

APPENDIX C

Forest Plan Amendment #25 Site-Specific Exceptions to the Standards and Guidelines

Half Whiskey Moon Lookout Forest Restoration Project
Ashley National Forest
Flaming Gorge-Vernal Ranger District

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The project-specific plan amendment

Allowing openings greater than 40 acres in size and allowing openings next to areas that have not yet reached an average height sufficient to provide hiding cover for the management indicator species (MIS) using the area (involves areas proposed for clearcut or overstory removal falling within management areas b, f, and n within the delineated project area – see maps in Appendix A).

Ashley National Forest Supervisor Jeff Schramm’s selection of the proposed action (alternative 2) involves the following associated site-specific Forest Plan amendment. The following paragraph is added to our existing 1986 Forest Plan, ch. IV, section F, part 1B Flaming Gorge Ranger District outside of NRA, pp. IV-65 to IV-66:

Management areas b, f, and n – an exception occurs in these management areas on the Flaming Gorge Ranger District in those areas proposed for clearcutting (approximately 409 acres) or overstory removal (approximately 120 acres) in the Half Whiskey Moon Forest Lookout Restoration Project (see the project maps in Appendix A to the decision and the Jessen Butte and Leidy Peak quadrangle maps in section F of the Forest Plan). Project-specific openings greater than 40 acres in size are permitted and the creation of openings is permitted next to older openings that have not yet regenerated enough to provide hiding cover for the MIS using the area. These exceptions are to facilitate the removal of beetle-killed and dwarf mistletoe infected trees. This is consistent with the National Forest Management Act (NFMA) and subsequent planning rule provisions that maximum size limits should not be applied to areas harvested as a result of natural catastrophic conditions such as fire or insect and disease attack (NFMA Sec. 6[g][3][F][iv]; see also 36 CFR 219.11[d][4]).

How the 2012 planning rule applies to this project-specific plan amendment

We prepared this project-specific amendment under the current (2012) planning rule (36 CFR part 219). The 2012 planning rule has different provisions than the 1982 planning rule procedures that the Forest Service used to develop the existing plan. Although the existing plan is not changed (until such time as the ongoing Forest Plan revision is complete), the exception that this amendment allows (an exception to the current plan's opening size limits) must be evaluated based on the 2012 planning rule.

Purpose of this project-specific plan amendment

The purpose of this amendment is to allow for an effective means of achieving the purpose of the project, which is to improve the resilience and adaptive capacity of lodgepole pine and ponderosa pine stands in the project area, reduce hazardous fuel loading, promote aspen, and capture the economic value of beetle-killed and dwarf mistletoe infected trees.

Compliance with the planning rule's procedural provisions

As explained below, this project-specific amendment complies with the procedural provisions of the 2012 planning rule (36 CFR 219.13[b]).

Using the best scientific information to inform the planning process (§ 219.3): We utilized relevant peer-reviewed scientific literature and site-specific data to inform the analysis, including applying appropriate project design criteria and mitigation measures (see resource specialist reports and environmental assessment).

Providing opportunities for public participation (§ 219.4) and providing public notice (§ 219.16): We sought input from 62 potentially interested parties (including online subscribers, county governments, and the Northern Ute Tribe) during scoping and providing a 30-day public comment period on the environmental assessment (see documentation of public participation opportunities in project record).

The plan amendment process (§ 219.13): We followed the plan amendment process by basing the amendment on a preliminary identified need for change and analyzing the potential effects of the amendment through appropriate National Environmental Policy Act (NEPA) procedures (see project record).

Effective date (§ 219.17[a][3]): This project-specific plan amendment is effective on the date the project may be implemented in accordance with administrative review regulations at 36 CFR 218.

Objection opportunity (§ 219 subpart B): The opportunity to object to this project-specific plan amendment is provided with the notice of the draft decision and is subject to the project-specific objection process outlined in § 218, subparts A and B.

Compliance with the planning rule's applicable substantive provisions

The current plan, amended today, was prepared using the 1982 planning rule procedures; however, the current planning rule requires that those substantive rule provisions that are directly related to, and within the scope and scale of, the amendment apply. We have examined the potential effects of this amendment and have concluded it would not result in effects that are contrary to the substantive requirements of the rule (see discussion below).

Scope and scale of the amendment

We have determined the scope and scale of this amendment based on what is necessary for the project to meet its purpose and need. Selecting the proposed action and associated amendment would most effectively achieve the purpose of the project. We considered an area amendment that would be applicable to the entire area of the Ashley National Forest's July 2013 West Flaming Gorge Ranger District Assessment (approximately 75,000 acres), which includes the project area. However, due to current ongoing Forest Plan revision and to avoid the need for excessive analysis for possibly only short-term benefit (if the revision changes our standards/guidelines to be consistent with NFMA and Forest Service 1909.12 handbook direction), we decided to reduce the amendment scope to the project area only.

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]);
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]).

Criteria 3, 4, and 5 above do not apply. When an environmental assessment or categorical exclusion is the NEPA documentation for an amendment, there is a rebuttable presumption that there is no substantial adverse effect, no substantial lessening of protections, and no substantial impacts to a species, and thus no direct relationship between the rule and the amendment based on these criteria (§ 219.13[b][5][ii][B]). We reviewed the assertions put forth by one respondent to rebut that conclusion, but after considering that evidence and evidence in the NEPA analysis supporting the position that effects would not be substantial we conclude that the effects will not be substantially adverse. This conclusion is verified in the environmental analysis for the project.

Applying criteria 1 and 2 above, we have made the following determination. We have examined the potential effects of this amendment and have concluded it would not result in effects that are contrary to the applicable substantive requirements of the rule, including: 1) ecological, social, and economic sustainability; 2) diversity of plant and animal communities; 3) ecosystem services and multiple uses; and 4) timber requirements based on NFMA (§ 219.8 to 219.11). This project-specific plan amendment complies with these requirements by:

- § 219.8(a): providing for ecological sustainability including ecosystem integrity; air, soil, and water; and riparian areas as well as incorporating best management practices for water quality (see relevant resource sections in environmental assessment);
- § 219.8(b): providing for social and economic sustainability by offering some commercial timber harvest areas and stewardship or service contracts (see description of proposed action in environmental assessment);

- § 219.9: maintaining the diversity of plant and animal communities in the plan area (see relevant sections in environmental assessment as well as the aquatics, plants, and terrestrial wildlife reports in the project record);
- § 219.10: providing for ecosystem services and multiple uses (see relevant sections in environmental assessment as well as the recreation, visuals, range, forested vegetation, water, terrestrial wildlife, and aquatics reports in the project record);
- § 219.11: meeting specific NFMA-related timber requirements:
 - The project occurs on lands suited for timber production (see forested vegetation report).
 - Harvest would only occur where soil, slope, or other watershed conditions would not be irreversibly damaged (see relevant sections in environmental assessment and soil and water reports).
 - Harvest would be carried out in a manner consistent with the protection of soil, watershed, fish, wildlife, recreation, and aesthetic values (see relevant sections in environmental assessment including project design criteria and relevant specialist reports).
 - Regarding clearcutting, seed tree cutting, shelterwood cutting, or other cuts designed to regenerate an even-aged stand of timber:

The current planning rule, as did previous rules, states that regional forester approval is required if the maximum size of areas cut in one harvest operation exceeds established size limits (§ 219.11[d][4][iii]). However, the regulations also state that established size limits shall not apply to the size of areas harvested as a result of natural catastrophic condition such as fire, insect and disease attack, or windstorm (§ 219.11[d][2][iii]). Since this amendment involves salvage of trees killed or damaged by bark beetle attacks and dwarf mistletoe infestation, the size limits do not apply, and therefore no regional forester approval is required. An amendment is still required, however, because these exceptions to opening size limits are not stated in our current Forest Plan.
 - Harvest would comply with NFMA resource protections, including those detailed above (see resource specialist reports and environmental assessment).
 - Harvest quantity in this project and all projects on the forest combined is limited to an amount equal to or less than that which could be removed annually in perpetuity on a sustained yield basis (see Forest Plan).
 - Because of insect and disease impacts in those stands proposed for harvest, the culmination of mean annual increment of growth requirement does not apply. The harvests would occur as salvage or sanitation harvests concurrent with a regeneration event. Culmination of mean annual increment of growth has passed in stands selected for even-aged harvest where stand ages are estimated to have been near 100 years old or more before insect-caused tree mortality. (See forested vegetation report in project record.)

The rule requirements above did not require a change to the proposed amendment and therefore no changes were made to it.

Project and activity consistency with the plan

This amendment applies only to the Half Whiskey Moon Lookout Forest Restoration Project. Project-specific plan amendments such as this do not apply to future projects and activities. The project will be consistent with the plan, as amended for this activity.