

Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.

Dated December 5, 2006.

**Kevin R. Schulkoski,**

*Acting Dixie Forest Supervisor.*

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## DEPARTMENT OF AGRICULTURE

### Forest Service

#### Thorn Fire Salvage Recovery Project, Malheur National Forest, Grant County, OR

**AGENCY:** Forest Service, USDA.

**ACTION:** Notice of intent to prepare an environmental impact statement.

**SUMMARY:** The USDA Forest Service will prepare an environmental impact statement (EIS) to disclose environmental effects on a proposed action to recover the economic value of dead and dying trees damaged in the Shake Table Fire Complex, and remove potential hazard trees from open forest travel routes within the Todd, Duncan, Fields Creek and Dry Creek subwatersheds. Shake Table Fire Complex, located approximately 20 miles south west of John Day, Oregon, burned approximately 14,527 acres across mixed ownership in August 2006, of that approximately 13,536 acres were on National Forest System Lands administered by the Blue Mountain Ranger District, Malheur National Forest. The proposed action is the Thorn Fire Salvage Recovery Project. **DATES:** Comments concerning the scope of the analysis must be received by January 16, 2007. The Draft EIS is expected to be filed with the Environmental Protection Agency (EPA) and be available to the public for review by April 2007. The Final EIS is scheduled to be completed by June 2007.

**ADDRESSES:** Send written comments to the Responsible Official, Gary L. "Stan" Benes, Forest Supervisor, Malheur National Forest, 431 Patterson Bridge Road, P.O. Box 909, John Day Oregon 97845. Send electronic comments to: [comments-pacificnorthwest-malheur@fs.fed.us](mailto:comments-pacificnorthwest-malheur@fs.fed.us).

**FOR FURTHER INFORMATION CONTACT:** Jerry Hensley, Project Manager, Malheur National Forest, 431 Patterson Bridge Road, P.O. Box 909, John Day, Oregon, telephone 541-575-3167, e-mail [jhensley@fs.fed.us](mailto:jhensley@fs.fed.us).

### SUPPLEMENTARY INFORMATION:

#### Purpose and Need for Action

The purpose and need of the Thorn Fire Salvage Recovery Project includes: (1) Recovery of the economic value of a portion of the dead and dying trees consistent with protection of other resource values; and (2) improving public safety within the fire area by removing potential hazard trees for public safety along open forest travel routes.

#### Proposed Action

This action includes salvage of dead and dying trees from approximately 7,952 acres and removal of potential hazard trees for public safety along open forest travel routes. Salvage harvest methods would include ground-based and helicopter logging systems. Approximately 80 percent of the harvest area would be salvaged by helicopter. No commercial harvest or road construction is proposed within Appendix C Inventoried Dry Cabin, Cedar Grove and Shake Table Roadless Areas. Road activities associated with salvage and restoration will be limited to reconstruction, opening and re-closing existing roads, and maintenance. No new roads would be built. Following site preparation, approximately 7,952 acres would be planted with conifer seedlings. Forest Plan amendments would be included as needed.

#### Possible Alternatives

Alternatives will include the proposed action, no action, and additional alternatives that respond to issues generated during the scoping process. The agency will give notice of the full environmental analysis and decisionmaking process to interested and affected people may participate and contribute to the final decision.

#### Responsible Official and Nature of Decision To Be Made

The Responsible Official is Gary L. "Stan" Benes, Forest Supervisor of the Malheur National Forest, 431 Patterson Bridge Road, P.O. Box 909, John Day, OR 97845. The Responsible Official will decide if the proposed project will be implemented and will document the decision and reasons for the decision in a Record of Decision. That decision will be subject to Forest Service Appeal Regulations. The responsibility for preparing the DEIS and FEIS has been delegated to Brooks Smith, Acting District Ranger, Blue Mountain Ranger District.

### Scoping Process

Public participation will be especially important at several points during the analysis, beginning with the scoping process (40 CFR 1501.7). Initial scoping began with the project listed in the 2006 Fall Edition of the Malheur National Forest's Schedule of Proposed Actions. A Public meeting has been planned for January 2007 to discuss the project. Other meetings will be scheduled as needed. Also, correspondence with tribes, government agencies, organizations, and individuals who have indicated their interest will be conducted.

### Preliminary Issues

Preliminary issues identified include the potential effect of the proposed action on: Soils, water quality and fish habitat, snags and down wood, disturbance to cultural resources, potential for noxious weed expansion, threatened, endangered and sensitive aquatic, terrestrial and plant species, potential loss of economic value of trees damaged by wildfire, and the safety and use of the area by public and land managers.

### Comment

Public comments about this proposal are requested to identify issues and alternatives to the proposed action and to focus the scope of the analysis. Comments received in response to this solicitation, including names and addresses of those who comment, will be considered part of the public record on this proposed action, and will be available for public inspection. Comments submitted anonymously will be accepted and considered; however, those who submit anonymous comments will not have standing to appeal the subsequent decisions under 36 CFR parts 215 or 217. Additionally, pursuant to 7 CFR 1.27(d), any person may request the agency to withhold a submission from the public record by showing how the Freedom of Information Act (FOIA) permits such confidentiality. Persons requesting such confidentiality should be aware that under the FOIA, confidentiality may be granted in only very limited circumstances such as to protect trade secrets. The Forest Service will inform the requester of the agency's decision regarding the request for confidentiality, and where the request is denied; the agency will return the submission and notify the requester that the comments may be resubmitted with or without name and address within a specified number of days.

*Early Notice of Importance of Public Participation in Subsequent Environmental Review:* A draft environmental impact statement will be prepared for comment. The comment period on the draft environmental impact statement will be 45 days from the date the Environmental Protection Agency publishes the notice of availability in the **Federal Register**. The Forest Service believes, at this early stage, it is important to give reviewers notice of several court rulings related to public participation in the environmental review process. First, reviewers of draft environmental impact statements must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp. v. NRDC*, 435 U.S. 519, 553 (1978). Also, environmental objections that could be raised at the draft environmental impact statement stage but that are not raised until after completion of the final environmental impact statement may be waived or dismissed by the courts. *City of Angoon v. Hodel*, 803 F.2d 1016, 1022 (9th Cir. 1986) and *Wisconsin Heritages, Inc. v. Harris*, 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the 45-day comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final environmental impact statement.

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the draft environmental impact statement should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft statement. Comments may also address the adequacy of the draft environmental impact statement or the merits of the alternatives formulated and discussed in the statement. Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.

Comments received, including the names and addresses of those who comment, will be considered part of the public record on this proposal and will be available for public inspection.

(Authority: 40 CFR 1501.7 and 1508.22; Forest Service Handbook 1909.15, Section 21)

Dated: December 11, 2006.

**Gary L. Benes,**

*Forest Supervisor.*

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## DEPARTMENT OF AGRICULTURE

### Forest Service

**RIN 0596-AB86**

#### **National Environmental Policy Act Documentation Needed for Developing, Revising, or Amending Land Management Plans; Categorical Exclusion**

**AGENCY:** Forest Service, USDA.

**ACTION:** Final directive.

**SUMMARY:** The Forest Service is revising procedures for implementing the National Environmental Policy Act (NEPA) and Council on Environmental Quality (CEQ) regulations. The procedures are being revised through issuance of a final directive that amends Forest Service Handbook (FSH) 1909.15, chapter 30. This chapter describes categorical exclusions; that is, categories of actions which do not individually or cumulatively have a significant effect on the human environment, and therefore, normally do not require further analysis and documentation in either an environmental assessment (EA) or an environmental impact statement (EIS). The amendment adds one such category of actions to the Agency's NEPA procedures for final decisions on proposals to develop, amend, or revise land management plans.

**DATES:** *Effective Date:* This amendment is effective December 15, 2006

**ADDRESSES:** The new Forest Service categorical exclusion is set out in FSH 1909.15, chapter 30, which is available electronically via the World Wide Web/Internet at <http://www.fs.fed.us/im/directives>. Single paper copies are available by contacting Anthony Erba, Forest Service, USDA, Ecosystem Management Coordination Staff (Mail Stop 1104), 1400 Independence Avenue, SW., Washington, DC 20250-1104. Additional information and analysis can be found at <http://www.fs.fed.us/emc/nfma>.

#### **FOR FURTHER INFORMATION CONTACT:**

Anthony Erba, USDA Forest Service, Ecosystem Management Coordination Staff, (202) 205-0895. Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1-800-877-8339 between 8 a.m. and 4

p.m., Eastern Standard Time, Monday through Friday.

#### **SUPPLEMENTARY INFORMATION:**

##### **Background**

On January 5, 2005, the Forest Service published the 2005 planning rule (70 FR 1023) establishing procedures for National Forest System compliance with the NFMA. That planning rule provided that approval of a plan, plan amendment, or plan revision may be categorically excluded from National Environmental Policy Act (NEPA) documentation in accordance with Forest Service NEPA procedures. On the same date, the Forest Service published a proposed amendment to its NEPA procedures to provide for such a categorical exclusion. Specifically, the categorical exclusion proposed on January 5, 2005 (70 FR 1062) would require four changes in chapter 30 of FSH 1909.15.

1. A category would be added to section 31.2 that would allow development, amendment, and revision of plan components, or portions thereof, to be categorically excluded unless extraordinary circumstances exist.

2. A paragraph would be added to section 30.3 to define the extraordinary circumstances pertinent to the new category. It would specify that the inclusion of a project or activity decision in a plan component may constitute an extraordinary circumstance.

3. A paragraph would be added to section 30.3 to clarify that the extensive public participation requirements in the land management planning regulations at 36 CFR 219.9 are sufficient to satisfy the scoping requirements currently included in section 30.3.

4. A paragraph would be added to section 32.2 to clarify that the plan approval document required by the land management planning regulations at 36 CFR 219.7(c) is sufficient to satisfy the decision memo requirements of chapter 30.

In response to comments on the proposed categorical exclusion and to clarify meaning, three revisions were made to the original proposal as follows.

1. The wording of the category to be added to section 31.2 was changed to remove the phrase "except where extraordinary circumstances exist" because the phrase is not necessary. The following wording was added to further clarify the actions that meet this category's definition: "that provide broad guidance and information for project and activity decision-making in a National Forest System unit." Consistent with the Supreme Court decision in *Ohio Forestry Ass'n v. Sierra*