

that the proposed rule was overbroad in characterizing fire management decisions that would be made effective immediately. These comments said that the proposed rule did not require any determination that the proposed action will safeguard public and firefighter health and safety, protect property, or improve conditions in the wildland-urban interface, and that the proposed rule thus threatens to allow projects having no appreciable fire reduction benefit to go forward before there is any opportunity for administrative review.

We have amended the rule to require that BLM determine that vegetation, soil, or other resources on the public land are at substantial risk of wildfire due to drought, fuels buildup, or other reasons, or at immediate risk of erosion or other damage due to wildfire, before making wildfire management decisions effective immediately. Further, the decisions that BLM will implement under this rule are still analyzed under the National Environmental Policy Act during their development. If BLM prepares an Environmental Impact Statement or Environmental Assessment, the "Purpose" and "Need" sections of those documents will clearly make the link to the project's fire hazard reduction benefits. Similarly, the criteria for use of the categorical exclusion for fuels hazard reduction clearly specify that the project must be for this purpose. Finally, this rule does not prohibit a petition for a stay under section 4.21(b).

Another comment stated that the proposed revision of section 5003.1 is overly broad and vague, providing unhampered discretion to BLM line officers to remove large trees far from human habitation in thinning projects. It went on to say that, in recent history, many BLM projects purporting to reduce fire danger have included removal of large trees, which is an extremely controversial and scientifically unjustifiable action. The comment concluded that, while thinning of small trees and removal of brush are generally acceptable as fuel reduction treatment in the vicinity of homes and communities, there is no scientific evidence to suggest that logging of large trees, which are more fire resistant, reduces fire danger in the forest or other areas.

The text of the regulation in question defines wildfire management as including: "Fuel reduction or fuel treatment such as prescribed burns and mechanical, chemical, and biological thinning methods." We have not adopted a one-size-fits-all diameter limit on tree size in this rule, although tree size may have a bearing on the decision.

BLM intends the fuel reduction contemplated in this language to refer to projects that we implement with fuels hazard reduction or forest health as the primary objective. Further, BLM follows the NEPA process in reaching and justifying its decisions.

Another comment expressed concern that the proposed rule would cause and exacerbate adverse environmental impacts of wildfire in extremely sensitive areas, including soil erosion and water pollution. The comment went on to suggest that salvage logging could be authorized as a "wildfire management decision," but would have a devastating effect on recently burned landscapes. It said that a 1995 report prepared by a group of independent scientists, known as the Beschta Report, concludes that logging in recently burned areas will have significant adverse impacts on the environment, causing soil compaction and erosion, loss of habitat for cavity nesting species, and loss of structurally and functionally important large woody debris, and that leaving large woody debris will not significantly increase the risk of reburn. According to the comment, the U.S. Forest Service confirmed the findings of the Beschta Report in its report entitled "Environmental Effects of Postfire Logging: Literature Review and Annotated Bibliography," stating that "[f]ollowing Beschta and others (1995) and Everett (1995), we found no studies documenting a reduction in fire intensity in a stand that have [sic] previously burned and then been logged."

The second element of wildfire management stated in the proposed rule, "[p]rojects to stabilize and rehabilitate lands affected by wildfire," contemplates reseeding and soil stabilization, not salvage logging as suggested in the comment. BLM may authorize salvage logging in appropriate circumstances, after conducting the appropriate level of NEPA review. We do not normally consider salvage logging as constituting a stabilization and rehabilitation activity. We do not agree that the Forest Service literature review confirms the findings of the Beschta Report, which to our understanding has never been subject to peer review. Salvage logging will continue to be subjected to required environmental review and implemented on a case-by-case basis.

One comment stated that "mechanical" thinning is not defined in the proposed rule, and that the proposal purports to "apply only to fire management decisions, not to other decisions relating to grazing or timber sales." It went on to say that if

mechanical thinning techniques include cutting trees, this contradicts the statement that this action does not apply to timber sales. The comment concluded by saying that unless the cut trees are disposed of, rather than sold, the action will qualify as a timber sale, and that appeals of timber sale decisions must go through the current administrative appeals process. Another comment along the same lines said that, if the BLM's own record is an appropriate reference, this definition will include large scale commercial green tree logging as well as salvage logging.

A timber sale, planned for as such in BLM Resource Management Plans, is not a wildfire management project, and would not be covered by section 5003.1(b). However, sales of small amounts of lumber may be incidental to fire management thinning projects. Thinning stands of timber is more difficult and expensive than clearcutting the same stands, and less profitable for companies engaged in such activities, for two reasons: the small trees are less valuable, and cutting them down individually is more labor intensive and expensive. Such incidental sales may be authorized as part of a wildfire management project under the new regulations. The key to the application of the rule is the intent of the project. As long as the primary objective of the action is fuels hazard reduction, this rule applies.

The same comment went on to say that it is a generally accepted conclusion that the sciences of fuel reduction and post-fire restoration are not well-advanced and that there is a great deal of uncertainty that logging large trees can in fact reduce the probability of undesirable fire behavior. On the contrary, the comment said, removing large trees increases the probability of catastrophic fire by opening up the canopy, warming and drying the forest floor and producing large amounts of fuels. The comment also stated that there is a great deal of scientific uncertainty that salvage logging can be considered ecologically beneficial and a genuine form of rehabilitation. It also challenged the effectiveness of thinning by citing both Federal and academic scientists who have recently doubted that thinning actually reduces fire severity. It quoted a September 17, 2002, letter by 12 leading academic scientists in the field of forest ecology:

The most debated response to alleviating destructive fires in the future—mechanically thinning trees—has had limited study, and that has been conducted primarily in dry forest types. Thinning of overstory trees, like building new roads, can often exacerbate the