a bill draft for discussion purposes only
- E. Draft letter from Committee

	Proposal	Policy Description	Comments in favor	Considerations	Action 2/15	More Information Needed
1.	No new legislation	The statutory tools and programs already exist to assist homeowners, local governments, and fire agencies to handle growth and development in the WUI.	<ul style="list-style-type: none"> ▶ No new regulation; WUI landowners should not be punished by more regulation when it's unmanaged land adjacent to the WUI that's the problem. ▶ No need to amend local regulations. ▶ Allow mitigation efforts to be community-driven rather than mandated by state. ▶ Allow the market and private industry to work to solve any problems. 	<ul style="list-style-type: none"> ▶ There may be difficulty in implementing laws. ▶ Funding for mitigation programs may not be available or consistent. ▶ Opportunity to influence development before growth continues may be lost. ▶ Indications are that fire suppression is more expensive in the WUI; implementing new laws may ultimately reduce costs to the state. 		
2.	MACo proposal	Authorize a local government to regulate and enforce fire mitigation measures such as vegetation management, use of fire resistant building	<ul style="list-style-type: none"> ▶ Precedent exists for stand-alone land use regulation. 	<ul style="list-style-type: none"> ▶ Creates more regulation. ▶ Allowing it to be 		

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		<p>materials.</p> <p>It would be discretionary for local governments.</p> <p>If a local government chooses to implement this authority, it would be required to designate the area where these regulations would be in effect.</p> <p>There would be no protest provision, but an appeals process.</p>	<ul style="list-style-type: none"> ▶ Development in the WUI may be a bigger problem in some counties than in others; retains local control. ▶ Local governments need better tools to regulate development in the WUI and reduce fire suppression costs there; those in place are too limited and difficult to implement. 	<ul style="list-style-type: none"> ▶ discretionary would result in inconsistencies across the state. ▶ Local governments already have all the tools they need; they just need to use them. ▶ Don't punish a landowner in the WUI with more regulation when it's poorly managed land adjacent to the WUI that is causing the problems. 		
3.	MACo proposal with modifications	Require local governments to designate the WUI and enforce vegetation management and building materials mitigation measures.	<ul style="list-style-type: none"> ▶ Consistent application across state. 	<ul style="list-style-type: none"> ▶ Will cost money, time - some county planning offices already stretched to limit. ▶ WUI not an issue in some counties. 		
4.	Amend zoning protest provisions	<p>In areas of high fire hazard as designated by the county, if the county chooses to designate those areas:</p> <p>a. eliminate protest and allow for appeals process;</p> <p>b. make protest more difficult; or</p> <p>c. allow protest to be overridden by governing body under certain circumstances in the interest of public</p>	<ul style="list-style-type: none"> ▶ Protest provisions make zoning too difficult. ▶ Not creating a new level of regulation; using existing zoning provisions, with modified protest. 	<ul style="list-style-type: none"> ▶ Zoning should be difficult to accomplish because it is regulating how a property owner can use his or her own property. ▶ Don't punish a landowner in 		

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		health and safety (as in sewer district statutes: 7-12-4113)		the WUI with more regulation when it's unmanaged land adjacent to the WUI that is causing the problems.		
5.	Insurance incentives	<p>Require insurers to provide incentives for vegetation management and/or building standards and require regular inspections.</p> <p>Would somehow need to define which property owners this would apply to -- possibly those in a certain protection class.</p>	<ul style="list-style-type: none"> Some insurers are providing incentives, some are not. This would provide consistency and a means to mitigate fire danger. 	<ul style="list-style-type: none"> Interfering with the market and with insurers' ability to establish rates and incentives as they consider appropriate. 		
6.	California approach: Statutory vegetation management requirements (CA)	<p>California law requires people who own, lease, control, or maintain structures "in, upon, or adjoining any mountainous area, forest-covered lands, brush-covered lands, grass-covered lands, or any land that is covered with flammable material" to clear and maintain firebreaks of specific distances around the structures.</p> <p>The law exempts individual specimens or trees, well-pruned landscaping, and grass necessary to prevent erosion.</p> <p>Flammable vegetation or combustible growth must be cleared in an area of not less than 30 feet around the structure, and all brush, flammable vegetation, and combustible growth that is within 100 feet must also be cleared.</p> <p>Owners must remove trees or portions of trees that are within 10 feet of a chimney and keep rooftops clear of debris.</p>				

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		Failure to comply subjects the owner to fines ranging from \$100 to \$500 and following a third consecutive violation within a specified time period, the department may conduct the work and bill the owner for costs incurred.				
7.	California approach: Statutory building requirements	<p>Prior to construction of a new building or reconstruction of a building damaged by fire in the area described, the owner "shall obtain a certification from the local building official that the dwelling or structure, as proposed to be built, complies with all applicable state and local building standards", including those provided in Section 51189 of the state's Government Code.</p> <p>The owner must give the certification to the insurer of the structure.</p> <p>Failure to comply subjects the owner to the same penalties as for the defensible space requirement.</p>				
8.	Prohibit development in high fire hazard areas.	<p>Require counties (or state) to identify any areas that pose extreme fire hazard and prohibit development in those areas.</p> <p>The designation of a high fire hazard area would have to be a public process with a hearing and appeals procedure.</p>				
9.	Utah approach: Require county to meet certain requirements in order to receive state fire suppression funding	<p>In order to be eligible to enter into a cooperative agreement with the Utah Division of Forestry, Fire, and State Lands, the county shall:</p> <p>1) adopt a wildland fire ordinance based upon minimum standards established by</p>	<ul style="list-style-type: none"> ▶ Would force consistent application of standards. 	<ul style="list-style-type: none"> ▶ The county co-op program in Montana seems to be working very well; this may endanger those relationships. 		

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		<p>the division;</p> <p>2) require that the county fire department or equivalent private provider under contract with the county meet minimum standards for wildland fire training, certification, and wildland fire suppression equipment based upon nationally accepted standards as specified by the division; and</p> <p>3) file with the division a budget for fire suppression costs.</p> <p>A county that chooses not to enter into a cooperative agreement may not be eligible to receive financial assistance from the division.</p> <p>The "minimum standards established by the division" are articulated in administrative rules adopted by the Division of Forestry, Fire, and State Lands. The Division used the 2003 International Urban Wildland Interface Code as the basis for its standards, with very specific exceptions and modifications.</p>		<ul style="list-style-type: none"> ▶ A bill similar to this was attempted during the 2007 session and was viewed as heavy-handed by local governments. ▶ Some counties may not have adequate staff or funding to comply. 		
10.	<p>Oregon approach: State classification system; county assignment of parcels to classes; different standards apply to each class; reimburse fire suppression costs if noncompliant</p> <p>Use of building codes in</p>	<p>Require the state to establish a classification system criteria for forestland-urban interface areas.</p> <p>The criteria must "recognize differences across the state in fire hazard, fire risk and structural characteristics within the forestland-urban interface," and the system must "include not less than three nor more than five classes of forestland-urban interface."</p>				

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	wildfire hazard zones	<p>A county may establish a forestland-urban interface classification committee, consisting of five appointed members, one of which must be an owner of forestland-urban interface property. The committee assigns all areas of forestland-urban interface within the county boundaries to one of the interface classifications developed by the Department of Forestry.</p> <p>Owners of property that is classified as Moderate, High, Extreme, or High Density Extreme must comply with certain standards and certify compliance with the state forester. The standards, specified in administrative rule, address defensible space and fuel breaks, building materials, ingress and egress, open burning on the property. The higher-hazard area, the more stringent the standards.</p> <p>The state may collect up to \$100,000 in suppression costs from a property owner that has not complied if a wildland fire originates on the property, the ignition or spread of the fire is directly related to the failure of the owner to comply, and the state forester incurs costs in suppressing the fire.</p> <p>Local jurisdictions in Oregon that have building code or life safety ordinance authority may identify Wildfire Hazard Zones (WHZ), using criteria and factors established in Department of Forestry administrative rules. Once WHZs are delineated, dormant provisions of Oregon's Building Code become active. The Building Code provisions include prohibiting the use of flammable roofing materials on new construction, requiring the use of</p>				

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		<p>fire-safe materials when roofing is replaced, and requiring clear identification of structure addresses.</p> <p>In both the Forestland Urban Interface Act and the WHZ processes, the specific details, standards, and directives are provided in Department of Forestry administrative rule and local jurisdictions have significant responsibility and authority.</p>				
11.	Bill property owner for suppression costs if certain criteria not met	<p>Require that protection of structures and property around structures that have not met certain criteria (as certified by local fire department?) will be at the cost of the property owner.</p> <p>The criteria could be the DNRC administrative rules being developed pursuant to SB 51.</p>	<ul style="list-style-type: none"> ▶ Would be incentive to maintain property. ▶ Would allow for cost recovery and ensure that those receiving suppression resources pay for them. 	<ul style="list-style-type: none"> ▶ Adds another level of cost negotiation to already complicated process. ▶ Adds a high degree of responsibility to whatever entity will be assigned to determine whether criteria have been met. ▶ Could result in litigation. 		
12.	Grant funding for local prevention and mitigation programs	<p>Appropriate money to DNRC from the general fund to use for a grant program. Local governments could apply for funding programs to:</p> <ol style="list-style-type: none"> 1) help planning offices delineate the WUI; 2) target WUI homeowners with mitigation efforts; 3) establish and maintain prevention programs. 	<ul style="list-style-type: none"> ▶ Recognizes importance of prevention and mitigation education. ▶ Does not impose new regulations; is voluntary. 	<ul style="list-style-type: none"> ▶ Funding may not be ongoing and is dependent on status of general fund. 		

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13.	Include fire protection provisions in list of items subdivision regulations must include (76-3-504)	<p>Require subdivision regulations to include the fire protection and high fire hazard area provisions of the Model Subdivision Regulations.</p> <p>Fire Protection: "All subdivisions must be planned, designed, constructed, and maintained so as to minimize the risk of fire and to permit the effective and efficient suppression of fires in order to protect persons, property, and forested areas."</p> <p>Special requirements for subdivisions proposed in areas of high fire hazard would apply -- these are specifically enumerated in the Model Subdivision Regulations.</p>	<ul style="list-style-type: none"> ▶ Would achieve some degree of uniformity for new developments. ▶ Would force fire prevention and fire hazards to be addressed by local governments. 	<ul style="list-style-type: none"> ▶ Subdivision regulations can only impact future developments; have no effect on existing subdivisions. ▶ Once final plat is signed, there is no ongoing enforcement authority. ▶ Infringes more on local control of the content of subdivision regulations. 		
14.	Firewise certification for new subdivisions.	Require Firewise certification or certification that a development meets the DNRC SB 51 best practices standards prior to subdivision final plat approval if proposed subdivision is in a WUI area as designated by the county.	<ul style="list-style-type: none"> ▶ Firewise is recognized nationwide as an effective mitigation program. ▶ Would achieve some degree of uniformity and recognition of fire hazards for new developments. 	<ul style="list-style-type: none"> ▶ Once final plat is signed, there is no ongoing enforcement authority. ▶ If Firewise is not used, some other entity would have to inspect the proposed subdivision to ensure that it complies with best practices. 		
15.	Tax incentives for forest property owners	<p>Offer tax incentives for forested property owners who manage their lands for reduced wildfire hazards, using the Montana Tree Farm System database or Forest Stewardship Program.</p> <p>Owner must have a forest management plan</p>	<ul style="list-style-type: none"> ▶ Rewarding, rather than punishing, landowners who are maintaining their property. 	<ul style="list-style-type: none"> ▶ Would create need for a certification program and a need for resources at Department of Revenue. ▶ Property tax incentive 		

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		recognized and approved through one of those programs.		would impact local governments; consider income tax incentive.		
16.	Tax incentives for Firewise communities	Offer tax incentives to residents of communities that have completed the requirements to be considered Firewise communities.	▶ See above.	▶ See above.		
17.	Require fire district membership	Require all property owners in the WUI as designated by statute or the county to belong to a fire district and authorize (require?) fire districts to: <p style="margin-left: 40px;">a. regulate and enforce survivable space and building standards; and</p> <p style="margin-left: 40px;">b. assess fees for fire prevention and suppression.</p>				
18.	State adoption and enforcement of International Wildland Urban Interface Code (IWUIC)	Require Department of Labor and Industry to customize the IWUIC to Montana, adopt it, and enforce it in WUI areas designated by the county.	▶ Statutorily recognize building codes for WUI. ▶ One code to be consistently applied across the state.	▶ Burden on county to designate WUI. ▶ Consistent application may not be a benefit when counties are so varied in growth, topography.		
19.	County required designation of WUI; DLI inspection authority, require insurers to inspect for compliance	Counties designate the WUI boundary utilizing existing or ongoing analysis within Community Wildfire Protection Plans Legislature adds scope to existing Title 50, chapter 60, MCA, to expand Department of Labor and Industry inspection authority for WUI standards. DLI adopts codes useful in regulating structures in the WUI. The SB 51 workgroup is already	▶ Consistent codes, consistent enforcement statewide. ▶ Utilization of existing inspections by DLI. ▶ Utilizes both county and state authority, and private sector – county designates	▶ Burden on county to designate WUI if it has not done so through CWPP. ▶ There may be insurance industry concerns.		

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		<p>analyzing appropriate codes.</p> <p>DLI utilizes existing inspectors (or contracts with local government fire departments) to perform inspections on new and remodel construction in the designated WUI (including vegetation management?).</p> <p>Insurance companies provide for regular inspections of existing residences to insure that code requirements are maintained.</p>	<p>WUI; state / insurance industry ensure inspection and maintenance.</p>			