

Decision Memo
Fremont-Winema National Forest
Forest Plan Amendment
Winema LRMP Management Area 3
Char and Slash

Decision & Summary

It is my decision to amend the Winema Land and Resource Management plan as outlined below in the Proposed Action to modify Management Area 3 to eliminate the restrictions on visible charred bark and slash piles.

36 CFR 219.13 (b)(3) says:

Amend the plan consistent with Forest Service NEPA procedures. The appropriate NEPA documentation for an amendment may be an environmental impact statement, an environmental assessment, or a categorical exclusion, depending upon the scope and scale of the amendment and its likely effects....

36 CFR 220.6(e)(16) describes the categorical exclusion that allows plans to be amended without completing and Environmental Assessment or and Environmental Impact Statement. It says:

Land management plans, plan amendments, and plan revisions developed in accordance with 36 CFR 219 et seq. that provide broad guidance and information for project and activity decision making in a NFS unit. Proposals for actions that approve projects and activities, or that command anyone to refrain from undertaking projects and activities, or that grant, withhold or modify contracts, permits or other formal legal instruments, are outside the scope of this category and shall be considered separately under Forest Service NEPA procedures.

This amendment has recently been completed at the project level for the Lobert Restoration Project FEIS (2018) and was found to have no effects. Interdisciplinary teams reviewed the proposed amendment at the project and forest levels and found that no extraordinary circumstances exist relevant to the amendment.

How the 2012 Planning Rule applies to the plan amendment¹

I prepared this forest plan amendment under the 2012 Planning Rule for the Winema Land and Resource Management Plan. The 2012 planning rule has different provisions than the 1982 Planning Rule under which the existing plan was originally developed.

Purpose and Need of the Amendments

The Winema Land and Resource Management Plan was published in 1990. Due to changing understanding of forestry and ecosystems, delayed management, and the growing threat of catastrophic megafires, the plans need to be updated.

The proposed amendment would lift constraints to aid in achieving desired conditions in a certain Management Area (MA). This amendment pertains to the Winema Land and Resource Management Plan (LRMP). This amendment would eliminate the MA 3A (Foreground Retention) and the MA 3B

¹ [Amendment Applies to all future Projects]

(Foreground Partial Retention) requirements of no noticeable charred bark or slash after prescribed fire and harvest operations.

The current condition of ponderosa pine forest in MA3 is not meeting LRMP objectives due to overstocking. This high density is leading to large ponderosa pine death and smaller ponderosa pine directly competing with lodgepole pine. For these reasons, open park-like structure, as well as distribution of tree diameter classes, is not common in MA3. A relatively even aged/sized cohort of lodgepole pine in the understory (less than 150 year old) has shifted the large tree character of MA3. Development of healthy groups or multi-canopy forest is not possible with the current limitations on prescribed burning. The restrictions around fire as a management tool in this fire-dependent ecosystem has contributed to the overstocked current condition and deviation from LRMP objectives in this MA. Continued restriction of the use of fire (appearance of charred bark) in this forest type will continue to exacerbate forest health and visual quality issues that are contributing to not meeting management area objectives. Prescribed fire is a key tool in the management of dry forest types, and especially those where small diameter lodgepole and ponderosa management is limited by implementation complexity and suitability of other density reduction tools (like mechanical treatment).

Experience with restoration treatments on the Forest over the past 25 years has shown that evidence of management activities including charred bark are noticeable for more than one (or 2-3) year(s) after the activity has taken place. Due to these visibility timeframe restrictions, prescribed burning has generally not been implemented in MA3, leading to the current condition. Therefore, to meet the project restoration objectives and facilitate the movement of the landscape toward the desired conditions of the LRMP, treatments (Silviculture, and prescribed fire) would occur as needed.

Proposed Action

Current direction in the Winema Land and Resource Management Plan (LRMP) dictates specific timeframes in which charred bark can be visible on trees in scenic areas after a prescribed underburn. Specifically, in Management area 3A, charred bark and slash will not be noticeable one year after the work has been completed. Additionally, in Management area 3B, charred bark and slash will not be noticeable two to three years after the work has been completed. These Management areas are defined as lands visible for distances up to 0.25 miles from selected travel ways, bodies of water, or public use areas. This standard and guideline states "Evidence of management activities from projects that produce slash (tree harvest) or charred bark (underburning) will not be noticeable, one year (MA 3A), two to three years (MA 3B), after the work has been completed (LRMP p. 4-104 and 4-107)." The Fremont-Winema National Forest proposes to remove references to a timeframe of visibility for charred bark and slash following an underburn from the Winema LRMP.

The proposed amendment would deviate from this guideline to remove timeframe restrictions on visibility of charred bark (underburning) and slash (tree harvest) after work has been completed. This timeframe has been interpreted for implementation of prescribed burns to mean that flame lengths may not exceed one foot, which is impractical for most prescribed burns.

Current Text:

Evidence of management activities from projects that produce slash (tree harvest) or charred bark (underburning) should not be noticeable from one year (MA 3A) [two to three years (MA 3B)] after the work has been completed."

Proposed Change:

"Evidence of management activities from projects that produce slash (tree harvest) or charred bark (underburning) *may be noticeable following completion of treatment.*"

1. *The 36 CFR 219 planning rule requirements that are likely to be directly related to this amendment include:*

- a. § 219.8(a)(iv) System drivers, including dominant ecological processes, disturbance regimes, and stressors, such as natural succession, wildland fire, invasive species, and climate change; and the ability of terrestrial and aquatic ecosystems on the plan area to adapt to change.
 - (v) Wildland fire and opportunities to restore fire adapted ecosystems.
 - (vi) Opportunities for landscape scale restoration.
- b. § 219.10(a)(1)—[the responsible official shall consider] Aesthetic values, [...] scenery, [...] viewsheds [...].
- c. § 219.10(b)(i)—[the responsible official shall consider] Sustainable recreation; including recreation settings, opportunities, [...] and scenic character. [...]

Compliance with the Rule's Procedural provisions

As explained below, this amendment complies with the procedural provisions of the 2012 Planning Rule (36 CFR Part 219.13(b)).

Using the best scientific information to inform the planning process (§ 219.3):

An interdisciplinary team (IDT) was formed to look specifically at the amendment. All IDT members reviewed the best available science that contributes to this Decision Memorandum.

This amendment was analyzed at the project scale in both the Lobert and East Hills EIS'. When the Winema LRMP was written, MA3 visual guidelines were based on the Visual Management System (VMS) developed in the 1970s. However, a new handbook on the Scenery Management System (SMS) was developed in 1996, to reflect the philosophical shift from preserving 'natural and pretty looking' landscapes to managing for landscape character and ecological processes. Under the old VMS charred forests were deemed visually unappealing and minimizing the duration of visual impacts was prioritized. The newer SMS considers the positive long-term effects of burning in fire-dependent scenic resources by increasing vegetation diversity and creating a more sustainable vegetation mosaic representing the historic range of variability. The SMS better allows land managers to manage aesthetics to meet both short and long-term goals, by evaluating landscape character and ecologic processes along with visual appearance. The Winema Plan needs to be amended to reflect this change in management direction.

Providing opportunities for public participation (§ 219.4) and providing public notice (§ 219.16):

This amendment was scoped in December 2017 for 30 days and again in January 2018 for an additional 30 days. A legal notice was published in the newspaper of record (Herald & News) on January 30, 2018. A description of the amendment as well as the substantive requirements was sent to 49 people/groups including industry, federal agencies, tribes, local government, state agencies, and environmental groups. The Forest Service received letters from 4 individuals during scoping. The draft Decision Memorandum was released for a 30-day public comment period and a legal notice was published in the Herald and

News on June 1, 2018. The Forest Service received comments from one group. The proposal was first published in the Fremont-Winema Schedule of Proposed Actions (SOPA) on January 2, 2018.

Using the applicable format for plan components (§ 219.7 (e)): -This revision is specific to a management area and applies only in the management areas outlined in the description.

Wording will be changed or omitted from the Plan for the proposed plan amendment, formatting will stay the same.

The plan amendment process (§ 219.13):

The responsible official determined that the amendment, which is currently needed in large scale planning projects, would be needed in the future, and should be applicable Forest-wide to increase planning efficiency.

Effective date (§ 219.17(a)(2):

This is a management area plan amendment that is not being analyzed in an EIS. The plan amendment is effective immediately.

Objection opportunity (Subpart B):

This decision is subject to the objection procedures outlined in 36 CFR 219 subpart B. This Decision Memorandum was made available for a 45-day objection opportunity beginning with the publication of a legal notice in the Herald & News on December 5, 2018. The document and project record are available on the project web site at: <https://www.fs.usda.gov/project/?project=52968>. The Objections Reviewing Officer was Glenn Casamassa, Regional Forester.

Who may file an objection (36 CFR 219.53): Only individuals, or organizations that submitted substantive formal comments specific to the proposed plan amendment during any designated opportunity for public participation (scoping or public comment periods) may object.

Timeline for filing of objections (36 CFR 219.56): Evidence of and responsibility for timely filing is described in 36 CFR 216.56(a). The objection must be postmarked or received within 45 days of the legal notice announcing this decision, which was in the Klamath Falls Herald and News newspaper, the newspaper of record for the Winema National Forest. The publication date of the legal notice in the

Klamath Falls Herald and News is the exclusive means for calculating the time to file an objection, and those wishing to object should not rely on dates or timeframes provided by any other source.

Requirements of an Objection (36 CFR 219.54): All objections must be filed, in writing, with the reviewing officer for the plan. All objections must be open to public inspection during the objection process.

No objections were received during the objection period.

Compliance with the Rule's Applicable Substantive Provisions

Because the Winema Land and Resource and Management Plan was prepared using the 1982 planning rule procedures, the current planning rule requires that those substantive rule provisions that are directly related to the amendment apply, within the scope and scale of the amendment. As explained in the discussion that follows, both the purpose and the effects of the amendment are such that multiple provisions are directly related to each amendment, and have been applied within the scope and scale of the respective amendment.

Planning rule requirements that are directly related to the amendment.

The rule requires that substantive rule provisions that are directly related to the amendment must be applied to the amendment. A determination that a rule provision is directly related to the amendment is based on any one or more of the following criteria:

1. The purpose of the amendment (§ 219.13(b)(5)(i));
2. Beneficial effects of the amendment (§ 219.13(b)(5)(i));
3. Substantial adverse effects associated with a rule requirement (§ 219.13(b)(5)(ii)(A)); when an EA or CE is the NEPA documentation for the amendment, there is a rebuttable presumption that there is no substantial adverse effect, and thus no direct relationship between the rule and the amendment based on adverse effects (§ 219.13(b)(5)(ii)(B)).
4. Substantial lessening of protections for a specific resource or use (§ 219.13(b)(5)(ii)(A)).
5. Substantial impacts to a species or substantially lessening protections for a species (36 CFR 219.13(b)(6)).

Scope and scale of the amendment

The scope and scale of the amendment is defined by the purpose for the amendment, described below. It is limited to Management Areas 3A and 3B

Applying these criteria, I have made the following determination.

The purpose of amending MA 3-Scenic Management Timber Standard and Guideline 9 as well as the MA 3A Scenic Management, Foreground Retention and MA 3B Scenic Management, Foreground Partial Retention Scenic Standard and Guideline 1, is to allow prescribed fire treatments, as needed, to meet objectives in MA3. Continued ultimate restriction of the use of fire through the proximate restriction on appearance of charred bark in this forest type will continue to undermine efforts to manage forest health and visual quality issues. The current restriction is contributing to not meeting multiple management area objectives, including overarching and large scale visual and forest health objectives. Because of this purpose, the directly related provisions of the rule are therefore § 219.8(a)(iv) *System drivers, including dominant ecological processes, disturbance regimes, and stressors, such as natural succession, wildland fire, invasive species, and climate change; and the ability of terrestrial and aquatic ecosystems on the plan area to adapt to change.* (v) *Wildland fire and opportunities to restore fire adapted ecosystems.* (vi) *Opportunities for landscape scale restoration,* and § 219.10(a)(1)— *Aesthetic values, air quality, cultural and heritage resources, ecosystem services, fish and wildlife species, forage, geologic features, grazing and rangelands, habitat and habitat connectivity, recreation settings and opportunities, riparian areas, scenery, soil, surface and subsurface water quality, timber, trails, vegetation, viewsheds, wilderness, and other relevant resources and uses.* As well as § 219.10(b)(i)— *Sustainable recreation; including recreation settings, opportunities, and access; and scenic character. Recreation opportunities may include non-motorized, motorized, developed, and dispersed recreation on land, water, and in the air.*

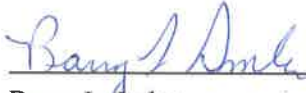
MA3 guidelines focus on visuals and aesthetics, and applying the directly related requirements ensures the forest will be able to meet those management goals. Restoring fire as a management tool is in line with 219.8(a).

Having applied those rule provisions, I found that the rule requirements did not require a change to the proposed amendment and therefore no changes were made to it.

Based on the NEPA analysis for this decision and the project specific amendments in the Lobert and East Hills EIS', I have determined that the proposed amendment does not have adverse effects and does not lessen protections.

Project and activity consistency with the plan

This amendment applies to the area analyzed under the Winema Plan. The project is consistent with the Winema Forest Plan, as amended.



Barry L. Jmler
Forest Supervisor



Date