

Condition Class of the tract of range or forest land in question.

BLM recognizes three Fire Condition Classes, found in the Implementation Plan for the 10-Year Comprehensive Strategy, A Collaborative Approach for Reducing Wildland Fire Risks to Communities and the Environment, May 2002.

Fire Condition Class 1 refers to lands that have experienced burns in their normal range of fire frequency. The risk of losing key ecosystem components from the occurrence of fire remains relatively low, and the lands will be subject to maintenance management.

Fire Condition Class 2 refers to lands that have been moderately altered from their historical range of fire frequency by either increased or decreased fire frequency. BLM has identified a moderate risk of losing key ecosystem components, as well as human property, in these lands. To restore their historical fire regimes, these lands may require some level of restoration through prescribed fire, mechanical or chemical treatments, and the subsequent reintroduction of native plants.

Fire Condition Class 3 lands have been significantly altered from their historical range. Because fire regimes have been extensively altered (*i.e.*, fire has not occurred for far longer than normal frequency would predict), risk of losing key ecosystem components from fire is high. We consider such lands to be at high risk because of the danger posed to people and property and the severe, long-lasting damage likely to result to species and watersheds when a fire burns on these lands, particularly during drought years. To restore their historical fire regimes—before BLM can employ prescribed fire to manage fuel or obtain other desired benefits—these lands may require multiple mechanical or chemical restoration treatments, or reseedling.

Under this rule, Fire Condition Class 3 would be considered to pose substantial risk of wildfire, and BLM would make wildfire management decisions for these lands effective immediately. Most Fire Condition Class 2 lands would also be regarded this way, but field managers would decide on a case-by-case basis whether to make these decisions effective immediately (or on a date established in the decision). BLM would generally not make maintenance decisions for lands in Fire Condition Class 1 effective immediately.

Two comments stated that BLM already has several categorical exclusions under the National Environmental Policy Act (NEPA) that we may utilize for fuel reduction

strategies and other wildfire management activities, referring to the Departmental Manual of the Department of the Interior at 516 DM 6, Appendix 5. One comment said that this rendered the proposed regulation change unnecessary. The other comment stated that BLM should continue to utilize these categorical exclusions where they are appropriate to protect communities from loss of life and property, so long as these projects will not individually or cumulatively cause significant environmental effects; but it urged us to withdraw the proposed rule lifting the automatic stay provision for wildfire management decisions.

There are categorical exclusions that pertain to some of the techniques that BLM would likely use for fire management:

- Precommercial thinning and brush control using small mechanical devices;
- Sale and removal of individual trees and small groups of trees that are dead, diseased, injured, or that pose a safety hazard, where no new roads are necessary;
- Reforestation; and
- Disposal for Christmas trees, personal firewood use, etc.

However, categorical exclusions have nothing to do with the appeals process, but merely allow BLM to perform expedited NEPA reviews as set forth in CEQ regulations. Under a categorical exclusion, BLM must still document its environmental review and must still consider circumstances such as endangered species, air quality, and cultural resources. Categorical exclusions do not provide for an immediate effective date or expedited administrative review of decisions to implement these practices. Further, the categorical exclusions do not cover such techniques as prescribed burns and more extensive thinning that might be necessary in a fire management program.

2. How Should BLM Define a Wildfire Management Decision?

One comment from a state farm bureau federation said that the role of livestock grazing needs to be further defined in this process, and suggested that livestock grazing can be an effective fuels reduction technique and can also be a tool to control noxious weeds. The comment urged that livestock grazing be incorporated into fuel reduction projects as one element of effectively controlling wildfire, disease, or invasive species.

The language in the proposed rule does not rule out the incorporation of livestock grazing in a fuel reduction (or pest or disease control) program. Under 43 CFR 4160.3, BLM has the discretion

to make a grazing decision connected to wildfire management effective immediately. However, such decisions will not routinely be made effective immediately under this rule. Decisions as to pest or disease control are beyond the scope of this rule.

The same comment went on to relate grazing to open space preservation and other desirable social results. However, these ideas go beyond the narrow focus of this rule, which is wildfire management.

One comment suggested that the list of types of fire management decisions that BLM should make effective immediately pending appeal should include removal of lightning-attracting snags. The comment stated that removing snags proved to be the key to stopping the Tillamook burns. Only after an enormous number of such snags were felled were the fires subject to control, according to the comment.

The language in the rule, “Fuel reduction or fuel treatment such as prescribed burns and mechanical, chemical, and biological thinning methods,” is certainly broad enough to include removal of snags (or dead trees) when appropriate (leaving aside the question whether snags attract lightning more than living trees). However, due to the recognized value of snags (wildlife habitat, nutrient cycling, longer-term source of large woody debris, etc.) many land management plans contain best management practices or project design features that specifically require retention of an appropriate number of snags. The removal of snags is best reviewed in the context of an overall forest health restoration or post-fire salvage project. In order to preserve the field manager’s ability to make reasoned decisions based on the particular circumstances at hand, we do not want to list specific fire management tactics in these regulations.

One comment from a lumber company suggested that BLM replace the word “thinning” with the word “removal” because, depending on the ecosystem and landscape, some wildfire management actions may include more than just thinning, and “removal” is a broader term. We have amended this provision to allow thinning with or without removal. Whether the thinned material is removed from the site is determined by the local BLM manager based on how best to achieve the primary objective of the action: Forest health or fuels hazard reduction or both. Thinning activities not related to these objectives will continue to be subject to section 5003.1(a) of the final rule.

Several comments from environmental interest groups stated