

Appendix B – Alternative B: 2000 Planning Rule Transition Provisions

This is the no action alternative. Under this alternative, the planning provisions of the 1982 rule, last included in the Code of Federal Regulations at 36 CFR part 219 (2000) would guide development, revision, and amendment of land management plans for the National Forest System. Use of the 1982 rule planning provisions is allowed under the transition language of the 2000 planning rule currently in effect (36 CFR part 219.35).

SEC. 219.35 TRANSITION

(a) The transition period begins on November 9, 2000 and ends upon the completion of the revision process (Sec. 219.9) for each unit of the National Forest System. During the transition period, the responsible official must consider the best available science in implementing and, if appropriate, amending the current plan.

(b) Until the Department promulgates the revised final planning regulations announced in the December 3, 2001, Semiannual Unified Agenda of Federal Regulatory and Deregulatory Actions, a responsible official may elect to continue or to initiate new plan amendments or revisions under the 1982 planning regulations in effect prior to November 9, 2000 (See 36 CFR parts 200 to 299, Revised as of July 1, 2001), or the responsible official may conduct the amendment or revision process in conformance with the provisions of this subpart. For the purposes of this paragraph, the reference to initiation of a plan amendment or revision means that the agency has issued a Notice of Intent or other public notification announcing the commencement of a plan amendment or revision as provided for in the Council on Environmental Quality regulations at 40 CFR 1501.7 or in Forest Service Handbook 1909.15, Environmental Policy and Procedures Handbook, section 11.

(c) If a review of lands not suited for timber production is required before the completion of the revision process, the review must take place as described by the provisions of Sec. 219.28, except as provided in paragraph (b) of this section.

(d) The date by which site-specific decisions made by the responsible official must be in conformance with the provisions of this subpart is extended from November 9, 2003, until the Department promulgates the final planning regulations published as proposed on December 6, 2002 (67 FR 72770).

(e) Within 1 year of November 9, 2000, the Regional Forester must withdraw the regional guide. When a regional guide is withdrawn, the Regional Forester must identify the decisions in the regional guide that are to be transferred to a regional supplement of the Forest Service directive system (36 CFR 200.4) or to one or more plans and give notice in the Federal Register of these actions. The transfer of direction from a regional guide to a regional supplement of the Forest Service directive system or to one or more plans does not constitute an amendment, revision, or site-specific action subject to Forest Service NEPA procedures.

(f) Within 3 years after completion of the revision process for a unit, the responsible official must complete the first monitoring and evaluation report as required in Sec. 219.11(f).

(g) Within 1 year of November 9, 2000, the Chief of the Forest Service must establish a schedule for completion of the revision process for each unit of the National Forest System.

APPENDIX A TO SEC. 219.35

Interpretive Rule Related to Paragraph 219.35(b)

The Department is making explicit its preexisting understanding of paragraph (b) of this section with regard to the appeal or objection procedures that may be applied to amendments or revisions of land and resource management plans during the transition from the appeal procedures of 36 CFR part 217 in effect prior to November 9, 2000 (See CFR 36 parts 200 to 299, Revised as of July 1, 2000), to the objection procedures of Sec. 219.32 as follows:

1. The option to proceed under the 1982 regulations or under the provisions of this subpart specifically includes the option to select either the administrative appeal and review procedures of 36 CFR part 217 in effect prior to November 9, 2000, or the objection procedures of 36 CFR 219.32.

2. The Department interprets the term “initiated,” as used in paragraph (b) of this section, to indicate that the agency has issued a Notice of Intent or other public notification announcing the commencement of a plan revision or amendment as provided for in the Council on Environmental Quality regulations at 40 CFR 1501.7 or in Forest Service Handbook 1909.15, Environmental Policy and Procedures Handbook, section 11.

APPENDIX B TO § 219.35

Interpretative Rule Related to Paragraphs 219.35(a) and (b)

The Department is clarifying the intent of the transition provisions of paragraphs (a) and (b) of this section with regard to the consideration and use of the best available science to inform project decisionmaking that implements a land management plan as follows:

1. Under the transition provisions of paragraph (a), the responsible official must consider the best available science in implementing and, if appropriate, in amending existing plans. Paragraph (b) allows the responsible official to elect to prepare plan amendments and revisions using the provisions of the 1982 planning regulation until a new final planning rule is adopted. A proposed rule to revise the November 9, 2000, planning regulations was published in the **Federal Register** on December 6, 2002 (67 FR 72770). A new final rule has not been promulgated.

2. Until a new final rule is promulgated, the transition provisions of § 219.35 remain in effect. The 1982 rule is not in effect. During the transition period, responsible

officials may use the provisions of the 1982 rule to prepare plan amendments and revisions. Projects implementing land management plans must comply with the transition provisions of § 219.35, but not any other provisions of the 2000 planning rule. Projects implementing land management plans and plan amendments, as appropriate, must be developed considering the best available science in accordance with § 219.35(a). Projects implementing land management plans must be consistent with the provisions of the governing plan.

