

situation and damage forest health. \* \* \* Although a few empirically based studies have shown a systematic reduction in fire intensity subsequent to some actual thinning, others have documented increases in fire intensity and severity.

Franklin, J., *et al.* 09/17/02 letter to President Bush and Members of Congress.

We agree that more research would be useful, as scientists agree that there is a lack of science-based information about what specific fuel treatments to apply to balance a complex and conflicting mix of objectives. However, there is general consensus from more than 90 years of fire research that fires burn hotter and faster when there is more fuel available to feed them. The basic objective of fuels hazard reductions treatment is to remove this fuel. Fuels treatment programs prescribed under the 10-Year Comprehensive Strategy and Implementation Plan for the National Fire Plan do not prescribe a thin-only strategy. Thinning is accompanied by follow-up treatments. The scientific rationale for the fire behavior benefits of slash treatment after thinning and of understory prescribed burning are well-documented and longstanding. There is peer-reviewed science and general consensus in the scientific community that properly implemented and maintained fuel treatments that include prescribed burning will result in reduced fire severity within the treated areas. Fire reduction benefits outside the treated areas will depend on a number of variables. Understanding the effect of these variables will increase with additional research.

However, the problem of uncharacteristically intense and volatile wildfire behavior in certain ecosystems is getting worse. We cannot afford to wait until every conceivable scientific study is completed before we take action.

One comment requested an expansion of the definition for wildfire management under proposed sections 4190.1 and 5003.1 to add mention of restoration treatment of unburned acres. The comment stated that wildfire restoration of lands may not always deal with fuel treatments, but rather may require other management actions that would return the land to its historical fire regimes. It gave the example of altering species composition through tree planting. It suggested adding some language on landscape restoration treatments related to wildfire to these two proposed sections. Another comment stated that the list of wildfire decisions should be expanded to include decisions necessary to mitigate insect and disease outbreaks, the control

of invasive species, and the impacts of other natural disasters such as severe weather events and seismic activity. The comment went on to say that these outbreaks are affecting millions of acres of the nation's forests and rangelands and are easily spread to nearby lands, and that, in many cases, adjacent landowners are powerless to address the problem without action from their Federal neighbors.

We believe that changes to reflect these comments would be too far beyond the scope of the proposed rule to be adopted in this final rule, and unnecessary. We agree that, in many instances, forest or rangeland restoration treatments are complementary to fuels management decisions. We also agree that forest and rangeland restoration is more than simple fuels hazard reduction, as it includes other components such as species composition, re-introduction of native plants in the understory, control of exotic or invasive species, and density management to improve the vigor of residual vegetation for resistance to insects and disease. A well-designed fuels hazard project, with interdisciplinary input, may be a highly cost-effective and efficient way to begin to address a range of issues relating to forest health. A fuels hazard project designed with such interdisciplinary input and made effective immediately may serve as an important first step, and follow-up actions to implement the non-fuels-reduction aspects of the project will be subject to appropriate review and administrative appeal. Existing section 5003.1 (section 5003.1(a) of this rule) provides that filing an appeal does not automatically suspend the effect of forest management decisions, which would include such follow-up actions. This provision has long been available to help expedite such projects.

### 3. Where and to What Lands Should the Regulations Apply?

One comment, questioning language in the preamble of the proposed rule, asked what BLM meant when we intimated that the new provisions would be implemented in "wildland-urban interface and other priority areas" (67 FR 77011, 77012), but did not specify in the regulatory text any particular lands to be covered. The comment stated that "priority area" is not defined in the proposal, and that if the scope of the project is truly limited to two types of areas, wildland-urban interface and priority areas, then "priority area" should be defined. If, however, the comment said, the rules affect all BLM land, the scope should be clearly stated. Additionally, the

comment concluded, clarifying these definitions will allow the rules to be construed narrowly and avoid inclusion of areas not intended to be covered by the rule.

As the proposed rule stated, BLM will first use its limited wildfire management resources in priority areas, including wildland-urban interface lands. The rule does not define "priority areas"; BLM has discretion to identify such areas based on site-specific circumstances. In general, priority areas will include lands containing or near human habitation and business structures, sensitive resources such as archaeological sites, endangered species habitat, municipal watersheds, and burned-over watersheds subject to erosion. BLM will choose many wildfire management projects in a collaborative process as defined in BLM's 10-Year Comprehensive Strategy and Implementation Plan for implementation of the National Fire Plan. Local conditions and resources will guide the field manager in making wildfire management decisions.

Several comments faulted the proposed rule for not being limited to or not focusing on the wildland-urban interface, where wildfires have the greatest potential for property damage and for impacts on human health and safety. Some of the same comments questioned how, even if the wildland-urban interface were to be specifically targeted, the public would interact in good faith with such management activities when they proceed on the ground immediately, potentially without NEPA review, offering to the public only the judicial system for recourse.

We recognize the urgency of dealing with fire management issues on forest land near developed areas, but it would be unduly narrowing to limit the effect of the rule to those lands. Other resources, such as endangered species habitat, archaeological or other cultural features, or sensitive watersheds, may make fuel reduction or treatment under section 5003.1(b)(1) or land stabilization and rehabilitation under section 5003.1(b)(2) equally urgent on more remote lands.

A categorical exclusion does not exempt an agency action from environmental review. Rather, it requires the agency to scrutinize the proposed action to see whether it meets the criteria for categorical exclusion, that is, whether it is the type of action that the agency has decided, through its procedures adopted under 40 CFR 1507.3 of the regulations of the Council on Environmental Quality, does not individually or cumulatively have a