

NEPA

on Fire

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A monthly fact sheet about fuels treatments and the NEPA process.

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A forum for fuels specialists;
NEPA coordinators, writers,
and editors; silviculturists; and
others interested in
accomplishing fuels hazard
reduction projects.



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Healthy Forests Restoration Act: Forest Service Implementation

On December 3, 2003, President Bush signed into law the **Healthy Forests Restoration Act (HFRA)** of 2003. To execute HFRA, the Chief of the Forest Service formed an implementation team led by Chuck Myers, the coordinator for process streamlining. The team is working closely with representatives from the Department of Interior and Bureau of Land Management to interpret and provide direction to line officers about implementing HFRA in a timely and consistent fashion. According to Tom Thompson, Deputy Chief for National Forest System Lands, and Joel Holtrop, Deputy Chief for State and Private Forestry, the team is developing “an integrated,

aggressive, rapid, and thoughtful approach to implementing HFRA.”

The team’s immediate priority is to develop a guide by March 2004 to assist the field with HFRA implementation. The guide will focus on treating hazardous fuels, using authorities provided in HFRA and the **Healthy Forests Initiative (HFI)**, including developing an Internet based NEPA selection tool to guide managers to the most efficient NEPA process for fuels treatment projects.

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Fire Litigation Update

On December 17, 2003, a final judgment was issued in the fire management plan case (*Environmental Protection Information Center v. Forest Service*). The judgement incorporates the findings of fact and conclusion of law, dated September 5, 2003, and the stipulation and order, dated November 10, 2003, in the liability phase of the litigation. As part of the decision on liability, the judge concluded that the Forest Service had violated NEPA by failing to prepare an environmental assessment or an

environmental impact statement in connection with the Six Rivers National Forest Fire Management Plan. The finding initiates a 60-day period in which the agency, the Office of General Counsel (OGC), and Department of Justice (DOJ) must recommend whether to appeal the decision. The remedy phase of the litigation will address how the Six Rivers National Forest will proceed, based on the findings, and will continue future discussion with plaintiffs, as required by the judge.

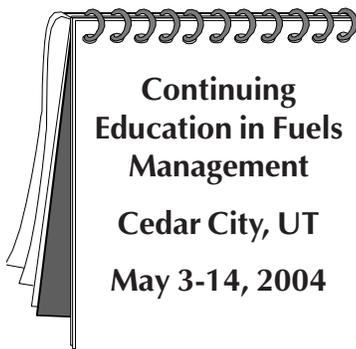


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Continuing Education in Fuels Management

Continuing Education in Fuels Management (CEFM) is a 2-week course developed by an interagency group of silviculturists and fuels specialists. The course integrates fire and vegetation management concepts in designing hazard abatement projects. Vegetation and fuels specialists construct realistic projections of how both vegetation and fire behavior changes through temporal and spatial scales over a landscape. The projections are later used to develop NEPA documents, prescribed burning plans, landscape assessments, and silvicultural and fuels prescriptions.

The CEFM course is coordinated by Dr. Frederick W. (Skip) Smith, Colorado State University, and Dr. James Long, Utah State University. Other subject matter experts also present course material.



Specific course objectives include:

- Establishing management objectives considering fuels, fire behavior, and vegetation structure;
- Measuring, describing, and interpreting fuels and vegetation inventories;
- Explaining weather conditions for analysis of fire risk and fuels treatment;
- Describing vegetation development and fire behavior for current and future untreated conditions;
- Developing, testing, and displaying the effects of alternative vegetation management treatments;
- Evaluating alternative vegetation treatments, and the no action alternative, against management objectives; and
- Conduct a fuels analysis for a sample project.

Although the CEFM course is designed for silviculturists and fuels specialists responsible for planning and implementing vegetation management projects with fuels reduction objectives, other specialists (range, hydrology, archeology, forest health, wildlife, soils, etc.) who are responsible for supporting the



Photo by Victor Bradfield, Targhee National Forest. 3rd place winner, Ground Resources, Fire Management Today 2003 Photo Contest.

analysis of fuels management projects, will also find the course beneficial.

The first CEFM session was held in Fort Collins, CO, the second was in Sacramento, CA. The third session will be in Cedar City, UT, from May 3-14, 2004. Cost for the course is \$1,975, plus meals and hotel—enrollment is limited to 35 students.

For further information, contact either your regional fuels specialist or silviculturist or Drs. Smith (970-222-0669) or Long (435-797-2574).

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The interim final rule, at 36 CFR 218 Subpart A, addresses the predecisional objection process mandated by HFRA. Changes to the current appeals regulation, at 36 CFR 215, include exemptions to hazardous fuels reduction projects, as authorized by HFRA, which were previously subject to appeal. While

the interim final rule was effective immediately upon publication in the Federal Register on January 9, 2004, the Forest Service invites public comments for 90 days.

To see how HFI tools and HFRA authorities are making a difference on the landscape, visit <http://www.fs.fed.us/projects/hfi/examples/>.

More Information on the No Action Alternative

In [Issue 3](#), we discussed the importance of considering the no action alternative during the initial stages of planning for site-specific fuels treatment projects and stressed the importance of understanding the effects of not taking any action when considering specific project needs. Additionally, the article pointed out how the no action alternative can frame the context and intensity of effects when making a finding of no significant impact (FONSI)—important information in an environmental assessment (EA).

Because EAs and environmental impact statements (EIS) have different purposes, each have different requirements when considering the no action alternative. An EA documents the rationale for the FONSI, while an EIS documents the alternatives and impacts that result in an alternative choice. The Forest Service uses EAs to support both the FONSI and project decision (decision notice). However, recent guidance from the Council on Environmental Quality (CEQ) might refocus how the agency prepares EAs.



CEQ's guidance memo (*Guidance for Environmental Assessments of Forest Health Projects, December 9, 2002*) describes the EA as a concise document for determining whether to prepare an EIS or a FONSI. The guidance allows for comparative environmental impact descriptions of the proposal and alternatives considering current and expected future conditions in the absence of the project. The memo specifically states that the comparative descriptions "would constitute consideration of a no action alternative." Preparing EAs under this guidance streamlines documentation of the no action alternative. However, the document must still contain scientifically credible consequence discussions.



Q My proposed fuels project includes treatment of non-Federal lands. Do I need to include a detailed discussion about the potential impacts on these lands in my NEPA document?

A A full NEPA disclosure, which includes a detailed discussion of the potential environmental consequences, is required for all private, tribal, Federal, State, and local lands that are included in a Forest Service project proposal or that will be potentially impacted by a proposed action. The analysis and disclosure of environmental impacts continues past a Forest Service boundary. For community-based Forest Service fuels projects undergoing NEPA analysis, it is common for the NEPA document to provide a detailed consequence discussion relevant to impacts on private, tribal, Federal, State, and local lands.

For additional information see the FAQ article in [NEPA on Fire Issue No. 3](#) that discusses identification of the cumulative effects boundary.

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In another case, Forest Service Employees for Environmental Ethics alleges that the Forest Service violated NEPA by not undertaking an analysis, at a national level, on the effects of fire retardant on the environment. The Washington Office Fire and Aviation and Ecosystem Management Coordination staffs are

working with OGC and DOJ on the case. The National Association of Forest Service Retirees and Pacific Legal Foundation have filed a motion to appear as *amici curiae* (friends of the court). The court has not issued a decision on this request.

For more information, visit <http://fsweb.wo.fs.fed.us/pao/news/clips/2003/03Mar03/0319g03.htm> .

Send YOUR questions or comments to



Fire Management Plans

Fire Management Plans (FMPs) establish goals and objectives and provide managers with a way to implement guidance and direction in Land and Resource Management Plans (LRMPs).

FMPs are:

- Guided by quantified fire objectives and performance measures for all fire management activities in the LRMP;

- Helpful to evaluate the effectiveness of alternative fire management strategies to meet land management goals and objectives; and

- Useful during the budgeting process;

Implementing a FMP should reflect the project and landscape scale resource objectives that link to existing LRMP standards, guides,

and management area direction. FMP analysis should never establish new direction or revise the existing direction. When preparing a FMP choose words and phrases that are distinct from those used in NEPA documents and LRMPs.



On the Web

Federal Advisory Committees

Advisory committees have been important in shaping Federal programs and policies since George Washington's administration.

In 1972, the Federal Advisory Committee Act (FACA) (Public Law 92-463) formally recognized the merits of getting advice and



assistance from our nation's citizens and determined that advisory committees should:

- Provide advice that is relevant, objective, and open to the public;
- Act promptly to complete their work; and
- Comply with reasonable cost controls and recordkeeping requirements.

With the expertise from advisory committee members, Federal officials learn about and receive advice on a broad range of issues that affect Federal policies and programs. As

members of advisory committees, the public has an opportunity to participate in the Federal government's decisionmaking process.

Do you want to know more about how Federal advisory committees work? Should your interdisciplinary team be concerned about following the guidance provided in FACA?

If so, check out <http://fswb.wo.fs.fed.us/pao/faca/>. This site provides information about relevant laws, regulations, and directives, along with an extensive question and answer menu.