

March 2010

FOREST SERVICE

Information on Appeals, Objections, and Litigation Involving Fuel Reduction Activities, Fiscal Years 2006 through 2008



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Highlights of [GAO-10-337](#), a report to congressional requesters

FOREST SERVICE

Information on Appeals, Objections, and Litigation Involving Fuel Reduction Activities, Fiscal Years 2006 through 2008

Why GAO Did This Study

Increases in the number and intensity of wildland fires have led the Department of Agriculture’s Forest Service to place greater emphasis on thinning forests and rangelands to reduce the buildup of potentially hazardous vegetation that can fuel wildland fires. The public generally has an opportunity to challenge agency hazardous fuel reduction decisions with which it disagrees. Depending on the type of project being undertaken, the public can file a formal objection to a proposed decision, or can appeal a decision the agency has already made. Appeals and objections must be reviewed by the Forest Service within prescribed time frames. Final decisions may also generally be challenged in federal court.

GAO was asked, among other things, to determine, for fiscal years 2006-2008, (1) the number of Forest Service fuel reduction decisions and the associated acreage; (2) the number of decisions subject to appeal and objection, the number appealed, objected to, and litigated, and the associated acreage; and (3) the outcomes of appeals, objections, and litigation, and the extent to which appeals and objections were processed within prescribed time frames. In doing so, GAO conducted a nationwide survey of forest managers and staff, interviewed officials in the Forest Service’s regional offices, and reviewed documentation to corroborate agency responses.

GAO requested, but did not receive, comments from the Forest Service on a draft of this report.

View [GAO-10-337](#) or [key components](#). For more information, contact Anu Mittal at (202) 512-3841 or mittala@gao.gov.

What GAO Found

Through a GAO-administered survey and interviews, Forest Service officials reported the following information:

- In fiscal years 2006 through 2008, the Forest Service issued 1,415 decisions involving fuel reduction activities, covering 10.5 million acres.
- Of this total, 1,191 decisions, covering about 9 million acres, were subject to appeal and 217—about 18 percent—were appealed. Another 121 decisions, covering about 1.2 million acres, were subject to objection and 49—about 40 percent—were objected to. The remaining 103 decisions were exempt from both objection and appeal. Finally, 29 decisions—about 2 percent of all decisions—were litigated, involving about 124,000 acres.
- For 54 percent of the appeals filed, the Forest Service allowed the project to proceed without changes; 7 percent required some changes before being implemented; and 8 percent were not allowed to be implemented. The remaining appeals were generally dismissed for procedural reasons or withdrawn before they could be resolved. Regarding objections, 37 percent of objections resulted in no change to a final decision; 35 percent resulted in a change to a final decision or additional analysis on the part of the Forest Service; and the remaining 28 percent were set aside from review for procedural reasons or addressed in some other way. And finally, of the 29 decisions that were litigated, lawsuits on 21 decisions have been resolved, and 8 are ongoing. Of the lawsuits that have been resolved, the parties settled 3 decisions, 8 were decided in favor of the plaintiffs, and 10 were decided in favor of the Forest Service. All appeals and objections were processed within prescribed time frames—generally, within 90 days of a decision (for appeals), or within 60 days of the legal notice of a proposed decision (for objections).

Summary of Appeals of and Objections to Forest Service Fuel Reduction Decisions and Associated Acreage, Fiscal Years 2006-2008

	Subject to appeal	Subject to objection	Exempt from appeal and objection	Total
Number of decisions	1,191	121	103	1,415
Number of decisions appealed or objected to	217	49	Not applicable	266
Percentage of decisions appealed or objected to	18	40	Not applicable	19
Acreage (in thousands)	9,143	1,215	188	10,545
Acreage appealed or objected to (in thousands)	839	225	Not applicable	1,064
Percentage of acreage appealed or objected to	9	19	Not applicable	10

Source: GAO analysis of survey results.

Note: Numbers may not total due to rounding.

Contents

Letter		1
	Results in Brief	4
	Background	7
	Number and Type of Decisions Involving Hazardous Fuel Reduction Activities in Fiscal Years 2006 through 2008 and the Associated Acreage	13
	Number of Decisions Involving Hazardous Fuel Reduction Activities That Were Subject to Appeal or Objection; Number of Decisions Appealed, Objected to, or Litigated; and Associated Acreage	14
	Outcomes of Appeals, Objections, and Litigation of Decisions with Hazardous Fuel Reduction Activities; Associated Time Frames; and Identities of Appellants, Objectors, and Plaintiffs	18
	Treatment Methods and Contract Types Associated with Fuel Reduction Decisions; the Number of Appeals, Objections, and Lawsuits by Treatment Method and Contract Type; and the Associated Acreage	23
	Decisions Involving Fuel Reduction Activities in the Wildland-Urban Interface and Inventoried Roadless Areas; the Number of Appeals, Objections, and Lawsuits on Those Decisions; and the Associated Acreage	26
	Concluding Observations	28
	Agency Comments and Our Evaluation	29
Appendix I	Objectives, Scope, and Methodology	30
Appendix II	Number of Fuel Reduction Decisions and Associated Acreage, by Forest Service Region	34
Appendix III	Number of Appeals, Objections, and Lawsuits of Fuel Reduction Decisions, by Forest Service Region	37
Appendix IV	Appeal Outcomes for Fuel Reduction Decisions, by Forest Service Region	41

Appendix V	Litigation Outcomes for Fuel Reduction Decisions, by Forest Service Region	44
Appendix VI	List of Appellants, Objectors and Litigants, by Forest Service Region	47
Appendix VII	Fuel Reduction Treatment Methods and Number of Appeals, Objections, and Lawsuits, by Forest Service Region	53
Appendix VIII	Contract Types and Number of Appeals, Objections, and Lawsuits, by Forest Service Region	56
Appendix IX	Fuel Reduction Decisions in the Wildland-Urban Interface and Inventoried Roadless Areas, by Forest Service Region	59
Appendix X	Types of Categorical Exclusions Authorized by the Forest Service and Represented in the GAO Survey	67
Appendix XI	Major Litigation Affecting Appeal Procedures for Categorical Exclusions	69
Appendix XII	Survey Questions to National Forests	71
Appendix XIII	GAO Contact and Staff Acknowledgments	91

Tables

Table 1: Traditional Project Appeals Process Compared with Healthy Forests Restoration Act Project Objection Process	12
Table 2: Forest Service Decisions with Fuel Reduction Activities and Acreage Affected, by Decision Type, Fiscal Years 2006 through 2008	13
Table 3: Forest Service Decisions with Hazardous Fuel Reduction Activities That Were Appealed, Objected to, Exempt, or Litigated, by Decision Type, and Associated Acreage, Fiscal Years 2006 through 2008	14
Table 4: Appeals, Objections, Exemptions, and Litigation Associated with Various Treatment Methods, and Associated Acreage, Fiscal Years 2006 through 2008	23
Table 5: Number and Percentage of Appeals, Objections, Exemptions, and Litigation Associated with Various Contracting Types, Fiscal Years 2006 through 2008	25
Table 6: Appeals, Objections, Exemptions, and Litigation of Decisions with Fuel Reduction Activities in the Wildland-Urban Interface and Inventoried Roadless Areas, and Associated Acreage, Fiscal Years 2006 through 2008	27
Table 7: Appellants and Number of Appeals Filed, by Forest Service Region, Fiscal Years 2006 through 2008	47
Table 8: Objectors and Number of Objections Filed, by Forest Service Region, Fiscal Years 2006 through 2008	50
Table 9: Plaintiffs and Number of Lawsuits Filed, by Forest Service Region, Fiscal Years 2006 through 2008	51
Table 10: Types of Categorical Exclusions Authorized for Use by the Forest Service and Represented in the GAO Survey	67
Table 11: A Chronology of Litigation Concerning Regulation Exempting Decisions That Have Been Categorically Excluded from Appeals	69
Table 12: A Chronology of Litigation Concerning the Validity of the Fuels CE	70

Figures

Figure 1: Lands Managed by the Forest Service, by Region	8
Figure 2: Number of Fuel Reduction Decisions and Associated Acreage, by Forest Service Region	35

Figure 3: Number of Decisions Subject to Appeal and Objection, and the Number and Frequency of Appeals, Objections, Exemptions, and Litigation, by Forest Service Region	38
Figure 4: Outcomes of Appeals of Fuel Reduction Decisions, by Forest Service Region	42
Figure 5: Outcomes of Litigation of Fuel Reduction Decisions, by Forest Service Region	45
Figure 6: Number of Decisions Subject to Appeal and Objection, and the Number and Frequency of Appeals, Objections, Exemptions, and Litigation, by Treatment Method and Forest Service Region	54
Figure 7: Number of Decisions Subject to Appeal and Objection, and the Number and Frequency of Appeals, Objections, Exemptions, and Litigation, by Contract Type and Forest Service Region	57
Figure 8: Number of Fuel Reduction Decisions in the Wildland-urban Interface (WUI), and the Number and Frequency of Appeals, Objections, Exemptions, and Litigation, by Forest Service Region	60
Figure 9: Number of Fuel Reduction Decisions in Inventoried Roadless Areas (IRA), and the Number and Frequency of Appeals, Objections, Exemptions, and Litigation, by Forest Service Region	64

Abbreviations

CE	categorical exclusion
HFRA	Healthy Forests Restoration Act
IRA	inventoried roadless area
NEPA	National Environmental Policy Act of 1969
PALS	Planning, Appeals, and Litigation System
RARE	Roadless Area Review and Evaluation
WUI	wildland-urban interface

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United States Government Accountability Office
Washington, DC 20548

March 4, 2010

The Honorable Jeff Bingaman
Chairman
Committee on Energy and Natural Resources
United States Senate

The Honorable Nick J. Rahall, II
Chairman
Committee on Natural Resources
House of Representatives

Much attention has been paid in recent years to the condition of our nation's forests, in large part because of increases in the number and intensity of wildland fires. In an effort to reduce the risk of fire, federal land management agencies—including the Forest Service in the Department of Agriculture—are placing greater emphasis on thinning forests and rangelands to help reduce the buildup of potentially hazardous fuels. The agencies have placed particular emphasis on fuel reduction in areas where human development meets or intermixes with undeveloped wildland, known as the wildland-urban interface.

Like many other land management activities, hazardous fuel reduction activities are typically subject to the National Environmental Policy Act of 1969 (NEPA).¹ Under NEPA, federal agencies are to evaluate the likely environmental effects of proposed projects through an environmental assessment or, if projects are likely to significantly affect the environment, a more detailed environmental impact statement. If, however, the agency determines that activities of a proposed project fall within a category of activities the agency has already determined have no significant environmental impact—called a categorical exclusion—then the agency generally need not prepare an environmental assessment or environmental impact statement. The Forest Service then generally issues a final decision for each project in the form of a Record of Decision, a Decision Notice, or a Decision Memo, depending on whether the decision stems from an environmental impact statement, environmental assessment, or

¹Pub. L. No. 91-190, 83 Stat. 852 (1970), as amended.

categorical exclusion, respectively.² During the early planning stage of these environmental reviews, the public has opportunities to get involved by, for example, submitting written comments on the proposed project. Depending on the type of project, the public can generally challenge either the proposed action or the final decision by filing an objection or an appeal, respectively, with the Forest Service. These objections or appeals must be reviewed by the Forest Service within prescribed time frames. Final decisions may also generally be challenged in federal court.³

Much debate has focused on the extent and frequency of appeals and litigation of fuel reduction activities and their effect on agency activities. On the one hand, critics have asserted that such challenges to agency activities are stopping or unnecessarily slowing the decision-making processes of the Forest Service and its efforts to reduce fuels on federal lands. This opposition to fuel reduction activities is sometimes viewed as “frivolous” and alleged to be greatly increasing the costs of managing the national forests. Supporters of the administrative appeals process, on the other hand, have indicated that appeals have not been excessive or unwarranted and that few appeals are frivolous. Supporters further assert that Congress intended the federal land management process to include administrative reviews of agency decisions to (1) ensure public participation in the decision-making process and (2) ensure that agency managers adequately consider the various factors and policies affecting the environmental health of the nation’s lands.

In 2003, we issued a report on appeals and litigation of Forest Service fuel reduction projects during fiscal years 2001 and 2002.⁴ Since that time, however, the legal and procedural landscape has changed considerably. For example, at the time of our 2003 report, fuel reduction decisions stemming from categorical exclusions were generally not subject to appeal; however, as the result of subsequent litigation, the Forest Service

²For some categorical exclusions, decision memos are not required. For example, a decision memo is not required for repair and maintenance of Forest Service administrative sites, roads, and recreation sites.

³It is the position of the Department of Agriculture that any filing for federal judicial review of a decision subject to appeal is premature and inappropriate under 7 U.S.C. § 6912(e) unless the plaintiff has first sought to invoke and exhaust the appeal procedures. 36 C.F.R. § 215.21. See *Forest Guardians v. U.S. Forest Service*, 579 F.3d 1114, 1121-24 (10th Cir. 2009) (discussing exhaustion requirement).

⁴GAO, *Forest Service: Information on Appeals and Litigation Involving Fuels Reduction Activities*, GAO-04-52 (Washington, D.C.: Oct. 24, 2003).

was required to allow appeals of these types of decisions. In addition, since the time period covered by that report, the Forest Service has introduced new categorical exclusions, including one specific to fuel reduction. And finally, in 2003, the Healthy Forests Restoration Act (HFRA) exempted certain fuel reduction projects from appeal, instead subjecting them to objection before the decision is final.⁵

In the context of these legal and procedural changes, you asked us to gather and report data on appeals, objections, and litigation related to Forest Service fuel reduction activities. This report provides information on (1) the number and type of Forest Service decisions involving hazardous fuel reduction activities signed in fiscal years 2006 through 2008 and the acreage associated with those decisions; (2) the number of these decisions that were subject to the appeal or objection process; the number that were appealed, objected to, or litigated; and the acreage associated with those decisions; (3) the outcomes of these appeals, objections, and lawsuits, including whether they were processed within prescribed time frames, and the identities of the appellants, objectors, and plaintiffs; (4) the treatment methods and contract types associated with fuel reduction decisions, the associated acreage, and how frequently each treatment method and contract type was appealed, objected to, or litigated; and (5) the number of decisions involving hazardous fuel reduction activities in the wildland-urban interface⁶ and inventoried roadless areas,⁷ the associated acreage, and how frequently these decisions were appealed, objected to, or litigated. This letter provides national data on these issues, while appendixes II through IX provide information by Forest Service region. Appendixes X and XI provide more

⁵Pub. L. No. 108-148, Title I, § 105 (2003).

⁶It should be noted that the Forest Service does not use a single, specific definition of wildland-urban interface, and that different definitions can be used depending on the authority under which fuel reduction projects are carried out. GAO has previously recommended that the Forest Service develop a consistent, specific definition of the wildland-urban interface. See GAO, *Wildland Fire Management: Additional Actions Required to Better Identify and Prioritize Lands Needing Fuels Reduction*, [GAO-03-805](#) (Washington, D.C.; Aug. 15, 2003).

⁷In this report, we use the term “inventoried roadless areas” to describe undeveloped areas with few or no roads that are identified as such in the applicable forest’s Land and Resource Management Plan or in 2001 Inventoried Roadless Area maps. These areas may also be identified as such in the Forest Service’s Roadless Area Review and Evaluation (RARE) studies completed in the 1970s, excluding areas that have since been designated as part of the National Wilderness Preservation System by Congress.

information on the nature and use of categorical exclusions related to fuel reduction decisions.

In conducting our review, we administered a Web-based survey to all 108 national forests that issued decisions that involved hazardous fuel reduction activities in fiscal years 2006 through 2008. The survey was used to gather information about each of the decisions, including the type of environmental analysis used, acres involved, treatment methods and contract types used, the extent to which the decisions included activities in the wildland-urban interface and inventoried roadless areas, and specific information about decisions subject to the predecisional objection process. We obtained a 100 percent response rate from the national forests. To gather specific details about appeals and litigation of decisions with hazardous fuel reduction activities, we conducted semistructured interviews with officials in each of the Forest Service's nine regions. For both the Web-based survey and the semistructured interviews, to test the accuracy and reliability of the responses provided by officials, we verified the accuracy of a random sample of responses by comparing them with decision documents and found that the information was sufficiently reliable for our reporting purposes. Appendix I provides details on the scope and methodology of our review. Appendix XII includes a copy of the survey sent to national forests.

We conducted our work from October 2008 through February 2010, in accordance with all sections of GAO's Quality Assurance Framework that are relevant to our objectives. The framework requires that we plan and perform the engagement to obtain sufficient and appropriate evidence to meet our stated objectives and to discuss any limitations in our work. We believe that the information and data obtained, and the analysis conducted, provide a reasonable basis for any findings and conclusions in this product.

Results in Brief

In response to our survey and interviews, national forest and regional officials reported the following:

- In fiscal years 2006 through 2008, 1,415 Forest Service land management decisions involved hazardous fuel reduction activities. These decisions involved 10.5 million acres. Of these decisions, 71—5 percent—were based on environmental impact statements, 433—31 percent—were based on environmental assessments, and 910—64 percent—were based on categorical exclusions. (The remaining decision was a continuation of a previously authorized project and, according to the respondent, did not

require an environmental impact statement, environmental assessment, or categorical exclusion.) Decisions based on environmental assessments covered the greatest acreage in our review—over 6.3 million acres—representing 61 percent of all acres.

- Of the 1,415 decisions involving hazardous fuel reduction activities, 1,191 decisions, involving approximately 9 million acres, were subject to appeal, with 217—about 18 percent— appealed. An additional 121 decisions, involving approximately 1.2 million acres, were subject to objection, with 49—40 percent—objected to. The remaining 103 decisions, involving approximately 188,000 acres, were exempt from appeal and objection. And finally, of the 1,415 total decisions, 29—about 2 percent of all decisions—were litigated, involving approximately 124,000 acres.
- The 217 decisions that were appealed received a total of 298 appeals.⁸ Of these, the Forest Service ruled against the appellant in 160 instances (about 54 percent of all appeals), meaning that the project could be implemented without changes, and in another 22 instances (7 percent) ruled that the project could be implemented with specific changes. In contrast, the agency reversed its initial decision (in whole or in part) in response to 24 appeals (8 percent). It dismissed 91 appeals (about 30 percent) for various reasons, including failure on the part of the appellant to meet procedural requirements, and instances in which the appellant withdrew the appeal or the Forest Service withdrew the decision before the appeal could be decided. According to regional officials, the outcome of 1 appeal could not be determined based on documentation in their files. Of the 101 objections filed on 49 proposed decisions, 38 objections resulted in no change to a final decision. Another 31 objections resulted in a change to a final decision. An additional 4 objections resulted in the forest having to conduct additional analysis, and 13 were addressed in some other way, such as the objector agreeing to withdraw the objection if the Forest Service agreed to make changes to the final decision. The remaining 15 objections were removed from administrative review for a variety of reasons (also known as “set aside” from review). According to time frame information provided by survey respondents, the Forest Service processed all appeals and objections within prescribed time frames. Finally, of the 29 decisions that were litigated, lawsuits on 21 decisions have been resolved; the parties settled 3 decisions, 8 were

⁸Because multiple appeals can be filed on a single decision, the number of appeals filed is greater than the number of decisions appealed. Similarly, proposed decisions can be the subject of multiple objections, and the number of objections filed is greater than the number of proposed decisions objected to.

decided in favor of the plaintiffs, and 10 were decided in favor of the Forest Service. Most of the appellants, objectors, and plaintiffs were environmental organizations.

- With respect to treatment methods, prescribed burning—where fires are deliberately set by land managers to reduce the buildup of potentially hazardous fuel—was the treatment most frequently associated with fuel reduction decisions, and was included in 1,076 of the 1,415 decisions. Mechanical treatment—in which equipment such as chain saws, chippers, bulldozers, and mowers is used to cut vegetation—was included in 973 decisions; and commercial logging—where trees are harvested for commercial use such as lumber—was included in 661 decisions.⁹ Although decisions involving prescribed burning received the greatest number of challenges, decisions that used commercial logging were challenged at a higher rate than the other treatment methods, considering both appeals and objections. Regarding contract type, timber sale contracts were the most frequently used, and were included in 606 of the 1,415 decisions. Service contracts—where contractors are hired to perform specific tasks such as thinning—were included in 536 decisions, and stewardship contracts were included in 218 decisions.¹⁰ In addition to issuing contracts for the work, the Forest Service also issued forest products permits (for activities such as collecting firewood) in 236 decisions.¹¹ Decisions that included commercial timber sale contracts were the most frequently appealed, objected to, and litigated. However the rate at which decisions were challenged was highest for decisions that included stewardship contracts.
- There were 954 decisions involving fuel reduction activities in the wildland-urban interface, involving about 4 million acres. Of these decisions, 140 were appealed, 45 were objected to, and 13 were litigated.

⁹Because each decision can be implemented using more than one treatment method, the sum of decisions by treatment method is greater than the total number of decisions.

¹⁰Stewardship contracts include those under which the agency uses the value of commercial products, such as timber, to offset the cost of services received, such as thinning, stream improvement, and other activities. For more information about stewardship contracting, see GAO, *Federal Land Management: Additional Guidance on Community Involvement Could Enhance Effectiveness of Stewardship Contracting*, GAO-04-652 (Washington, D.C.: June 14, 2004), and *Federal Land Management: Use of Stewardship Contracting Is Increasing, but Agencies Could Benefit from Better Data and Contracting Strategies*, GAO-09-23 (Washington, D.C.: Nov. 13, 2008).

¹¹Because each decision can be implemented using more than one contract type, the sum of decisions by contract type is greater than the total number of decisions.

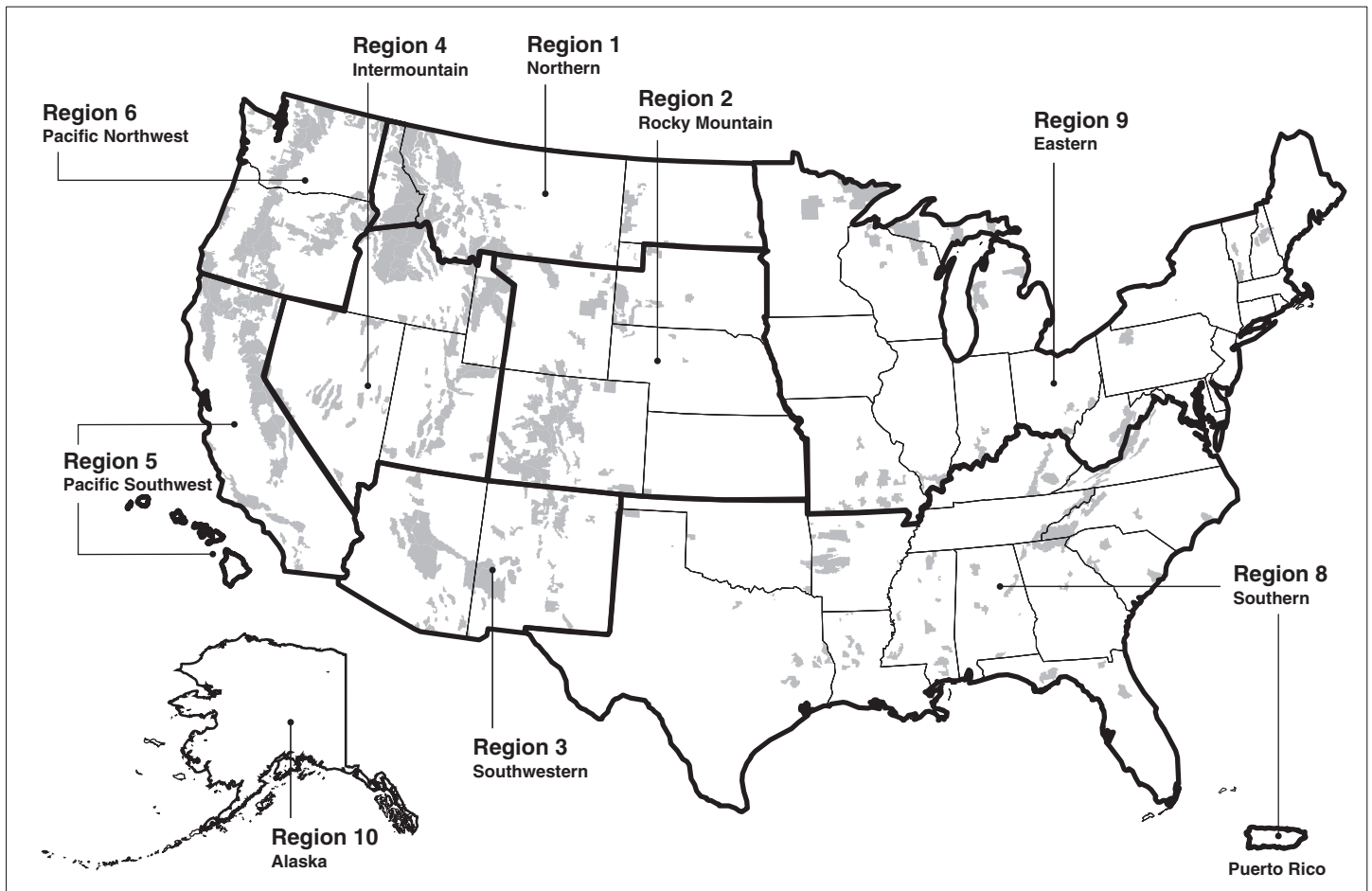
There were 169 decisions involving fuel reduction activities in inventoried roadless areas, involving about 750,000 roadless acres. Of these decisions, 26 were appealed, 11 were objected to, and 4 were litigated. These figures represent a similar rate of appeals for both types of decision, with about 18 to 19 percent of appealable decisions appealed; however, decisions involving inventoried roadless areas were objected to at a higher rate (50 percent) than those involving the wildland-urban interface (40 percent).

Background

The Forest Service is responsible for managing over 192 million acres of public lands—nearly 9 percent of the nation’s total surface area and about 30 percent of all federal lands in the United States. In carrying out its responsibilities, the Forest Service traditionally has administered its programs through nine regional offices, 155 national forests, 20 grasslands, and over 600 ranger districts (each forest has several districts). The Forest Service’s implementation, management, and oversight of fuel reduction activities tend to be decentralized and vary by region, although all activities must be carried out under applicable laws.¹² Figure 1 shows a map of the national forests and Forest Service regions.

¹²For example, the National Forest Management Act of 1976, one of the major laws governing the Forest Service, requires the Forest Service to, among other things, (1) develop a plan to manage the lands and resources of each national forest in coordination with the land management planning process of other federal agencies, states, and localities and (2) revise each plan at least every 15 years. Each forest plan—called a Land and Resource Management Plan—establishes how land areas within a forest may be used and governs individual projects or activities that occur within the forest. Individual projects or activities, such as reducing fuels, may take place only if they are consistent with the plan and after site-specific environmental review, which often includes public notice, comment, and administrative appeal.

Figure 1: Lands Managed by the Forest Service, by Region



Source: Forest Service.

Note: The Forest Service does not have a Region 7.

Forest Service projects intended to reduce fuels and restore or maintain desired vegetation conditions generally use prescribed burning, in which fires are deliberately set by land managers, and/or mechanical treatments, in which equipment such as chain saws, chippers, bulldozers, or mowers is used to cut vegetation. Such mechanical treatment may include logging to remove commercial timber. Other approaches include applying chemical herbicides, using grazing animals such as cattle and goats, and allowing the public to remove firewood by hand. To carry out its fuel reduction work, the Forest Service may use agency staff but more commonly contracts it out. The agency generally uses three types of contracts—

timber sale contracts, service contracts, and stewardship contracts—to accomplish fuel reduction work. Timber sale contracts are awarded to individuals or companies to harvest and remove trees from federal lands under its jurisdiction. Service contracts are awarded to contractors to perform specific tasks, such as thinning trees or clearing underbrush. Stewardship contracts are generally awarded to contractors who perform both timber harvesting and service activities, and include contracts under which the agency uses the value of commercial products, such as timber, to offset the cost of services received, such as thinning, stream improvement, and other activities.

Controversy has surrounded the issue of fuel reduction for some time, particularly in areas where federal lands surround or are adjacent to human development and communities—the wildland-urban interface—and in inventoried roadless areas. Roadless areas have received special attention for decades, as some argue that these areas should be available for appropriate development and timber harvesting, while others believe that the areas should remain roadless to preserve the special values that their condition provides, such as clean water and undeveloped wildlife habitats.¹³

Forest Service hazardous fuel reduction activities are typically subject to one of two different internal administrative review processes, each of which has a specific procedure through which the public can challenge the agency’s decisions or proposed decisions to conduct the activities. Specifically:

- *Postdecisional administrative appeals process.* The Forest Service has provided an administrative appeals system for review of agency decisions, under certain circumstances, for over 100 years. Although the specific requirements of the appeals system have changed over the years, the Appeals Reform Act of 1993 established the appeals process pertinent to fiscal years 2006 through 2008—the time period covered by our review.¹⁴ When the Forest Service issues a public notice in a newspaper of record of a proposed action, the public has either 30 or 45 days to comment,

¹³Regulations governing roadless areas have been extensively litigated, and Congress is considering legislation addressing these areas. For a full discussion of these issues, see Congressional Research Service, *National Forest System Roadless Area Initiatives*, RL30647 (Washington, D.C.: October 9, 2008).

¹⁴16 U.S.C. § 1612 nt; see 36 C.F.R. part 215, Notice, Comment, and Appeal Procedures for National Forest System Projects.

depending on the type of NEPA analysis document prepared. Once the agency issues a decision, the public has 45 days to file appeals; however, only those individuals who were involved in the public comment process through submission of written or oral comments or by otherwise notifying the Forest Service of their interest in the proposed action may file an appeal.¹⁵ Once the 45-day time frame for filing appeals has expired, the Forest Service must review all appeals and issue a response to each within an additional 45 days. Appeals can result in decisions being affirmed, in which case the Forest Service can proceed with the project as planned, or in decisions being reversed in whole or in part, in which case the agency may revise or even cancel the affected activities. The official (known as the Appeal Deciding Officer) who determines the outcome of the appeal must be, at least, the next higher level supervisor of the individual who made the original decision. There is no further administrative review of the Appeal Deciding Officer's decision by any other Forest Service or Department of Agriculture official.

The types of decisions that can be appealed have changed since GAO last reported on this issue in 2003. In 2003, the Forest Service added several new categorical exclusions related to vegetation management (including one specific to hazardous fuel reduction) that it exempted from appeal. However, as the result of subsequent litigation challenging these exemptions, the Forest Service ultimately was required to allow the public to appeal many (though not all) of these decisions during fiscal years 2006 through 2008, the time period covered by our current review.¹⁶

- *Predecisional administrative objection process.* In 2003, HFRA required the Forest Service to establish an alternative process for authorizing certain hazardous fuel reduction projects, including an alternative predecisional objection process in lieu of the appeals process for certain

¹⁵The Forest Service appeals regulations contain a provision stating that only a person who files "substantive" comments may file an appeal. 36 C.F.R. § 215.13(a). A federal district court has held that this requirement is invalid under the Appeal Reform Act. *Wilderness Society v. Rey*, D. Mont., Civ. No. 03-00119, April 24, 2006. The case is on appeal in the Ninth Circuit. See *Wilderness Society v. Rey*, 06-35565, filed June 23, 2006.

¹⁶See appendix XI for more information.

projects.¹⁷ HFRA authorizes the public to file objections to a proposed project before the agency issues a final decision on the project, instead of the traditional appeals process where the administrative review occurs after the agency's final decision has been made. According to the Forest Service, this objection process was intended to expedite the implementation of fuel reduction projects and to encourage early public input during the planning process. Only those parties who have previously submitted written comments specific to the proposed project may file objections. (The public has an opportunity to provide these written comments during scoping or other public comment periods.) The public must file objections with the reviewing officer—the next higher level supervisor of the person responsible for the proposed action—within 30 days following the publication date of the legal notice of the proposed environmental assessment or environmental impact statement. (Decisions that are subject to objection cannot use categorical exclusions as the basis for the decision.) If no objection is filed within the 30-day time period, the decision may be finalized on, but not before, the fifth business day following the end of the objection-filing period. If an objection is filed, the Forest Service must issue a written response to the objector addressing the objection within 30 days following the end of the objection-filing period. The reviewing officer may hold a meeting to discuss issues raised in the objection and any potential resolution. There are several ways the Forest Service addresses an objection. The objection can (1) be set aside from review, (2) be reviewed by the Forest Service resulting in a change to the final decision, (3) be reviewed by the Forest Service resulting in no change to the final decision, or (4) result in the reviewing officer directing the appropriate Forest Service official to complete additional analysis prior to issuing a final decision. An objection may be set aside from review for procedural reasons—if, for example, the objection is not received within the allowed 30-day time period, or the objecting individual or organization did not submit written comments during scoping or other

¹⁷The agency's objection process appears at 36 C.F.R. part 218. Fuel reduction projects authorized under HFRA include those occurring on federal land in the following areas: the wildland-urban interface; certain municipal watersheds; areas where wind throw, blowdown, ice storm damage, or the existence or imminent risk of an insect or disease epidemic significantly threatens ecosystem components or resource values; and areas where wildland fire poses a threat to, and where the natural fire regimes are important for threatened and endangered species or their habitat. Actions implemented under HFRA are prohibited in wilderness areas, wilderness study areas, and federal lands where an act of Congress or presidential proclamation prohibits or restricts removal of vegetation.

public comment opportunities.¹⁸ There is no further administrative review by any other Forest Service or Department of Agriculture official of the reviewing officer’s written response to an objection.

Table 1 compares the appeals and objection processes.

Table 1: Traditional Project Appeals Process Compared with Healthy Forests Restoration Act Project Objection Process

	Appeals process	Objection process
Authority for review process and corresponding regulation	Appeals Reform Act 36 C.F.R. part 215	Healthy Forests Restoration Act 36 C.F.R. part 218
Timing of process	Appeal is filed after the project decision is made	Objection filed before the project decision is made
Eligibility to appeal/object	Those who were involved in the public comment process for the project through submission of written or oral comments or by otherwise notifying the Forest Service of their interest in the proposed action	Those who submitted specific written comments related to the project during the project comment period, the Draft Environmental Impact Statement comment period (if applicable), or any other public comment periods
Filing period	45 days after legal notice of the decision is published in newspaper of record	30 days after legal notice of the Environmental Assessment or Final Environmental Impact Statement published in newspaper of record
Response/resolution period	Resolution of appeal within 45 days after end of appeal filing period	Response to objection within 30 days after end of objection filing period

Source: GAO summary of Forest Service information.

Some decisions, however, were subject to neither the appeal nor the objection process during the time of our review. As noted, the Forest Service was required to allow appeals of many fuel reduction decisions based on categorical exclusions, but was not required to allow appeals on all such decisions—meaning that certain decisions based on categorical exclusions remained exempt from appeal. These decisions were also exempt from the objection process because HFRA requires that fuel reduction decisions subject to objection use environmental assessments or environmental impact statements rather than categorical exclusions.

¹⁸Other reasons include the following: The decision is not subject to objection procedures; there is not enough information included in the objection for the reviewing officer to review; the objector withdraws the objection; an objector’s identity is not provided or cannot be determined from the signature or a reasonable means of contact is not provided; or the objection is illegible for any reason, including submissions in an electronic format different from that specified in the legal notice of the proposed decision.

Number and Type of Decisions Involving Hazardous Fuel Reduction Activities in Fiscal Years 2006 through 2008 and the Associated Acreage

For fiscal years 2006 through 2008, national forest managers reported 1,415 decisions involving hazardous fuel reduction activities, affecting 10.5 million acres of national forest land.¹⁹ Most of these decisions were based on categorical exclusions, although decisions based on environmental assessments represented the most acreage of all decision types. Table 2 shows the number of decisions and associated acreage, by decision type.

Table 2: Forest Service Decisions with Fuel Reduction Activities and Acreage Affected, by Decision Type, Fiscal Years 2006 through 2008

Decisions/acres	Categorical exclusions	Environmental assessments	Environmental impact statements	Other	Total
Number of decisions	910	433	71	1 ^a	1,415
Percentage of total decisions	64	31	5	<1	100
Number of acres (in thousands)	3,559	6,397	586	3	10,545
Percentage of total acres	34	61	6	0	100

Source: GAO analysis of survey results.

Note: Numbers may not total because of rounding. Acreage data are not complete because some respondents did not report this information. In addition, depending on the status of the projects, some respondents reported the number of acres they planned to treat, while others reported the actual number of treated acres.

^aIn one case, the survey respondent indicated that the decision was a continuation of a previously authorized project. According to this respondent, chapter 18 of the *Forest Service Handbook* allows such a decision to be made without the use of a categorical exclusion, environmental assessment, or environmental impact statement.

Appendix II provides greater detail on the number of decisions and associated acreage for each Forest Service region.

¹⁹The Forest Service does not have a uniform definition of a hazardous fuel reduction activity, and many agency projects may involve fuel reduction activities that provide an ancillary benefit to a project conducted for another purpose—potentially affecting the information that forest managers reported to us. See appendix I for more information about our data collection methodology.

Number of Decisions Involving Hazardous Fuel Reduction Activities That Were Subject to Appeal or Objection; Number of Decisions Appealed, Objected to, or Litigated; and Associated Acreage

Of the 1,415 decisions in our review, 1,191—about 84 percent—were subject to the appeals process. In contrast, only 121 decisions—8.5 percent—were subject to the objection process. However, the rate at which decisions subject to the objection process were challenged was higher than for decisions under the appeals process. Specifically, 40 percent of decisions subject to objection were objected to, compared with the 18 percent appeal rate for decisions subject to appeal. Table 3 shows, for all decisions covered by our review for fiscal years 2006 through 2008, the number of appeals, objections, and litigation associated with each decision type.

Table 3: Forest Service Decisions with Hazardous Fuel Reduction Activities That Were Appealed, Objected to, Exempt, or Litigated, by Decision Type, and Associated Acreage, Fiscal Years 2006 through 2008

(Acres in thousands)

Decisions/acres	Categorical exclusions	Environmental assessments	Environmental impact statements	Other ^a	Total
Total number of decisions	910	433	71	1	1,415
Total acreage	3,559	6,397	586	3	10,545
Decisions subject to appeal					
Number of decisions subject to appeal ^b	808	321	62	0	1,191
Number of decisions appealed	80	90	47	0	217^c
Percentage of appealable decisions appealed	10	28	76	n/a	18
Acreage subject to appeal	3,375	5,285	483	0	9,143
Acreage appealed	116	429	294	0	839
Percentage of appealable acreage appealed	3	8	61	n/a	9
Decisions subject to objection^d					
Number of decisions subject to objection process	n/a	112	9	0	121
Number of decisions objected to	n/a	43	6	0	49^e
Percentage of decisions objected to	n/a	38	67	0	40
Acreage subject to objection	n/a	1,112	103	0	1,215
Acreage objected to	n/a	184	41	0	225
Percentage of acreage objected to	n/a	17	40	0	19

(Acres in thousands)

Decisions/acres	Categorical exclusions	Environmental assessments	Environmental impact statements	Other^a	Total
Exempt decisions					
Number of decisions exempt from appeal and objection	102	0	0	1	103
Percentage of all decisions exempt from appeal and objection	11	0	0	100	7
Acreage exempt from appeal and objection	185	0	0	3	188
Percentage of all acreage exempt from appeal and objection	5	0	0	100	2
Litigation					
Number of decisions litigated	4	14	11	0	29
Percentage of all decisions litigated	<1	3	15	n/a	2
Acreage litigated	2	70	52	0	124
Percentage of acreage litigated	<1	1	9	n/a	1

Source: GAO analysis of survey results.

Notes: n/a = not applicable. Numbers may not total because of rounding. Acreage data are not complete because some respondents did not report this information. In addition, depending on the status of the projects, some respondents reported the number of acres they planned to treat, while others reported the actual number of treated acres.

^aIn one case, the survey respondent indicated that the decision was a continuation of a previously authorized project. According to this respondent, Chapter 18 of the *Forest Service Handbook* allows such a decision to be made without the use of a categorical exclusion, environmental assessment, or environmental impact statement.

^bOne project in our study was authorized under HFRA and involved a fuel reduction activity, but did not qualify as an “authorized hazardous fuel reduction project” under HFRA and therefore was not subject to the objection process. According to the survey respondent for this decision, it implemented HFRA provisions related to insect and disease infestation, and was subject to the notice, comment, and appeals process found in 36 C.F.R. part 215 because it included a timber sale activity. As a result, it is included in our count of decisions subject to appeal.

^cThese 217 decisions received a total of 298 appeals. The greatest number of appeals on a single decision was 9.

^dOnly authorized hazardous fuel reduction projects under HFRA that are analyzed in an Environmental Assessment or Environmental Impact Statement are subject to the predecisional objection process.

^eThese 49 decisions received a total of 101 objections. The greatest number of objections to a single decision was 22.

Appendix III provides greater detail on the number of appeals, objections, and litigation for each Forest Service region.

In addition to the introduction of the objection process, our survey data reflect two important changes that have occurred since our 2003 report: (1) the extent to which activities associated with categorical

exclusions are subject to the appeals process and (2) the decrease in the use of the categorical exclusion for hazardous fuel reduction to authorize hazardous fuel reduction activities. Specifically:

- *Extent to which categorical exclusions were subject to appeal.* At the time of our 2003 report, decisions using categorical exclusions were generally not subject to appeal, and in that report we noted that 99 percent of fuel reduction decisions using categorical exclusions in fiscal years 2001 and 2002 were exempt from appeal. Also in 2003, the Forest Service introduced several new categorical exclusions that were exempt from appeal, including one categorical exclusion specific to fuel reduction activities. Beginning later that year, however, the agency's ability to exempt decisions using categorical exclusions from appeal was challenged in court.²⁰ As a result of this litigation, the Forest Service was required to allow the public to appeal decisions containing any of 11 types of categorically excluded activities, including fuel reduction—and thus, most fuel reduction decisions in our survey that were made using categorical exclusions were appealable by the public. Specifically, 89 percent of the categorical exclusions identified in our survey were subject to appeal in fiscal years 2006 through 2008, in contrast to the 1 percent that were subject to appeal during our 2003 review. The remaining 11 percent of categorical exclusions in our current review—a total of 103 decisions—were identified by survey respondents as exempt from appeal because they did not contain the activities covered by the litigation. Subsequently, in 2009 the U.S. Supreme Court overturned the lower court's ruling on procedural grounds, allowing the Forest Service to utilize the provisions of its regulations that exempt categorically excluded decisions from appeal.²¹ Appendix X contains data on the type and frequency of the categorical exclusions represented in our survey.
- *Decrease in the use of the categorical exclusion for hazardous fuel reduction.* Although Forest Service regulations contain a specific categorical exclusion under which hazardous fuel reduction activities can be authorized, this was not the most commonly reported categorical exclusion in our survey of decisions involving hazardous fuel reduction activities. Instead, the most commonly reported categorical exclusion was

²⁰See appendix XI for a summary of the major litigation affecting the exemptions for categorical exclusions.

²¹The Forest Service is considering amending this regulation in light of the litigation that challenged it, the agency's experience in implementing it, and possible changes in policy direction.

one intended for timber stand and/or wildlife habitat improvement. Our survey data show that the total number of decisions authorized under the categorical exclusion for hazardous fuel reduction decreased greatly over the period covered by our survey, while at the same time, the use of the categorical exclusion for timber stand and/or wildlife habitat improvement increased. Specifically, use of the categorical exclusion for hazardous fuel reduction decreased from 214 in fiscal year 2006 to 28 in fiscal year 2008, while the use of the categorical exclusion for timber stand and/or wildlife habitat improvement increased from 145 in fiscal year 2006 to 167 in fiscal year 2008.

This decrease in the use of the categorical exclusion for hazardous fuel reduction may have resulted in large part from the chief of the Forest Service's response to a court order in 2007. In this response the chief directed that no new decisions should be made under the categorical exclusion for hazardous fuel reduction after December 2007. Furthermore, he directed that no additional contracts be initiated to implement projects authorized under this authority—meaning that projects that were not under way did not start, even if a final decision had already been issued. Under the chief's direction, projects that were near completion could proceed. Of the 379 decisions in our survey originally authorized under the categorical exclusion for hazardous fuel reduction, respondents reported that 207—or about 55 percent—were affected by the chief's directive. Although we did not systematically gather information on what happened to projects subject to the court decision, respondents indicated that they took a variety of approaches, including the following:

- using a different categorical exclusion, such as the categorical exclusion for timber stand and/or wildlife habitat improvement, to authorize the project;
- preparing an environmental assessment subject to the appeals process;
- stopping or slowing project implementation; and
- preparing an environmental assessment subject to the predecisional objection process, under HFRA.

Additionally, the rate at which decisions were litigated was about the same—2 percent—for decisions that were subject to the Forest Service's traditional appeals process as for decisions authorized under HFRA—even though the agency's expectation was that HFRA would reduce the likelihood of litigation. Of the 29 litigated decisions in our study, 26 had

been subject to appeal, representing 2 percent of the 1,191 decisions subject to appeal; the remaining 3 litigated decisions had been subject to objection, likewise representing 2 percent of the 121 decisions subject to objection.

Outcomes of Appeals, Objections, and Litigation of Decisions with Hazardous Fuel Reduction Activities; Associated Time Frames; and Identities of Appellants, Objectors, and Plaintiffs

In fiscal years 2006 through 2008, of the 298 appeals filed, the Forest Service upheld its earlier decision in the majority of the cases without requiring any changes to the decision. Of the 101 objections submitted, the outcome was more evenly divided between those objections resulting in a change to the decision and those that did not. According to time frame information provided by survey respondents, all appeals and objections were processed within the prescribed time frames. For litigated decisions resolved at the time of our review, the Forest Service prevailed slightly more often than the plaintiffs.

Outcomes of Appeals, Time Frames, and Identities of Appellants

Of the 298 appeals filed on appealable decisions from fiscal years 2006 through 2008,

- For 160 appeals, the decisions were affirmed—that is, allowed to proceed—with no changes.
- For 22 appeals, the decisions were affirmed with specified changes.
- For 24 appeals, the decisions were reversed—that is, not allowed to proceed—based on issues raised by the appellants.
- A total of 91 appeals were dismissed for various reasons, including
 - 38 appeals that were resolved informally, of which 30 appeals were withdrawn by the appellant and 8 decisions were withdrawn by the agency (when an appeal is resolved informally, changes may or may not be made to the decision);

-
- 53 appeals that were dismissed without review, mostly for failing to meet procedural requirements, such as timeliness—however, 23 of these appeals were dismissed without review because, subsequent to receiving the appeal, the agency official who made the decision decided to withdraw the decision;²²
 - For 1 appeal, the outcome could not be determined based on documentation in the agency’s regional files, according to an agency official.

According to time frame information provided by Forest Service officials, all appeals of fiscal year 2006 through 2008 decisions were processed within the time frames prescribed in applicable laws and regulations.²³ See appendix IV for detailed information on appeal outcomes for each Forest Service region.

The 298 appeals were filed by 217 appellants. This total includes appeals by 88 different interest groups, mostly environmental groups, and 129 individuals.²⁴ Of the 88 interest groups, 10—Alliance for the Wild Rockies, Biodiversity Conservation Alliance, John Muir Project of the Earth Island Institute, Native Ecosystems Council, Oregon Wild, Ouachita Watch League, Sierra Club, The Lands Council, Utah Environmental Congress, and the WildWest Institute—each appealed 10 or more decisions. Appendix VI lists each interest group that appeared as an appellant in fiscal years 2006 through 2008 and the number of decisions for which each appellant filed appeals in each region. To protect the privacy of individual appellants, we do not list their names, but in appendix VI we provide information on the number of decisions appealed by individuals in each region.

²²Decisions withdrawn in this manner are considered different from decisions the agency withdraws as a result of informal resolution. According to a regional official, withdrawn decisions that fall within the “Dismissed without Review” category avoid having to “daylight” to appellants what the flaws were in the decision.

²³To verify these responses, we collected and reviewed agency documentation for a randomly selected sample of appealed decisions. Our review of this documentation confirmed that, for each such decision, the agency had processed appeals within prescribed time frames. See appendix I for additional information on our survey and data verification methodologies.

²⁴Some of the individuals may have submitted an appeal on more than 1 decision. Consequently, there may have been some double counting of specific individuals.

Outcomes of Objections, Time Frames, and Identities of Objectors

Of the 101 objections filed for 49 decisions from fiscal years 2006 through 2008,

- 38 objections resulted in no change to the final decision.
- 31 objections resulted in a change to the final decision.²⁵
- 4 objections resulted in the Forest Service having to conduct additional analysis.
- 15 objections were set aside from review.
- 13 objections were addressed some other way; for example, several agency respondents explained that they addressed objector's concerns by both agreeing to make a change to the final decision and by setting the objection aside from review. Rather than setting it aside from review for procedural reasons, however, the decisions were set aside because the objector withdrew the objection after the Forest Service agreed to make changes to the final decisions.

For objections that the Forest Service does not set aside, the Forest Service reviewing officer is required to respond in writing. Prior to issuing a written response, the objector or reviewing officer may request a meeting to discuss the issues that were raised in the objection and a possible resolution. According to some Forest Service officials we spoke with, these meetings have been used to further satisfy public concerns; however, because meetings are at the discretion of the reviewer, objectors with whom the reviewer decides not to meet may feel that their concerns were not adequately addressed, regardless of the outcome. For example, the Forest Service received 22 objections to the Middle East Fork Hazardous Fuel Reduction decision on the Bitterroot National Forest in west central Montana and east central Idaho, one of the first and, according to Forest Service officials, most contentious decisions authorized under HFRA authority in the Northern Region. One objector requested a meeting with the Forest Service and others expressed a willingness to meet, but the reviewing officer chose not to hold meetings, stating that their objections did not require additional clarification and that a private consultant with whom the forest contracted had determined

²⁵As a result of one objection to one decision, a change was made and no written response was provided to the objector.

that additional discussions would not resolve the objector's concerns. The decision was ultimately litigated. In other cases, however, respondents reported that such meetings successfully addressed objectors' concerns, sometimes resulting in objectors withdrawing their objections.

However, we also determined that different regions follow different approaches in addressing objectors' concerns. For example, an official in the Pacific Southwest Region told us that officials generally meet with the objectors associated with valid objections (those that are not set aside for procedural reasons), with the goal of informally resolving the objections and having them subsequently withdrawn by the objectors. In contrast, an official in the Northern Region told us that while the region seeks to resolve objections informally, unlike the Pacific Southwest Region, it does not seek to have objectors subsequently withdraw their objections, and none have done so. Seeking to have objectors withdraw their objections, as the Pacific Southwest Region has done, may have important implications for subsequent litigation because, according to Forest Service officials, under HFRA and its implementing regulations, an objector that withdraws an objection has no standing to obtain judicial review of the Forest Service's final decision.

According to time frame information provided by survey respondents, the final decisions for all proposals subject to the objection process from fiscal year 2006 through 2008 were signed in accordance with the time frames set forth by applicable laws and regulations.²⁶ However, while officials are required to respond to objections within certain time frames, there is no limitation on the amount of time allowed to make a final decision. Of the 49 decisions for which objections were filed, 25 were signed between 35 days and 3 months of legal publication date of the proposed action. The remaining 24 were signed more than 3 months after the legal publication date, including 3 cases in which the final decision was signed more than a year after the legal publication date of the proposed action.

The 101 objections were filed by 37 organizations and 41 individuals. Of the 37 organizations, 3—the Center for Biological Diversity, the Idaho Conservation League, and the WildWest Institute²⁷— each objected to 5 or

²⁶36 C.F.R. part 218.12.

²⁷Our data for the WildWest Institute include objections made by the Native Forest Network and Ecology Center. These two groups merged to form the WildWest Institute in April 2006.

more decisions. Appendix VI lists each group that filed objections in fiscal years 2006 through 2008 and the number of decisions for which objections were filed in each region. As with appeals, in appendix VI we do not list the names of individual objectors, but do show the number of proposed decisions objected to by individuals in each region.

Outcomes of Litigation and Identities of Plaintiffs

Of the 29 decisions that were litigated from fiscal years 2006 through 2008, we are able to report the outcome for 21 of the lawsuits because they had been resolved at the time of our review. According to regional officials, lawsuits for 3 of these 21 decisions were dismissed because the plaintiffs and the Forest Service agreed to settle their claims. District courts reached an outcome on the 18 additional decisions, with 8 decided favorably to the plaintiffs and 10 decided favorably to the Forest Service.²⁸ Lawsuits on the remaining 8 decisions were continuing at the time of our review.

In the 29 litigated decisions, 24 interest groups and 11 individuals were plaintiffs. The interest groups were primarily environmental groups, with three groups—Alliance for the Wild Rockies, Native Ecosystems Council, and the WildWest Institute—each acting as plaintiff in 5 or more decisions. Of the 29 litigated decisions, plaintiff groups and individuals had previously submitted appeals on 24 of the decisions and objections on 3 of the decisions during the administrative process. The remaining 2 litigated decisions were subject to appeal, but the plaintiffs did not submit an appeal during the administrative process. Appendix VI lists each group that acted as a plaintiff in fiscal years 2006 through 2008 and the number of decisions for which lawsuits were filed by each group within each Forest Service region. To protect the privacy of individual plaintiffs, we do not list their names, but in appendix VI provide information on the number of decisions litigated by individuals in each region.

²⁸Both plaintiffs and the Forest Service have the option of appealing the decisions of the district court to the relevant federal court of appeals. We did not collect information on whether the decisions were appealed to a higher court.

Treatment Methods and Contract Types Associated with Fuel Reduction Decisions; the Number of Appeals, Objections, and Lawsuits by Treatment Method and Contract Type; and the Associated Acreage

Prescribed burning was the most frequently used treatment method associated with the fuel reduction decisions included in our study, followed by mechanical treatment and commercial logging. Of these three methods, prescribed burning was the method most often challenged through appeals and objections; however, commercial logging was challenged at the highest rate, considering both appeals and objections. Table 4 shows, for all treatment methods in our study, the number and percentage of, and acreage associated with, appeals, objections, and litigation.

Table 4: Appeals, Objections, Exemptions, and Litigation Associated with Various Treatment Methods, and Associated Acreage, Fiscal Years 2006 through 2008

(Acres in thousands)

Decisions/acres	Prescribed burning	Mechanical treatment	Commercial logging	Construction/ maintenance of fuel breaks	Chemical/ herbicide treatment	Livestock grazing
Total number of decisions^a	1,076	973	661	279	57	12
Total acreage^b	5,099	1,109	1,283	111	336	297
Decisions subject to appeal						
Number of decisions subject to appeal ^c	940	804	546	225	50	7
Number of decisions appealed	187	167	162	64	18	2
Percentage of appealable decisions appealed	20	21	30	28	36	29
Acreage subject to appeal	4,344	787	704	85	328	229
Acreage appealed	512	266	315	59	12	42
Percentage of appealable acreage appealed	12	34	45	69	4	18
Decisions subject to objection						
Number of decisions subject to objection	87	101	96	41	7	3
Number of decisions objected to	41	46	41	16	1	2
Percentage of decisions objected to	47	46	43	39	14	67
Acreage subject to objection	588	306	577	26	7	64
Acreage objected to	123	114	89	11	1	20
Percentage of acreage objected to	21	37	15	42	14	31

(Acres in thousands)

Decisions/acres	Prescribed burning	Mechanical treatment	Commercial logging	Construction/ maintenance of fuel breaks	Chemical/ herbicide treatment	Livestock grazing
Exempt decisions						
Number of decisions exempt from appeal and objection	49	68	19	13	0	2
Percentage of decisions exempt from appeal and objection	5	7	3	5	0	17
Acreage exempt from appeal and objection	168	16	2	1	0	4
Percentage of acreage exempt from appeal and objection	3	1	<1	<1	0	1
Litigation						
Number of decisions litigated	27	24	25	7	3	0
Percentage of decisions litigated	3	2	4	3	5	0
Acreage litigated	78	37	58	8	<1	0
Percentage of acreage litigated	2	3	5	7	<1	0

Source: GAO analysis of survey results.

Note: Numbers may not total because of rounding. Acreage data are not complete because some respondents did not report this information. In addition, depending on the status of the projects, some respondents reported the number of acres they planned to treat, while others reported the actual number of treated acres.

^aBecause land management projects may involve multiple treatment methods, the sum of decisions involving each treatment method exceeds the total of 1,415 decisions in our review. In addition to the treatment methods listed in the table, survey respondents selected “other” as a treatment method used for 95 decisions.

^bLand management projects may treat the same acreage more than once using different treatment methods.

^cOne project in our study was authorized under HFRA and involved a fuel reduction activity, but did not qualify as an “authorized hazardous fuel reduction project” under HFRA and therefore was not subject to the objection process. According to the survey respondent for this decision, it implemented HFRA provisions related to insect and disease infestation, and was subject to the notice, comment, and appeals process found in 36 C.F.R. part 215 because it included a timber sale activity. As a result, it is included in our count of decisions subject to appeal.

Appendix VII provides additional information on fuel reduction methods used and the number of appeals, objections and lawsuits by treatment method, for each Forest Service region.

Commercial timber sale contracts were the most frequent contract type used to implement the decisions included in our study, and were the type most often challenged through appeals and objections. Decisions using stewardship contracting, however, were challenged at a higher rate than the other contract types, considering both appeals and objections. Table 5 shows, for all the decisions included in our study, the number and

percentage of contract types, and acreage associated with, appeals, objections, and litigation.²⁹

Table 5: Number and Percentage of Appeals, Objections, Exemptions, and Litigation Associated with Various Contracting Types, Fiscal Years 2006 through 2008

Decisions	Timber sale contract	Service contract	Stewardship contract	Forest products permits^a
Total number of decisions^b	606	536	218	236
Decisions subject to appeal				
Number of decisions subject to appeal ^c	503	446	166	196
Number of decisions appealed	151	86	55	49
Percentage of appealable decisions appealed	30	19	33	25
Decisions subject to objection				
Number of decisions subject to objection	82	59	48	29
Number of decisions objected to	32	22	24	11
Percentage of decisions objected to	39	37	50	38
Exempt decisions				
Number of decisions exempt from appeal and objection	21	31	4	11
Percentage of decisions exempt from appeal and objection	3	6	2	5
Litigation				
Number of decisions litigated	22	13	5	9
Percentage of decisions litigated	4	2	2	4

Source: GAO analysis of survey results.

Note: We did not collect acreage information by contract type.

^aForest products permits are often issued for such purposes as Christmas tree cutting and firewood gathering.

²⁹For 32 of the decisions included in our study, the survey respondents did not provide information on the contract type.

^bA total of 1,085 decisions also included the use of Forest Service personnel to carry out fuel reduction activities. In addition to the contract types listed in the table, survey respondents selected “other” as a contract method used for 75 decisions. Because land management projects may involve multiple contracts and may also use agency personnel in addition to contracts, the sum of decisions involving each contracting type exceeds the total of 1,415 decisions in our review.

^cOne project in our study was authorized under HFRA and involved a fuel reduction activity, but did not qualify as an “authorized hazardous fuel reduction project” under HFRA and therefore was not subject to the objection process. According to the survey respondent for this decision, it implemented HFRA provisions related to insect and disease infestation, and was subject to the notice, comment, and appeals process found in 36 C.F.R. part 215 because it included a timber sale activity. As a result, it is included in our count of decisions subject to appeal.

Appendix VIII provides additional information on the contracting methods used for decisions included in our study and the appeal, objection, and litigation rates for each Forest Service region.

Decisions Involving Fuel Reduction Activities in the Wildland-Urban Interface and Inventoried Roadless Areas; the Number of Appeals, Objections, and Lawsuits on Those Decisions; and the Associated Acreage

Of the 1,415 decisions in our review, respondents identified 954 decisions that included activities in the wildland-urban interface and 169 decisions that included activities in inventoried roadless areas. Both types of decision were appealed at about the same rate, while decisions involving inventoried roadless areas were objected to at a slightly higher rate than those involving the wildland-urban interface. Table 6 shows, for both wildland-urban interface and inventoried roadless areas, the number and percentage of, and acreage associated with, appeals, objections, and litigation.

Table 6: Appeals, Objections, Exemptions, and Litigation of Decisions with Fuel Reduction Activities in the Wildland-Urban Interface and Inventoried Roadless Areas, and Associated Acreage, Fiscal Years 2006 through 2008

(Acres in thousands)

Decisions	Wildland-urban interface	Inventoried roadless areas
Total number of decisions	954	169
Total acreage	4,062	748
Appeals		
Decisions subject to appeal	772	138
Number of decisions appealed	140	26
Percentage of appealable decisions appealed	18	19
Acreage subject to appeal	2,764	709
Acreage appealed	335	26
Percentage of appealable acreage appealed	12	4
Objections		
Decisions subject to objection	113	22
Number of decisions objected to	45	11
Percentage of decisions objected to	40	50
Acreage subject to objection	1,249	36
Acreage objected to	159	14
Percentage of acreage objected to	13	39
Exempt decisions		
Number of decisions exempt from appeal and objection	69	6
Percentage of decisions exempt from appeal and objection	7	4
Acreage exempt from appeal and objection	50	5
Percentage of acreage exempt from appeal and objection	1	1
Litigation		
Number of decisions litigated	13	4
Percentage of decisions litigated	1	2
Acreage litigated	48	1
Percentage of acreage litigated	1	<1

Source: GAO analysis of survey results.

Note: Numbers may not total due to rounding. Acreage data are not complete because some respondents did not report this information. In addition, depending on the status of the projects, some respondents reported the number of acres they planned to treat, while others reported the actual number of treated acres.

Appendix IX provides information on the number of decisions with fuel reduction activities in the wildland-urban interface and the number of appeals, objections, and lawsuits for such decisions in each Forest Service region; this appendix also contains information on the various definitions used by field managers in responding to our survey.

Regarding fuel reduction activities in inventoried roadless areas, the majority of decisions in our study involved no road construction in the roadless area—which is a primary concern related to hazardous fuel reduction activities in roadless areas. About 10 percent included temporary road construction or other road construction activity, with one decision involving the construction of a permanent road in an inventoried roadless area. Appendix IX provides information on the number of decisions with fuel reduction activities in inventoried roadless areas and the number of appeals, objections, and lawsuits for such decisions in each Forest Service region.

Concluding Observations

Much has changed since we last reported on appeals and litigation of fuel reduction activities 7 years ago. One of the most significant changes to the process has been the passage of HFRA, which has provided a new approach for public challenges of fuel reduction projects by allowing the opportunity to formally object to decisions before they become final, rather than waiting to file appeals until after the decisions are made. Although the passage of HFRA was seen as an important new tool for streamlining fuel reduction decisions, our review indicates that the impact of the act appears to be limited. Most notably, fuel reduction decisions that used HFRA authority represented less than 10 percent of decisions signed during fiscal years 2006 through 2008. As a result, despite the opportunities HFRA introduced for a new approach to the administrative review process, in practice most decisions remained subject to the Forest Service's traditional postdecisional appeals process. In addition, although the agency's expectation was that HFRA would reduce litigation of fuel reduction decisions, our review shows that HFRA and non-HFRA decisions were litigated at about the same rate of 2 percent.

Another area of ongoing change is the dispute over the Forest Service's ability to exempt categorically excluded decisions from appeal. Although most of these decisions were subject to appeal during the years we

examined, the Supreme Court's 2009 ruling means that the regulation exempting categorically excluded decisions from appeal is once again in effect. However, two factors suggest ongoing uncertainty about this issue. First, the Supreme Court's ruling was made on procedural grounds rather than on the merits of the case—meaning that the court did not rule on whether the regulation is consistent with the Appeals Reform Act, allowing for the possibility of future challenges to the regulation. Second, even though the regulation survived the recent lawsuit, the Forest Service is considering changes to it in light of, among other things, the litigation it has engendered. Thus, the ultimate fate of the regulation—and the public's ability to appeal categorically excluded decisions—remains uncertain.

Agency Comments and Our Evaluation

We provided a draft of this report to the Forest Service for comment. The Forest Service did not provide comments, although it did provide technical corrections which we incorporated as appropriate.

We are sending copies of this report to the Secretary of Agriculture; the Chief of the Forest Service; appropriate congressional committees; and other interested parties. The report also will be available at no charge on the GAO Web site at <http://www.gao.gov>.

If you or your staff members have questions about this report, please contact me at (202) 512-3841 or mittala@gao.gov. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report. Key contributors to this report are listed in appendix XIII.



Anu K. Mittal
Director, Natural Resources and Environment

Appendix I: Objectives, Scope, and Methodology

We examined (1) the number and type of Forest Service decisions involving hazardous fuel reduction activities signed in fiscal years 2006 through 2008; (2) the number of these decisions that were objected to, appealed, or litigated, and the acreage associated with those decisions; (3) the outcomes of these objections, appeals, and lawsuits, including whether they were processed within prescribed time frames, and the identities of the objectors, appellants, and plaintiffs; (4) the treatment methods and contract types associated with fuel reduction decisions, and how frequently the different methods and types were objected to, appealed, and litigated; and (5) the number of decisions involving hazardous fuel reduction activities in the wildland-urban interface (WUI) and inventoried roadless areas (IRA), and how frequently these decisions were objected to, appealed, and litigated. To address our objectives, we implemented a nationwide, Web-based survey of Forest Service officials, to collect information about all fuel reduction decisions signed in fiscal years 2006 through 2008 (See appendix XII for a copy of the survey). We supplemented the survey with a semistructured interview of officials in all nine Forest Service regions to gather additional details about time frames, outcomes and identities related to appeals and litigation of fuel reduction decisions. Details about this process are described below.

To identify Forest Service decisions involving hazardous fuel reduction activities signed in fiscal years 2006 through 2008, we asked the agency's Ecosystem Management Coordinator to query a Forest Service database designed to track decision planning, appeals, and litigation for all Forest Service decisions—the Planning, Appeals, and Litigation System (PALS). This official queried the PALS database using the following criteria: (1) decisions signed in fiscal years 2006 through 2008, and (2) decisions that included fuels management as a purpose and/or one or more fuel treatment activities. This initial query identified 1,437 decisions in 108 national forest system units.

Because PALS was not designed to include all information we sought as part of our review—including information on the number of acres treated, treatment methods and contract types used, and decisions involving activities in the wildland-urban interface or in inventoried roadless areas—we determined that a nationwide survey would be necessary. We began our survey effort by ensuring that we had identified the correct universe of fuel reduction decisions. After reviewing the list of fuel reduction decisions from PALS and correcting for any obvious duplication and other errors, we sent a list of each national forest's fuel reduction decisions to the corresponding forest supervisor's office. We asked the supervisor or cognizant official to verify the accuracy of our list, removing any decisions

that did not meet our criteria (i.e., that were not signed in fiscal years 2006 through 2008, or that did not involve any hazardous fuel reduction activities), and adding decisions that met our criteria but did not appear in PALS. At this time, we also asked the supervisor or cognizant official to identify Forest Service employees most knowledgeable about these decisions. A total of 1,415 decisions, issued by 108 national forests, were determined to fit our criteria. We gave recipients 3 weeks to respond to our request for information and granted extensions as needed. We obtained a 100 percent response rate from the national forests.

To determine the characteristics of each fuel reduction decision, we subsequently administered a Web-based survey to those Forest Service employees identified by each forest supervisor or cognizant official as most knowledgeable about the decisions at all 108 national forests that issued decisions with hazardous fuel reduction activities in fiscal years 2006 through 2008. Appendix XII contains a copy of the survey used to gather these data. The survey asked respondents to provide information about each of the decisions, including the type of environmental analysis used, acres involved, treatment methods and contract types used, the extent to which the decisions included activities in the wildland-urban interface and inventoried roadless areas, and detailed information about the outcomes of those decisions subject to the predecisional objection process.

The Forest Service does not have a uniform definition of a hazardous fuel reduction activity, a fact that could affect the information that forest managers reported to us. Many activities have the practical effect of reducing fuels, but their stated purpose may be for something other than, or in addition to, fuel reduction. For example, the cutting and gathering of firewood or forest products to provide a product to the public may have the additional benefit of reducing hazardous fuels. Some forest managers may have included such projects among the decisions they reported in their responses to our survey, while other forest managers with similar decisions may not have included them.

Similarly, there are a number of limitations to the acreage data. The data reported by forest managers include a mixture of planned, estimated, and actual treatment acres for decisions included in our review. In our survey, we did not limit responses to acres actually treated because once a decision is made and documented, there are many reasons that activities covered by the decision may be delayed or not implemented, including availability of funding or personnel, weather conditions, and administrative appeals or litigation. In addition, national forests may have

submitted more than one decision with activities on the same area of land, or may have planned to use a series of different treatments on the same land. Therefore, the 10.5 million acres covered by decisions in our review may include overlapping acreage.

Because this was not a sample survey, there are no sampling errors. However, the practical difficulties of conducting any survey may introduce errors, commonly referred to as nonsampling errors. For example, differences in how a particular question is interpreted, in the sources of information that are available to respondents, or in how the data are entered into a database or were analyzed can introduce unwanted variability into the survey results. We took steps in the development of the survey, the data collection, and data analysis to minimize these nonsampling errors. For example, prior to developing the data collection instruments, we met with Forest Service personnel at the headquarters, regional, and national forest levels to discuss the Forest Service decision-making, appeal, objection, and litigation processes. We also reviewed current policies, legislation, and court cases that are relevant to our questions and the analysis of the survey responses. Survey specialists designed the questionnaire in conjunction with GAO staff with subject matter expertise. The draft survey was then pretested with officials from four national forests in four different regions to ensure that the questions were relevant, clearly stated, and easy to comprehend.

Upon receiving survey responses, we verified the accuracy of 5 percent of the surveys by comparing the responses to three survey questions against the decision documents used to complete the surveys, which were provided by respondents at our request. Using this approach, we verified 70 randomly selected decisions. Discrepancies between the survey responses and our data verification were discussed and resolved with the responsible forest official. In addition, we conducted follow-up to clarify ambiguous or incomplete responses that were identified through an internal logic test of all submitted responses. Through our data verification process, we determined that the data submitted were generally reliable.

To gather specific details about the outcomes of appeals and litigation, we conducted semistructured interviews with regional appeals and litigation officials in each of the Forest Service's nine regions. The semistructured interviews were used to gather information about each of the decisions that were appealed or litigated, including related dates, status and outcomes of administrative and court decisions, and the identities of the appellants and litigants. Information collected through these semistructured interviews was also verified for a randomly selected

sample of decisions. We verified the accuracy of about 10 percent of the appealed decisions and about 50 percent of the litigated decisions by comparing the information provided in response to several interview questions against the administrative and court decision documents provided to us by interviewees at our request. Any discrepancies between the interview responses and the documents provided were discussed and resolved with the responsible regional official. Through our data verification process, we determined that the data gathered during the semistructured interviews were generally reliable.

There are some limitations to the data we gathered. As with any survey, the information obtained from the national forests was self-reported, and we were not able to ensure that all decisions meeting our criteria were identified. In particular, we had no way to determine whether forests were fully reporting their hazardous fuel reduction activities. To get some indication of the completeness and accuracy of the data provided by Forest Service, we contacted several interest groups that, according to our data collection efforts, often appealed and objected to decisions or determinations. We asked these groups to verify the data pertaining to their appeals, objections, and litigation of Forest Service fiscal year 2006 through 2008 fuel reduction decisions and to identify any missing data. The groups generally agreed that the data provided by the agency were complete and accurate. In addition, during these interviews, we asked the groups for their perspectives on the administrative process for challenging decisions, including the objection process authorized under the Healthy Forests Restoration Act. The interviewees' comments and perspectives are incorporated in this report.

We conducted our work from October 2008 through February 2010, in accordance with all sections of GAO's Quality Assurance Framework that are relevant to our objectives. The framework requires that we plan and perform the engagement to obtain sufficient and appropriate evidence to meet our stated objectives and to discuss any limitations in our work. We believe that the information and data obtained, and the analysis conducted, provide a reasonable basis for any findings and conclusions in this product.

Appendix II: Number of Fuel Reduction Decisions and Associated Acreage, by Forest Service Region

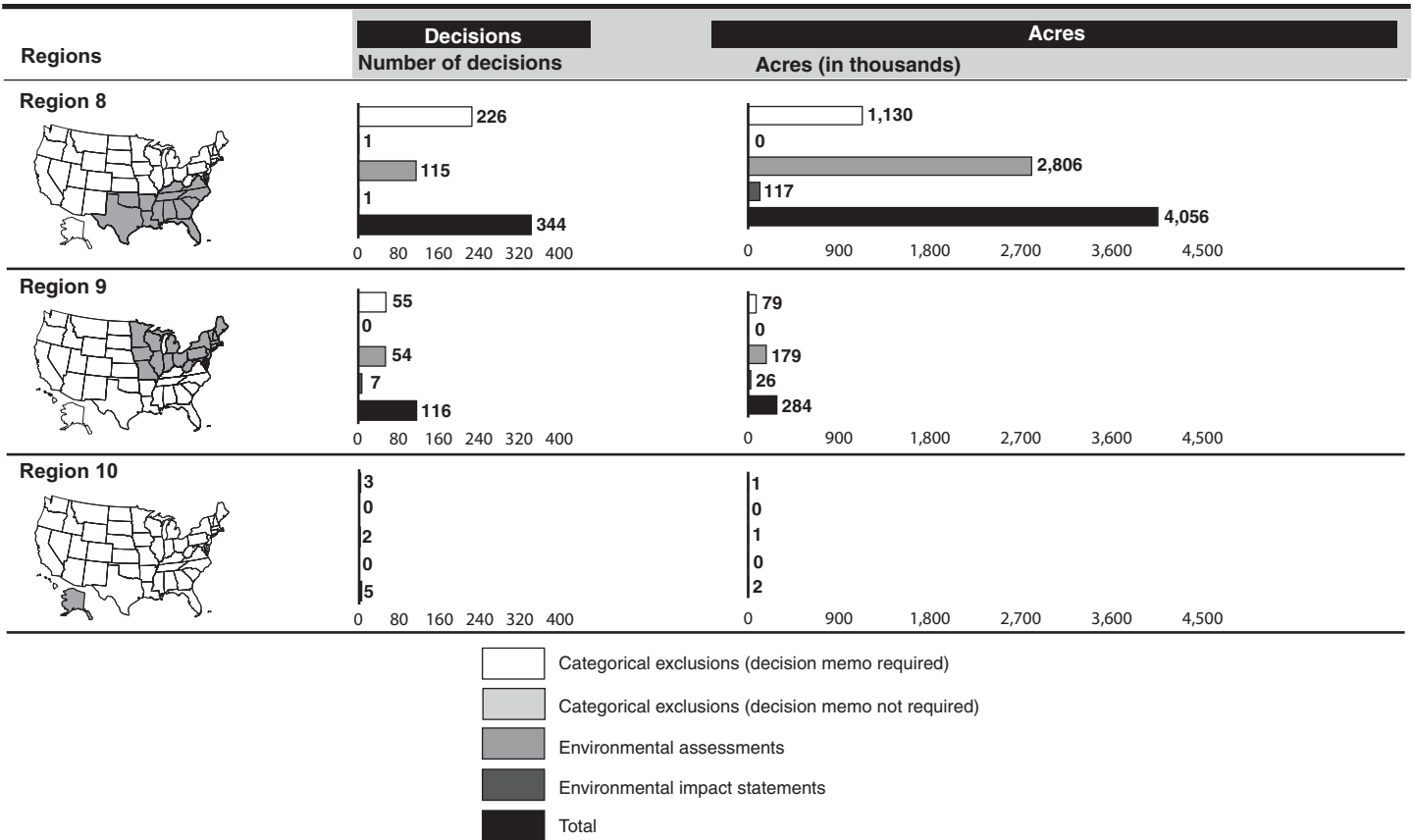
Figure 2 shows, for each of the Forest Service's nine regions, the number of fuel reduction decisions and the total associated acreage. As shown, the Southern Region (Region 8) had the largest number of decisions and the largest acreage, while the Alaska Region (Region 10) had the fewest decisions and the smallest acreage.

**Appendix II: Number of Fuel Reduction
Decisions and Associated Acreage, by Forest
Service Region**

Figure 2: Number of Fuel Reduction Decisions and Associated Acreage, by Forest Service Region



Appendix II: Number of Fuel Reduction Decisions and Associated Acreage, by Forest Service Region



Source: GAO analysis of survey results.





Note: In Region 8, the decisions by decision type and acres do not match the sum for the total because for one decision, the respondent indicated that the decision did not fall within any of our survey selection categories. Also, acreage data are not complete because some respondents did not report this information. In addition, depending on the status of the projects, some respondents reported the number of acres they planned to treat, while others reported the actual number of treated acres.

Appendix III: Number of Appeals, Objections, and Lawsuits of Fuel Reduction Decisions, by Forest Service Region





Figure 3 shows, for each of the Forest Service's regions, information on appeals, objections, and litigation of fuel reduction decisions, including the total number of appeals, objections, and litigation and the percentage of decisions appealed, objected to, and litigated. The Southern Region (Region 8) had the highest combined total of decisions subject to appeal and objection; however, decisions in the Northern Region (Region 1) were challenged at the highest rate, considering both appeals and objections.

Appendix III: Number of Appeals, Objections, and Lawsuits of Fuel Reduction Decisions, by Forest Service Region


Figure 3: Number of Decisions Subject to Appeal and Objection, and the Number and Frequency of Appeals, Objections, Exemptions, and Litigation, by Forest Service Region

Regions	Number of decisions		
	Appeals	Objections	Exempt/Litigated
Region 1			
			
Subject to appeal	112		
Appealed	40		
Percent appealed	36		
Subject to objection		15	
Objected to		13	
Percent objected to		87	
Exempt			5
Percent exempt			4
Litigated			11
Percent litigated			8
Total number of decisions	132		
Region 2			
			
Subject to appeal	122		
Appealed	22		
Percent appealed	18		
Subject to objection		21	
Objected to		6	
Percent objected to		29	
Exempt			8
Percent exempt			5
Litigated			0
Percent litigated			0
Total number of decisions	151		
Region 3			
			
Subject to appeal	66		
Appealed	7		
Percent appealed	11		
Subject to objection		8	
Objected to		3	
Percent objected to		38	
Exempt			5
Percent exempt			6
Litigated			0
Percent litigated			0
Total number of decisions	79		
Region 4			
			
Subject to appeal	137		
Appealed	37		
Percent appealed	27		
Subject to objection		15	
Objected to		7	
Percent objected to		47	
Exempt			5
Percent exempt			3
Litigated			6
Percent litigated			4
Total number of decisions	157		

Appendix III: Number of Appeals, Objections, and Lawsuits of Fuel Reduction Decisions, by Forest Service Region

Regions	Number of decisions		
	Appeals	Objections	Exempt/Litigated
Region 5 	Subject to appeal 212 Appealed 35 Percent appealed 17	Subject to objection 16 Objected to 8 Percent objected to 50	Exempt 23 Percent exempt 9 Litigated 5 Percent litigated 2
Total number of decisions	251		
Region 6 	Subject to appeal 139 Appealed 21 Percent appealed 15	Subject to objection 19 Objected to 10 Percent objected to 53	Exempt 22 Percent exempt 12 Litigated 3 Percent litigated 2
Total number of decisions	180		
Region 8 	Subject to appeal 301 Appealed 31 Percent appealed 10	Subject to objection 16 Objected to 1 Percent objected to 6	Exempt 27 Percent exempt 8 Litigated 1 Percent litigated 0
Total number of decisions	344		
Region 9 	Subject to appeal 100 Appealed 24 Percent appealed 24	Subject to objection 9 Objected to 1 Percent objected to 11	Exempt 7 Percent exempt 6 Litigated 3 Percent litigated 3
Total number of decisions	116		

**Appendix III: Number of Appeals, Objections,
and Lawsuits of Fuel Reduction Decisions, by
Forest Service Region**

Regions	Number of decisions		
	Appeals	Objections	Exempt/Litigated
Region 10			
			
Subject to appeal	2		
Appealed	0		
Percent appealed	0		
Subject to objection		2	
Objected to		0	
Percent objected to		0	
Exempt			1
Percent exempt			20
Litigated			0
Percent litigated			0
Total number of decisions	5		


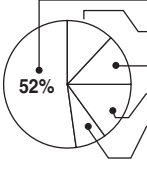

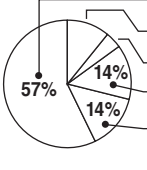

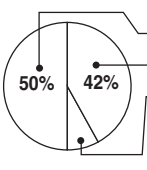

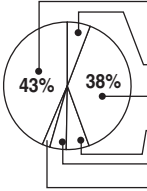

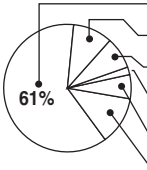

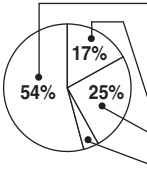
Source: GAO analysis of survey and interview results.

Appendix IV: Appeal Outcomes for Fuel Reduction Decisions, by Forest Service Region


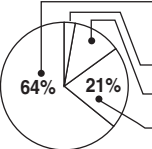

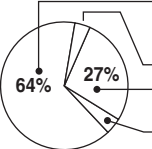

Figure 4 shows, for each Forest Service region, the outcomes of appeals filed on fuel reduction decisions within the region. While six of the eight regions reporting appeal activity allowed the majority of appealed decisions to proceed without changes, the Southwestern Region (Region 3) had no appealed decisions that were allowed to proceed without changes and the highest rate of reversed decisions.

Appendix IV: Appeal Outcomes for Fuel Reduction Decisions, by Forest Service Region

Figure 4: Outcomes of Appeals of Fuel Reduction Decisions, by Forest Service Region

Regions	Percent	Number of appeal outcomes						
		Affirmed with no change	Affirmed with instructions	Reversed	Dismissed without review	Resolved informally; appeal withdrawn	Resolved informally; decision withdrawn	
Region 1  Total number of appeals <u>60</u>		52% Affirmed with no change	31	7	8	9	5	0
Region 2  Total number of appeals <u>28</u>		57% Affirmed with no change	16	3	1	4	4	0
Region 3  Total number of appeals <u>12</u>		0% Affirmed with no change	0	6	5	1	0	0
Region 4  Total number of appeals <u>47</u>		43% Affirmed with no change	20	0	3	18	3	2
Region 5  Total number of appeals <u>49</u>		61% Affirmed with no change	30	6	4	1	3	5
Region 6  Total number of appeals <u>24</u>		54% Affirmed with no change	13	0	0	4	6	1

Appendix IV: Appeal Outcomes for Fuel Reduction Decisions, by Forest Service Region

Regions	Percent	Number of appeal outcomes					
		Affirmed with no change	Affirmed with instructions	Reversed	Dismissed without review	Resolved informally; appeal withdrawn	Resolved informally; decision withdrawn
Region 8 		64% Affirmed with no change	21				
		0% Affirmed with instructions	0				
		3% Reversed		1			
		12% Dismissed without review			4		
		21% Resolved informally/decision withdrawn				7	
Total number of appeals	33	0% Resolved informally/appeal withdrawn					0
Region 9 		64% Affirmed with no change	29				
		0% Affirmed with instructions	0				
		4% Reversed		2			
		27% Dismissed without review			12		
		4% Resolved informally/decision withdrawn				2	
Total number of appeals	45	0% Resolved informally/appeal withdrawn					0
Region 10 		-% Affirmed with no change	0				
		-% Affirmed with instructions	0				
		-% Reversed		0			
		-% Dismissed without review			0		
		-% Resolved informally/decision withdrawn				0	
Total number of appeals	0	-% Resolved informally/appeal withdrawn					0

Source: GAO analysis of interview results.







Note: Numbers may not total because of rounding.

Appendix V: Litigation Outcomes for Fuel Reduction Decisions, by Forest Service Region




Figure 5 shows, for each Forest Service region, the outcomes of litigation filed on fuel reduction decisions within the region. Six of the nine regions experienced litigation during the period covered by our survey. The Northern Region (Region 1) had the highest number of decisions judicially challenged as well as the greatest number of ongoing lawsuits.

Appendix V: Litigation Outcomes for Fuel Reduction Decisions, by Forest Service Region

Figure 5: Outcomes of Litigation of Fuel Reduction Decisions, by Forest Service Region

Regions	Number of litigation outcomes			
	Won by Forest Service	Won by plaintiff	Settled	Continuing
Region 1 	3			
		4		
			1	
				3
Total number of litigated decisions	11			
Region 2 	0			
		0		
			0	
				0
Total number of litigated decisions	0			
Region 3 	0			
		0		
			0	
				0
Total number of litigated decisions	0			
Region 4 	4			
		0		
			1	
				1
Total number of litigated decisions	6			
Region 5 	1			
		3		
			0	
				1
Total number of litigated decisions	5			
Region 6 	1			
		0		
			1	
				1
Total number of litigated decisions	3			

Appendix V: Litigation Outcomes for Fuel Reduction Decisions, by Forest Service Region

Regions	Number of litigation outcomes			
	Won by Forest Service	Won by plaintiff	Settled	Continuing
Region 8 	1	0	0	0
Total number of litigated decisions <u>1</u>				0
Region 9 	0	1	0	0
Total number of litigated decisions <u>3</u>				2
Region 10 	0	0	0	0
Total number of litigated decisions <u>0</u>				0

Source: GAO analysis of interview results.

Appendix VI: List of Appellants, Objectors and Litigants, by Forest Service Region

Tables 7, 8, and 9 list, by Forest Service region, the appellants, objectors, and litigants of fuel reduction decisions. We list the identities of organizations filing appeals, objections, and litigation, but summarize data on individuals to protect their privacy. As shown, organizations were most active in the Northern Region (Region 1) for appeals, objections, and litigation. Individuals were likewise most active in the Northern Region for objections, but were most active in the Eastern Region (Region 9) for appeals and litigation.

Table 7: Appellants and Number of Appeals Filed, by Forest Service Region, Fiscal Years 2006 through 2008

Organization filing appeals	Number of appeals by region										Total
	1	2	3	4	5	6	8	9	10		
1 Alliance for the Wild Rockies	32			10							42
2 American Forest Resource Council					1	1					2
3 Attorney General, State of California					1						1
4 Bark						1					1
5 Biodiversity Conservation Alliance		11									11
6 California Forest Association					1						1
7 California Native Plants Society					1						1
8 Carson Forest Watch			1								1
9 Cascadia Wildlands Project						1					1
10 Center for Biological Diversity	1		3	1	1						6
11 Cherokee Forest Voices							3				3
12 Citizens Assisted Monitoring					1						1
13 Citizens for Better Forestry					2						2
14 Clinch Coalition							1				1
15 Colorado Wild		3									3
16 Conservation Congress					4						4
17 Defenders of Wildlife								1			1
18 Environmental Law & Policy Center								3			3
19 Environmental Protection Information Center					5						5
20 Ferry County Natural Resources Board						1					1
21 Forest Guardians			4								4
22 Forest Issues Group					4						4
23 Forest Legacy					1						1
24 Forest Service Employees for Environmental Ethics					1						1
25 Forests Forever					1						1

**Appendix VI: List of Appellants, Objectors
and Litigants, by Forest Service Region**

	Organization filing appeals	Number of appeals by region									Total
		1	2	3	4	5	6	8	9	10	
26	Friends of Boundary Waters Wilderness								1		1
27	Friends of the Clearwater	8					1				9
28	Friends of the Wild Swan	1									1
29	Greater Yellowstone Coalition				2						2
30	Habitat Education Center								3		3
31	Heartwood								9		9
32	Heartwood, Inc.							1			1
33	Hells Canyon Preservation Council						4				4
34	Idaho Conservation League	5			1						6
35	Idaho Sporting Congress	2			3						5
36	Indiana Forest Alliance								1		1
37	Institute for Regeneration Agro Forestry						1				1
38	John Muir Project of the Earth Island Institute					12					12
39	Keep the Sespe Wild Committee					1					1
40	Kentucky Heartwood							1			1
41	Kerncrest Audubon Society					1					1
42	Klamath Forest Alliance					3					3
43	Klamath-Siskiyou Wildlands Center					5	1				6
44	Kootenai Environmental Alliance	4									4
45	Lassen Forest Preservation Group					1					1
46	League of Wilderness Defenders BMBP						6				6
47	Leech Lake Band of Ojibwe								1		1
48	Los Padres Forest Watch					2					2
49	Minnesota Forest Industries, Inc.								1		1
50	Montanans for Multiple Use	1									1
51	Native Ecosystems Council	12			1						13
52	Native Forest Network	1									1
53	New Mexico Wilderness Alliance				1						1
54	Newton County Wildlife Association							1			1
55	Northwoods Wilderness Recovery								1		1
56	not documented, unknown				1			1			2
57	Oregon Natural Resources Council						2				2
58	Oregon Wild						10				10
59	Ouachita Watch League							10			10
60	Plumas Forest Project					5					5
61	Prairie Hills Audubon Society		4								4

**Appendix VI: List of Appellants, Objectors
and Litigants, by Forest Service Region**

Organization filing appeals	Number of appeals by region										Total
	1	2	3	4	5	6	8	9	10		
62 Protect Our Woods								1			1
63 Red Rock Forests				1							1
64 Santa Fe Forest Watch			2								2
65 Selkirk Conservation Alliance	4										4
66 Sequoia Forest Alliance					1						1
67 Sequoia Forest Keeper					1						1
68 Sierra Club					13	6	6	3			28
69 Sierra Forest Legacy					7						7
70 Sierra Nevada Forest Protection Campaign					4						4
71 Southern Appalachian Biodiversity Project							3				3
72 Swan View Coalition	1										1
73 The Clinch Coalition							1				1
74 The Ecology Center	6										6
75 The Lands Council	22					1					23
76 The Wilderness Society								1			1
77 Tree of Life Alliance								1			1
78 Tule River Conservancy					1						1
79 Utah Environmental Congress				19							19
80 Virginia Forest Watch							5				5
81 Western Watersheds Project		1									1
82 Wild Connections		1									1
83 Wild South							5				5
84 Wild Virginia							1				1
85 Wild Watershed			5								5
86 WildSouth							1				1
87 WildWest Institute	23			12							35
Total for organizational appellants	123	20	16	51	81	36	40	27	0	394	
Total for individual appellants	6	13	7	6	5	1	8	33	0	79	
Total for all appellants	129	33	23	57	86	37	48	60	0	473	

Source: GAO analysis of interview results.

Note: A decision can be appealed multiple times, and multiple appellants can be parties to an appeal. This table provides a list of the appellants who appeared in the 298 appeals of the 217 appealed decisions signed in fiscal years 2006 through 2008.

**Appendix VI: List of Appellants, Objectors
and Litigants, by Forest Service Region**

Table 8: Objectors and Number of Objections Filed, by Forest Service Region, Fiscal Years 2006 through 2008

	Organization filing objections	Number of objections by region										Total
		1	2	3	4	5	6	8	9	10		
1	Alliance For the Wild Rockies	3										3
2	American Forest Resource Council					1						1
3	Bark						1					1
4	Biodiversity Conservation Alliance		2									2
5	Center for Biological Diversity			3	1	3						7
6	Colorado Wild		2									2
7	Environmental Protection Information Center					1						1
8	Friends of the Bitterroot , Inc	1										1
9	Friends of the Wild Swan	1										1
10	Great Old Broads for Wilderness		1									1
11	Idaho Conservation League	5			3							8
12	Idaho Sporting Congress				1							1
13	Idaho Transportation Department				1							1
14	John Muir Project of Earth Island Institute				1	3						4
15	Klamath Forest Alliance					2						2
16	Klamath Riverkeeper					1						1
17	Klamath-Siskiyou Wildlands Center					2	2					4
18	Kootenai Environmental Alliance	3										3
19	League of Wilderness Defenders-Blue Mountains Biodiversity Project						1					1
20	Montana Logging Association	1										1
21	Montana Wood Products Association	1										1
22	Native Ecosystems Council	1										1
23	Oregon Natural Resources Council						4					4
24	Oregon Wild						3					3
25	Pacific Rivers Council and American Wildlands	1										1
26	Rocky Mountain Log Homes	1										1
27	Selkirk Conservation Alliance	1										1
28	Sierra Club		1				3					4
29	Sierra Nevada Forest Protection Campaign				1							1
30	Sinapu		1									1
31	South Carolina Native Plant Society							1				1
32	Southern Appalachian Biodiversity Project							1				1

**Appendix VI: List of Appellants, Objectors
and Litigants, by Forest Service Region**

	Organization filing objections	Number of objections by region								Total	
		1	2	3	4	5	6	8	9		10
33	The Lands Council	3									3
34	The Wilderness Society	2									2
35	Utah Environmental Congress				1						1
36	WildWest Institute	3			1						4
	Native Forest Network	1									1
	The Ecology Center	2									2
37	Wilderness Workshop		1								1
	Total for organizational objectors	30	8	3	10	13	14	2	0	0	80
	Total for individual objectors	28	3	0	3	2	4	0	1	0	41
	Total for all identified objectors	58	11	3	13	15	18	2	1	0	121

Source: GAO analysis of survey results.

Note: Proposed decisions can be the subject of multiple objections, and multiple objectors can be parties to an objection. This table provides a list of the objectors who appeared in the 101 objections filed on 49 proposed decisions that were signed in fiscal years 2006 through 2008.

Table 9: Plaintiffs and Number of Lawsuits Filed, by Forest Service Region, Fiscal Years 2006 through 2008

	Plaintiff	Number of lawsuits by region								Total	
		1	2	3	4	5	6	8	9		10
1	Alliance for the Wild Rockies	8			1						9
2	Bark						1				1
3	California Native Plant Society					1					1
4	Cascadia Wildlands						1				1
5	Citizens for Better Forestry					1					1
6	Conservation Congress					2					2
7	Earth Island Institute					3					3
8	Environmental Law & Policy Center								2		2
9	Friends of the Bitterroot, Inc	1									1
10	Friends of the Boundary Waters Wilderness								1		1
11	Habitat Education Center								2		2
12	Hell's Canyon Preservation Council						1				1
13	Klamath Forest Alliance					1					1
14	League of Wilderness Defenders - BMBP						1				1
15	Native Ecosystems Council	7									7

**Appendix VI: List of Appellants, Objectors
and Litigants, by Forest Service Region**

Plaintiff	Number of lawsuits by region									Total
	1	2	3	4	5	6	8	9	10	
16 Northeastern Minnesotans for Wilderness								1		1
17 Oregon Wild						1				1
18 Sequoia Forest Keeper					1					1
19 Sierra Club					1	1		1		3
20 Sierra Forest Legacy					1					1
21 The Lands Council	1									1
22 The Wilderness Society								1		1
23 Utah Environmental Congress				1						1
24 WildWest Institute	3			4						7
Total for organizational plaintiffs	20	0	0	6	11	6	0	8	0	51
Total for individual plaintiffs	1	0	0	0	1	0	1	2	0	5
Total for all plaintiffs	21	0	0	6	12	6	1	10	0	56

Source: GAO analysis of interview results.






Note: Multiple parties may serve as plaintiffs on a single lawsuit. This table provides a list of the plaintiffs who appeared in the 29 lawsuits filed on decisions signed in fiscal years 2006 through 2008.

Appendix VII: Fuel Reduction Treatment Methods and Number of Appeals, Objections, and Lawsuits, by Forest Service Region





Figure 6 shows, for each Forest Service region, the number of decisions using various fuel reduction treatment methods and the number and frequency of appeals, objections, and litigation by fuel reduction method. The rate at which treatment methods were used varied by region. For example, the Southern Region (Region 8) and the Eastern Region (Region 9) used prescribed burning more than any other treatment method, whereas the remaining regions used mechanical treatment the most. In addition, the Northern Region (Region 1) used commercial logging at a higher rate than any other region.

Appendix VII: Fuel Reduction Treatment Methods and Number of Appeals, Objections, and Lawsuits, by Forest Service Region

Figure 6: Number of Decisions Subject to Appeal and Objection, and the Number and Frequency of Appeals, Objections, Exemptions, and Litigation, by Treatment Method and Forest Service Region

Regions	Treatment method							Number of decisions									
	Prescribed burning	Mechanical treatment	Commercial logging	Construction of fuel breaks	Chemical/herbicide	Livestock grazing	Other method	Subject to appeal	Appealed	Percent appealed	Subject to objection	Objected to	Percent objected to	Exempt	Percent exempt	Litigated	Percent litigated
Region 1  Total number of decisions 132	■							86	30	35	13	11	85	3	2	11	8
		■						89	32	36	15	13	87	3	2	11	8
			■					79	34	43	15	13	87	3	2	10	8
				■				6	3	50	3	3	100	0	0	1	1
					■			4	3	75	0	0	-	0	0	2	2
						■		0	0	-	0	0	-	0	0	0	0
							■	12	5	42	2	2	100	1	1	1	1
Region 2  Total number of decisions 151	■							87	17	20	11	3	27	2	1	0	0
		■						109	22	20	18	4	22	8	5	0	0
			■					64	16	25	16	4	25	2	1	0	0
				■				32	10	31	8	2	25	0	0	0	0
					■			3	2	67	4	1	25	0	0	0	0
						■		2	1	50	2	1	50	0	0	0	0
							■	6	1	17	1	0	0	0	0	0	0
Region 3  Total number of decisions 79	■							54	7	13	8	3	38	2	3	0	0
		■						54	7	13	7	3	43	4	5	0	0
			■					10	4	40	5	2	40	0	0	0	0
				■				13	4	31	3	1	33	0	0	0	0
					■			1	0	0	0	0	-	0	0	0	0
						■		0	0	-	0	0	-	0	0	0	0
							■	8	2	25	0	0	-	1	1	0	0
Region 4  Total number of decisions 157	■							104	31	30	11	7	64	0	0	6	4
		■						104	25	24	14	7	50	3	2	4	3
			■					57	27	47	13	7	54	0	0	4	3
				■				13	7	54	5	2	40	0	0	0	0
					■			1	0	0	0	0	-	0	0	0	0
						■		0	0	-	0	0	-	2	1	0	0
							■	8	4	50	1	0	0	0	0	1	1
Region 5  Total number of decisions 251	■							173	31	18	14	7	50	7	3	5	2
		■						191	34	18	16	8	50	20	8	5	2
			■					96	30	31	8	4	50	2	1	5	2
				■				50	21	42	9	6	67	3	1	2	1
					■			6	5	83	0	0	-	0	0	1	<1
						■		2	0	0	0	0	-	0	0	0	0
							■	21	2	10	0	0	-	0	0	0	0

Appendix VII: Fuel Reduction Treatment Methods and Number of Appeals, Objections, and Lawsuits, by Forest Service Region

Regions	Treatment method							Number of decisions									
	Prescribed burning	Mechanical treatment	Commercial logging	Construction of fuel breaks	Chemical/herbicide	Livestock grazing	Other method	Subject to appeal	Appealed	Percent appealed	Subject to objection	Objected to	Percent objected to	Exempt	Percent exempt	Litigated	Percent litigated
Region 6 	■							105	20	19	17	9	53	10	6	2	1
		■						122	20	16	18	9	50	19	11	2	1
			■					84	21	25	18	9	50	6	3	3	2
				■				22	4	18	6	2	33	5	3	2	1
					■			2	1	50	0	0	-	0	0	0	0
						■		0	0	-	1	1	100	0	0	0	0
Total number of decisions 180								11	1	9	1	1	100	7	4	1	1
Region 8 	■							251	30	12	7	1	14	21	6	1	<1
		■						67	12	18	3	1	33	5	1	0	0
			■					94	15	16	13	1	8	2	<1	0	0
				■				58	9	16	4	0	0	3	1	1	<1
					■			28	6	21	2	0	0	0	0	0	0
						■		0	0	-	0	0	-	0	0	0	0
Total number of decisions 344								0	0	-	0	0	-	1	<1	0	0
Region 9 	■							80	21	26	5	0	0	4	3	2	2
		■						65	15	23	8	1	13	5	4	2	2
			■					62	15	24	8	1	13	4	3	3	3
				■				31	6	19	3	0	0	2	2	1	1
					■			5	1	20	1	0	0	0	0	0	0
						■		3	1	33	0	0	-	0	0	0	0
Total number of decisions 116								11	3	27	1	0	0	0	0	1	1
Region 10 	■							0	0	-	1	0	0	0	0	0	0
		■						2	0	0	2	0	0	1	20	0	0
			■					0	0	-	0	0	-	0	0	0	0
				■				0	0	-	0	0	-	0	0	0	0
					■			0	0	-	0	0	-	0	0	0	0
						■		0	0	-	0	0	-	0	0	0	0
Total number of decisions 5								1	0	0	1	0	0	0	0	0	0

Source: GAO analysis of survey results.






Notes: Hyphens represent zero divided by zero. Because decisions may involve multiple treatment methods, the sum of decisions involving each treatment method may exceed the total number of decisions for each region.

Appendix VIII: Contract Types and Number of Appeals, Objections, and Lawsuits, by Forest Service Region





Figure 7 shows, for each Forest Service region, the number of decisions using various contract types and the number and frequency of appeals, objections, and litigation by contract type. The use of different contract types varies among regions. The Eastern Region (Region 9) has the highest rate of commercial timber sale contract use compared with other regions, while the Rocky Mountain Region (Region 2) has the highest rate of stewardship contracting use.

Appendix VIII: Contract Types and Number of Appeals, Objections, and Lawsuits, by Forest Service Region

Figure 7: Number of Decisions Subject to Appeal and Objection, and the Number and Frequency of Appeals, Objections, Exemptions, and Litigation, by Contract Type and Forest Service Region

Regions	Contract type						Number of decisions										
	Commercial timber sale contract	Service contract	Stewardship contract	Forest service personnel/force account	Forest product permits	Other mechanism	Subject to appeal	Appealed	Percent appealed	Subject to objection	Objected to	Percent objected to	Exempt	Percent exempt	Litigated	Percent litigated	
Region 1 	■						63	28	44	10	9	90	3	2	7	5	
		■					24	8	33	4	2	50	1	1	4	3	
			■				23	13	57	8	7	88	0	0	4	3	
				■			68	21	31	8	6	75	4	3	9	7	
					■		7	4	57	2	1	50	0	0	2	2	
						■	5	1	20	1	1	100	0	0	0	0	
Total number of decisions	132																
Region 2 	■						59	15	25	17	4	24	1	1	0	0	
		■					70	14	20	15	4	27	3	2	0	0	
			■				25	8	32	12	4	33	1	1	0	0	
				■			94	17	18	12	3	25	5	3	0	0	
					■		36	11	31	12	4	33	1	1	0	0	
						■	11	4	36	3	1	33	1	1	0	0	
Total number of decisions	151																
Region 3 	■						14	5	36	3	2	67	1	1	0	0	
		■					25	3	12	3	2	67	1	1	0	0	
			■				3	2	67	5	2	40	1	1	0	0	
				■			52	5	10	6	2	33	2	3	0	0	
					■		24	5	21	4	1	25	2	3	0	0	
						■	11	3	27	1	0	0	1	1	0	0	
Total number of decisions	79																
Region 4 	■						54	28	52	11	5	45	0	0	5	3	
		■					45	9	20	5	3	60	0	0	2	1	
			■				9	5	56	3	2	67	0	0	0	0	
				■			116	30	26	14	7	50	3	2	6	4	
					■		23	6	26	3	1	33	0	0	2	1	
						■	10	2	20	2	0	0	3	2	0	0	
Total number of decisions	157																
Region 5 	■						87	27	31	10	4	40	4	2	5	2	
		■					117	25	21	10	4	40	10	4	4	2	
			■				46	17	37	4	2	50	1	<1	1	<1	
				■			167	24	14	13	5	38	18	7	4	2	
					■		41	10	24	5	3	60	2	1	3	1	
						■	5	0	0	2	2	100	1	<1	0	0	
Total number of decisions	251																

Appendix VIII: Contract Types and Number of Appeals, Objections, and Lawsuits, by Forest Service Region

Regions	Contract type						Number of decisions										
	Commercial timber sale contract	Service contract	Stewardship contract	Forest service personnel/force account	Forest product permits	Other mechanism	Subject to appeal	Appealed	Percent appealed	Subject to objection	Objected to	Percent objected to	Exempt	Percent exempt	Litigated	Percent litigated	
Region 6 	■						70	20	29	12	6	50	6	3	3	2	
		■					86	14	16	14	7	50	11	6	2	1	
			■				32	6	19	10	6	60	1	1	0	0	
				■			109	16	15	14	7	50	18	10	2	1	
					■		31	7	23	3	1	33	4	2	2	1	
						■	6	0	0	0	0	-	3	2	0	0	
Total number of decisions	180																
Region 8 	■						97	15	15	12	1	8	2	1	0	0	
		■					51	5	10	5	0	0	3	1	0	0	
			■				9	1	11	4	1	25	0	0	0	0	
				■			236	29	12	8	1	13	22	6	1	0	
					■		20	3	15	0	0	-	1	<1	0	0	
						■	2	0	0	0	0	-	1	<1	1	0	
Total number of decisions	344																
Region 9 	■						59	13	22	7	1	14	4	3	2	2	
		■					26	8	31	2	0	0	1	1	1	1	
			■				19	3	16	2	0	0	0	0	0	0	
				■			79	21	27	8	1	13	7	6	2	2	
					■		14	3	21	0	0	-	1	1	0	0	
						■	4	0	0	1	0	0	1	1	0	0	
Total number of decisions	116																
Region 10 	■						0	0	-	0	0	-	0	0	0	0	
		■					2	0	0	1	0	0	1	20	0	0	
			■				0	0	-	0	0	-	0	0	0	0	
				■			1	0	0	1	0	0	0	0	0	0	
					■		0	0	-	0	0	-	0	0	0	0	
						■	0	0	-	0	0	-	0	0	0	0	
Total number of decisions	5																

Source: GAO analysis of survey results.





Notes: Hyphens represent zero divided by zero. Because decisions may involve multiple contract types, the sum of decisions involving each type may exceed the total number of decisions for each region.

Appendix IX: Fuel Reduction Decisions in the Wildland-Urban Interface and Inventoried Roadless Areas, by Forest Service Region


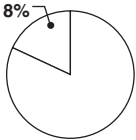

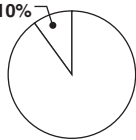

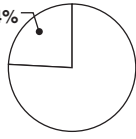

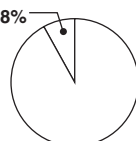
In this appendix, Figures 8 and 9 provide information about appeals, objections, and litigation of fuel reduction activities in the wildland-urban interface and in inventoried roadless areas. Figure 8 shows, for each Forest Service region, the number of decisions with fuel reduction activities in the wildland-urban interface and the number and frequency of appeals, objections, and litigation of such decisions by region. The Southern Region (Region 8) had the most decisions in the wildland-urban interface, while the Northern Region (Region 1) had the highest number of appeals and objections of such decisions, and the highest rate at which decisions were challenged, considering both appeals and objections.

Appendix IX: Fuel Reduction Decisions in the Wildland-Urban Interface and Inventoried Roadless Areas, by Forest Service Region


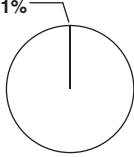
Figure 8: Number of Fuel Reduction Decisions in the Wildland-Urban Interface (WUI), and the Number and Frequency of Appeals, Objections, Exemptions, and Litigation, by Forest Service Region

Regions	Number of WUI decisions			Regional percentage of total WUI decisions nationwide
	Appeals	Objections	Exempt/Litigated	
Region 1				
	Subject to appeal	85		
	Appealed	31		
	Percent appealed	36		
	Subject to objection		14	
	Objected to		12	
	Percent objected to		86	
Total number of decisions 103	Exempt		4	
	Percent exempt		4	
	Litigated		8	
	Percent litigated		8	
Region 2				
	Subject to appeal	87		
	Appealed	17		
	Percent appealed	20		
	Subject to objection		18	
	Objected to		4	
	Percent objected to		22	
Total number of decisions 108	Exempt		3	
	Percent exempt		3	
	Litigated		0	
	Percent litigated		0	
Region 3				
	Subject to appeal	49		
	Appealed	5		
	Percent appealed	10		
	Subject to objection		8	
	Objected to		3	
	Percent objected to		38	
Total number of decisions 60	Exempt		3	
	Percent exempt		5	
	Litigated		0	
	Percent litigated		0	
Region 4				
	Subject to appeal	84		
	Appealed	22		
	Percent appealed	26		
	Subject to objection		15	
	Objected to		7	
	Percent objected to		47	
Total number of decisions 104	Exempt		5	
	Percent exempt		5	
	Litigated		2	
	Percent litigated		2	

**Appendix IX: Fuel Reduction Decisions in the
Wildland-Urban Interface and Inventoried
Roadless Areas, by Forest Service Region**

Regions	Number of WUI decisions			Regional percentage of total WUI decisions nationwide	
	Appeals	Objections	Exempt/Litigated		
Region 5  Total number of decisions 172	Subject to appeal	145			
	Appealed				21
	Percent appealed				14
	Subject to objection		14		
	Objected to	8			
	Percent objected to	57			
	Exempt				13
	Percent exempt		8		
	Litigated		2		
	Percent litigated		2		
Region 6  Total number of decisions 97	Subject to appeal	68			
	Appealed				9
	Percent appealed				13
	Subject to objection		18		
	Objected to	9			
	Percent objected to	50			
	Exempt				11
	Percent exempt		11		
	Litigated		0		
	Percent litigated		0		
Region 8  Total number of decisions 226	Subject to appeal	189			
	Appealed				22
	Percent appealed				12
	Subject to objection		15		
	Objected to	1			
	Percent objected to	7			
	Exempt				22
	Percent exempt		10		
	Litigated		1		
	Percent litigated		<1		
Region 9  Total number of decisions 81	Subject to appeal	65			
	Appealed				13
	Percent appealed				20
	Subject to objection		9		
	Objected to	1			
	Percent objected to	11			
	Exempt				7
	Percent exempt		9		
	Litigated		0		
	Percent litigated		0		

Appendix IX: Fuel Reduction Decisions in the Wildland-Urban Interface and Inventoried Roadless Areas, by Forest Service Region

Regions	Number of WUI decisions			Regional percentage of total WUI decisions nationwide	
	Appeals	Objections	Exempt/Litigated		
Region 10  Total number of decisions 3	Subject to appeal	0			
	Appealed	0			
	Percent appealed	0			
	Subject to objection		2		
	Objected to		0		
	Percent objected to		0		
	Exempt				1
	Percent exempt				33
	Litigated				0
	Percent litigated				0

Source: GAO analysis of survey results.

According to survey respondents, over half of these decisions (696) contained definitions of wildland-urban interface that were based on the definition provided in the January 4, 2001, *Federal Register* as refined by HFRA. HFRA Section 101 (16) defines wildland-urban interface as an area within or adjacent to a community that is identified as at risk in a community wildfire protection plan.¹ In addition, for areas for which a community wildfire protection plan is not in effect, the definition in HFRA includes areas (1) extending 1/2 mile from the boundary of an at-risk community, or (2) within 1 1/2 miles of the boundary of an at-risk community, including any land that has for example, a sustained steep slope, a geographic feature that could help when creating an effective

¹Under HFRA Section 101(1), an at-risk community is one that is an interface community as defined in the *Federal Register* notice of January 4, 2001 (66 FR 753), or a group of homes and other structures with basic infrastructure and services (such as utilities and collectively maintained transportation routes) in or adjacent to federal land; has conditions conducive to a large-scale wildland fire; and faces a significant threat to human life or property as a result of a wildland fire. HFRA defines a community wildfire protection plan as a plan that is developed primarily by state and local agencies in consultation with interested parties and federal land management agencies, and that identifies and prioritizes areas in and near a community for fuel reduction treatments and recommends the types of treatments to be used.

firebreak, or Condition Class 3 land,² or (3) is adjacent to an evacuation route.³ Further, while many additional survey respondents who did not select this definition provided their own definition of wildland-urban interface, we found that 36 such respondents had definitions very similar to that contained in HFRA.

Other respondents said they defined wildland-urban interface as it is referenced in their forests' National Forest Land Management Plans. Others said they used a combination of definitions from multiple sources. For example, in the Pacific Southwest Region, several wildland-urban interface definitions were based on both the *Federal Register* and their forests' National Forest Land Management Plans. Still others defined wildland-urban interface as an area within some distance from private land, or private lands with structures. The remaining respondents either said they did not have a definition for wildland-urban interface (14) or did not know the definition they used to identify the wildland-urban interface (49).


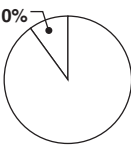



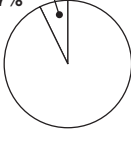

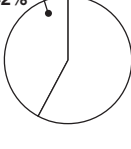
Figure 9 shows, for each Forest Service region, the number of decisions with fuel reduction activities in inventoried roadless areas and the number and frequency of appeals, objections, and litigation of such decisions by region. The Intermountain Region (Region 4) had the most decisions with activities occurring in inventoried roadless areas and also the highest number of appeals, objections, and cases litigated. However, the Pacific Northwest Region (Region 6) had the highest rate at which decisions were challenged, considering both appeals and objections.

²The term "condition class 3" with respect to an area of federal land refers to the condition class description developed by the Rocky Mountain Research Station in the report *Development of Coarse-Scale Spatial Data for Wildland Fire and Fuel Management*, GTR RMRS-87 (Fort Collins, Colorado, U.S. Department of Agriculture, Forest Service Rocky Mountain Research Station: April 2002).


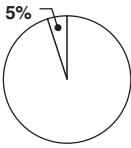

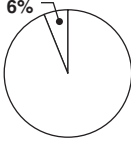

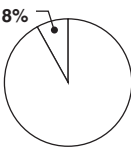

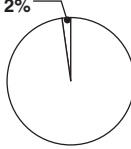
³There is no distance limitation for evacuation routes.

**Appendix IX: Fuel Reduction Decisions in the
Wildland-Urban Interface and Inventoried
Roadless Areas, by Forest Service Region**


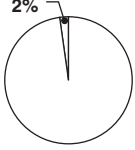
Figure 9: Number of Fuel Reduction Decisions in Inventoried Roadless Areas (IRA), and the Number and Frequency of Appeals, Objections, Exemptions, and Litigation, by Forest Service Region

Regions	Number of IRA decisions			Regional percentage of total IRA decisions nationwide
	Appeals	Objections	Exempt/Litigated	
Region 1				
	Subject to appeal	13		
	Appealed	3		
	Percent appealed	23		
	Subject to objection		4	
	Objected to		3	
	Percent objected to		75	
	Exempt		0	
	Percent exempt		0	
	Litigated		1	
	Percent litigated		6	
Total number of decisions				
Region 2				
	Subject to appeal	24		
	Appealed	5		
	Percent appealed	21		
	Subject to objection		6	
	Objected to		1	
	Percent objected to		17	
	Exempt		0	
	Percent exempt		0	
	Litigated		0	
	Percent litigated		0	
Total number of decisions				
Region 3				
	Subject to appeal	11		
	Appealed	2		
	Percent appealed	18		
	Subject to objection		1	
	Objected to		0	
	Percent objected to		0	
	Exempt		0	
	Percent exempt		0	
	Litigated		0	
	Percent litigated		0	
Total number of decisions				
Region 4				
	Subject to appeal	61		
	Appealed	10		
	Percent appealed	16		
	Subject to objection		8	
	Objected to		5	
	Percent objected to		63	
	Exempt		2	
	Percent exempt		3	
	Litigated		3	
	Percent litigated		4	
Total number of decisions				

**Appendix IX: Fuel Reduction Decisions in the
Wildland-Urban Interface and Inventoried
Roadless Areas, by Forest Service Region**

Regions	Number of IRA decisions			Regional percentage of total IRA decisions nationwide	
	Appeals	Objections	Exempt/Litigated		
Region 5  Total number of decisions 9	Subject to appeal	9			
	Appealed	3			
	Percent appealed	33			
	Subject to objection		0		
	Objected to		0		
	Percent objected to		0		
	Exempt				0
	Percent exempt				0
	Litigated				0
	Percent litigated				0
Region 6  Total number of decisions 10	Subject to appeal	3			
	Appealed	1			
	Percent appealed	33			
	Subject to objection		2		
	Objected to		2		
	Percent objected to		100		
	Exempt				5
	Percent exempt				30
	Litigated				0
	Percent litigated				0
Region 8  Total number of decisions 13	Subject to appeal	12			
	Appealed	2			
	Percent appealed	17			
	Subject to objection		0		
	Objected to		0		
	Percent objected to		0		
	Exempt				1
	Percent exempt				8
	Litigated				0
	Percent litigated				0
Region 9  Total number of decisions 4	Subject to appeal	4			
	Appealed	0			
	Percent appealed	0			
	Subject to objection		0		
	Objected to		0		
	Percent objected to		0		
	Exempt				0
	Percent exempt				0
	Litigated				0
	Percent litigated				0

**Appendix IX: Fuel Reduction Decisions in the
Wildland-Urban Interface and Inventoried
Roadless Areas, by Forest Service Region**

Regions	Number of IRA decisions			Regional percentage of total IRA decisions nationwide	
	Appeals	Objections	Exempt/Litigated		
Region 10 	Subject to appeal	1			
	Appealed	0			
	Percent appealed	0			
	Subject to objection		1		
	Objected to		0		
	Percent objected to		0		
	Exempt				1
	Percent exempt				33
	Litigated				0
	Percent litigated				0
Total number of decisions	3				

Source: GAO analysis of survey results.

Appendix X: Types of Categorical Exclusions Authorized by the Forest Service and Represented in the GAO Survey

A categorical exclusion (CE) is a category of actions for which neither an environmental assessment nor an environmental impact statement is required because the agency has determined that it does not individually or cumulatively have a significant effect on the quality of the human environment.¹ Agencies develop a list of categorical exclusions specific to their operations when they develop or revise their implementing procedures for the National Environmental Policy Act (NEPA), in accordance with the Council on Environmental Quality's NEPA regulations.

When the Forest Service determines that activities of a proposed decision fall within a category of activities the agency has already determined have no significant environmental impact, it approves it using one of the predetermined categorical exclusions established by the Secretary of Agriculture or the Chief of the Forest Service.² Table 10 shows the types and frequency of categorical exclusions reported in our survey. They are divided into two types: those that require the agency to prepare a decision memo for each action approved using a categorical exclusion, and those that do not require such documentation.³

Table 10: Types of Categorical Exclusions Authorized for Use by the Forest Service and Represented in the GAO Survey

CE number	CE description	Total number in GAO survey
Categorical exclusions established by the Secretary, Department of Agriculture, not requiring a decision memo		
1	Policy development	0
2	Program funding	0
3	Inventories, research activities, and studies	1
4	Educational and Informational Programs	0
5	Law enforcement	0

¹40 C.F.R. § 1508.4.

²HFRA, Title IV—Insect Infestations and Related Diseases—also authorizes categorical exclusions for applied silvicultural assessments and research treatments provided the total number of acres does not exceed 250,000. Decisions authorized under Title IV are not subject to the predecisional administrative review process, but are subject to the notice, comment, and appeals process found in 36 C.F.R. 215.

³While a decision memo is not required for certain categories, one may be prepared at the discretion of the responsible Forest Service official. For more information, see GAO, *Forest Service: Use of Categorical Exclusions for Vegetation Management Projects, Calendar Years 2003 through 2005*, [GAO-07-99](#) (Washington, D.C.: Oct. 10, 2006).

**Appendix X: Types of Categorical Exclusions
Authorized by the Forest Service and
Represented in the GAO Survey**

CE number	CE description	Total number in GAO survey
6	Legal counsel and representation	0
7	Trade and market development abroad	0
Categorical exclusions established by the Chief of the Forest Service not requiring a decision memo		
1	Short-term resource protection, public health, and safety	1
2	Agencywide administrative rules, regulations, and policies	0
3	Repair and maintenance of administrative sites	11
4	Repair and maintenance of road, trails, and landline boundaries	6
5	Repair and maintenance of recreation sites and facilities	9
6	Acquisition of land or a land interest	2
7	Land or resource sales or exchanges	0
8	Approving, modifying or continuing minor, short-term special uses of Forest Service lands	3
9	Issuance of a ski area permit	0
10	Amending or replacing an existing special-use authorization	0
Categorical exclusions established by the Chief of the Forest Service requiring a decision memo		
1	Construction and reconstruction of trails	1
2	Construction and reconstruction of utilities	0
3	Approval, modification, or continuation of minor special uses	0
4	Reserved	N/A
5	Regeneration of native tree species	21
6	Timber stand and/or wildlife habitat improvement	454
7	Modification or maintenance of stream or aquatic habitat improvement structures	2
8	Short-term mineral, energy, or geophysical investigations	0
9	Allotment improvements	0
10	Hazardous fuel reduction activities	379
11	Postfire rehabilitation activities	4
12	Harvest of live trees	38
13	Salvage of dead and/or dying trees	64
14	Harvest of trees to control insects or disease	18
15	Issuance of a new special use authorization	0
16	Land management plans, amendments, and revisions	0
17	Approval of oil and gas exploration plans	0
Categorical exclusion established by HFRA not requiring a decision memo		
No number	Applied silvicultural assessments and research treatments	1

Sources: (1) *Forest Service National Environmental Policy Act Handbook*, Chapter 30—Categorical Exclusion from Documentation. April 15, 2009; (2) 16 U.S.C. § 6554(d)(1); and (3) GAO data (see citations above).

Appendix XI: Major Litigation Affecting Appeal Procedures for Categorical Exclusions

A summary of the major litigation that affected the exemption of categorical exclusions from the requirements of the National Environmental Policy Act process is shown in table 11. Starting in late 2003, these exemptions were challenged in court and were the subject of a Supreme Court ruling. Table 12 summarizes the litigation centered specifically on the validity of the Hazardous Fuel Reduction categorical exclusion, or Fuels CE, also known as CE #10.

Table 11: A Chronology of Litigation Concerning Regulation Exempting Decisions That Have Been Categorically Excluded from Appeals

Date	Major events
June 4, 2003	Forest Service published a final rule revising appeal procedures that, among other things, exempted decisions using categorical exclusions from appeal (CE appeals exemption).
June 5, 2003	Forest Service action created a new categorical exclusion for certain fuel reduction activities (Fuels CE).
September 8, 2003	Forest Service issued its Burnt Ridge Project decision memo approving a timber sale and treatment of 238 acres of postfire forest area, using the Fuels CE and the CE appeals exemption.
December 1, 2003	Earth Island filed a complaint against the Forest Service that, among other things, challenged the CE appeals exemption nationwide and as applied to the Burnt Ridge Project, arguing that the exemption violated the Appeal Reform Act. The Forest Service later withdrew the Burnt Ridge Project.
July 7, 2005	Federal district court invalidated the CE appeals exemption. <i>Earth Island v. Pengilly</i> , 376 F.Supp.2d 994 (E.D.Cal.2005).
September 16, 2005	District court clarified that the scope of the injunction was nationwide, precluding any enforcement and implementation of the invalidated regulations. The district court further clarified that the injunction would apply only prospectively, to decisions made after the July 7, 2005 order date.
August 10, 2006	Ninth Circuit affirmed the district court's invalidation of the CE appeals exemption and the nationwide injunction against its enforcement. <i>Earth Island v. Ruthenbeck</i> , 459 F.3d 954 (9th Cir. 2006), amended 490 F.3d 687 (2007).
March 3, 2009	In a 5-4 decision the Supreme Court reversed the Ninth Circuit, holding that because the Forest Service had withdrawn the Burnt Ridge Project, the plaintiffs lacked standing to challenge portions of the 36 C.F.R. appeal regulations that exempted categorical exclusions from notice, comment, and appeal. <i>Summers v. Earth Island Institute</i> , 555 U.S. ___, 129 S.Ct. 1142-50 (2009).

Source: GAO analysis of relevant court cases.

**Appendix XI: Major Litigation Affecting
Appeal Procedures for Categorical Exclusions**

Table 12: A Chronology of Litigation Concerning the Validity of the Fuels CE

Date	Major events
June 5, 2003	Forest Service action created a new categorical exclusion for certain fuel reduction activities (Fuels CE).
October 8, 2004	Sierra Club challenged the Fuels CE as applied to several projects in the Eldorado and Lassen National Forests, arguing, among other things, that the CE inappropriately included activities that have significant effects.
September 16, 2005	Federal district court rejected the Sierra Club's challenge, holding that the Forest Service provided reasoned explanations for its conclusion that the category of actions covered by the Fuels CE would not normally have a significant impact on the environment. <i>Sierra Club v. Bosworth</i> , 2005 WL 2281074 (E.D.Cal.).
December 5, 2007	Ninth Circuit held that the Forest Service failed to assess properly the significance of the hazardous fuels reduction categorical exclusion and thus it failed to demonstrate that it made a reasoned decision to promulgate the Fuels CE based on relevant factors and information. Accordingly, the court held that the agency's promulgation of the Fuels CE was arbitrary and capricious. <i>Sierra Club v. Bosworth</i> , 510 F.3d 1016 (9th Cir. 2007).

Source: GAO analysis of relevant court cases.

Appendix XII: Survey Questions to National Forests

Survey of National Forest Decisions Signed in FY2006 through FY2008 with Fuel Reduction Activities

U.S. Government Accountability Office

Introduction

Welcome to GAO's survey on National Forest Decisions Signed in FY 2006 through 2008 with Fuel Reduction Activities. The web-based survey that you are currently logged into covers the following decision made by your forest (_____):

As a reminder, the decision name shown above will appear at the top of each screen as you go through the survey.

As noted in our e-mail to you, the survey for each individual decision is made up of two sections. The first section focuses on questions regarding the NEPA decision and its outcome. The second section includes questions about the activities included in the decision.

To learn more about completing the survey, printing your responses, and who to contact if you have questions, [click here for help](#).

Thank you in advance for your assistance in taking part in our survey.

Definitions of Terms

The questions in this survey cover the following decision for the _____:

These definitions have been reviewed by Forest Service management to ensure that they reflect current Forest Service policy.

[Click here to see these definitions.](#)

Appendix XII: Survey Questions to National Forests

Respondent Information (Question 1)

The questions in this survey cover the following decision for the _____:

1. Who is primarily responsible for completing the survey for this decision, in case we need to contact you about your responses?

Name <i>(first and last):</i>	<input type="text"/>
Title:	<input type="text"/>
E-mail:	<input type="text"/>
Telephone: <i>(Include area code)</i>	<input type="text"/>
Forest:	<input type="text"/>
District:	<input type="text"/>
Region:	<input type="text"/>

Appendix XII: Survey Questions to National Forests

General Information about this Decision (Questions 2-6)

The questions in this survey cover the following decision for the _____:

2. Does the decision indicated above include at least one fuel reduction purpose or activity?

- 1. Yes - Continue with question 3.
- 2. No ([Click here to skip to question 31](#))
- 3. Unsure/Do not know - Click the link below to send an e-mail to GAO for clarification: forestservicesurvey@gao.gov (or call Sandra Davis at 303-572-7337 or Ulana Bihun at 303-572-7310).

3. What was the date the decision document associated with this decision was signed? Or, if the decision type is a categorical exclusion with no decision memo required, please enter the determination date, or the date the deciding official approved the action.

(Note: Date entered must be between 10/01/2005 and 09/30/2008.)

Month (mm)	Day (dd)	Year (yyyy)
<input type="text"/>	<input type="text"/>	<input type="text"/>

4. If available, please provide us with the Web link to the relevant documentation used to support the decision indicated above. Please also include the page number(s) of the relevant fuel reduction activity sections.

Enter Web link and page numbers

Click on the box below if Web link not available - then - continue with question 5.

5. What was the date the legal notice for this decision or determination was published in your district or forest's paper of record?

(Note: Date entered must be after 10/01/2005.)

Month (mm)	Day (dd)	Year (yyyy)
<input type="text"/>	<input type="text"/>	<input type="text"/>

Click on the box below if the decision or determination was not published.

6. What type of decision was this?

- 1. Categorical exclusion/Decision memo required - Continue with question 7.
- 2. Categorical exclusion/No decision memo required ([Click here to skip to question 8](#))
- 3. EA (Environmental Assessment)/Decision Notice ([Click here to skip to question 9](#))

Appendix XII: Survey Questions to National Forests

- 4. EIS (Environmental Impact Statement)/Record of Decision ([Click here to skip to question 9](#)).
 - 5. Unsure/Do not know - [Click the link below to send an e-mail to GAO for clarification: forestservicesurvey@gao.gov](#)
(or call Sandra Davis at 303-572-7337 or Ulana Bihun at 303-572-7310).
-

Appendix XII: Survey Questions to National Forests

General Information about this Decision (Question 7)

The questions in this survey cover the following decision for the _____:

7. (IF A DECISION MEMO WAS REQUIRED) Which of the following CE categories described in Chapter 30 of the Forest Service's Environmental Policy and Procedures Handbook (FSH 1909.15) were used when approving the decision?
(Please review all responses, then check all that apply.)

1. **CE#1:** Construction and reconstruction of trails
2. **CE#2:** Additional construction or reconstruction of telephone or utility lines
3. **CE#3:** Minor special uses of NF system land
4. **CE#5:** Regeneration of native tree species not involving herbicides
5. **CE#6:** Timber stand and/or wildlife habitat improvement
6. **CE#7:** Stream or lake habitat improvement
7. **CE#8:** Short-term mineral, energy, or geophysical investigations
8. **CE#9:** Allotment or animal distribution improvements
9. **CE#10:** Hazardous fuel reduction activities (Answer question 7a below)
10. **CE#11:** Post-fire rehabilitation activities
11. **CE#12:** Limited timber harvest of live trees
12. **CE#13:** Salvage of dead or dying trees
13. **CE#14:** Removal of insect-or disease-infested trees
14. **CE#15:** Issuance of a new special use authorization
15. **CE#16:** Land management plans developed per 36 C.F.R. Part 219
16. **CE#17:** Surface use plan approval for oil and gas activities

7a. If you answered **CE#10: Hazardous fuel reduction activities** in question 7 above, were the projects associated with this decision enjoined by Sierra Club v. Bosworth?

For information about this case please [click here](#).

1. Yes ([Click here to skip to question 9](#))
2. No ([Click here to skip to question 9](#))
3. Do not know ([Click here to skip to question 9](#))

7b. If you were directed to answer question 7 above - answer "Yes" below and click on the link to skip to question 9.

1. Yes ([Click here to skip to question 9](#))

Appendix XII: Survey Questions to National Forests

General Information about this Decision (Questions 8-11)

The questions in this survey cover the following decision for the _____:

8. (IF A DECISION MEMO WAS NOT REQUIRED) Which of the following CE categories described in Chapter 30 of the Forest Service's Environmental Policy and Procedures Handbook (FSH 1909.15) were used when approving the decision?
(Please review all responses, then check all that apply.)

- 1. CE#1: Short-term public health/safety or resource protection orders
- 2. CE#2: Rules, regulations or policies related to administrative procedures
- 3. CE#3: Repair and maintenance of administrative sites
- 4. CE#4: Repair/maintenance of roads, trails and landline boundaries
- 5. CE#5: Repair/maintenance of recreation sites and facilities
- 6. CE#6: Land acquisition or interest in land
- 7. CE#7: Sale or exchange of land
- 8. CE#8: Minor, short-term special uses of NF system land
- 9. CE#9: Ski area permits
- 10. CE#10: Issuance of a new special use authorization

9. Was this decision subject to notice, comment, and appeal procedures for National Forest System projects and activities under 36 C.F.R. Part 215?

- 1. Yes ([Click here to skip to question 16](#))
- 2. No, this decision was exempt because it was a decision of the Secretary of Agriculture or the Under Secretary, Natural Resources and Environment and therefore it was not subject to the notice, comment, and appeals procedures per 36 C.F.R. Part 215.20 - [Continue with question 10.](#)
- 3. No, this decision was exempt for another reason - [Continue with question 10.](#)
- 4. Do not know - [Continue with question 10.](#)

10. Was this decision subject to predecisional administrative review (the "objection process") under the process called for by the Healthy Forest Restoration Act of 2003 (36 C.F.R. Part 218)?

- 1. Yes - [Continue with question 11.](#)
- 2. No, this decision was exempt because the Secretary of Agriculture or the Under Secretary, Natural Resources and Environment proposed the project and therefore it was not subject to the HFRA predecisional review process per 36 C.F.R. Part 218.13 ([Click here to skip to question 16](#))
- 3. No, this decision was exempt for another reason ([Click here to skip to question 16](#))
- 4. Do not know ([Click here to skip to question 16](#))

11. Was an objection to this decision filed under the process called for by the Healthy Forest Restoration Act of 2003 (36 C.F.R. Part 218)?

- 1. Yes - [Continue with question 12.](#)
- 2. No ([Click here to skip to question 17](#))
- 3. Do not know ([Click here to skip to question 17](#))

Appendix XII: Survey Questions to National Forests

General Information about this Decision (Questions 12-15)

The questions in this survey cover the following decision for the _____:

12. How many objections were filed for this decision?
(Enter number. If unknown, enter -99 (minus 99).)

Objections

We will now ask you about how the objection (or objections) to this decision was addressed.

13. In which way was the objection (or objections) to this decision addressed?

(Select one answer in all rows, 13a-13i. Please respond to this question by selecting the final action taken to address each objection. If number of objections is unknown, enter -99 (minus 99).)

13a. The objection(s) was set aside from review.

- Yes - See question to the right
- No
- Do not know

If yes, how many objections were addressed this way. (Enter number. If unknown, enter -99.)

Objections

13b. The objection(s) was returned with a request for further information.

- Yes - See question to the right
- No
- Do not know

If yes, how many objections were addressed this way. (Enter number. If unknown, enter -99.)

Objections

13c. The objection(s) was reviewed and a written response prepared with no change to the decision.

- Yes - See question to the right
- No
- Do not know

If yes, how many objections were addressed this way. (Enter number. If unknown, enter -99.)

Objections

13d. The objection(s) was reviewed, no written response was prepared, and no change was made to the decision.

- Yes - See question to the right
- No
- Do not know

If yes, how many objections were addressed this way. (Enter number. If unknown, enter -99.)

Objections

13e. The objection(s) was reviewed, and a written response was prepared, with a change to the decision.

(Please describe the change in question 14 below.)

Appendix XII: Survey Questions to National Forests

<input type="radio"/> Yes - See question to the right <input type="radio"/> No <input type="radio"/> Do not know	If yes, how many objections were addressed this way. (Enter number. If unknown, enter -99.) <input type="text"/> Objections
13f. The objection(s) was reviewed, no written response was prepared, but a change was made to the decision. (Please describe the change in question 14 below.) <input type="radio"/> Yes - See question to the right <input type="radio"/> No <input type="radio"/> Do not know	If yes, how many objections were addressed this way. (Enter number. If unknown, enter -99.) <input type="text"/> Objections
13g. The objection(s) was reviewed and a written response prepared specifying further analysis. <input type="radio"/> Yes - See question to the right <input type="radio"/> No <input type="radio"/> Do not know	If yes, how many objections were addressed this way. (Enter number. If unknown, enter -99.) <input type="text"/> Objections
13h. The objection(s) was reviewed, no written response was prepared, but further analysis was conducted. <input type="radio"/> Yes - See question to the right <input type="radio"/> No <input type="radio"/> Do not know	If yes, how many objections were addressed this way. (Enter number. If unknown, enter -99.) <input type="text"/> Objections
13i. The objection(s) was addressed in another way. (Please describe in question 14 below.) <input type="radio"/> Yes - See question to the right <input type="radio"/> No <input type="radio"/> Do not know	If yes, how many objections were addressed this way. (Enter number. If unknown, enter -99.) <input type="text"/> Objections

14. If you answered "Yes" to item(s) 13e or 13f above, please describe the changes that were made to the proposed decision as a result of one or more of the objection(s).

Also, if you answered "Yes" to item 13i (Addressed in another way), please describe how the objection(s) was addressed.

If yes to question 13e, describe the changes to the decision.	<input type="text"/>
If yes to question 13f, describe the changes to the decision.	<input type="text"/>
If yes to question 13i, describe how the objection(s) was addressed.	<input type="text"/>

Appendix XII: Survey Questions to National Forests

15. For each objection, please list the name(s) of the organizations, and individuals (that are not affiliated with organizations) that objected to this decision, even if the objection was set aside from review.

Please list the name(s) of the **organization(s)** that objected here.

Please list the name(s) of the **individual(s)** (not affiliated with organizations) that objected here.

Appendix XII: Survey Questions to National Forests

General Information about this Decision (Questions 16-17)

The questions in this survey cover the following decision for the _____:

16. Was this decision appealed under the rules contained in 36 C.F.R. Part 215?

- 1. Yes
- 2. No
- 3. Do not know

17. Did any individual or group subsequently seek federal judicial review of the final decision?

- 1. Yes
 - 2. No
 - 3. Do not know
-

Appendix XII: Survey Questions to National Forests

Activities Conducted under this Decision (Questions 18-20)

The questions in this survey cover the following decision for the _____:

Now that we have collected information about the decision type, we need to collect information about the activities conducted under this decision that are intended to accomplish the decision objectives. When responding to the questions in this section, please consider all activities described in the decision including those activities that may not be specific to fuel reduction.

As a reminder, we defined activities earlier as - discrete actions or tasks intended to accomplish decision objectives.

18. Are the following purposes included in this decision?
(Please review all responses, then check all that apply.)

1. Facility management - FC
2. Forest Products - TM
3. Fuels management - HF
4. Grazing management - RG
5. Heritage resource management - HR
6. Land acquisition - LW
7. Land management planning - PN
8. Land ownership management - LM
9. Minerals and Geology - MG
10. Recreation management -RW
11. Regulations, Directives, Orders - RO
12. Research - FR
13. Road management -RD
14. Special area management - RU
15. Special use management - SU
16. Vegetation management -VM
17. Watershed management - WM
18. Wildlife, Fish, Rare Plants - WF
19. Travel management - TR
20. Other - Please describe any other purposes below.

Please describe any other purposes here.

19. Under this decision, were any of the following mechanisms used, or expected to be used, to carry out hazardous fuel reduction activities?
(Please review all responses, then check all that apply.)

1. Commercial timber sale contract
2. Service contract
3. Stewardship contract
4. Forest Service personnel/force account
5. Forest product permits (firewood, post and pole, miscellaneous products)

Appendix XII: Survey Questions to National Forests

6. Other mechanism(s) - Please describe below.

Please describe other mechanism(s) here.

20. Did any of the activities that make up this decision include the following fuel treatment methods?

(Please review all responses, then check all that apply.)

- 1. Prescribed burning
- 2. Mechanical treatment (machine or chainsaw)
- 3. Commercial logging
- 4. Construction/maintenance of fuel breaks
- 5. Chemical/herbicide treatment
- 6. Livestock grazing
- 7. Other fuel treatment method(s) - Please describe below.

Please describe other fuel treatment method(s) here.

Appendix XII: Survey Questions to National Forests

Activities Conducted under this Decision (Questions 21-22)

The questions in this survey cover the following decision for the _____:

21. What is the approximate total area, in acres, that was treated or is expected to be treated for fuel reduction by the activities in this decision?

Example: A hypothetical decision lists fuel reduction as a purpose for the following three activities: Activity 1 is a commercial thinning activity to harvest trees on 3,000 acres. Activity 2 is a pre-commercial thinning activity on 1,500 acres within the above harvest area. Activity 3 combines underburning on 300 acres within the harvest area and 700 acres outside of the harvest area. The total area treated in question 23 is 3,700 acres: the harvested 3,000 acres plus 700 acres outside the harvest area. Therefore, your entry for question 23 would be 3,700 acres.

Enter whole numeric digits only. Enter 0 (zero) if none. Enter -99 (minus 99) if not available.

_____ Acres

22. For the following types of fuel treatment, how many acres have been, or are to be, treated by each of the following methods?

Enter numeric digits only. Enter 0 (zero) if none. Enter -99 (minus 99) if not available.

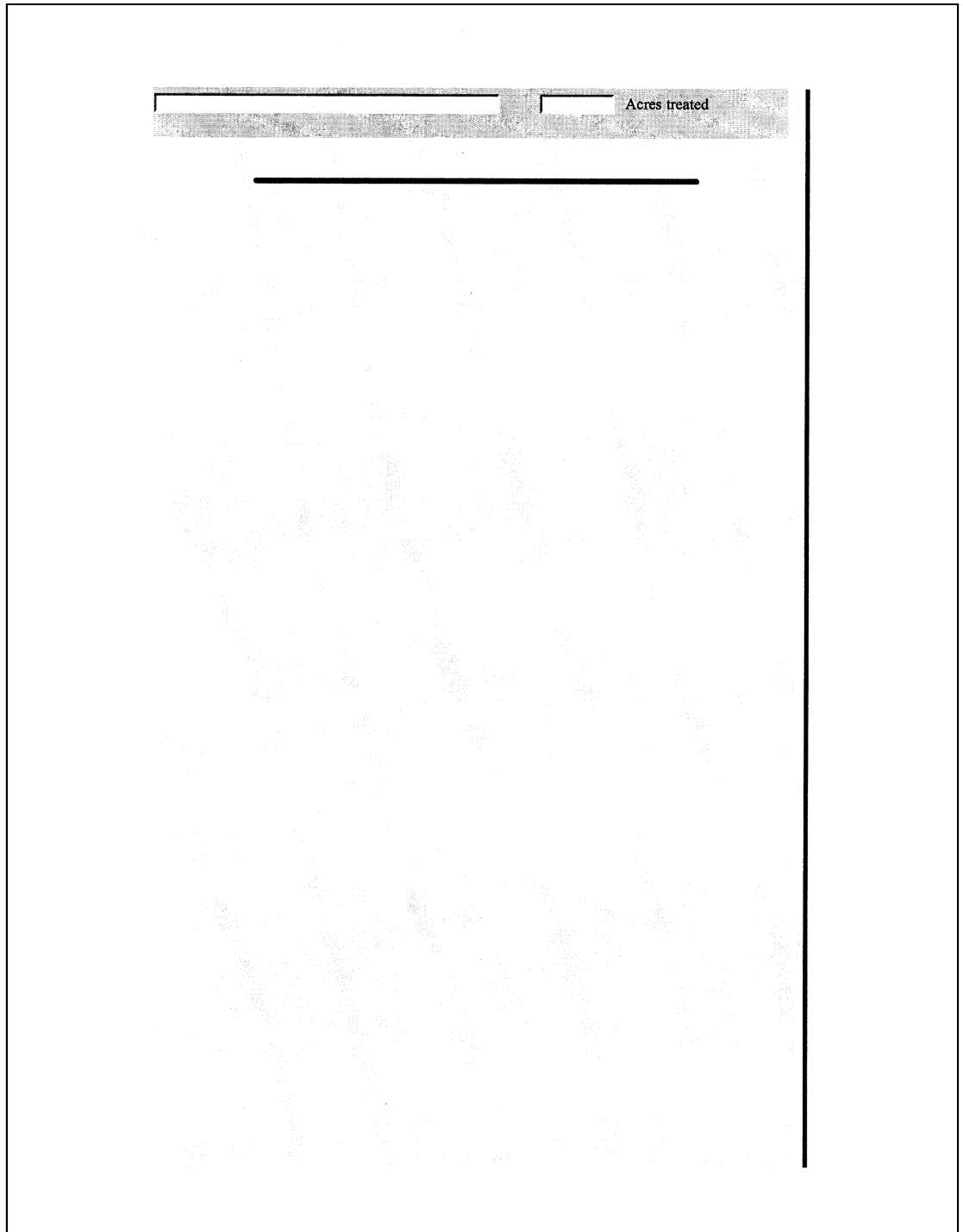
Note: Acres may overlap and not add to the answer given in question 21.

Method	Number of acres treated or to be treated (Please enter 0 (zero) if none.)
22a. Prescribed burn	_____ Acres treated
22b. Mechanical treatment (machine or chainsaw)	_____ Acres treated
22c. Commercial logging	_____ Acres treated
22d. Construction/maintenance of fuel breaks	_____ Acres treated
22e. Chemical/Herbicide treatment	_____ Acres treated
22f. Livestock grazing	_____ Acres treated
22g. Other method(s) - Please describe below.	_____ Acres treated

Describe other method(s) used and indicate the number of acres treated by each method.

Other method _____	Acres treated (Enter number. If unknown, enter -99.) _____ Acres treated
Other method _____	Acres treated (Enter number. If unknown, enter -99.) _____ Acres treated
Other method _____	Acres treated (Enter number. If unknown, enter -99.) _____ Acres treated

Appendix XII: Survey Questions to National Forests



Appendix XII: Survey Questions to National Forests

Activities Conducted under this Decision (Questions 23-26)

The questions in this survey cover the following decision for the _____:

The following questions ask about the **wildland-urban interface**.

23. At the time this decision was signed, was any portion of the approved fuel reduction activity or activities in the wildland-urban interface, as defined by your forest (regardless of whether they were described as such in the decision document or NEPA documents)?

- 1. Yes - Continue with question 24.
- 2. No ([Click here to skip to question 27](#))
- 3. Do not know ([Click here to skip to question 27](#))

Please note: The following question refers to the definition of the **wildland-urban interface** contained in the Federal Register, dated January 4, 2001 as refined by HFRA Section 101(16) and an alternate definition in HFRA Section 101(16)(B(ii)) for certain at-risk communities. To review this definition, [please click here](#).

24. At the time this decision was signed, what definition of the wildland-urban interface did your forest use?

- 1. The definition in the Federal Register dated January 4, 2001 as refined by HFRA Section 101 (16). ([Click here to skip to question 26](#))
- 2. The definition for at-risk communities that have not yet designated their WUIs as part of a Community Wildfire Protection Plan as defined by HFRA Section 101 (16) (B(ii)). ([Click here to skip to question 26](#))
- 3. A definition other than the one in the Federal Register dated January 4, 2001 - **Please enter that definition in the box below and then** ([Click here to skip to question 26](#))
- 4. Our forest did not have a definition - Continue with question 25.
- 5. Do not know - Continue with question 25.

Enter the definition of wildland-urban interface used by your forest - then - skip to question 26.

25. If your forest did not have a definition of the wildland-urban interface at the time this decision was signed or you do not know of any definition, did your forest identify in the decision documents or NEPA documents whether any portion of the fuel reduction activities in this decision were to occur within the wildland-urban interface?

- 1. Yes
- 2. No
- 3. Do not know

26. Approximately how many total acres of the approved fuel-treatment related activity or activities that make up this decision are in a wildland-urban interface area?
(Enter whole numeric digits only. Enter -99 (minus 99) if not available.)

_____ Acres

Appendix XII: Survey Questions to National Forests

Activities Conducted under this Decision (Questions 27-29)

The questions in this survey cover the following decision for the _____:

The following questions ask about **Inventoried Roadless Areas**.

27. At the time this decision was signed was any portion of the fuel reduction activity or activities to occur in an Inventoried Roadless Area?

Note: To review the definition of Inventoried Roadless Area, [please click here](#).

1. Yes - Continue with question 28.
2. No ([Click here to skip to question 30](#))
3. Do not know ([Click here to skip to question 30](#))

28. Approximately how many total acres of the fuel reduction activity or activities that make up this decision occur in an Inventoried Roadless Area?

(Enter whole numeric digits only. Enter -99 (minus 99) if not available.)

_____ Acres

29. Which activity or activities for road construction in the Inventoried Roadless Area did this decision include? *(Please review all responses, then check all that apply.)*

1. No road construction
2. Temporary road construction
3. Forest Service system road construction, classified road
4. Forest Service system road construction, unclassified road
5. Other - Please specify below.

Specify other road construction activities.

Appendix XII: Survey Questions to National Forests

**Additional Comments and Survey Completion Question
(Questions 30-31)**

The questions in this survey cover the following decision for the _____:

30. If you have any additional comments concerning this decision, please enter them in the space below.

Please continue to the survey completion question below.

31. Have you finished GAO's survey for this decision?

(Answering "Yes" to this question and clicking on the "Exit" button below will submit your responses for this decision to GAO.)

1. Yes, my survey is complete
2. No, my survey is not yet complete

You may view and print your completed survey by clicking on the Summary link in the menu to the left. Please note that the name that will appear at the top of this summary of your responses is that of our primary survey contact for your forest (in most cases, the forest supervisor or NEPA Coordinator).

When you exit this survey you will see the list of decisions. You may need to complete other surveys for other decisions on this list.

If you have completed all of the decisions you are responsible for, click on the "Cancel" button at the bottom of the screen listing the decisions. Note that even after you click on the "Cancel" button, you will still be able to log into the survey at any time to either change a response or complete a survey for another decision.

[Print this Page](#)

[Exit Survey](#)

Appendix XII: Survey Questions to National Forests

Definitions of Terms for Survey of National Forest Decisions Signed in FY2006 through FY2008 with Fuel Reduction Activities

Definitions of Terms (Pop-up link located in the "Definitions of Terms" Screen and in various other locations in the questionnaire when covered in various questions.)

Activities: Activities or an activity are discrete actions or tasks intended to accomplish decision objectives.

Decision: A decision is composed of one or more "activities", is intended to guide action on National Forest system land and is described in "NEPA documents" and/or "decision documents". The decision name should be the name used by your forest to refer to this action.

Decision documents: Include records of decisions, decision notices and decision memoranda in the case of categorical exclusions. Decisions can also include letters to the file or other written forms of approving fuel reduction activities.

Hazardous fuel reduction: Vegetative manipulation designed to create and maintain resilient and sustainable landscapes, including burning, mechanical treatments, and/or other methods that reduce the quantity or change the arrangement of living or dead fuel so that the intensity, severity, or effects of wildland fire are reduced within acceptable ecological parameters and consistent with land management plan objectives, or activities that maintain desired fuel conditions. These conditions should be measurable or predictable using fire behavior prediction models or fire effects models.

Inventoried Roadless Areas: Generally refer to areas identified as such in the applicable Land and Resource Management Plan or in 2001 Inventoried Roadless Area maps. These areas may also be identified as such in the Forest Service's Roadless Area Review and Evaluation (RARE) studies completed in the 1970s, excluding areas that have since been designated as part of the National Wilderness Preservation System by Congress. **NEPA documents:** Include environmental impact statements (EISs), environmental assessments (EAs) and findings of no significant impact (FONSIs).

Wildland-urban interface (WUI): WUI has been defined in various ways over time and by forest location.

One definition is contained in Federal Register Notice, Volume 66, page 751, dated January 4, 2001, which defines the WUI community as those areas where humans and their development meet or intermix with wildland fuel. This definition was refined in HFRA Section 101 (16). The HFRA provides expedited NEPA procedures for authorized fuel-reduction projects on NFS and BLM lands in the WUIs of at-risk communities. Under HFRA Section 101(1), an at-risk community is one that:

- Is an interface community as defined in the Federal Register notice of January 4, 2001 (66 FR 753), or a group of homes and other structures with basic infrastructure and services (such as utilities and collectively maintained transportation routes) in or adjacent to Federal land
- Has conditions conducive to a large-scale wildland fire

Appendix XII: Survey Questions to National Forests

- Faces a significant threat to human life or property as a result of a wildland fire for at-risk communities that have not yet designated their WUIs as part of a Community Wildfire Protection Plan, the HFRA has a default definition of Wildland-urban Interface (Section 101(16)(B)(ii)). It is:

- Extending 1/2 mile from the boundary of an at-risk community.

or

- Extending 1 1/2 miles from the boundary when other criteria are met, for example, a sustained steep slope, a geographic feature that could help when creating an effective firebreak, or Condition Class 3 land.

or

- Adjacent to an evacuation route. There is no distance limitation for evacuation routes.

Pop-up – Sierra Club v. Bosworth (Pop-up link located in question #7a.)

Sierra Club v. Bosworth: The case of Sierra Club v. Bosworth resulted in an injunction precluding the Forest Service from implementing CE#10. The injunction covered projects the Forest Service had not approved prior to the initiation of this lawsuit in October 2004, except for those projects the district court determined were already at or near completion.

Appendix XIII: GAO Contact and Staff Acknowledgments

GAO Contact

Anu K. Mittal, 202-512-3841 or mittala@gao.gov

Staff Acknowledgments

In addition to the individual named above, Steve Gaty (Assistant Director), Ulana Bihun, Sandra Davis, Justin Fisher, Cathy Hurley, Richard P. Johnson, Stuart Kaufman, Armetha Liles, Diane Lund, Robin Nazzaro, Alison O'Neill, and Shana Wallace made key contributions to this report.

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