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Forest Service

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# FINAL PROGRAMMATIC ENVIRONMENTAL IMPACT STATEMENT APPENDICES

## National Forest System Land Management Planning

UNITED STATES DEPARTMENT OF AGRICULTURE, FOREST SERVICE



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# APPENDIX A – PROPOSED PLANNING RULE

**This is the proposed planning rule as published in the Federal Register Vol. 76, No. 30, 8480. Monday, February 14, 2011.**

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## SUBPART A—NATIONAL FOREST SYSTEM LAND MANAGEMENT PLANNING

### § 219.1 PURPOSE AND APPLICABILITY.

(a) This subpart sets out the planning requirements for developing, amending, and revising land management plans (also referred to as plans) for the National Forest System (NFS), as required by the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976 (16 U.S.C. 1600 *et seq.*) (NFMA). This subpart also sets out the requirements for plan components and other content in land management plans. This part is applicable to all units of the NFS as defined by 16 U.S.C. 1609 or subsequent statute.

(b) Consistent with the Multiple-Use Sustained-Yield Act of 1960 (16 U.S.C. 528–531) (MUSYA), the Forest Service manages the NFS to sustain the multiple uses, including ecosystem services, of its renewable resources in perpetuity while maintaining the long-term health and productivity of the land. Resources are managed through a combination of approaches and concepts for the benefit of human communities and natural resources. Land management plans guide sustainable, integrated resource management of the resources within the plan area in the context of the broader landscape, giving due consideration to the relative values of the various resources in particular areas.

(c) The objective of this part is to guide the collaborative and science-based development, amendment, and revision of land management plans that promote healthy, resilient, diverse, and productive national forests and grasslands. Plans will guide management of NFS lands so that they are ecologically sustainable and contribute to social and economic sustainability, with resilient ecosystems and watersheds, diverse plant and animal communities, and the capacity to provide people and communities with a range of social, economic, and ecological benefits for the present and into the future, including clean water; habitat for fish, wildlife, and plant communities; and opportunities for recreational, spiritual, educational, and cultural sustenance.

(d) The Chief of the Forest Service must establish planning procedures for this part on plan development, plan amendment, or plan revision in the Forest Service Directive System in Forest Service Manual 1920—Land Management Planning and in Forest Service Handbook 1909.12—Land Management Planning Handbook.

(e) This part does not affect treaty rights or valid existing rights established by statute or legal instruments.

(f) During the planning process, the responsible official shall comply with Section 8106 of the Food, Conservation, and Energy Act of 2008 (25 U.S.C. 3056), Executive Order 13007 of May 24, 1996, Executive Order 13175 of November 6, 2000, laws, and other requirements with respect to disclosing or withholding under the Freedom of Information



Act (5 U.S.C. 552) certain information regarding reburial sites or other information that is culturally sensitive to an Indian Tribe or Tribes.

(g) Plans must comply with all applicable laws and regulations, including NFMA, MUSYA, the Clean Air Act, the Clean Water Act, the Wilderness Act, and the Endangered Species Act.

## **§ 219.2 LEVELS OF PLANNING AND RESPONSIBLE OFFICIALS.**

Forest Service planning occurs at different organizational levels and geographic scales. Planning occurs at three levels—national strategic planning, NFS unit planning, and project or activity planning.

(a) *National strategic planning.* The Chief of the Forest Service is responsible for national planning, such as preparation of the Forest Service strategic plan required under the Government Performance and Results Act of 1993 (5 U.S.C. 306; 31 U.S.C. 1115–1119; 31 U.S.C. 9703–9704), which is integrated with the requirements of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the NFMA. The strategic plan establishes goals, objectives, performance measures, and strategies for management of the NFS, as well as the other Forest Service mission areas: Research and Development, State and Private Forestry, and International Programs.

(b) *National Forest System unit planning.* (1) NFS unit planning results in the development, revision, or amendment of a land management plan. A land management plan provides a framework for integrated resource management and for guiding project and activity decisionmaking on a national forest, grassland, prairie, or other administrative unit. A plan reflects the unit's expected distinctive roles and contributions to the local area, region, and Nation, and the roles for which the unit is best suited, considering the Agency mission, unique capabilities, and the resources and management of other lands in the vicinity. Through the adaptive planning cycle set forth in this subpart, a plan can be changed to reflect new information and changing conditions.

(2) A plan does not authorize projects or activities or commit the Forest Service to take action. However, a plan may constrain the Agency from authorizing or carrying out actions, and projects and activities must be consistent with the plan (§ 219.15). A plan does not regulate uses by the public, but a project or activity decision that regulates a use by the public under Title 36, Code of Federal Regulations, Part 261—Prohibitions, Subpart B—Prohibitions in Areas Designated by Order, may be made contemporaneously with the approval of a plan, plan amendment, or plan revision. Plans should not repeat laws, regulations, or program management policies, practices, and procedures from the Forest Service Directive System.

(3) The supervisor of the national forest, grassland, prairie, or other comparable administrative unit is the responsible official for development and approval of a plan, plan amendment, or plan revision for lands under the responsibility of the supervisor, unless a regional forester, the Chief, the Under Secretary, or the Secretary acts as the responsible official. Two or more responsible officials may undertake joint planning over lands under their respective jurisdictions.

(4) A plan for a unit that contains an experimental area may not be approved without the concurrence of the appropriate research station director with respect to the direction applicable to that area, and a plan amendment applicable to an experimental area may not be approved without the concurrence of the appropriate research station director.

(c) *Project and activity planning.* The supervisor or district ranger is the responsible official for project and activity decisions, unless a higher-level official acts as the responsible official. Requirements for project or activity planning are established in the Forest Service Directive System. Except as provided in the plan consistency requirements in § 219.15, none of the requirements of this part apply to projects or activities.

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### § 219.3 ROLE OF SCIENCE IN PLANNING.

The responsible official shall take into account the best available scientific information throughout the planning process identified in this subpart. In doing so, the responsible official shall determine what information is the most accurate, reliable, and relevant to a particular decision or action. The responsible official shall document this consideration in every assessment report (§ 219.6), plan decision document (§ 219.14), and monitoring evaluation report (§ 219.12). Such documentation must:

- (a) Identify sources of data, peer reviewed articles, scientific assessments, or other scientific information relevant to the issues being considered;
- (b) Describe how the social, economic, and ecological sciences were identified and appropriately interpreted and applied; and
- (c) For the plan decision document, describe how scientific information was determined to be the most accurate, reliable, and relevant information available and how scientific findings or conclusions informed or were used to develop plan components and other content in the plan.

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### § 219.4 REQUIREMENTS FOR PUBLIC PARTICIPATION.

(a) *Providing opportunities for participation.* The responsible official shall engage the public—including Tribes and Alaska Native Corporations, other Federal agencies, State and local governments, individuals, and public and private organizations or entities—early and throughout the planning process as required by this part, using collaborative processes where feasible and appropriate. When developing opportunities for public participation, the responsible official shall take into account the discrete and diverse roles, jurisdictions, responsibilities, and skills of interested and affected parties; the accessibility of the process, opportunities, and information; and the cost, time, and available staffing. The responsible official should be proactive and use contemporary tools, such as the internet, to engage the public, and should share information in an open way with interested parties.

(1) *Scope, methods, and timing.* The responsible official shall provide opportunities for participating in the assessment process; developing a plan proposal, including the monitoring program; commenting on the proposal and the disclosure of its environmental impacts in accompanying NEPA documents; and reviewing the results of monitoring

information. Subject to the notification requirements in § 219.16, the responsible official has the discretion to determine the scope, methods, forum, and timing of those opportunities.

(2) *Participation opportunities for individual members of the public and entities.* The responsible official shall encourage participation by interested individuals and entities, including those interested at the local, regional, and national levels.

(3) *Participation opportunities for youth, low-income populations, and minority populations.* The responsible official shall encourage participation by youth, low-income populations, and minority populations.

(4) *Participation opportunities for private landowners.* The responsible official shall encourage participation by private landowners whose lands are in, adjacent to, or otherwise affected by, or whose actions may impact, future management actions in the plan area.

(5) *Consultation with federally recognized Indian Tribes and Alaska Native Corporations.* The Department recognizes the Federal Government's trust responsibility for federally recognized Indian Tribes. The responsible official shall honor the government-to-government relationship between federally recognized Indian Tribes and the Federal government. The responsible official shall provide to federally recognized Indian Tribes and Alaska Native Corporations the opportunity to undertake consultation in accordance with Executive Order 13175 of November 6, 2000 and 25 U.S.C. 450 note.

(6) *Participation opportunities for federally recognized Indian Tribes and Alaska Native Corporations.* The responsible official shall encourage participation in the planning process by interested or affected federally recognized Indian Tribes or Alaska Native Corporations. The responsible official may participate in planning efforts of federally recognized Indian Tribes and Alaska Native Corporations, where practicable and appropriate.

(7) *Native knowledge, indigenous ecological knowledge, and land ethics.* As part of tribal participation and consultation as set forth in paragraphs (a)(5) and (6) of this section, the responsible official shall request information about native knowledge, land ethics, cultural issues, and sacred and culturally significant sites.

(8) *Participation opportunities for other Federal agencies, federally recognized Tribes, States, counties, and local governments.* The responsible official shall provide opportunities for other government agencies to participate in planning for NFS lands. Where appropriate, the responsible official shall encourage federally recognized Tribes, States, counties, and other local governments to seek cooperating agency status in the NEPA process for a plan development, amendment, or revision. The responsible official may participate in planning efforts of States, counties, local governments, and other Federal agencies, where practicable and appropriate.

(b) *Coordination with other public planning efforts.* (1) The responsible official shall coordinate land management planning with the equivalent and related planning efforts of

federally recognized Indian Tribes, Alaska Native Corporations, other Federal agencies, and State and local governments, to the extent practicable and appropriate.

(2) For plan development or revision, the responsible official shall review the planning and land use policies of federally recognized Indian Tribes, Alaska Native Corporations, other Federal agencies, and State and local governments, where relevant to the plan area. The results of this review shall be displayed in the environmental impact statement for the plan (40 CFR 1502.16(c), 1506.2). The review shall include consideration of:

(i) The objectives of federally recognized Indian Tribes, Alaska Native Corporations, other Federal agencies, and State and local governments, as expressed in their plans and policies;

(ii) The compatibility and interrelated impacts of these plans and policies;

(iii) Opportunities for the plan to address the impacts identified or contribute to joint objectives; and

(iv) Opportunities to resolve or reduce conflicts, within the context of achieving the Forest Service desired conditions or objectives.

(3) Nothing in this section should be read to indicate that the responsible official will seek to direct or control management of lands outside of the planning area, nor will the responsible official conform management to meet non-Forest Service objectives or policies.

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## § 219.5 PLANNING FRAMEWORK.

(a) Planning for a national forest, grassland, prairie, or other comparable administrative unit of the NFS is an iterative process that includes assessment (§ 219.6); developing, amending, or revising a plan (§§ 219.7 and 219.13); and monitoring (§ 219.12). These three phases of the framework are complementary and may overlap. The intent of this framework is to create a responsive and agile planning process that informs integrated resource management and allows the Forest Service to adapt to changing conditions, including climate change, and improve management based on new information and monitoring.

(1) *Assessment.* An assessment is the gathering and integrating of information relevant to the planning area from many sources and the analysis of that information to identify a need to change a plan or to inform how a new plan should be proposed (§ 219.6). The responsible official shall consider and evaluate existing and possible future conditions and trends of the plan area, and assess the sustainability of social, economic, and ecological systems within the unit, in the context of the broader landscape. Based on the results of an assessment, the responsible official may identify a preliminary need to change a plan and begin a plan amendment, plan revision, or new plan development.

(2) *Plan development, plan revision, or plan amendment.* Plan revision (§ 219.7) or plan amendment (§ 219.13) begins with the identification of a preliminary need to change the



existing plan. For newly created planning units, the need for planning arises with the creation of the unit, unless otherwise provided by law.

(i) The process for developing or revising a plan includes: assessment, developing a proposed plan, considering the environmental effects of the proposal, providing an opportunity to comment on the proposed plan, providing an opportunity to object before the proposal is approved, and, finally, approving the plan or plan revision. A new plan or plan revision requires preparation of an environmental impact statement.

(ii) The process for amending a plan includes: identifying a need to change the plan, developing a proposed amendment, considering the environmental effects of the proposal, providing an opportunity to comment on the proposed amendment, providing an opportunity to object before the proposal is approved, and, finally, approving the plan amendment. The appropriate NEPA documentation for an amendment may be an environmental impact statement (EIS), an environmental assessment (EA), or a categorical exclusion (CE), depending upon the scope and scale of the amendment and its likely effects.

(3) *Monitoring.* Monitoring is continuous and provides feedback for the planning cycle by testing relevant assumptions, tracking relevant conditions over time, and measuring management effectiveness (§ 219.12). The monitoring program includes unit-level and broader-scale monitoring. The unit-level monitoring program is informed by the assessment phase; developed during plan development, plan revision, or plan amendment; and implemented after plan approval. The regional forester develops broader-scale monitoring strategies. Biennial monitoring evaluation reports document whether a change to the plan or change to the monitoring program is warranted based on new information, whether a new assessment may be needed, or whether there is no need for change at that time.

(b) *Interdisciplinary team(s).* The responsible official shall establish an interdisciplinary team or teams to prepare assessments; new plans, plan amendments, and plan revisions; and unit monitoring programs.

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## § 219.6 ASSESSMENTS.

Assessments may range from narrow in scope to comprehensive, depending on the issue or set of issues to be evaluated, and should consider relevant ecological, economic, and social conditions, trends, and sustainability within the context of the broader landscape. The responsible official has the discretion to determine the scope, scale, and timing of an assessment, subject to the requirements of this section.

(a) *Process for plan development or revision assessments.* One or more assessments must be conducted for the development of a new plan or for a plan revision. The responsible official shall:

(1) Notify and encourage the public and appropriate Federal agencies, States, local governments, other entities, and scientists to participate in the assessment process (§§ 219.4 and 219.16).

(2) Notify and encourage potentially interested or affected federally recognized Indian Tribes and Alaska Native Corporations to participate in the assessment process (§§ 219.4 and 219.16).

(3) Coordinate with the regional forester, Agency staff from State and Private Forestry and Research and Development, and other governmental and non-governmental partners to consolidate existing information and leverage resources for additional information needs.

(4) Document the assessment in a report or set of reports available to the public. Document in the report(s) how the relevant best available scientific information was taken into account (§ 219.3), and include the report(s) in the planning record (§ 219.14).

(5) Identify in the report how a new plan should be proposed, or identify a potential need to change an existing plan, based on the assessment.

(b) *Content of assessments for plan development or revision.* In the assessment(s) for plan development or revision, the responsible official shall:

(1) Identify and evaluate information needed to understand and assess existing and potential future conditions and stressors in order to inform and develop required plan components and other content in the plan (§ 219.7), including plan components for sustainability (§ 219.8), diversity of plant and animal communities (§ 219.9), multiple uses (§ 219.10), and timber requirements based on NFMA (§ 219.11).

(2) Identify and consider relevant information contained in governmental or non-governmental assessments, plans, monitoring evaluation reports, and studies, including relevant neighboring land management plans. Such documents may include State forest assessments and strategies, the Resources Planning Act assessment, ecoregional assessments, non-governmental reports, State comprehensive outdoor recreation plans, community wildfire protection plans, and State wildlife action plans. Relevant private information will be considered if voluntarily provided.

(3) Identify the distinctive roles and contributions of the unit within the context of the broader landscape, considering the roles of the unit in providing multiple uses, including ecosystem services, from the NFS lands to the local area, region, and Nation. The unit's distinctive roles and contributions within the broader landscape are those for which the unit is best suited, considering the Agency mission, unique capabilities, and the resources and management of other lands in the vicinity.

(4) Identify potential monitoring questions or information needs to inform the development or modification of the unit's monitoring program.

(c) *Plan amendment assessments.* (1) A plan amendment must be based on a documented need to change the plan. This documentation may be a new assessment; may be a monitoring report; or may be other documentation of new information, changed conditions, or changed circumstances. Where the responsible official determines that a new assessment is needed to inform the need for an amendment, the responsible official

has the discretion to determine the scope, scale, process, and content for the assessment depending on the issue or issues to be addressed.

(2) When a plan amendment is made together with, and only applies to, a project or activity decision, the analysis prepared for the project or activity may serve as the documented need to change the plan.

### **§ 219.7 NEW PLAN DEVELOPMENT OR PLAN REVISION.**

(a) *Plan revisions.* A plan revision creates a new plan for the entire unit, whether the plan revision differs from the prior plan to a small or large extent. A plan must be revised at least every 15 years (16 U.S.C. 1604(f)(5)). However, the responsible official has the discretion to determine at any time that conditions on a unit have changed significantly such that a plan must be revised. The responsible official shall base development of a proposal for plan revision on the preliminary need for change identified through the assessment process required by § 219.6.

(b) *New plan development.* New plan development is required for new NFS units. The process for developing a new plan is the same as the process for plan revision.

(c) *Process for plan development or revision.* (1) The process for developing or revising a plan includes: public notification and participation (§§ 219.4 and 219.16), assessment (§ 219.6), developing a proposed plan, considering the environmental effects of the proposal, providing an opportunity to comment on the proposed plan, providing an opportunity to object before the proposal is approved (subpart B), and, finally, approving the plan or plan revision. A new plan or plan revision requires preparation of an environmental impact statement.

(2) In developing a proposed new plan or proposed plan revision, the responsible official shall:

(i) Review relevant information from the assessment phase.

(ii) Identify the presence and consider the importance of various physical, biological, social, and cultural resources on the unit, with respect to the requirements for plan components of §§ 219.8 through 219.11.

(iii) Consider conditions and trends and stressors, with respect to the requirements for plan components of §§ 219.8 through 219.11.

(iv) Identify potential wilderness areas and consider whether to recommend any such areas for wilderness designation.

(v) Identify the eligibility of rivers for inclusion in the National Wild and Scenic Rivers System, unless a systematic inventory has been previously completed and documented and there are no changed circumstances that warrant additional review.

(vi) Identify the suitability of areas for the appropriate integration of resource management and uses, with respect to the requirements for plan components of §§ 219.8

through 219.11, including identifying lands which are not suitable for timber production (§ 219.11).

(vii) Identify the quantity of timber that can be removed from the plan area (§ 219.11(d)(4)).

(viii) Identify questions and indicators for the unit monitoring program (§ 219.12).

(ix) Identify potential other content in the plan (paragraph (e) of this section).

(d) *Plan components.* Plan components guide future project and activity decisionmaking. The plan must indicate where in the plan area specific plan components apply. Plan components may apply to the entire plan area, to specific management or geographic areas, or to other areas as identified in the plan. Every project and activity must be consistent with the applicable plan components (§ 219.15).

(1) *Required plan components.* Every plan must include the following plan components:

(i) *Desired conditions.* A desired condition is a description of specific social, economic, and/or ecological characteristics of the plan area, or a portion of the plan area, toward which management of the land and resources should be directed. Desired conditions must be described in terms that are specific enough to allow progress toward their achievement to be determined, but do not include completion dates.

(ii) *Objectives.* An objective is a concise, measurable, and time-specific statement of a desired rate of progress toward a desired condition or conditions. Objectives should be based on reasonably foreseeable budgets.

(iii) *Standards.* A standard is a mandatory constraint on project and activity decisionmaking, established to help achieve or maintain the desired condition or conditions, to avoid or mitigate undesirable effects, or to meet applicable legal requirements.

(iv) *Guidelines.* A guideline is a constraint on project and activity decisionmaking that allows for departure from its terms, so long as the intent of the guideline is met. (§ 219.15(d)(3)). Guidelines are established to help achieve a desired condition or conditions, to avoid or mitigate undesirable effects, or to meet applicable legal requirements.

(v) *Suitability of lands.* Specific lands within a plan area may be identified as suitable for various multiple uses or activities based on the desired conditions applicable to that area. The plan may also identify lands within the plan area as not suitable for uses that are not compatible with desired conditions for those lands. Suitability does not need to be determined for every multiple use or activity, but every plan must identify those lands not suitable for timber production (§ 219.11).

(2) *Optional plan component: goals.* A plan may include goals as plan components. Goals are broad statements of intent, other than desired conditions, usually related to

process or interaction with the public. Goals are expressed in broad, general terms, and have no specific dates by which they are completed.

(3) *Requirements for the set of plan components.* The set of plan components must meet the requirements set forth in this part for sustainability (§ 219.8); plant and animal diversity (§ 219.9), multiple uses (§ 219.10), and timber (§ 219.11).

(e) *Other content in the plan*—(1) *Other required content in the plan.* Every plan must:

(i) Identify watershed(s) that are a priority for maintenance or restoration;

(ii) Describe the unit’s distinctive roles and contributions within the broader landscape (§ 219.6(b)(3));

(iii) Include the monitoring program required by § 219.12; and

(iv) Contain information reflecting proposed and possible actions that may occur on the unit during the life of the plan including the planned timber sale program; the expected timber harvest levels, as required by NFMA (16 U.S.C. 1604(f)(2)); and the proportion of probable methods of forest vegetation management practices expected to be used. Such information is not a commitment to take any action and is not a “proposal” as defined by the Council on Environmental Quality regulations for implementing NEPA (40 CFR 1508.23, 42 U.S.C. 4322(2)(C)).

(2) *Optional content in the plan.* A plan may include additional items, including potential management approaches or strategies; partnership opportunities or coordination activities; or criteria for priority areas or activities to achieve objectives of the plan..

## **§ 219.8 SUSTAINABILITY.**

Within Forest Service authority and consistent with the inherent capability of the plan area, the plan must provide for social, economic, and ecological sustainability, as follows:

(a) *Ecological sustainability.* (1) *Ecosystem plan components.* The plan must include plan components to maintain or restore the structure, function, composition, and connectivity of healthy and resilient terrestrial and aquatic ecosystems and watersheds in the plan area, taking into account:

(i) Landscape-scale integration of terrestrial and aquatic ecosystems;

(ii) Potential system drivers, stressors, and disturbance regimes, including climate change; how they might affect ecosystem and watershed health and resilience; and the ability of those systems on the unit to adapt to change;

(iii) Air quality; and

(iv) Wildland fire and opportunities to restore fire adapted ecosystems.

(2) *Ecosystem elements.* The plan must include plan components to maintain, protect, or restore:



- (i) Aquatic elements, such as lakes, streams, wetlands, stream banks, and shorelines;
- (ii) Terrestrial elements, such as forest stands, grasslands, meadows, and other habitat types;
- (iii) Rare aquatic and terrestrial plant and animal communities, consistent with § 219.9;
- (iv) Public water supplies, sole source aquifers, source water protection areas, groundwater, and other bodies of water (including guidance to prevent or mitigate detrimental changes in quantity, quality, and availability, including temperature changes, blockages of water courses, and deposits of sediments); and
- (v) Soils and soil productivity (including guidance to reduce soil erosion and sedimentation).

(3) *Riparian areas.* The plan must include plan components to maintain, protect, or restore riparian areas. Plans must establish a default width for riparian areas around all lakes, perennial or intermittent streams, and open water wetlands, within which these plan components will apply. The default may be a standard width for all lakes, perennial or intermittent streams, and open water wetlands, or may vary based on ecologic or geomorphic factors, or the type of waterbody. The default width will apply unless the actual riparian area for a waterbody or a site has been delineated based on best available scientific information.

(b) *Social and economic sustainability.* The plan must include plan components to guide the unit's contribution to social and economic sustainability, taking into account:

- (1) Social, cultural, and economic conditions relevant to the area influenced by the plan and the distinctive roles and contributions of the unit within the broader landscape;
- (2) Sustainable recreational opportunities and uses;
- (3) Multiple uses, including ecosystem services, that contribute to local, regional, and national economies in a sustainable manner; and
- (4) Cultural and historic resources and uses.

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## **§ 219.9 DIVERSITY OF PLANT AND ANIMAL COMMUNITIES.**

Within Forest Service authority and consistent with the inherent capability of the plan area, the plan must include plan components to maintain the diversity of plant and animal communities, as follows:

- (a) *Ecosystem Diversity.* The plan must include plan components to maintain or restore the structure, function, composition, and connectivity of healthy and resilient terrestrial and aquatic ecosystems and watersheds in the plan area, consistent with § 219.8(a), to maintain the diversity of native species.
- (b) *Species Conservation.* The plan components must provide for the maintenance or restoration of ecological conditions in the plan area to:

- (1) Contribute to the recovery of threatened and endangered species;
  - (2) Conserve candidate species; and
  - (3) Maintain viable populations of species of conservation concern within the plan area. Where it is beyond the authority of the Forest Service or the inherent capability of the plan area to do so, the plan components must provide for the maintenance or restoration of ecological conditions to contribute to the extent practicable to maintaining a viable population of a species within its range. When developing such plan components, the responsible official shall coordinate to the extent practicable with other Federal, State, tribal, and private land managers having management authority over lands where the population exists.
- (c) *Diversity of tree and other plant species.* The plan must include plan components to preserve, where appropriate, and to the degree practicable, the diversity of native tree and other native plant species similar to that existing in the plan area, as required by NFMA (16 U.S.C. 1604(g)(3)(B)).

### **§ 219.10 MULTIPLE USES.**

In meeting the requirements of §§ 219.8 and 219.9, and within Forest Service authority, the capability of the plan area and the fiscal capability of the unit, the plan must provide for multiple uses, including ecosystem services, outdoor recreation, range, timber, watershed, wildlife and fish, as follows:

- (a) *Integrated resource management.* When developing plan components for integrated resource management, to the extent relevant to the plan area and the public participation process and the requirements of §§ 219.7, 219.8, 219.9, and 219.11, the responsible official shall consider:
- (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, recreational values and settings, riparian areas, scenery, soil, surface and subsurface water quality, timber, trails, vegetation, viewsheds, wilderness, and other relevant resources;
  - (2) Renewable and nonrenewable energy and mineral resources;
  - (3) Sustainable management of infrastructure, such as recreational facilities and transportation and utility corridors;
  - (4) Opportunities to coordinate with neighboring landowners to link open spaces and take into account joint management objectives where feasible and appropriate;
  - (5) Habitat conditions, subject to the requirements of § 219.9, for wildlife, fish, and plants commonly enjoyed and used by the public, such as species that are hunted, fished, trapped, gathered, observed, or needed for subsistence;
  - (6) The landscape-scale context for management as identified in the assessment;

- (7) Land ownership and access patterns relative to the plan area;
  - (8) Reasonably foreseeable risks to ecological, social, and economic sustainability; and
  - (9) Potential impacts of climate and other system drivers, stressors and disturbance regimes, such as wildland fire, invasive species, and human-induced stressors, on the unit's resources (§ 219.8).
- (b) *Requirements for plan components for a new plan or plan revision.* (1) The plan components for a new plan or plan revision must provide for:
- (i) Sustainable recreation, considering opportunities and access for a range of uses. The plan should identify recreational settings and desired conditions for scenic landscape character.
  - (ii) Protection of cultural and historic resources;
  - (iii) Management of areas of tribal importance;
  - (iv) Protection of wilderness areas as well as the protection of recommended wilderness areas to protect the ecologic and social values and character for which they might be added to the National Wilderness System;
  - (v) Protection of wild and scenic rivers as well as the protection of those rivers eligible for inclusion in the national wild and scenic river system to protect the values for which they might be included in the system until their suitability is determined; and
  - (vi) Protection and appropriate management of other designated or recommended areas that exist in the plan area, including research natural areas.
- (2) Other plan components for integrated resource management to provide for multiple uses that should be included as necessary.

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### **§ 219.11 TIMBER REQUIREMENTS BASED ON NFMA.**

In meeting the requirements of §§ 219.8 through 219.10 and within Forest Service authority, the capability of the plan area, and the fiscal capability of the unit, the plan must provide for multiple uses and ecosystem services, including timber, as follows:

- (a) *Identification of lands as not suitable and suitable for timber production.* (1) *Lands not suitable for timber production.* The responsible official may determine, considering physical, economic, and other pertinent factors, that lands are not suitable for timber production. On lands so designated, timber harvest, other than salvage sales or sales necessary to protect other multiple-use values, shall be prohibited for a period of 10 years. In addition, the plan must identify lands within the plan area as not suitable for timber production if any one of the following factors applies:
- (i) Statute, executive order, or regulation prohibits timber production on the land;

- (ii) The Secretary of Agriculture or the Chief of the Forest Service has withdrawn the land from timber production;
- (iii) Timber production would not be compatible with the achievement of desired conditions and objectives established by the plan for those lands;
- (iv) The technology is not currently available for conducting timber harvest without causing irreversible damage to soil, slope, or other watershed conditions or substantial and permanent impairment of the productivity of the land;
- (v) There is no reasonable assurance that such lands can be adequately restocked within 5 years after final regeneration harvest; or
- (vi) The land is not forest land as defined at § 219.19.

(2) *Lands suitable for timber production.* All lands not identified in the plan as not suitable for timber production are suited for timber production. Timber harvest on lands suitable for timber production may be authorized for timber production or for other multiple use purposes.

(3) *Review of lands not suitable for timber production.* The responsible official shall review lands identified in the plan as not suitable for timber production at least once every 10 years as required by NFMA (16 U.S.C. 1604(k)), or as otherwise prescribed by law, to determine whether conditions have changed so that they have become suitable for timber production. As a result of this 10-year review, the plan may be amended to identify such lands as suitable for timber production if there has been a change in conditions.

(b) *Harvest of trees on land not suitable for timber production.*

(1) Where a plan identifies lands as not suitable for timber production, harvesting of trees for the purpose of timber production is prohibited.

(2) The identification in a plan of lands as not suitable for timber production does not preclude the harvest of trees on those lands for other purposes (16 U.S.C. 1604(k)); in particular, timber harvest may be authorized as a tool to assist in achieving or maintaining one or more applicable desired conditions or objectives of the plan. Examples of using timber harvest on lands not suited for timber production may include improving wildlife or fish habitat, thinning to reduce extreme fire risk, or restoring meadow or savanna ecosystems where trees have invaded.

(c) *Harvest for salvage, sanitation, or public health or safety.* Timber harvest may be approved for salvage, sanitation, or public health or safety, where consistent with the plan.

(d) *Limits on timber harvest on suitable and non-suitable lands.* A plan for a unit on which timber harvest may occur must have plan components to:

(1) Ensure that timber will be harvested from NFS lands only where such harvest would comply with the minimum limits identified in the NFMA (16 U.S.C. 1604(g)(3)(E) and (F)).

(2) Ensure that harvest is carried out in a manner consistent with the protection of soil, watershed, fish, wildlife, recreation, and aesthetic resources.

(3) Establish maximum size limits for areas to be cut in one harvest operation for administrative units that use clearcutting, seed tree cutting, shelterwood cutting, or other cuts designed to regenerate an even-aged stand of timber. Plan components must include standards limiting the maximum size limits for areas to be cut in one harvest operation, according to geographic areas, forest types, or other suitable classifications. This limit may be less than, but must not exceed, 60 acres for the Douglas-fir forest type of California, Oregon, and Washington; 80 acres for the southern yellow pine types of Alabama, Arkansas, Georgia, Florida, Louisiana, Mississippi, North Carolina, South Carolina, Oklahoma, and Texas; 100 acres for the hemlock-Sitka spruce forest type of coastal Alaska; and 40 acres for all other forest types except as provided in this paragraph.

(i) Cut openings larger than those specified may be permitted where larger units will produce a more desirable combination of benefits. Specifications for exceptions shall include the particular conditions under which the larger size is permitted and must set a maximum size permitted under those conditions.

(ii) Size limits exceeding those established in paragraphs (d)(3) and (d)(3)(i) of this section are permitted on an individual timber sale basis after 60 days public notice and review by the regional forester.

(iii) The plan maximum size openings shall not apply to the size of areas harvested as a result of natural catastrophic conditions such as fire, insect and disease attack, or windstorm (16 U.S.C. 1604(g)(3)(F)(iv)).

(4) Limit the quantity of timber that can be removed annually in perpetuity on a sustained-yield basis and provide for departure from this limit, as provided by NFMA. The Chief of the Forest Service must include in the Forest Service Directive System procedures for estimating the quantity of timber that can be removed annually in perpetuity on a sustained-yield basis, and exceptions, consistent with 16 U.S.C. 1611.

(5) Limit the regeneration harvest of even-aged stands of trees to stands that generally have reached the culmination of mean annual increment of growth. This requirement applies only to final regeneration harvest of even-aged stands on lands identified as suitable for timber production and where timber production is the primary purpose for the harvest. Exceptions, set out in 16 U.S.C. 1604(m), are permitted only if consistent with the land management plan. If such exceptions are anticipated, the responsible official should include those exceptions in the land management plan as standards or guidelines. The Chief of the Forest Service must include in the Forest Service Directive System, requirements for assuring that even-aged stands of trees scheduled for final regeneration



harvest during the planning period have generally reached culmination of mean annual increment of growth with exceptions as permitted by the NFMA (16 U.S.C. 1604(m)).

## **§ 219.12 MONITORING.**

(a) *Unit monitoring program.* (1) The responsible official shall develop a unit monitoring program for the plan area, and include it in the plan. The development of the monitoring program must be coordinated with the regional forester and Agency staff from State and Private Forestry, and Research and Development. Responsible officials for two or more administrative units may jointly develop their unit monitoring programs.

(2) The unit monitoring program sets out the unit monitoring questions and associated indicators. Monitoring questions and associated indicators must be designed to inform the management of resources on the unit, including by testing relevant assumptions, tracking relevant changes, and measuring management effectiveness and progress toward achieving or maintaining desired conditions or objectives. Questions and indicators should be based on one or more desired conditions, objectives, or other plan component in the plan, but not every plan component needs to have a corresponding monitoring question.

(3) The unit monitoring program should be coordinated and integrated with relevant broader-scale monitoring strategies (paragraph (b) of this section) to ensure that monitoring is complementary and efficient, and that information is gathered at scales appropriate to the monitoring questions.

(4) Subject to the requirements of paragraph (a)(5) of this section, the responsible official has the discretion to set the scope and scale of the unit monitoring program, after considering:

- (i) Information needs identified through the planning process as most critical for informed management of resources on the unit;
- (ii) Existing best available scientific information; and
- (iii) Financial and technical capabilities of the Agency.

(5) Each unit monitoring program must contain one or more monitoring questions or indicators addressing each of the following:

- (i) The status of select watershed conditions;
- (ii) The status of select ecological conditions;
- (iii) The status of focal species;
- (iv) The status of visitor use and progress toward meeting recreational objectives;
- (v) Measurable changes on the unit related to climate change and other stressors on the unit;

- (vi) The carbon stored in above ground vegetation;
  - (vii) The progress toward fulfilling the unit's distinctive roles and contributions to ecologic, social, and economic conditions of the local area, region, and Nation; and
  - (viii) The effects of management systems to determine that they do not substantially and permanently impair the productivity of the land (16 U.S.C. 1604(g)(3)(C)).
- (6) A range of monitoring techniques may be used to carry out the monitoring requirements in paragraph (a)(5) of this section.
- (7) This section does not apply to projects or activities; project and activity monitoring may be used to gather information, but monitoring is not a prerequisite for carrying out a project or activity.
- (b) *Broader-scale monitoring strategies.* (1) The regional forester shall develop a broader-scale monitoring strategy for unit monitoring questions that can best be answered at a geographic scale broader than one unit.
- (2) When developing a monitoring strategy, the regional forester shall coordinate with the relevant responsible officials, Agency staff from State and Private Forestry and Research and Development, partners, and the public. Two or more regional foresters may jointly develop broader-scale monitoring strategies.
- (3) Each regional forester shall ensure that the broader-scale monitoring strategy is within the financial and technical capabilities of the region and complements other ongoing monitoring efforts.
- (4) Projects and activities may be carried out under plans developed, amended, or revised under this part before the regional forester has developed a broad scale monitoring strategy.
- (c) *Timing and process for developing the unit monitoring program and broader-scale strategies.* (1) In the assessment phase, the responsible official shall work with the public to identify potential monitoring needs relevant to inform effective management (§ 219.6).
- (2) The responsible official shall develop the unit monitoring program as part of the planning process for a new plan development or plan revision. Where a unit's monitoring program has been developed under the provisions of a prior planning regulation and the unit has not initiated plan revision, the responsible official shall change the unit monitoring program within 4 years of the effective date of this part, or as soon as practicable, to meet the requirements of this section.
- (3) The regional forester shall develop a broader-scale monitoring strategy as soon as is practicable.
- (4) The responsible official and regional forester shall ensure that scientists are involved in the design and evaluation of unit and broad scale monitoring.

(5) To the extent practicable, appropriate, and relevant to the monitoring questions in the program, unit monitoring programs and broader-scale strategies must be designed to take into account:

(i) Existing national and regional inventory, monitoring, and research programs of the Agency, including from the NFS, State and Private Forestry, and Research and Development, and of other governmental and non-governmental parties;

(ii) Opportunities to design and carry out multi-party monitoring with other Forest Service units, Federal, State or local government agencies, scientists, partners, and members of the public; and

(iii) Opportunities to design and carry out monitoring with federally recognized Indian Tribes and Alaska Native Corporations.

(d) *Biennial evaluation of the monitoring information.* (1) The responsible official shall conduct a biennial evaluation of new information gathered through the unit monitoring program and relevant information from the broader-scale strategy, and shall issue a written report of the evaluation and make it available to the public. The evaluation must indicate whether a change to the plan, management activities, or monitoring program may be warranted based on the new information; whether a new assessment should be conducted; or that no amendment, revision, or administrative change is needed.

(i) The first monitoring evaluation for a plan or plan revision developed in accordance with this subpart must be completed no later than 2 years from the effective date of plan approval.

(ii) Where the monitoring program developed under the provisions of a prior planning regulation has been changed to meet the requirements of paragraph (c)(2) of this section, the first monitoring evaluation must be completed no later than 2 years from the date the change takes effect.

(iii) The monitoring evaluation report must describe how best available scientific information was taken into account (§ 219.3).

(2) The monitoring evaluation report may be incorporated into other planning documents if the responsible official has initiated a plan revision or relevant amendment.

(3) The monitoring evaluation report may be postponed for one year in case of exigencies, but notice of the postponement must be provided to the public prior to the date the report is due for that year (§ 219.16(c)(5)).

(4) The monitoring evaluation report is not a decision document representing final agency action, and is not subject to the objection provisions of subpart B.

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### **§ 219.13 PLAN AMENDMENT AND ADMINISTRATIVE CHANGES.**

(a) *Plan amendment.* A plan may be amended at any time. Plan amendments may be broad or narrow, depending on the need for change, and should be used to keep plans current and help units adapt to new information or changing conditions. The responsible

official has the discretion to determine whether and how to amend the plan. A plan amendment is required for the addition, modification, or removal of one or more plan components or a change in how one or more plan components apply to all or part of the plan area.

(b) *Amendment process.* The responsible official shall:

(1) Document the need to change the plan (§ 219.6(c));

(2) Provide opportunities for public participation as required in § 219.4 and public notification as required in § 219.16. The responsible official may combine processes and associated public notifications where appropriate, considering the scope and scale of the need to change the plan; and

(3) Amend plans consistent with Forest Service NEPA procedures. The appropriate NEPA documentation for an amendment may be an EIS, an EA, or a CE, depending upon the scope and scale of the amendment and its likely effects.

(c) *Administrative changes.* An administrative change is any change to a plan that is not a plan amendment or plan revision. Administrative changes include corrections of clerical errors to any part of the plan, including plan components; changes to other content in the plan other than plan components; or conformance of the plan to new statutory or regulatory requirements.

(1) A change to the monitoring program may be made as part of plan revision or amendment, but also can be made as an administrative change outside of the process for plan revision or amendment. Any change to the monitoring program may be made only after notice to the public (§ 219.16(c)(5)) of the intended change and consideration of public concerns and suggestions.

(2) All other administrative changes may be made following notice (§ 219.16(c)(5)).

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## **§ 219.14 DECISION DOCUMENTS AND PLANNING RECORDS.**

(a) *Decision document.* The responsible official shall record approval of a new plan, plan revision, or amendment in a decision document prepared according to Forest Service NEPA procedures (36 CFR 220). The decision document must include:

(1) The rationale for approval;

(2) An explanation of how the plan components meet the sustainability requirements of § 219.8 and the diversity requirements of § 219.9, taking into account the limits of Forest Service authority and the capability of the plan area;

(3) A statement of how the plan, plan revision or plan amendment applies to approved projects and activities (§ 219.15);

(4) A discussion of how the best available scientific information was taken into account and applied in the planning process (§ 219.3);

(5) The concurrence by the appropriate research station director with any part of the plan applicable to any designated experimental forests or experimental ranges (§ 219.2(b)(4)); and

(6) The effective date of the approval.

(b) *Planning records.* (1) The responsible official shall keep the following documents readily accessible to the public by posting them online and through other means: Assessment reports (§ 219.6); plan decision documents (§ 219.14); the proposed plan, plan revision, or plan amendment; public notices and environmental documents associated with a plan; the monitoring program and monitoring evaluation reports (§ 219.12); and the plan.

(2) The planning record includes documents that support analytical conclusions made and alternatives considered throughout the planning process. The responsible official shall make the planning record available at the office where the plan, plan revision, or amendment was developed.

### **§ 219.15 PROJECT AND ACTIVITY CONSISTENCY WITH THE PLAN.**

(a) *Application to existing authorizations and approved projects or activities.* Every document approving a plan, plan amendment, or plan revision must state whether the plan, plan amendment, or plan revision allows any prior approval of occupancy and use. If a plan approval document does not expressly allow such occupancy and use, the permit, contract, and other authorizing instrument for the use and occupancy must be made consistent with the plan, plan amendment, or plan revision as soon as practicable, as provided in paragraph (d) of this section, subject to valid existing rights.

(b) *Application to projects or activities authorized after plan approval.* Projects and activities authorized after approval of a plan, plan amendment, or plan revision must be consistent with the plan as provided in paragraph (d) of this section.

(c) *Resolving inconsistency.* When a proposed project or activity would not be consistent with the applicable plan components, the responsible official shall take one of the following steps, subject to valid existing rights:

(1) Modify the proposed project or activity to make it consistent with the applicable plan components;

(2) Reject the proposal or terminate the project or activity;

(3) Amend the plan so that the project or activity will be consistent with the plan as amended; or

(4) Amend the plan contemporaneously with the approval of the project or activity so that the project or activity will be consistent with the plan as amended. This amendment may be limited to apply only to the project or activity.



(d) *Determining consistency.* A project or activity approval document must describe how the project or activity is consistent with applicable plan components developed or revised in conformance with this part by meeting the following criteria:

(1) *Goals, desired conditions, and objectives.* The project or activity contributes to the maintenance or attainment of one or more goals, desired conditions, or objectives or does not foreclose the opportunity to maintain or achieve any goals, desired conditions, or objectives, over the long term.

(2) *Standards.* The project or activity complies with applicable standards.

(3) *Guidelines.* The project or activity:

(i) Is designed to comply with applicable guidelines as set out in the plan; or

(ii) Is designed in a way that is as effective in carrying out the intent of the applicable guidelines in contributing to the maintenance or attainment of relevant desired conditions and objectives, avoiding or mitigating undesirable effects, or meeting applicable legal requirements (§ 219.7(d)(1)(iv)).

(4) *Suitability.* A project or activity would occur in an area:

(i) That the plan identifies as suitable for that type of project or activity; or

(ii) For which the plan is silent with respect to its suitability for that type of project or activity.

(e) *Consistency of resource plans within the planning unit with the land management plan.* Any resource plans (e.g., travel management plans) developed by the Forest Service that apply to the resources or land areas within the planning unit must be consistent with the plan components. Resource plans developed prior to plan approval must be evaluated for consistency with the plan and amended if necessary.

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## **§ 219.16 PUBLIC NOTIFICATIONS.**

The following public notification requirements apply to plan development, amendment, or revision. Formal notifications may be combined where appropriate.

(a) *When formal public notification is required.* Public notification must be provided at the following times:

(1) To begin the preparation of an assessment for a plan or plan revision, or, when appropriate, a plan amendment;

(2) To initiate the development of a proposed plan or plan revision, or, when appropriate, a plan amendment;

(3) To invite comments on a proposed plan, plan revision, or plan amendment, and associated environmental analysis. For a new plan, plan revision, or a plan amendment for which a draft environmental impact statement is prepared, the comment period is at

least 90 days. For an amendment for which a draft environmental impact statement is not prepared, the comment period is at least 30 days;

(4) To begin the objection period for a plan, plan amendment, or plan revision before approval (§ 219.52);

(5) To approve a final plan, plan amendment, or plan revision; or

(6) To announce and describe how a plan, plan amendment, or plan revision process initiated under the provisions of a previous planning regulation will be conformed to meet the provisions of this part, when appropriate under § 219.17(b)(3).

(b) When a plan amendment is approved in a decision document approving a project or activity and the amendment applies only to the project or activity, the notification requirements of 36 CFR part 215 or part 218, subpart A, applies instead of this section.

(c) *How public notice is provided.* The responsible official should use contemporary tools to provide notice to the public. At a minimum, all public notifications required by this part must be posted online, and:

(1) When the Chief, the Under Secretary, or the Secretary is the responsible official, notice must be published in the **Federal Register**;

(2) For a new plan or plan revision, when an official other than the Chief, the Under Secretary, or the Secretary is the responsible official, notice must be published in the **Federal Register** and the applicable newspaper(s) of record;

(3) For a plan amendment when an official other than the Chief, the Under Secretary, or the Secretary is the responsible official, notices must be published in the newspaper(s) of record. Notification in the **Federal Register** may also be required by Forest Service NEPA procedures;

(4) If a plan, plan revision or plan amendment applies to two or more units, notices must be published in the **Federal Register** and the newspaper(s) of record for the applicable units; and

(5) Public notice of administrative changes, changes to the monitoring program, plan amendment assessments, or other documented need for amendment, monitoring evaluation reports, or other notices not listed in paragraph (a) of this section, may be made in any way the responsible official deems appropriate.

(d) *Content of public notices.* Public notices required by this section must clearly describe the action subject to notice and the nature and scope of the decisions to be made; identify the responsible official; describe when, where, and how the responsible official will provide opportunities for the public to participate in the planning process; and explain how to obtain additional information.

### **§ 219.17 EFFECTIVE DATES AND TRANSITION.**

(a) *Effective dates.* A plan, plan amendment, or plan revision is effective 30 days after publication of notice of its approval, except when a plan amendment applies to only one project or activity. In those instances the amendment and project are implemented concurrently, in accordance with administrative review regulations at 36 CFR part 215 and 36 CFR part 218.

(b) *Plan amendment and plan revision transition.* For the purposes of this section, initiation means that the Agency has issued a notice of intent or other notice announcing the beginning of the process to develop a proposed plan, plan amendment, or plan revision.

(1) *Initiating plan development and plan revisions.* Plan development and plan revisions initiated after the effective date of this part must conform to the requirements of this part.

(2) *Initiating plan amendments.* With respect to plans approved or revised under a prior planning regulation, a 3-year transition period for plan amendments begins on the effective date of this part. During the transition period, plan amendments may be initiated under the provisions of the prior planning regulation, or may conform to the requirements of this part. Plan amendments initiated after the transition period must conform to the requirements of this part.

(3) *Plan development, plan amendments, or plan revisions initiated before this part.* For plan development, plan amendments, or plan revisions that were initiated before the effective date of this part, the responsible official may complete the plan, plan revision, or plan amendment in conformance with the provisions of the prior planning regulation, or may conform the plan, plan amendment, or plan revision to the requirements of this part. When the responsible official chooses to conform an ongoing planning process to this part, public notice must be made (§ 219.16(a)(6)).

(c) *Plans developed, amended, or revised under a prior planning regulation.* This part supersedes any prior planning regulation. For units with plans developed, amended, or revised using the provisions of a prior planning regulation, no obligations remain from any prior planning regulation, except those that are specifically included in the plan.

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### **§ 219.18 SEVERABILITY.**

In the event that any specific provision of this part is deemed by a court to be invalid, the remaining provisions shall remain in effect.

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### **§ 219.19 DEFINITIONS.**

Definitions of the special terms used in this subpart are set out as follows.

*Alaska native corporation.* One of the regional, urban, and village native corporations formed under the Alaska Native Claims Settlement Act of 1971.

*Assessment.* A synthesis of information in support of land management planning to determine whether a change to the plan is needed. Assessments are not decisionmaking documents but provide current information on select issues. An assessment report on the need to change the plan may range from a many page broad scale comprehensive report to a one-page report, depending on the scope and scale of issues driving the need to change.

*Collaboration.* A structured manner in which a collection of people with diverse interests share knowledge, ideas, and resources while working together in an inclusive and cooperative manner toward a common purpose. Collaboration, in the context of this part, falls within the full spectrum of public engagement described in the Council on Environmental Quality's publication: *Collaboration in NEPA—A Handbook for NEPA Practitioners*. The Forest Service retains decisionmaking authority and responsibility for all decisions throughout the process.

*Connectivity.* Pertaining to the extent to which conditions exist or should be provided between separate national forest or grassland areas to ensure habitat for breeding, feeding, or movement of wildlife and fish within their home range or migration areas.

*Conservation.* The protection, preservation, management, or restoration of natural environments and ecological communities.

*Culmination of mean annual increment of growth.* See mean annual increment of growth.

*Designated areas.* Areas or features within a planning unit with specific management direction that are normally established through a process separate from the land management planning process. Designations may be made by statute or by an administrative process of the Federal executive branch. The Forest Service Directive System contains policy for recognition and establishment of designations. Designated areas include experimental forests, national heritage areas, national monuments, national recreational areas, national scenic trails, research natural areas, scenic byways, wild and scenic rivers, wilderness areas, and wilderness study areas.

*Disturbance.* Any relatively discrete event in time that disrupts ecosystem, watershed, community, or species population structure and/or function and changes resources, substrate availability, or the physical environment.

*Ecological conditions.* The biological and physical environment that can affect diversity of plant and animal communities and the productive capacity of ecological systems. Examples of ecological conditions include the abundance and distribution of aquatic and terrestrial habitats, connectivity, roads and other structural developments, human uses, and invasive species.

*Ecological system.* See ecosystem.

*Economic system.* The system of production, distribution, and consumption of goods and services including consideration of jobs and income.

*Ecosystem.* A spatially explicit, relatively homogeneous unit of the Earth that includes all interacting organisms and elements of the abiotic environment within its boundaries. An ecosystem is commonly described in terms of its:

- (1) *Composition.* Major vegetation types, rare communities, aquatic systems, and riparian systems.
- (2) *Structure.* Vertical and horizontal distribution of vegetation, stream habitat complexity, and riparian habitat elements.
- (3) *Function.* Ecological processes such as stream flows, nutrient cycling, and disturbance regimes.
- (4) *Connectivity.* Habitats that exist for breeding, feeding, or movement of wildlife and fish within species home ranges or migration areas.

*Ecosystem diversity.* The variety and relative extent of ecosystem types, including their composition, structure, and processes.

*Ecosystem services.* Benefits people obtain from ecosystems, including:

- (1) *Provisioning services*, such as clean air and fresh water, as well as energy, fuel, forage, fiber, and minerals;
- (2) *Regulating services*, such as long term storage of carbon; climate regulation; water filtration, purification, and storage; soil stabilization; flood control; and disease regulation;
- (3) *Supporting services*, such as pollination, seed dispersal, soil formation, and nutrient cycling; and
- (4) *Cultural services*, such as educational, aesthetic, spiritual, and cultural heritage values, as well as recreational experiences and tourism opportunities.

*Environmental assessment (EA).* See definition in § 219.62.

*Environmental document.* Includes an environmental assessment, environmental impact statement, finding of no significant impact, categorical exclusion, and notice of intent to prepare an environmental impact statement.

*Environmental impact statement.* See definition in § 219.62. *Even-aged stand.* A stand of trees composed of a single age class.

*Federally recognized Indian Tribe.* An Indian or Alaska Native Tribe, band, nation, pueblo, village, or community that the Secretary of the Interior acknowledges to exist as an Indian Tribe under the Federally Recognized Indian Tribe List Act of 1994, 25 U.S.C. 479a.

*Focal species.* A small number of species selected for monitoring whose status is likely to be responsive to changes in ecological conditions and effects of management.

Monitoring the status of focal species is one of many ways to gauge progress toward achieving desired conditions in the plan.

*Forest land.* Land at least 10 percent occupied by forest trees of any size or formerly having had such tree cover and not currently developed for non-forest uses. Lands developed for non-forest use include areas for crops; improved pasture; residential or administrative areas; improved roads of any width and adjoining road clearing; and power line clearings of any width.

*Geographic area.* A spatially contiguous land area identified within the planning unit. A geographic area may overlap with a management area.

*Health(y).* The degree of ecological integrity that is related to the completeness or wholeness of the composition, structure, and function of native ecosystems existing within the inherent capability of the land.

*Landscape.* A spatial mosaic of terrestrial and aquatic ecosystems, landforms, and plant communities across a defined area irrespective of ownership or other artificial boundaries and repeated in similar form throughout.

*Landscape character.* A combination of physical, biological, and cultural images that gives an area its visual and cultural identity and helps to define a “sense of place.” Landscape character provides a frame of reference from which to determine scenic attractiveness and to measure scenic integrity.

*Management area.* A land area identified within the planning unit that has the same set of applicable plan components. A management area does not have to be spatially contiguous.

*Mean annual increment of growth and culmination of mean annual increment of growth.* Mean annual increment of growth is the total increment of increase of volume of a stand (standing crop plus thinnings) up to a given age divided by that age. Culmination of mean annual increment of growth is the age in the growth cycle of an even-aged stand at which the average annual rate of increase of volume is at a maximum. In land management plans, mean annual increment is expressed in cubic measure and is based on the expected growth of stands, according to intensities and utilization guidelines in the plan.

*Monitoring.* A systematic process of collecting information over time and space to evaluate effects of actions or changes in conditions or relationships.

*Multiple use.* The management of all the various renewable surface resources of the NFS so they are used in the combination that will best meet the needs of the American people: Making the most judicious use of the land for some or all of these resources or related services over areas large enough to provide sufficient latitude for periodic adjustments in the use to conform to changing needs and conditions; recognizing that some lands will be used for less than all of the resources; and providing for harmonious and coordinated management of the various resources, each with the other, without impairment of the productivity of the land, with consideration being given to the relative values of the various resources, and not necessarily the combination of uses that will give the greatest

dollar return or the greatest unit output, consistent with the Multiple-Use Sustained-Yield Act of 1960 (16 U.S.C. 528–531). Ecosystem services are included as part of all the various renewable surface resources of the NFS.

*National Forest System.* See definition in § 219.62.

*Native knowledge.* A way of knowing or understanding the world, including traditional ecological and social knowledge of the environment derived from multiple generations of indigenous peoples' interactions, observations, and experiences with their ecological systems. Native knowledge is place-based and culture-based knowledge in which people learn to live in and adapt to their own environment through interactions, observations, and experiences with their ecological system. This knowledge is generally not solely gained, developed by, or retained by individuals, but is rather accumulated over successive generations and is expressed through oral traditions, ceremonies, stories, dances, songs, art, and other means within a cultural context.

*Newspaper(s) of record.* See definition in § 219.62.

*Objection.* See definition in § 219.62.

*Online.* See definition in § 219.62.

*Participation.* Activities that include a wide range of public involvement tools and processes, such as collaboration, public meetings, open houses, workshops, and comment periods.

*Plan or land management plan.* A document or set of documents that describe management direction for an administrative unit of the NFS.

*Plan area.* The National Forest System lands covered by a plan.

*Plant and animal communities.* A naturally occurring assemblage of plant and animal species living within a defined area or habitat.

*Potential wilderness areas.* All areas within the National Forest System lands that satisfy the definition of wilderness found in section 2(c) of the 1964 Wilderness Act. Inventory criteria are listed in Forest Service Handbook 1909.12—Land Management Planning Handbook, Chapter 70—Wilderness Evaluation.

*Productivity.* The capacity of National Forest System lands and their ecological systems to provide the various renewable resources in certain amounts in perpetuity. For the purposes of this subpart, productivity is an ecological, not an economic, term.

*Project.* An organized effort to achieve an outcome on NFS lands identified by location, tasks, outputs, effects, times, and responsibilities for execution.

*Recreational setting.* The surroundings or the environment for the recreational activities. The Forest Service uses the recreational opportunity spectrum that defines six recreational opportunity classes that provide different settings for recreational use:



primitive, semi-primitive nonmotorized, semi-primitive motorized, roaded natural, rural, and urban.

*Resilience.* The capacity of a system to absorb disturbance and reorganize while undergoing change so as to still retain essentially the same function, structure, identity, and feedbacks.

*Responsible official.* See definition in § 219.62.

*Restoration.* The process of assisting the recovery of resilience and the capacity of a system to adapt to change if the environment where the system exists has been degraded, damaged, or destroyed. Ecological restoration focuses on reestablishing ecosystem functions by modifying or managing the composition, structure, arrangement, and processes necessary to make terrestrial and aquatic ecosystems sustainable, and resilient under current and future conditions.

*Riparian Areas.* Geographically delineable areas with distinctive resource values and characteristics that are comprised of the aquatic and riparian ecosystems.

*Risk.* A combination of the likelihood that a negative outcome will occur and the severity of the subsequent negative consequences.

*Sole source aquifer.* A porous geologic formation, usually consisting of sand and gravel, that holds ground water, and designated by the Environmental Protection Agency because it supplies at least 50 percent of the drinking water consumed in the area overlying the aquifer, and where contamination would present both a significant public health hazard and an economic hardship in the high cost of replacing the contaminated water.

*Source water protection areas.* The area delineated by a State or Tribe for a public water system (PWS) or including numerous PWSs, whether the source is ground water or surface water or both, as part of a State or tribal source water assessment and protection program (SWAP) approved by Environmental Protection Agency under section 1453 of the Safe Drinking Water Act.

*Species of conservation concern.* Species other than federally listed threatened or endangered species or candidate species, for which the responsible official has determined that there is evidence demonstrating significant concern about its capability to persist over the long-term in the plan area.

*Sustainability.* Capability of meeting the needs of the present generation without compromising the ability of future generations to meet their needs.

*Sustainable recreation.* The set of recreational opportunities, uses and access that, individually and combined, are ecologically, economically, and socially sustainable, allowing the responsible official to offer recreation opportunities now and into the future. Recreational opportunities can include non-motorized, motorized, developed, and dispersed recreation on land, water, and air.

*System drivers.* Natural or human-induced factors that directly or indirectly cause a change in an ecosystem, such as climate change, habitat change, or non-native invasive species, human population change, economic activity, or technology.

*Timber harvest.* The removal of trees for wood fiber use and other multiple-use purposes.

*Timber production.* The purposeful growing, tending, harvesting, and regeneration of regulated crops of trees to be cut into logs, bolts, or other round sections for industrial or consumer use.

*Viable population.* A population of a species that continues to persist over the long term with sufficient distribution to be resilient and adaptable to stressors and likely future environments.

*Watershed.* A region or land area drained by a single stream, river, or drainage network; a drainage basin.

*Watershed condition.* The state of a watershed based on physical and biogeochemical characteristics and processes.

*Wild and scenic river.* A river designated by Congress as part of the National Wild and Scenic Rivers System that was established in the Wild and Scenic Rivers Act of 1968 (16 U.S.C. 1271 (note), 1271–1287).

*Wilderness.* Any area of land designated by Congress as part of the National Wilderness Preservation System that was established in the Wilderness Act of 1964 (16 U.S.C. 1131–1136).

## SUBPART B—PRE-DECISIONAL ADMINISTRATIVE REVIEW PROCESS

### § 219.50 PURPOSE AND SCOPE.

This subpart establishes a pre-decisional administrative review (hereinafter referred to as objection) process for plans, plan amendments, or plan revisions. This process gives an individual or organization an opportunity for an independent Forest Service review and resolution of issues before the approval of a plan, plan amendment, or plan revision. This subpart identifies who may file objections to a plan, plan amendment, or plan revision; the responsibilities of the participants in an objection; and the procedures that apply to the review of the objection.

### § 219.51 PLANS, PLAN AMENDMENTS, OR PLAN REVISIONS NOT SUBJECT TO OBJECTION.

- (a) A plan, plan amendment, or plan revision is not subject to objection when the responsible official receives no formal comments (§ 219.62) on that proposal during the opportunities for public comment (§ 219.53(a)).
- (b) Plans, plan amendments, or plan revisions proposed by the Secretary of Agriculture or the Under Secretary for Natural Resources and Environment, are not subject to the procedures set forth in this section. A decision by the Secretary or Under Secretary constitutes the final administrative determination of the Department of Agriculture.
- (c) A plan, plan amendment, or plan revision is not subject to objection under this subpart if another administrative review process is used consistent with § 219.59.
- (d) When a plan, plan amendment, or plan revision is not subject to objection under this subpart, the responsible official shall include an explanation with the signed decision document.

### § 219.52 GIVING NOTICE OF A PLAN, PLAN AMENDMENT, OR PLAN REVISION SUBJECT TO OBJECTION BEFORE APPROVAL.

- (a) The responsible official shall disclose during the NEPA scoping process and in the appropriate NEPA documents that the proposed plan, plan amendment, or plan revision is subject to the objection procedures in this subpart. This disclosure is in addition to the public notice that begins the objection filing period, as required at § 219.16.
- (b) The responsible official shall make available the public notice for beginning of the objection period for a plan, plan amendment, or plan revision (§ 219.16(a)(4)) to those who have requested the environmental documents or are eligible to file an objection consistent with § 219.53.

(c) The content of the public notice for beginning of the objection period for a plan, plan amendment, or plan revision before approval (§ 219.16(a)(4)) must:

(1) Inform the public of the availability of the plan, plan amendment, or plan revision, the appropriate final environmental documents, the draft plan decision document, and any relevant assessment or monitoring evaluation report; the commencement of the 30-day objection period under 36 CFR part 219 subpart B; and the process for objecting.

(2) Include the name of the plan, plan amendment, or plan revision and the name and title of the responsible official, and instructions on how to obtain a copy of the appropriate final environmental documents; the draft plan decision document; and the plan, plan amendment, or plan revision.

(3) Include the name and address of the reviewing officer with whom an objection is to be filed. The notice must specify a street, postal, fax, and e-mail address; the acceptable format(s) for objections filed electronically; and the reviewing officer's office business hours for those filing hand-delivered objections.

(4) Include a statement that objections will be accepted only from those who have previously submitted formal comments specific to the proposed plan, plan amendment, or plan revision during any opportunity for public comment as provided in subpart A.

(5) Include a statement that the publication date of the public notice in the applicable newspaper of record (or the **Federal Register**, if the responsible official is the Chief or the Secretary) is the exclusive means for calculating the time to file an objection (§ 219.56).

(6) Include a statement that an objection, including attachments, must be filed with the appropriate reviewing officer (§ 219.62) within 30 days of the date of publication of the public notice for the objection process.

(7) Include a statement describing the minimum content requirements of an objection (§ 219.54(c)).

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### **§ 219.53 WHO MAY FILE AN OBJECTION.**

(a) Individuals and organizations who have submitted substantive formal comments related to a plan, plan amendment, or plan revision during the opportunities for public comment as provided in subpart A during the planning process for that decision may file an objection. Objections must be based on previously submitted substantive formal comments unless the objection concerns an issue that arose after the opportunities for formal comment. The burden is on the objector to demonstrate compliance with requirements for objection. Objections from individuals or organizations that do not meet the requirements of this paragraph must not be accepted; however, objections not accepted must be documented in the planning record.

(b) Formal comments received from an authorized representative(s) of an organization are considered those of the organization only. Individual members of that organization do not meet objection eligibility requirements solely based on membership in an

organization. A member or an individual must submit formal comments independently to be eligible to file an objection in an individual capacity.

(c) When an objection lists multiple individuals or organizations, each individual or organization must meet the requirements of paragraph (a) of this section. Individuals or organizations listed on an objection that do not meet eligibility requirements must not be considered objectors, although an objection must be accepted (if not otherwise set aside for review under § 219.55) if at least one listed individual or organization meets the eligibility requirements.

(d) Federal agencies may not file objections.

(e) Federal employees who otherwise meet the requirements of this subpart for filing objections in a non-official capacity must comply with Federal conflict of interest statutes at 18 U.S.C. 202–209 and with employee ethics requirements at 5 CFR part 2635. Specifically, employees must not be on official duty nor use government property or equipment in the preparation or filing of an objection. Further, employees must not include information unavailable to the public, such as Federal agency documents that are exempt from disclosure under the Freedom of Information Act (5 U.S.C. 552 (b)).

## **§ 219.54 FILING AN OBJECTION.**

(a) Objections must be filed with the reviewing officer in writing. All objections must be open to public inspection during the objection process.

(b) Including documents by reference is not allowed, except for the following list of items that may be referenced by including the name, date, page number (where applicable), and relevant section of the cited document. All other documents, web links to those documents, or both must be included with the objection.

(1) All or any part of a Federal law or regulation.

(2) Forest Service Directive System documents and land management plans.

(3) Documents referenced by the Forest Service in the planning documentation related to the proposal subject to objection.

(4) Formal comments previously provided to the Forest Service by the objector during the proposed plan, plan amendment, or plan revision comment period.

(c) At a minimum, an objection must include the following:

(1) The objector's name and address (§ 219.62), along with a telephone number or e-mail address if available;

(2) Signature or other verification of authorship upon request (a scanned signature for electronic mail may be filed with the objection);

(3) Identification of the lead objector, when multiple names are listed on an objection (§ 219.62). Verification of the identity of the lead objector if requested;

- (4) The name of the plan, plan amendment, or plan revision being objected to, and the name and title of the responsible official;
- (5) A statement of the issues and/or the parts of the plan, plan amendment, or plan revision to which the objection applies;
- (6) A concise statement explaining the objection and suggesting how the proposed plan decision may be improved. If applicable, the objector should identify how the objector believes that the plan, plan amendment, or plan revision is inconsistent with law, regulation, or policy; and
- (7) A statement that demonstrates the link between prior formal comments attributed to the objector and the content of the objection, unless the objection concerns an issue that arose after the opportunities for formal comment (§ 219.53(a)).

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### **§ 219.55 OBJECTIONS SET ASIDE FROM REVIEW.**

- (a) The reviewing officer must set aside and not review an objection when one or more of the following applies:
  - (1) Objections are not filed in a timely manner (§ 219.56);
  - (2) The proposed plan, plan amendment, or plan revision is not subject to the objection procedures of this subpart pursuant to §§ 219.51 and 219.59;
  - (3) The individual or organization did not submit formal comments (§ 219.53) during scoping or other opportunities for public comment on the proposed decision (§ 219.16);
  - (4) None of the issues included in the objection is based on previously submitted substantive formal comments unless one or more of those issues arose after the opportunities for formal comment;
  - (5) The objection does not provide sufficient information as required by § 219.54(c);
  - (6) The objector withdraws the objection in writing;
  - (7) The objector's identity is not provided or cannot be determined from the signature (written or electronically scanned), and a reasonable means of contact is not provided (§ 219.54(c)); or
  - (8) The objection is illegible for any reason and a legible copy cannot easily be obtained.
- (b) When an objection includes an issue that is not based on previously submitted substantive formal comments and did not arise after the opportunities for formal comment, that issue will be set aside and not reviewed. Other issues raised in the objection that meet the requirements of this subpart will be reviewed.
- (c) The reviewing officer must give written notice to the objector and the responsible official when an objection is set aside from review and must state the reasons for not

reviewing the objection. If the objection is set aside from review for reasons of illegibility or lack of a means of contact, the reasons must be documented in the planning record.

## **§ 219.56 OBJECTION TIME PERIODS AND PROCESS.**

(a) *Time to file an objection.* Written objections, including any attachments, must be filed within 30 days following the publication date of the public notice for a plan, plan amendment, or plan revision before approval (§§ 219.16 and 219.52). It is the responsibility of the objector to ensure that the reviewing officer receives the objection in a timely manner.

(b) *Computation of time periods.* (1) All time periods are computed using calendar days, including Saturdays, Sundays, and Federal holidays in the time zone of the reviewing officer. However, when the time period expires on a Saturday, Sunday, or Federal holiday, the time is extended to the end of the next Federal working day (11:59 p.m. for objections filed by electronic means such as e-mail or facsimile machine).

(2) The day after publication of the public notice for a plan, plan amendment, or plan revision before approval (§§ 219.16 and 219.52), is the first day of the objection filing period.

(3) The publication date of the public notice for a plan, plan amendment, or plan revision before approval (§§ 219.16 and 219.52), is the exclusive means for calculating the time to file an objection. Objectors must not rely on dates or timeframe information provided by any other source.

(c) *Evidence of timely filing.* The objector is responsible for filing the objection in a timely manner. Timeliness must be determined by one of the following indicators:

(1) The date of the U.S. Postal Service postmark for an objection received before the close of the fifth business day after the objection filing date;

(2) The electronically generated delivery date and time for e-mail and facsimiles;

(3) The shipping date for delivery by private carrier for an objection received before the close of the fifth business day after the objection filing date; or

(4) The official agency date stamp showing receipt of hand delivery.

(d) *Extensions.* Time extensions for filing are not permitted except as provided at paragraph (b)(1) of this section.

(e) *Reviewing officer role and responsibilities.* The reviewing officer is the United States Department of Agriculture (USDA) or Forest Service official having the delegated authority and responsibility to review an objection filed under this subpart. The reviewing officer is a line officer at the next higher administrative level above the responsible official; except that for a plan amendment, that next higher-level line officer may delegate their reviewing officer authority and responsibility to a line officer at the same administrative level as the responsible official. Any delegation of reviewing officer



responsibilities must be made prior to the public notification of an objection filing period (§ 219.52).

(f) *Notice of objections filed.* Within 10 days after the close of the objection period, the responsible official shall publish a notice of all objections in the applicable newspaper of record and post the notice online.

(g) *Response to objections.* The reviewing officer must issue a written response to the objector(s) concerning their objection(s) within 90 days of the end of the objection-filing period. The reviewing officer has the discretion to extend the time when it is determined to be necessary to provide adequate response to objections or to participate in discussions with the parties. The reviewing officer must notify all parties (lead objectors and interested persons) in writing of any extensions.

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### **§ 219.57 RESOLUTION OF OBJECTIONS.**

(a) *Meetings.* Prior to the issuance of the reviewing officer's written response, either the reviewing officer or the objector may request to meet to discuss issues raised in the objection and potential resolution. The reviewing officer must allow other interested persons to participate in such meetings. An interested person must file a request to participate in an objection within 10 days after publication of the notice of objection by the responsible official (§ 219.56(f)). The responsible official shall be a participant in all meetings involving the reviewing officer, objectors, and interested persons. During meetings with objectors and interested persons, the reviewing officer may choose to use alternative dispute resolution methods to resolve objections. All meetings are open to observation by the public.

(b) *Response to objections.* (1) The reviewing officer must render a written response to the objection(s) within 90 days of the close of the objection-filing period, unless the allowable time is extended as provided at § 219.56(g). A written response must set forth the reasons for the response but need not be a point-by-point response, and may contain instructions to the responsible official. In cases involving more than one objection to a plan, plan amendment, or plan revision, the reviewing officer may consolidate objections and issue one or more responses. The response must be sent to the objecting party(ies) by certified mail, return receipt requested, and posted online.

(2) The reviewing officer's review of and response to the objection(s) is limited to only those issues and concerns submitted in the objection(s).

(3) The response of the reviewing officer will be the final decision of the Department of Agriculture on the objection.

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### **§ 219.58 TIMING OF A PLAN, PLAN AMENDMENT, OR PLAN REVISION DECISION.**

(a) The responsible official may not issue a decision document concerning a plan, plan amendment, or plan revision subject to the provisions of this subpart until the reviewing officer has responded in writing to all objections.

(b) A decision by the responsible official approving a plan, plan amendment, or plan revision must be consistent with the reviewing officer's response to objections.

(c) When no objection is filed within the 30-day time period, the reviewing officer must notify the responsible official. The responsible official's approval of the plan, plan amendment, or plan revision in a plan decision document consistent with § 219.14, may occur on, but not before, the fifth business day following the end of the objection-filing period.

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### **§ 219.59 USE OF OTHER ADMINISTRATIVE REVIEW PROCESSES.**

(a) Where the Forest Service is a participant in a multi-Federal agency effort that would otherwise be subject to objection under this subpart, the reviewing officer may waive the objection procedures of this subpart and instead adopt the administrative review procedure of another participating Federal agency. As a condition of such a waiver, the responsible official for the Forest Service must have agreement with the responsible official of the other agency or agencies that a joint agency response will be provided to those who file for administrative review of the multi-agency effort. When such an agreement is reached, the responsible official for the Forest Service shall ensure public notice required in § 219.52 sets forth which administrative review procedure is to be used.

(b) When a plan amendment is approved in a decision document approving a project or activity and the amendment applies only to the project or activity, the administrative review process of 36 CFR part 215 or part 218, subpart A, applies instead of the objection process established in this subpart. When a plan amendment applies to all future projects or activities, the objection process established in this subpart applies only to the plan amendment decision; the review process of 36 CFR part 215 or part 218 would apply to the project or activity part of the decision.

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### **§ 219.60 SECRETARY'S AUTHORITY.**

Nothing in this subpart restricts the Secretary of Agriculture from exercising any statutory authority regarding the protection, management, or administration of NFS lands.

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### **§ 219.61 INFORMATION COLLECTION REQUIREMENTS.**

This subpart specifies the information that objectors must give in an objection to a plan, plan amendment, or plan revision (§ 219.54(c)). As such, these rules contain information collection requirements as defined in 5 CFR part 1320 and have been approved by Office of Management and Budget and assigned control number 0596-0158.

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### **§ 219.62 DEFINITIONS.**

Definitions of the special terms used in this subpart are set out as follows.

*Address.* An individual's or organization's current mailing address used for postal service or other delivery services. An e-mail address is not sufficient.

*Decision memo.* A concise written record of the responsible official's decision to implement an action that is categorically excluded from further analysis and documentation in an environmental impact statement (EIS) or environmental assessment (EA), where the action is one of a category of actions which do not individually or cumulatively have a significant effect on the human environment, and does not give rise to extraordinary circumstances in which a normally excluded action may have a significant environmental effect.

*Environmental assessment (EA).* A public document that provides sufficient evidence and analysis for determining whether to prepare an environmental impact statement (EIS) or a finding of no significant impact (FONSI), aids an agency's compliance with the National Environmental Policy Act (NEPA) when no EIS is necessary, and facilitates preparation of a statement when one is necessary (40 CFR 1508.9; FSH 1909.15, Chapter 40).

*Environmental impact statement (EIS).* A detailed written statement as required by section 102(2)(C) of the National Environmental Policy Act (NEPA) of 1969 (40 CFR 1508.11; 36 CFR part 220).

*Formal comments.* Written comments submitted to, or oral comments recorded by, the responsible official or his designee during an opportunity for public participation provided during the planning process (§§ 219.4 and 219.16), and attributed to the individual or organization providing them.

*Lead objector.* For an objection submitted with multiple individuals, multiple organizations, or combination of individuals and organizations listed, the individual or organization identified to represent all other objectors for the purposes of communication, written or otherwise, regarding the objection.

*Line officer.* A Forest Service official who serves in a direct line of command from the Chief.

*Name.* The first and last name of an individual or the name of an organization. An electronic username is insufficient for identification of an individual or organization.

*National Forest System.* The National Forest System includes national forests, national grasslands, and the National Tall Grass Prairie.

*Newspaper(s) of record.* The newspaper of record is the principal newspapers of general circulation annually identified and published in the **Federal Register** by each regional forester to be used for publishing notices as required by 36 CFR 215.5. The newspaper(s) of record for projects in a plan area is (are) the newspaper(s) of record for notices related to planning.

*Objection.* The written document filed with a reviewing officer by an individual or organization seeking pre-decisional administrative review of a plan, plan amendment, or plan revision.

*Objection period.* The 30-calendar-day period following publication of a public notice in the applicable newspaper of record (or the **Federal Register**, if the responsible official is

the Chief or the Secretary) of the availability of the appropriate environmental documents and draft decision document, including a plan, plan amendment, or plan revision during which an objection may be filed with the reviewing officer.

*Objection process.* Those procedures established for pre-decisional administrative review of a plan, plan amendment, or plan revision.

*Objector.* An individual or organization who meets the requirements of § 219.53, and files an objection that meets the requirements of §§ 219.54 and 219.56.

*Online.* Refers to the appropriate Forest Service Web site or future electronic equivalent.

*Responsible official.* The official with the authority and responsibility to oversee the planning process and to approve a plan, plan amendment, and plan revision.

*Reviewing officer.* The USDA or Forest Service official having the delegated authority and responsibility to review an objection filed under this subpart.



## 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.

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## **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.

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## **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.



# APPENDIX C – ALTERNATIVE B: 1982 PLANNING RULE

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).

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# SUBPART A — NATIONAL FOREST SYSTEM LAND AND RESOURCE MANAGEMENT PLANNING

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## SEC. 219.1 PURPOSE AND PRINCIPLES.

(a) The regulations in this subpart set forth a process for developing, adopting, and revising land and resource management plans for the National Forest System as required by the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended (hereafter, RPA). These regulations prescribe how land and resource management planning is to be conducted on National Forest System lands. The resulting plans shall provide for multiple use and sustained yield of goods and services from the National Forest System in a way that maximizes long term net public benefits in an environmentally sound manner.

(b) Plans guide all natural resource management activities and establish management standards and guidelines for the National Forest System. They determine resource management practices, levels of resource production and management, and the availability and suitability of lands for resource management. Regional and forest planning will be based on the following principles:

(1) Establishment of goals and objectives for multiple-use and sustained-yield management of renewable resources without impairment of the productivity of the land;

(2) Consideration of the relative values of all renewable resources, including the relationship of nonrenewable resources, such as minerals, to renewable resources;

(3) Recognition that the National Forests are ecosystems and their management for goods and services requires an awareness and consideration of the interrelationships among plants, animals, soil, water, air, and other environmental factors within such ecosystems;

(4) Protection and, where appropriate, improvement of the quality of renewable resources;

(5) Preservation of important historic, cultural, and natural aspects of our national heritage;

(6) Protection and preservation of the inherent right of freedom of American Indians to believe, express, and exercise their traditional religions;

(7) Provision for the safe use and enjoyment of the forest resources by the public;

(8) Protection, through ecologically compatible means, of all forest and rangeland resources from depredations by forest and rangeland pests;

(9) Coordination with the land and resource planning efforts of other Federal agencies, State and local governments, and Indian tribes;

(10) Use of a systematic, interdisciplinary approach to ensure coordination and integration of planning activities for multiple-use management;

(11) Early and frequent public participation;

(12) Establishment of quantitative and qualitative standards and guidelines for land and resource planning and management;

(13) Management of National Forest System lands in a manner that is sensitive to economic efficiency; and

(14) Responsiveness to changing conditions of land and other resources and to changing social and economic demands of the American people.

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### **SEC. 219.2 SCOPE AND APPLICABILITY.**

The regulations in this subpart apply to the National Forest System, which includes special areas, such as wilderness, wild and scenic rivers, national recreation areas, and national trails. Whenever the special area authorities require additional planning, the planning process under this subpart shall be subject to those authorities.

(a) Unless inconsistent with special area authorities, requirements for additional planning for special areas shall be met through plans required under this subpart.

(b) If, in a particular case, special area authorities require the preparation of a separate special area plan, the direction in any such plan may be incorporated without modification in plans prepared under this subpart.

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### **SEC. 219.3 DEFINITIONS AND TERMINOLOGY.**

For purposes of this subpart the following terms, respectively, shall mean:

*Allowable sale quantity:* The quantity of timber that may be sold from the area of suitable land covered by the forest plan for a time period specified by the plan. This quantity is usually expressed on an annual basis as the "average annual allowable sale quantity."

*Base sale schedule:* A timber sale schedule formulated on the basis that the quantity of timber planned for sale and harvest for any future decade is equal to or greater than the planned sale and harvest for the preceding decade, and this planned sale and harvest for any decade is not greater than the long-term sustained yield capacity.

*Biological growth potential:* The average net growth attainable in a fully stocked natural forest stand.

*Capability:* The potential of an area of land to produce resources, supply goods and services, and allow resource uses under an assumed set of management practices and at a

given level of management intensity. Capability depends upon current conditions and site conditions such as climate, slope, landform, soils, and geology, as well as the application of management practices, such as silviculture or protection from fire, insects, and disease.

*Corridor:* A linear strip of land identified for the present or future location of transportation or utility rights-of-way within its boundaries.

*Cost efficiency:* The usefulness of specified inputs (costs) to produce specified outputs (benefits). In measuring cost efficiency, some outputs, including environmental, economic, or social impacts, are not assigned monetary values but are achieved at specified levels in the least cost manner. Cost efficiency is usually measured using present net value, although use of benefit-cost ratios and rates-of-return may be appropriate.

*Diversity:* The distribution and abundance of different plant and animal communities and species within the area covered by a land and resource management plan.

*Even-aged management:* The application of a combination of actions that results in the creation of stands in which trees of essentially the same age grow together. Managed even-aged forests are characterized by a distribution of stands of varying ages (and, therefore, tree sizes) throughout the forest area. The difference in age between trees forming the main canopy level of a stand usually does not exceed 20 percent of the age of the stand at harvest rotation age. Regeneration in a particular stand is obtained during a short period at or near the time that a stand has reached the desired age or size for regeneration and is harvested. Clearcut, shelterwood, or seed tree cutting methods produce even-aged stands.

*Forest land:* Land at least 10 percent occupied by forest trees of any size or formerly having had such tree cover and not currently developed for non-forest use. Lands developed for non-forest use include areas for crops, improved pasture, residential, or administrative areas, improved roads of any width, and adjoining road clearing and powerline clearing of any width.

*Goal:* A concise statement that describes a desired condition to be achieved sometime in the future. It is normally expressed in broad, general terms and is timeless in that it has no specific date by which it is to be completed. Goal statements form the principal basis from which objectives are developed.

*Goods and services:* The various outputs, including on-site uses, produced from forest and rangeland resources.

*Integrated pest management:* A process for selecting strategies to regulate forest pests in which all aspects of a pest-host system are studied and weighed. The information considered in selecting appropriate strategies includes the impact of the unregulated pest population on various resources values, alternative regulatory tactics and strategies, and benefit/cost estimates for these alternative strategies. Regulatory strategies are based on sound silvicultural practices and ecology of the pest-host system and consist of a combination of tactics such as timber stand improvement plus selective use of pesticides.

A basic principle in the choice of strategy is that it be ecologically compatible or acceptable.

*Long-term sustained-yield timber capacity:* The highest uniform wood yield from lands being managed for timber production that may be sustained under a specified management intensity consistent with multiple-use objectives.

*Management concern:* An issue, problem, or a condition which constrains the range of management practices identified by the Forest Service in the planning process.

*Management direction:* A statement of multiple-use and other goals and objectives, the associated management prescriptions, and standards and guidelines for attaining them.

*Management intensity:* A management practice or combination of management practices and associated costs designed to obtain different levels of goods and services.

*Management practice:* A specific activity, measure, course of action, or treatment.

*Management prescription:* Management practices and intensity selected and scheduled for application on a specific area to attain multiple-use and other goals and objectives.

*Multiple use:* The management of all the various renewable surface resources of the National Forest System so that they are utilized in the combination that will best meet the needs of the American people; making the most judicious use of the land for some or all of these resources or related services over areas large enough to provide sufficient latitude for periodic adjustments in use to conform to changing needs and conditions; that some lands will be used for less than all of the resources; and harmonious and coordinated management of the various resources, each with the other, without impairment of the productivity of the land, with consideration being given to the relative values of the various resources, and not necessarily the combination of uses that will give the greatest dollar return or the greatest unit output.

*Net public benefits:* An expression used to signify the overall long-term value to the nation of all outputs and positive effects (benefits) less all associated inputs and negative effects (costs) whether they can be quantitatively valued or not. Net public benefits are measured by both quantitative and qualitative criteria rather than a single measure or index. The maximization of net public benefits to be derived from management of units of the National Forest System is consistent with the principles of multiple use and sustained yield.

*Objective:* A concise, time-specific statement of measurable planned results that respond to pre-established goals. An objective forms the basis for further planning to define the precise steps to be taken and the resources to be used in achieving identified goals.

*Planning area:* The area of the National Forest System covered by a regional guide or forest plan.



*Planning period:* One decade. The time interval within the planning horizon that is used to show incremental changes in yields, costs, effects, and benefits.

*Planning horizon:* The overall time period considered in the planning process that spans all activities covered in the analysis or plan and all future conditions and effects of proposed actions which would influence the planning decisions.

*Present net value:* The difference between the discounted values (benefits) of all outputs to which monetary values or established market prices are assigned and the total discounted costs of managing the planning area.

*Public issue:* A subject or question of widespread public interest relating to management of the National Forest System.

*Real dollar value:* A monetary value which compensates for the effects of inflation.

*Receipt shares:* The portion of receipts derived from Forest Service resource management that is distributed to State and county governments, such as the Forest Service 25 percent fund payments.

*Responsible line officer:* The Forest Service employee who has the authority to select and/or carry out a specific planning action.

*Sale schedule:* The quantity of timber planned for sale by time period from an area of suitable land covered by a forest plan. The first period, usually a decade, of the selected sale schedule provides the allowable sale quantity. Future periods are shown to establish that long-term sustained yield will be achieved and maintained.

*Silvicultural system:* A management process whereby forests are tended, harvested, and replaced, resulting in a forest of distinctive form. Systems are classified according to the method of carrying out the fellings that remove the mature crop and provide for regeneration and according to the type of forest thereby produced.

*Suitability:* The appropriateness of applying certain resource management practices to a particular area of land, as determined by an analysis of the economic and environmental consequences and the alternative uses foregone. A unit of land may be suitable for a variety of individual or combined management practices.

*Sustained-yield of products and services:* The achievement and maintenance in perpetuity of a high-level annual or regular periodic output of the various renewable resources of the National Forest System without impairment of the productivity of the land.

*Timber production:* The purposeful growing, tending, harvesting, and regeneration of regulated crops of trees to be cut into logs, bolts, or other round sections for industrial or consumer use. For purposes of this subpart, the term timber production does not include production of fuelwood.

*Uneven-aged management:* The application of a combination of actions needed to simultaneously maintain continuous high-forest cover, recurring regeneration of desirable

species, and the orderly growth and development of trees through a range of diameter or age classes to provide a sustained yield of forest products. Cutting is usually regulated by specifying the number or proportion of trees of particular sizes to retain within each area, thereby maintaining a planned distribution of size classes. Cutting methods that develop and maintain uneven-aged stands are single-tree selection and group selection.

#### **SEC. 219.4 PLANNING LEVELS.**

(a) General guideline. Planning requires a continuous flow of information and management direction among the three Forest Service administrative levels: national, regional, and forest. Management direction shall:

(1) Include requirements for analysis to determine programs that maximize net public benefits, consistent with locally derived information about production capabilities;

(2) Reflect production capabilities, conditions and circumstances observed at all levels; and

(3) Become increasingly specific as planning progresses from the national to the forest level. In this structure, regional planning is a principal process for conveying management direction from the national level to the forest level and for conveying information from forest level to the national level. The planning process is essentially iterative in that the information from the forest level flows up to the national level where in turn information in the RPA Program flows back to the forest level.

(b) Planning levels and relationships--(1) National. The Chief of the Forest Service shall develop the Renewable Resources Assessment and Program (hereafter, "RPA Assessment and RPA Program") according to sections 3 and 4 of the RPA.

(i) RPA Assessment. The RPA Assessment shall include analysis of present and anticipated uses, demand for, and supply of the renewable resources of forest, range, and other associated lands with consideration of, and an emphasis on, pertinent supply, demand, and price relationship trends; an inventory of present and potential renewable resources and an evaluation of opportunities for improving their yield of tangible and intangible goods and services, together with estimates of investment costs and direct and indirect returns to the Federal Government; a description of Forest Service programs and responsibilities in research, cooperative programs, and management of the National Forest System; and analysis of important policy issues and consideration of laws, regulations, and other factors expected to influence and affect significantly the use, ownership, and management of forest, range, and other associated lands. The RPA Assessment shall be based on the future capabilities of forest and rangelands and shall include information generated during the regional, forest, and other planning processes.

(ii) RPA Program. The RPA Program shall consider the costs of supply and the relative values of both market and nonmarket outputs. The alternatives considered shall include national renewable resource goals and quantified objectives for resource outputs and other benefits and shall be designed to represent a range of expenditure levels sufficient to demonstrate full opportunities for management. A portion of each national objective

developed in the RPA Program shall be distributed to each region and be incorporated into each regional guide. Resource objectives shall be tentatively selected for each forest planning area. In formulating the objectives for each region and forest planning area, local supply capabilities and market conditions will be considered.

(2) Regional. Each Regional Forester shall develop a regional guide. Regional guides shall establish regional standards and guidelines as required by Sec. 219.9(a). Consistent with resource capabilities, regional guides shall reflect goals and objectives of the RPA Program. For planning purposes, the regional guides shall display tentative resource objectives for each Forest from the RPA Program. Regional guides shall also provide for general coordination of National Forest System, State and Private Forestry (S&PF), and Research programs. The Chief shall approve the regional guide. The Regional Forester may request adjustment of assigned regional objectives. Any adjustment shall require the approval of the Chief, Forest Service.

(3) Forest. Each Forest Supervisor shall develop a forest plan for administrative units of the National Forest System. One forest plan may be prepared for all lands for which a Forest Supervisor has responsibility; or separate forest plans may be prepared for each National Forest, or combination of National Forests, within the jurisdiction of a single Forest Supervisor. A single forest plan may be prepared for the entire Tongass National Forest. These forest plans shall constitute the land and resource management plans as required under sections 6 and 13 of the RPA. A range of resource objectives shall be formulated as alternatives and evaluated, including at least one alternative which responds to and incorporates the tentative RPA Program resource objectives displayed in the regional guide. Based on this evaluation, the Forest Supervisor shall recommend objectives for incorporation into the forest plan to the Regional Forester. The Regional Forester shall approve the forest plan. This approval may incorporate adjustment of the tentative RPA Program resource objectives displayed in the regional guide.

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## **SEC. 219.5 INTERDISCIPLINARY APPROACH.**

(a) A team representing several disciplines shall be used for regional and forest planning to insure coordinated planning of the various resources. Through interactions among its members, the team shall integrate knowledge of the physical, biological, economic and social sciences, and the environmental design arts in the planning process. The team shall consider problems collectively, rather than separating them along disciplinary lines. Team functions include, but are not limited to—

(1) Assessing the problems and resource use and development opportunities associated with providing goods and services;

(2) Obtaining the public's views about possible decisions;

(3) Implementing the planning coordination activities within the Forest Service and with local, State and other Federal agencies;

(4) Developing a broad range of alternatives which identify the benefits and costs of land and resource management according to the planning process described in this subpart.

(5) Developing the land and resource management plan and associated environmental impact statement required pursuant to the planning process;

(6) Presenting to the responsible line officer an integrated perspective on land and resource management planning; and

(7) Establishing the standards and requirements by which planning and management activities will be monitored and evaluated.

(b) In appointing team members, the responsible line officer shall determine and consider the qualifications of each team member on the basis of the complexity of the issues and concerns to be addressed through the plan. The team shall collectively represent diverse specialized areas of professional and technical knowledge applicable to the planning area, and the team members shall have recognized relevant expertise and experience in professional, investigative, scientific, or other responsible work in specialty areas which they collectively represent. The team may consist of whatever combination of Forest Service staff and other Federal government personnel is necessary to achieve an interdisciplinary approach. The team is encouraged to consult other persons when required specialized knowledge does not exist within the team itself. In addition to technical knowledge in one or more resource specialties, members should possess other attributes which enhance the interdisciplinary process. As a minimum, these attributes should include--

(1) An ability to solve complex problems;

(2) Skills in communication and group interaction;

(3) Basic understanding of land and natural resource planning concepts, processes, and analysis techniques; and

(4) The ability to conceptualize planning problems and feasible solutions.

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### **SEC. 219.6 PUBLIC PARTICIPATION.**

(a) Because the land and resource management planning process determines how the lands of the National Forest System are to be managed, the public is encouraged to participate throughout the planning process. The intent of public participation is to--

(1) Broaden the information base upon which land and resource management planning decisions are made;

(2) Ensure that the Forest Service understands the needs, concerns, and values of the public;

(3) Inform the public of Forest Service land and resource planning activities; and

(4) Provide the public with an understanding of Forest Service programs and proposed actions.

(b) Public participation in the preparation of environmental impact statements for planning begins with the publication of a notice of intent in the Federal Register. Public involvement in the preparation of draft and final environmental impact statements shall conform to the requirements of the National Environmental Policy Act and associated implementing regulations and Forest Service Manual and Handbook guidance (hereafter, "NEPA procedures"). Public comments shall be analyzed according to NEPA procedures.

(c) Public participation activities, as deemed appropriate by the responsible line officer, shall be used early and often throughout the development of plans. Formal public participation activities will begin with a notice to the news media and other sources which includes, as appropriate, the following information:

- (1) A description of the proposed planning action;
- (2) A description and map of the geographic area affected;
- (3) The issues expected to be discussed;
- (4) The kind, extent, and method(s) of public participation to be used;
- (5) The times, dates, and locations scheduled or anticipated, for public meetings;
- (6) The name, title, address, and telephone number of the Forest Service official who may be contacted for further information; and
- (7) The location and availability of documents relevant to planning process.

(d) Public participation activities should be appropriate to the area and people involved. Means of notification should be appropriate to the level of planning. Public participation activities may include, but are not limited to, requests for written comments, meetings, conferences, seminars, workshops, tours, and similar events designed to foster public review and comment. The Forest Service shall state the objectives of each participation activity to assure that the public understands what type of information is needed and how this information relates to the planning process.

(e) Public comments shall be considered individually and by type of group and organization to determine common areas of concern and geographic distribution. The result of this analysis should be evaluated to determine the variety and intensity of viewpoints about ongoing and proposed planning and management standards and guidelines.

(f) All scheduled public participation activities shall be documented by a summary of the principal issues discussed, comments made, and a register of participants.

(g) At least 30 days' public notice shall be given for public participation activities associated with the development of regional guides and forest plans. Any notice

requesting written comments on regional planning shall allow at least 60 calendar days for response. A similar request on forest planning shall allow at least 30 calendar days for response. Draft regional guides and forest plans and environmental impact statements shall be available for public comment for at least 3 months. See also Secs. 219.8(c) and 219.10(b).

(h) The responsible line officer shall attend, or provide for adequate representation at, public participation activities.

(i) Copies of approved guides and plans shall be available for public review as follows:

(1) The RPA Assessment and the RPA Program shall be available at national headquarters, The Northeastern Area State and Private Forestry Office, and all Regional offices, Research Stations, Forest Supervisors' offices, and District Rangers' offices;

(2) The regional guides shall be available at national headquarters, the issuing regional office and regional offices of contiguous regions, each Forest Supervisor's office of forests within and contiguous to the issuing region, and each District Ranger's office in the region;

(3) The forest plan shall be available at the regional office for the forest, the Forest Supervisor's office, Forest Supervisors' offices contiguous to the forest, District Rangers' offices within the forest, and at least one additional location, to be determined by the Forest Supervisor, which shall offer convenient access to the public. These documents may be made available at other locations convenient to the public.

(j) Documents considered in the development of plans shall be available at the office where the plans were developed.

(k) Forest planning activities should be coordinated to the extent practicable with owners of lands that are intermingled with, or dependent for access upon, National Forest System lands. The results of this coordination shall be included in the environmental impact statement for the plan as part of the review required in Sec. 219.7(c). The responsible line officer may individually notify these owners of forest planning activities where it is determined that notice provided for the general public is not likely to reach the affected landowners.

(l) Fees for reproducing requested documents shall be charged according to the Secretary of Agriculture's Fee Schedule (7 CFR part 1, subpart A, appendix A).

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### **SEC. 219.7 COORDINATION WITH OTHER PUBLIC PLANNING EFFORTS.**

(a) The responsible line officer shall coordinate regional and forest planning with the equivalent and related planning efforts of other Federal agencies, State and local governments, and Indian tribes.

(b) The responsible line officer shall give notice of the preparation of a land and resource management plan, along with a general schedule of anticipated planning actions, to the official or agency so designated by the affected State (including the

Commonwealth of Puerto Rico). The same notice shall be mailed to all Tribal or Alaska Native leaders whose tribal lands or treaty rights are expected to be impacted and to the heads of units of government for the counties involved. These notices shall be issued simultaneously with the publication of the notice of intent to prepare an environmental impact statement required by NEPA procedures (40 CFR 1501.7).

(c) The responsible line officer shall review the planning and land use policies of other Federal agencies, State and local governments, and Indian tribes. The results of this review shall be displayed in the environmental impact statement for the plan (40 CFR 1502.16(c), 1506.2). The review shall include--

(1) Consideration of the objectives of other Federal, State and local governments, and Indians tribes, as expressed in their plans and policies;

(2) An assessment of the interrelated impacts of these plans and policies;

(3) A determination of how each Forest Service plan should deal with the impacts identified; and,

(4) Where conflicts with Forest Service planning are identified, consideration of alternatives for their resolution.

(d) In developing land and resource management plans, the responsible line officer shall meet with the designated State official (or designee) and representatives of other Federal agencies, local governments, and Indian tribal governments at the beginning of the planning process to develop procedures for coordination. As a minimum, such conferences shall also be held after public issues and management concerns have been identified and prior to recommending the preferred alternative. Such conferences may be held in conjunction with other public participation activities, if the opportunity for government officials to participate in the planning process is not thereby reduced.

(e) In developing the forest plan, the responsible line officer shall seek input from other Federal, State and local governments, and universities to help resolve management concerns in the planning process and to identify areas where additional research is needed. This input should be included in the discussion of the research needs of the designated forest planning area.

(f) A program of monitoring and evaluation shall be conducted that includes consideration of the effects of National Forest management on land, resources, and communities adjacent to or near the National Forest being planned and the effects upon National Forest management of activities on nearby lands managed by other Federal or other government agencies or under the jurisdiction of local governments.

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## **SEC. 219.8 REGIONAL PLANNING PROCEDURE.**

(a) Regional guide. A regional guide shall be developed for each administratively designated Forest Service region. Regional guides shall reflect general coordination of National Forest System, State and Private Forestry, and Research programs. Regional guides shall provide standards and guidelines for addressing major issues and

management concerns which need to be considered at the regional level to facilitate forest planning. Public participation and coordination, the current RPA Program and Assessment, and the existing forest and resource plans shall be used as sources of information in meeting this requirement. Data and information requirements established nationally will be followed in structuring and maintaining required data.

(b) Responsibilities--(1) Chief, Forest Service. The Chief shall establish agency-wide policy for regional planning and approve all regional guides.

(2) Regional forester. The Regional Forester has overall responsibility for preparing and implementing the regional guide and for preparing the environmental impact statement for proposed standards and guidelines in the regional guide. The Regional Forester appoints and supervises the interdisciplinary team.

(3) Interdisciplinary team. The team, under the direction of the Regional Forester, implements the public participation and coordination activities required by Sec. 219.6 and Sec. 219.7. The team shall continue to function even though membership may change and shall monitor and evaluate planning results and recommend amendments. The team shall develop a regional guide in compliance with NEPA procedures.

(c) Public review. A draft and final environmental impact statement shall be prepared for the proposed standards and guidelines in the regional guide according to NEPA procedures. To the extent feasible, a single process shall be used to meet planning and NEPA requirements. The draft statement shall identify a preferred alternative. Beginning on the date of publication of the notice of availability of the draft environmental impact statement in the Federal Register, the statement and the proposed guide shall be available for public comment for at least 3 months at convenient locations in the vicinity of the lands covered by the guide. During this period, and in accordance with the provisions in Sec. 219.6, the Regional Forester or his designee shall publicize and hold public participation activities as deemed necessary for adequate public input.

(d) Guide approval. The Chief shall review the proposed guide and the final environmental impact statement and either approve or disapprove the guide.

(1) Approval. The Chief shall prepare a concise public record of decision which documents approval and accompanies the regional guide and the final environmental impact statement. The record or decision shall be prepared according to NEPA procedures (40 CFR 1505.2). The approved regional guide shall not become effective until at least 30 days after publication of the notice of availability of the final environmental impact statement in the Federal Register.

(2) Disapproval. The Chief shall return the regional guide and final environmental impact statement to the Regional Forester with a written statement of the reasons for disapproval. The Chief may also specify a course of action to be undertaken by the Regional Forester in order to remedy deficiencies, errors, or omissions in the regional guide or environmental impact statement.

(e) Public appeal of approval decisions. The provisions of 36 CFR part 211, subpart B apply to any administrative appeal of the Chief's decision to approve a regional guide.



Decisions to disapprove a guide and other decisions made during the regional planning process prior to issuance of a record of decision approving the guide are not subject to administrative appeal.

(f) Amendment. The Regional Forester may amend the regional guide. The Regional Forester shall determine whether the proposed amendment would result in a significant change in the guide. If the change resulting from the proposed amendment is determined to be significant, the Regional Forester shall follow the same procedure for amendment as that required for development and approval of a regional guide. If the change resulting from the amendment is determined not to be significant for the purposes of the planning process, the Regional Forester may implement the amendment following appropriate public notification and satisfactory completion of NEPA procedures.

(g) Planning records. The Regional Forester shall develop and maintain planning records that document decisions and activities that result from the process of developing a regional guide and the accomplishment of legal and administrative planning requirements. These records include at least the draft environmental impact statement, final environmental impact statement, regional guide, record of decision, a work plan to guide and manage planning, the procedures used in completing each action, and the results of these actions.

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## **SEC. 219.9 REGIONAL GUIDE CONTENT.**

(a) The regional guide shall contain--

(1) A summary of the analysis of the regional management situation, including a brief description of the existing management situation and the major issues and management concerns which need to be addressed at the regional level to facilitate forest planning;

(2) A description of management direction including programs, goals, and objectives;

(3) A display of tentative resource objectives for each forest planning area from the current RPA Program;

(4) New or significantly changed regional management standards and guidelines necessary to address major regional issues and management concerns identified in paragraph (a)(1) of this section;

(5) Specific standards and guidelines for the following--

(i) Prescribing appropriate harvest cutting methods to be used within the region according to geographic areas, forest types, or other suitable classifications;

(ii) Establishing the maximum size, dispersal, and size variation of tree openings created by even-aged management, and the state of vegetation that will be reached before a cut-over area is no longer considered an opening, using factors enumerated in Sec. 219.27(d);

(iii) Defining the management intensities and utilization standards to be used in determining harvest levels for the region;

(iv) Designating transportation corridors and associated direction for forest planning, such as management requirements for corridors, transmission lines, pipelines, and water canals. (The designation of corridors is not to preclude the granting of separate rights-of-way over, upon, under, or through the Federal lands where the authorized line officer determines that confinement to a corridor is not appropriate.) (43 U.S.C. 1763, 36 CFR 251.56); and

(v) Identifying in forest plans significant current and potential air pollution emissions from management activities and from other sources in and around the forest planning area and identifying measures needed to coordinate air quality control with appropriate air quality regulation agencies.

(6) A description of the monitoring and evaluation necessary to determine and report achievements and effects of the guide.

(7) A description of measures to achieve coordination of National Forest System, State and Private Forestry, and Research programs.

(b) Existing regional standards and guidelines that are part of the Forest Service directives system, and that are not altered or superseded in the course of complying with Sec. 219.9(a)(4), shall remain in effect.

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## **SEC. 219.10 FOREST PLANNING--GENERAL PROCEDURE.**

(a) Responsibilities--(1) Regional Forester. The Regional Forester shall establish regional policy for forest planning and approve all forest plans in the region.

(2) Forest Supervisor. The Forest Supervisor has overall responsibility for the preparation and implementation of the forest plan and preparation of the environmental impact statement for the forest plan. The Forest Supervisor appoints and supervises the interdisciplinary team.

(3) Interdisciplinary team. The team, under the direction of the Forest Supervisor, implements the public participation and coordination activities required by Sec. 219.6 and Sec. 219.7. The team shall continue to function even though membership may change and shall monitor and evaluate planning results and recommend revisions and amendments. The interdisciplinary team shall develop a forest plan and environmental impact statement using the process established in Sec. 219.12 and paragraph (b) below.

(b) Public review of plan and environmental impact statement. A draft and final environmental impact statement shall be prepared for the proposed plan according to NEPA procedures. The draft environmental impact statement shall identify a preferred alternative. To comply with 16 U.S.C. 1604(d), the draft environmental impact statement and proposed plan shall be available for public comment for at least 3 months, at convenient locations in the vicinity of the lands covered by the plan, beginning on the date of the publication of the notice of availability in the Federal Register. During this period, and in accordance with the provisions in Sec. 219.6, the Forest Supervisor shall publicize and hold public participation activities as deemed necessary to obtain adequate public input.

(c) Plan approval. The Regional Forester shall review the proposed plan and the final environmental impact statement and either approve or disapprove the plan.

(1) Approval. The Regional Forester shall prepare a concise public record of decision which documents approval and accompanies the plan and final environmental impact statement. The record of decision shall be prepared according to NEPA procedures (40 CFR 1505.2). The approved plan shall not become effective until at least 30 days after publication of the notice of availability of the final environmental impact statement in the Federal Register, to comply with 16 U.S.C. 1604(d) and 1604(j).

(2) Disapproval. The Regional Forester shall return the plan and final environmental impact statement to the Forest Supervisor with a written statement of the reasons for disapproval. The Regional Forester may also specify a course of action to be undertaken by the Forest Supervisor in order to remedy deficiencies, errors, or omissions in the plan or environmental impact statement.

(d) Public appeal of approval decision. The provisions of 36 CFR part 211, subpart B apply to any administrative appeal of the Regional Forester's decision to approve a forest plan. Decisions to disapprove a plan and other decisions made during the forest planning process prior to the issuance of a record of decision approving the plan are not subject to administrative appeal.

(e) Plan implementation. As soon as practicable after approval of the plan, the Forest Supervisor shall ensure that, subject to valid existing rights, all outstanding and future permits, contracts, cooperative agreements, and other instruments for occupancy and use of affected lands are consistent with the plan. Subsequent administrative activities affecting such lands, including budget proposals, shall be based on the plan. The Forest Supervisor may change proposed implementation schedules to reflect differences between proposed annual budgets and appropriated funds. Such scheduled changes shall be considered an amendment to the forest plan, but shall not be considered a significant amendment, or require the preparation of an environmental impact statement, unless the changes significantly alter the long-term relationship between levels of multiple-use goods and services projected under planned budget proposals as compared to those projected under actual appropriations.

(f) Amendment. The Forest Supervisor may amend the forest plan. Based on an analysis of the objectives, guidelines, and other contents of the forest plan, the Forest Supervisor shall determine whether a proposed amendment would result in a significant change in the plan. If the change resulting from the proposed amendment is determined to be significant, the Forest Supervisor shall follow the same procedure as that required for development and approval of a forest plan. If the change resulting from the amendment is determined not to be significant for the purposes of the planning process, the Forest Supervisor may implement the amendment following appropriate public notification and satisfactory completion of NEPA procedures.

(g) Revision. A forest plan shall ordinarily be revised on a 10-year cycle or at least every 15 years. It also may be revised whenever the Forest Supervisor determines that conditions or demands in the area covered by the plan have changed significantly or

when changes in RPA policies, goals, or objectives would have a significant effect on forest level programs. In the monitoring and evaluation process, the interdisciplinary team may recommend a revision of the forest plan at any time. Revisions are not effective until considered and approved in accordance with the requirements for the development and approval of a forest plan. The Forest Supervisor shall review the conditions on the land covered by the plan at least every 5 years to determine whether conditions or demands of the public have change significantly.

(h) Planning records. The Forest Supervisor and interdisciplinary team shall develop and maintain planning records that document the decisions and activities that result from the process of developing a forest plan. Records that support analytical conclusions made and alternatives considered by the team and approved by the Forest Supervisor throughout the planning process shall be maintained. Such supporting records provide the basis for the development of the forest plan and associated documents required by NEPA procedures.

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### **SEC. 219.11 FOREST PLAN CONTENT.**

The forest plan shall contain the following:

- (a) A brief summary of the analysis of the management situation, including demand and supply conditions for resource commodities and services, production potentials, and use and development opportunities;
- (b) Forest multiple-use goals and objectives that include a description of the desired future condition of the forest or grassland and an identification of the quantities of goods and services that are expected to be produced or provided during the RPA planning periods;
- (c) Multiple-use prescriptions and associated standards and guidelines for each management area including proposed and probable management practices such as the planned timber sale program; and
- (d) Monitoring and evaluation requirements that will provide a basis for a periodic determination and evaluation of the effects of management practices.

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### **SEC. 219.12 FOREST PLANNING--PROCESS.**

(a) General requirements. The preparation, revision, or significant amendment of a forest plan shall comply with the requirements established in this section. The planning process includes at least those actions set forth in paragraphs (b) through (k) of the section. Some actions may occur simultaneously, and it may be necessary to repeat an action as additional information becomes available. The environmental impact statement for each forest plan shall be prepared according to NEPA procedures. To the extent feasible, a single process shall be used to meet planning and NEPA requirements.

(b) Identification of purpose and need. The interdisciplinary team shall identify and evaluate public issues, management concerns, and resource use and development opportunities, including those identified throughout the planning process during public

participation activities and coordination with other Federal agencies, State and local governments, and Indian tribes. The Forest Supervisor shall determine the major public issues, management concerns, and resource use and development opportunities to be addressed in the planning process.

(c) Planning criteria. Criteria shall be prepared to guide the planning process. Criteria apply to collection and use of inventory data and information, analysis of the management situation, and the design, formulation, and evaluation of alternatives. Criteria designed to achieve the objective of maximizing net public benefits shall be included. Specific criteria may be derived from--

(1) Laws, Executive Orders, regulations, and agency policy as set forth in the Forest Service Manual;

(2) Goals and objectives in the RPA Program and regional guides;

(3) Recommendations and assumptions developed from public issues management concerns, and resource use and development opportunities;

(4) The plans and programs of other Federal agencies, State and local governments, and Indian tribes;

(5) Ecological, technical, and economic factors; and

(6) The resource integration and management requirements in Secs. 219.13 through 219.27.

(d) Inventory data and information collection. Each Forest Supervisor shall obtain and keep current inventory data appropriate for planning and managing the resources under his or her administrative jurisdiction. The Supervisor will assure that the interdisciplinary team has access to the best available data. This may require that special inventories or studies be prepared. The interdisciplinary team shall collect, assemble, and use data, maps, graphic material, and explanatory aids, of a kind, character, and quality, and to the detail appropriate for the management decisions to be made. Data and information needs may vary as planning problems develop from identification of public issues, management concerns, and resource use and development opportunities. Data shall be stored for ready retrieval and comparison and periodically shall be evaluated for accuracy and effectiveness. The interdisciplinary team will use common data definitions and standards established by the Chief of the Forest Service to assure uniformity of information between all planning levels. As information is recorded, it shall be applied in any subsequent planning process. Information developed according to common data definitions and standards shall be used in the preparation of the 1990, and subsequent RPA Assessments and RPA Programs.

(e) Analysis of the management situation. The analysis of the management situation is a determination of the ability of the planning area covered by the forest plan to supply goods and services in response to society's demands. The primary purpose of this analysis is to provide a basis for formulating a broad range of reasonable alternatives. The analysis may examine the capability of the unit to supply outputs both with and without

legal and other requirements. As a minimum, the analysis of the management situation shall include the following:

(1) Benchmark analyses to define the range within which alternatives can be constructed. Budgets shall not be a constraint. The following benchmark analyses shall be consistent with the minimum applicable management requirements of Sec. 219.27 and shall define at least--

(i) The minimum level of management which would be needed to maintain and protect the unit as part of the National Forest System together with associated costs and benefits;

(ii) The maximum physical and biological production potentials of significant individual goods and services together with associated costs and benefits;

(iii) Monetary benchmarks which estimate the maximum present net value of those resources having an established market value or an assigned value;

(A) For forest planning areas with major resource outputs that have an established market price, monetary benchmarks shall include an estimate of the mix of resource uses, combined with a schedule of outputs and costs, which will maximize the present net value of those major outputs that have an established market price;

(B) For all forest planning areas, monetary benchmarks shall include an estimate of the mix of resource uses, combined with a schedule of outputs and costs, which will maximize the present net value of those major outputs that have an established market price or are assigned a monetary value;

(C) For forest planning areas with a significant timber resource, estimates for paragraphs (e)(1)(iii) (A) and (B) of this section shall be developed both with and without meeting the requirements for compliance with a base sale schedule of timber harvest, as described in Sec. 219.16(a)(1), and with and without scheduling the harvest of even- aged stands generally at or beyond culmination of mean annual increment of growth, as described in Sec. 219.16(a)(2)(iii).

(D) Estimates for paragraphs (e)(1)(iii) (A) and (B) of this section shall be developed both with and without other constraints when needed to address major public issues, management concerns, or resource opportunities identified during the planning process.

(2) The current level of goods and services provided by the unit and the most likely amount of goods and services expected to be provided in the future if current management direction continues; this will be the same analysis as that required by Sec. 219.12(f)(5).

(3) Projections of demand using best available techniques, with both price and nonprice information. To the extent practical, demand will be assessed as price-quantity relationships.

(4) A determination of the potential to resolve public issues and management concerns.

(5) Based on consideration of data and findings developed in paragraphs (e)(1)-(4), a determination of the need to establish or change management direction.

(f) Formulation of alternatives. The interdisciplinary team shall formulate a broad range of reasonable alternatives according to NEPA procedures. The primary goal in formulating alternatives, besides complying with NEPA procedures, is to provide an adequate basis for identifying the alternative that comes nearest to maximizing net public benefits, consistent with the resource integration and management requirements of Secs. 219.13 through 219.27.

(1) Alternatives shall be distributed between the minimum resource potential and the maximum resource potential to reflect to the extent practicable the full range of major commodity and environmental resource uses and values that could be produced from the forest. Alternatives shall reflect a range of resource outputs and expenditure levels.

(2) Alternatives shall be formulated to facilitate analysis of opportunity costs and of resource use and environmental trade-offs among alternatives and between benchmarks and alternatives.

(3) Alternatives shall be formulated to facilitate evaluation of the effects on present net value, benefits, and costs of achieving various outputs and values that are not assigned monetary values, but that are provided at specified levels.

(4) Alternatives shall provide different ways to address and respond to the major public issues, management concerns, and resource opportunities identified during the planning process.

(5) Reasonable alternatives which may require a change in existing law or policy to implement shall be formulated if necessary to address a major public issue, management concern, or resource opportunity identified during the planning process (40 CFR 1501.7, 1502.14(c)).

(6) At least one alternative shall be developed which responds to and incorporates the RPA Program tentative resource objectives for each forest displayed in the regional guide.

(7) At least one alternative shall reflect the current level of goods and services provided by the unit and the most likely amount of goods and services expected to be provided in the future if current management direction continues. Pursuant to NEPA procedures, this alternative shall be deemed the "no action" alternative.

(8) Each alternative shall represent to the extent practicable the most cost efficient combination of management prescriptions examined that can meet the objectives established in the alternative.

(9) Each alternative shall state at least--

(i) The condition and uses that will result from long-term application of the alternative;

(ii) The goods and services to be produced, the timing and flow of these resource outputs together with associated costs and benefits;

(iii) Resource management standards and guidelines; and

(iv) The purposes of the management direction proposed.

(g) Estimated effects of alternatives. The physical, biological, economic, and social effects of implementing each alternative considered in detail shall be estimated and compared according to NEPA procedures. These effects include those described in NEPA procedures (40 CFR 1502.14 and 1502.16) and at least the following:

(1) The expected outputs for the planning periods, including appropriate marketable goods and services, as well as nonmarket items, such as recreation and wilderness use, wildlife and fish, protection and enhancement of soil, water, and air, and preservation of aesthetic and cultural resource values;

(2) The relationship of expected outputs to the RPA Program tentative resource objectives for the forest displayed in the current regional guide;

(3) Direct and indirect benefits and costs, analyzed in sufficient detail to estimate--

(i) the expected real-dollar costs (discounted when appropriate), including investment, administrative, and operating costs of the agency and all other public and private costs required to manage the forest up to the point where the outputs are valued and the environmental consequences are realized;

(ii) the expected real-dollar value (discounted when appropriate) of all outputs attributable to each alternative to the extent that monetary values can be assigned to nonmarket goods and services, using quantitative and qualitative criteria when monetary values may not reasonably be assigned;

(iii) the economic effects of alternatives, including impacts on present net value, total receipts to the Federal Government, direct benefits to users that are not measured in receipts to the Federal Government, receipt shares to State and local governments, income, and employment in affected areas; and

(iv) the monetary opportunity costs (changes in present net value) associated with those management standards and resource outputs in each alternative that were not assigned monetary values but were provided at specified levels, compared with the maximum present net value benchmarks developed in Sec. 219.12(e)(1)(iii).

(4) The significant resource tradeoffs and opportunity costs associated with achieving alternative resource objectives.

(h) Evaluation of alternatives: Using planning criteria, the interdisciplinary team shall evaluate the significant physical, biological, economic, and social effects of each management alternative that is considered in detail. The evaluation shall include a comparative analysis of the aggregate effects of the management alternatives and shall



compare present net value, social and economic impacts, outputs of goods and services, and overall protection and enhancement of environmental resources.

(i) Preferred alternative recommendation. The Forest Supervisor shall review the interdisciplinary team's evaluation and shall recommend to the Regional Forester a preferred alternative to be identified in the draft environmental impact statement and displayed as the proposed plan.

(j) Plan approval. The Regional Forester shall review the proposed plan and final environmental impact statement and either approve or disapprove the plan in accordance with Sec. 219.10(c). The record of decision for approval of a plan shall include, in addition to the requirements of NEPA procedures (40 CFR 1505.2), a summarized comparison of the selected alternative with:

(1) Any other alternative considered which is environmentally preferable to the selected alternative; and

(2) Any other alternative considered which comes nearer to maximizing present net value.

(k) Monitoring and evaluation. At intervals established in the plan, implementation shall be evaluated on a sample basis to determine how well objectives have been met and how closely management standards and guidelines have been applied. Based upon this evaluation, the interdisciplinary team shall recommend to the Forest Supervisor such changes in management direction, revisions, or amendments to the forest plan as are deemed necessary. Monitoring requirements identified in the forest plan shall provide for—

(1) A quantitative estimate of performance comparing outputs and services with those projected by the forest plan;

(2) Documentation of the measured prescriptions and effects, including significant changes in productivity of the land; and

(3) Documentation of costs associated with carrying out the planned management prescriptions as compared with costs estimated in the forest plan.

(4) A description of the following monitoring activities:

(i) The actions, effects, or resources to be measured, and the frequency of measurements;

(ii) Expected precision and reliability of the monitoring process; and

(iii) The time when evaluation will be reported.

(5) A determination of compliance with the following standards:

(i) Lands are adequately restocked as specified in the forest plan;

(ii) Lands identified as not suited for timber production are examined at least every 10 years to determine if they have become suited; and that, if determined suited, such lands are returned to timber production;

(iii) Maximum size limits for harvest areas are evaluated to determine whether such size limits should be continued; and

(iv) Destructive insects and disease organisms do not increase to potentially damaging levels following management activities.

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### **SEC. 219.13 FOREST PLANNING--RESOURCE INTEGRATION REQUIREMENTS.**

The minimum requirements for integrating individual forest resource planning into the forest plan are established in Secs. 219.14 through 219.26 of this subpart. For the purposes of meeting the requirements of Sec. 219.12(c), additional planning criteria may be found in the guidelines for managing specific resources set forth in the Forest Service Manual and Handbooks.

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### **SEC. 219.14 TIMBER RESOURCE LAND SUITABILITY.**

During the forest planning process, lands which are not suited for timber production shall be identified in accordance with the criteria in paragraphs (a) through (d) of this section.

(a) During the analysis of the management situation, data on all National Forest System lands within the planning area shall be reviewed, and those lands within any one of the categories described in paragraphs (a) (1) through (4) of this section shall be identified as not suited for timber production--

(1) The land is not forest land as defined in Sec. 219.3.

(2) Technology is not available to ensure timber production from the land without irreversible resource damage to soils productivity, or watershed conditions.

(3) There is not reasonable assurance that such lands can be adequately restocked as provided in Sec. 219.27(c)(3).

(4) The land has been withdrawn from timber production by an Act of Congress, the Secretary of Agriculture or the Chief of the Forest Service.

(b) Forest lands other than those that have been identified as not suited for timber production in paragraph (a) of this section shall be further reviewed and assessed prior to formulation of alternatives to determine the costs and benefits for a range of management intensities for timber production. For the purpose of analysis, the planning area shall be stratified into categories of land with similar management costs and returns. The stratification should consider appropriate factors that influence the costs and returns such as physical and biological conditions of the site and transportation requirements. This analysis shall identify the management intensity for timber production for each category of land which results in the largest excess of discounted benefits less discounted costs and

shall compare the direct costs of growing and harvesting trees, including capital expenditures required for timber production, to the anticipated receipts to the government, in accordance with Sec. 219.12 and paragraphs (b)(1) through (b)(3) of this section.

(1) Direct benefits are expressed as expected gross receipts to the government. Such receipts shall be based upon expected stumpage prices and payments-in-kind from timber harvest considering future supply and demand situation for timber and upon timber production goals of the regional guide.

(2) Direct costs include the anticipated investments, maintenance, operating, management, and planning costs attributable to timber production activities, including mitigation measures necessitated by the impacts of timber production.

(3) In addition to long-term yield, the financial analysis must consider costs and returns of managing the existing timber inventory.

(c) During formulation and evaluation of each alternative a required in Sec. 219.12 (f) and (g), combinations of resource management prescriptions shall be defined to meet management objectives for the various multiple uses including outdoor recreation, timber, watershed, range, wildlife and fish, and wilderness. The formulation and evaluation of each alternative shall consider the costs and benefits of alternative management intensities for timber production as identified pursuant to paragraph (b) of this section in accordance with Sec. 219.12(f). Lands shall be tentatively identified as not appropriate for timber production to meet objectives of the alternative being considered if—

(1) Based upon a consideration of multiple-use objectives for the alternative, the land is proposed for resource uses that preclude timber production, such as wilderness;

(2) Other management objectives for the alternative limit timber production activities to the point where management requirements set forth in 219.27 cannot be met: or

(3) The lands are not cost-efficient, over the planning horizon, in meeting forest objectives, which include timber production.

(d) Lands identified as not suited for timber production in paragraph (a) of this section and lands tentatively identified as not appropriate for timber production in paragraph (c) of this section shall be designated as not suited for timber production in the preferred alternative. Designation in the plan of lands not suited for timber production shall be reviewed at least every 10 years. Such lands may be reviewed and redesignated as suited for timber production due to changed conditions at any time, according to the criteria in paragraphs (a) and (c) of this section, and according to the procedures for amendment or revision of the forest plan in 219.10 (f) and (g).

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## **SEC. 219.15 VEGETATION MANAGEMENT PRACTICES.**

When vegetation is altered by management, the methods, timing, and intensity of the practices determine the level of benefits that can be obtained from the affected resources.

The vegetation management practices chosen for each vegetation type and circumstance shall be defined in the forest plan with applicable standards and guidelines and the reasons for the choices. Where more than one vegetation management practice will be used in a vegetation type, the conditions under which each will be used shall be based upon thorough reviews of technical and scientific literature and practical experience, with appropriate evaluation of this knowledge for relevance to the specific vegetation and site conditions. On National Forest System land, the vegetation management practice chosen shall comply with the management requirements in s 219.27(b).

### **SEC. 219.16 TIMBER RESOURCE SALE SCHEDULE.**

In a forest plan, the selected forest management alternative includes a sale schedule which provides the allowable sale quantity. The sale schedule of each alternative, including those which depart from base sale schedules, shall be formulated in compliance with Sec. 219.12(f) and paragraphs (a) and (b) of this section.

(a) Alternatives shall be formulated that include determinations of the quantity of the timber that may be sold during each decade. These quantity determinations shall be based on the principle of sustained yield and shall meet the management requirements in Sec. 219.27. For each alternative, the determination shall include a calculation of the long-term sustained-yield capacity and the base sale schedule and, when appropriate, a calculation of timber sale alternatives that may depart from the base sale schedule as provided in paragraphs (a)(1) through (a)(3) of this section.

(1) For the base sale schedules, the planned sale for any future decade shall be equal to, or greater than, the planned sale for the preceding decade, provided that the planned sale is not greater than the long-term sustained-yield capacity consistent with the management objectives of the alternative.

(2) The determinations of the appropriate long-term sustained-yield capacities, base sale schedules, and departure alternatives to the base sale schedules shall be made on the basis of the guidelines which follow:

(i) For the long-term sustained-yield capacities and the base sale schedules, assume intensities of management and degree of timber utilization consistent with the goals, assumptions, and requirements contained in, or used in, the preparation of the current RPA Program and regional guide. For the base sale schedule, the management and utilization assumptions shall reflect the projected changes in practices for the four decades contained in, or used in, the preparation of the current RPA Program and regional guide. Beyond the fourth decade, the assumptions shall reflect those projected for the fourth decade of the current RPA Program, unless there is a basis for a different assumption;

(ii) For alternatives with sale schedules which depart from the corresponding base sale schedule, assume an appropriate management intensity;

(iii) In accordance with the established standards, assure that all even-aged stands scheduled to be harvested during the planning period will generally have reached the

culmination of mean annual increment of growth. Mean annual increment shall be based on expected growth, according to management intensities and utilization standards assumed in paragraphs (a)(2) (i) and (ii) of this section and on forest type and site quality. Mean annual increment shall be expressed in cubic measure. Alternatives which incorporate exceptions to these standards shall be evaluated if it is reasonable to expect that overall multiple use objectives would be better attained. Alternatives which incorporate exceptions to these standards are permitted for the use of sound silvicultural practices, such as thinning or other stand improvement measures; for salvage or sanitation harvesting of timber stands which are substantially damaged by fire, wind throw, or other catastrophe, or which are in imminent danger from insect or disease attack; for cutting for experimental and research purposes; or for removing particular species of trees, after consideration has been given to the multiple uses of the area being planned and after completion of the public participation process applicable to the preparation of a forest plan; and

(iv) Each sale schedule shall provide for a forest structure that will enable perpetual timber harvest which meets the principle of sustained-yield and multiple-use objectives of the alternative.

(3) Alternatives with sale schedules which depart from the principles of paragraph (a)(1) of this section and which will lead to better attaining the overall objectives of multiple-use management shall be evaluated when any of the following conditions are indicated:

(i) None of the other alternatives considered provides a sale schedule that achieves the assigned goals of the RPA Program as provided in Sec. 219.4(b);

(ii) High mortality losses from any cause can be significantly reduced or prevented or forest age-class distribution can be improved, thereby facilitating future sustained-yield management; or

(iii) Implementation of the corresponding base sale schedule would cause a substantial adverse impact upon a community in the economic area in which the forest is located.

(iv) It is reasonable to expect that overall multiple-use objectives would otherwise be better attained.

(b) The sale schedule of the management alternative selected in accordance with Sec. 219.12 provides the allowable sale quantity for the first plan period.

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### **SEC. 219.17 EVALUATION OF ROADLESS AREAS.**

(a) Unless otherwise provided by law, roadless areas within the National Forest System shall be evaluated and considered for recommendation as potential wilderness areas during the forest planning process, as provided in paragraphs (a) (1) and (2) of this section.

(1) During analysis of the management situation, the following areas shall be subject to evaluation:

(i) Roadless areas including those previously inventoried in the second roadless area review and evaluation (RARE II), in a unit plan, or in a forest plan, which remain essentially roadless and undeveloped, and which have not yet been designated as wilderness or for non-wilderness uses by law. In addition, other essentially roadless areas may be subject to evaluation at the discretion of the Forest Supervisor.

(ii) Areas contiguous to existing wilderness, primitive areas, or administratively proposed wildernesses, regardless of which agency has jurisdiction for the wilderness or proposed wilderness;

(iii) Areas that are contiguous to roadless and undeveloped areas in other Federal ownership that have identified wilderness potential; and

(iv) Areas designated by Congress for wilderness study, administrative proposals pending before Congress, and other legislative proposals pending which have been endorsed by the President.

(2) For each area subject to evaluation under paragraph (a)(1) of this section, the determination of the significant resource issues, which in turn affect the detail and scope of evaluation required by the Forest Service, shall be developed with public participation. As a minimum, the evaluation shall include consideration of:

(i) The values of the area as wilderness;

(ii) The values foregone and effects on management of adjacent lands

as a consequence of wilderness designation;

(iii) Feasibility of management as wilderness, in respect to size, nonconforming use, land ownership patterns, and existing contractual agreements or statutory rights;

(iv) Proximity to other designated wilderness and relative contribution to the National Wilderness Preservation System; and

(v) The anticipated long-term changes in plant and animal species diversity, including the diversity of natural plant and animal communities of the forest planning area and the effects of such changes on the values for which wilderness areas were created.

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### **SEC. 219.18 WILDERNESS MANAGEMENT.**

Forest planning shall provide direction for the management of designated wilderness and primitive areas in accordance with the provisions of 36 CFR part 293. In particular, plans shall--

(a) Provide for limiting and distributing visitor use of specific areas in accord with periodic estimates of the maximum levels of use that allow natural processes to operate freely and that do not impair the values for which wilderness areas were created; and

(b) Evaluate the extent to which wildfire, insect, and disease control measures may be desirable for protection of either the wilderness or adjacent areas and provide for such measures when appropriate.

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### **SEC. 219.19 FISH AND WILDLIFE RESOURCE.**

Fish and wildlife habitat shall be managed to maintain viable populations of existing native and desired non-native vertebrate species in the planning area. For planning purposes, a viable population shall be regarded as one which has the estimated numbers and distribution of reproductive individuals to insure its continued existence is well distributed in the planning area. In order to insure that viable populations will be maintained, habitat must be provided to support, at least, a minimum number of reproductive individuals and that habitat must be well distributed so that those individuals can interact with others in the planning area.

(a) Each alternative shall establish objectives for the maintenance and improvement of habitat for management indicator species selected under paragraph (g)(1) of this section, to the degree consistent with overall multiple use objectives of the alternative. To meet this goal, management planning for the fish and wildlife resource shall meet the requirements set forth in paragraphs (a)(1) through (a)(7) of this section.

(1) In order to estimate the effects of each alternative on fish and wildlife populations, certain vertebrate and/or invertebrate species present in the area shall be identified and selected as management indicator species and the reasons for their selection will be stated. These species shall be selected because their population changes are believed to indicate the effects of management activities. In the selection of management indicator species, the following categories shall be represented where appropriate: Endangered and threatened plant and animal species identified on State and Federal lists for the planning area; species with special habitat needs that may be influenced significantly by planned management programs; species commonly hunted, fished, or trapped; non-game species of special interest; and additional plant or animal species selected because their population changes are believed to indicate the effects of management activities on other species of selected major biological communities or on water quality. On the basis of available scientific information, the interdisciplinary team shall estimate the effects of changes in vegetation type, timber age classes, community composition, rotation age, and year-long suitability of habitat related to mobility of management indicator species. Where appropriate, measures to mitigate adverse effects shall be prescribed.

(2) Planning alternatives shall be stated and evaluated in terms of both amount and quality of habitat and of animal population trends of the management indicator species.

(3) Biologists from State fish and wildlife agencies and other Federal agencies shall be consulted in order to coordinate planning for fish and wildlife, including opportunities for the reintroduction of extirpated species.

(4) Access and dispersal problems of hunting, fishing, and other visitor uses shall be considered.



(5) The effects of pest and fire management on fish and wildlife populations shall be considered.

(6) Population trends of the management indicator species will be monitored and relationships to habitat changes determined. This monitoring will be done in cooperation with State fish and wildlife agencies, to the extent practicable.

(7) Habitat determined to be critical for threatened and endangered species shall be identified, and measures shall be prescribed to prevent the destruction or adverse modification of such habitat. Objectives shall be determined for threatened and endangered species that shall provide for, where possible, their removal from listing as threatened and endangered species through appropriate conservation measures, including the designation of special areas to meet the protection and management needs of such species.

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### **SEC. 219.20 GRAZING RESOURCE.**

In forest planning, the suitability and potential capability of National Forest System lands for producing forage for grazing animals and for providing habitat for management indicator species shall be determined as provided in paragraphs (a) and (b) of this section. Lands so identified shall be managed in accordance with direction established in forest plans.

(a) Lands suitable for grazing and browsing shall be identified and their condition and trend shall be determined. The present and potential supply of forage for livestock, wild and free-roaming horses and burros, and the capability of these lands to produce suitable food and cover for selected wildlife species shall be estimated. The use of forage by grazing and browsing animals will be estimated. Lands in less than satisfactory condition shall be identified and appropriate action planned for their restoration.

(b) Alternative range management prescriptions shall consider grazing systems and the facilities necessary to implement them; land treatment and vegetation manipulation practices; and evaluation of pest problems; possible conflict or beneficial interactions among livestock, wild free-roaming horses and burros and wild animal populations, and methods of regulating these; direction for rehabilitation of ranges in unsatisfactory condition; and comparative cost efficiency of the prescriptions.

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### **SEC. 219.21 RECREATION RESOURCE.**

To the degree consistent with needs and demands for all major resources, a broad spectrum of forest and rangeland related outdoor recreation opportunities shall be provided for in each alternative. Planning activities to achieve this shall be in accordance with national and regional direction and procedural requirements of paragraphs (a) through (g) of this section.

(a) Forest planning shall identify--

(1) The physical and biological characteristics that make land suitable for recreation opportunities;



(2) The recreational preferences of user groups and the settings needed to provide quality recreation opportunities; and

(3) Recreation opportunities on the National Forest System lands.

(b) The supply of developed recreational facilities in the area of National Forest influence shall be appraised for adequacy to meet present and future demands.

(c) Planning alternatives shall include consideration of establishment of physical facilities, regulation of use, and recreation opportunities responsive to current and anticipated user demands.

(d) In formulation and analysis of alternatives as specified in Sec. 219.12 (f) and (g), interactions among recreation opportunities and other multiple uses shall be examined. This examination shall consider the impacts of the proposed recreation activities on other uses and values and the impacts of other uses and activities associated with them on recreation opportunities, activities, and quality of experience.

(e) Formulation and evaluation of alternatives under paragraphs (c) and (d) of this section shall be coordinated to the extent feasible with present and proposed recreation activities of local and State land use or outdoor recreation plans, particularly the State Comprehensive Outdoor Recreation Plan, and recreation opportunities already present and available on other public and private lands, with the aim of reducing duplication in meeting recreation demands.

(f) The visual resource shall be inventoried and evaluated as an integrated part of evaluating alternatives in the forest planning process, addressing both the landscape's visual attractiveness and the public's visual expectation. Management prescriptions for definitive land areas of the forest shall include visual quality objectives.

(g) Off-road vehicle use shall be planned and implemented to protect land and other resources, promote public safety, and minimize conflicts with other uses of the National Forest System lands. Forest planning shall evaluate the potential effects of vehicle use off roads and, on the basis of the requirements of 36 CFR part 295 of this chapter, classify areas and trails of National Forest System lands as to whether or not off-road vehicle use may be permitted.

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## **SEC. 219.22 MINERAL RESOURCE.**

Mineral exploration and development in the planning area shall be considered in the management of renewable resources. The following shall be recognized to the extent practicable in forest planning:

(a) Active mines within the area of land covered by the forest plan;

(b) Outstanding or reserved mineral rights;

(c) The probable occurrence of various minerals, including locatable, leasable, and common variety;

- (d) The potential for future mineral development and potential need for withdrawal of areas from development;
- (e) Access requirements for mineral exploration and development; and
- (f) The probable effect of renewable resource prescriptions and management direction on mineral resources and activities, including exploration and development.

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### **SEC. 219.23 WATER AND SOIL RESOURCE.**

Forest planning shall provide for--

- (a) General estimates of current water uses, both consumptive and non-consumptive, including instream flow requirements within the area of land covered by the forest plan;
- (b) Identification of significant existing impoundments, transmission facilities, wells, and other man-made developments on the area of land covered by the forest plan;
- (c) Estimation of the probable occurrence of various levels of water volumes, including extreme events which would have a major impact on the planning area;
- (d) Compliance with requirements of the Clean Water Act, the Safe Drinking Water Act, and all substantive and procedural requirements of Federal, State, and local governmental bodies with respect to the provision of public water systems and the disposal of waste water;
- (e) Evaluation of existing or potential watershed conditions that will influence soil productivity, water yield, water pollution, or hazardous events; and
- (f) Adoption of measures, as directed in applicable Executive orders, to minimize risk of flood loss, to restore and preserve floodplain values, and to protect wetlands.

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### **SEC. 219.24 CULTURAL AND HISTORIC RESOURCES.**

Forest planning shall provide for the identification, protection, interpretation, and management of significant cultural resources on National Forest System lands. Planning of the resource shall be governed by the requirements of Federal laws pertaining to historic preservation, and guided by paragraphs (a)(1) through (a)(3) of this section.

(a) Forest planning shall--

- (1) Provide an overview of known data relevant to history, ethnography, and prehistory of the area under consideration, including known cultural resource sites;
- (2) Identify areas requiring more intensive inventory;
- (3) Provide for evaluation and identification of appropriate sites for the National Register of Historic Places;

(4) Provide for establishing measures for the protection of significant cultural resources from vandalism and other human depredation, and natural destruction;

(5) Identify the need for maintenance of historic sites on, or eligible for inclusion in, the National Register of Historic Places; and

(6) Identify opportunities for interpretation of cultural resources for the education and enjoyment of the American public.

(b) In the formulation and analysis of alternatives, interactions among cultural resources and other multiple uses shall be examined. This examination shall consider impacts of the management of cultural resources on other uses and activities and impacts of other uses and activities on cultural resource management.

(c) Formulation and evaluation of alternatives shall be coordinated to the extent feasible with the State cultural resource plan and planning activities of the State Historic Preservation Office and State Archaeologist and with other State and Federal agencies.

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### **SEC. 219.25 RESEARCH NATURAL AREAS.**

Forest planning shall provide for the establishment of Research Natural Areas (RNA's). Planning shall make provision for the identification of examples of important forest, shrubland, grassland, alpine, aquatic, and geologic types that have special or unique characteristics of scientific interest and importance and that are needed to complete the national network of RNA's. Biotic, aquatic, and geologic types needed for the network shall be identified using a list provided by the Chief of the Forest Service. Authority to establish RNA's is delegated to the Chief at 7 CFR 2.60(a) and 36 CFR 251.23. Recommendations for establishment of areas shall be made to the Chief through the planning process.

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### **SEC. 219.26 DIVERSITY.**

Forest planning shall provide for diversity of plant and animal communities and tree species consistent with the overall multiple-use objectives of the planning area. Such diversity shall be considered throughout the planning process. Inventories shall include quantitative data making possible the evaluation of diversity in terms of its prior and present condition. For each planning alternative, the interdisciplinary team shall consider how diversity will be affected by various mixes of resource outputs and uses, including proposed management practices. (Refer to Sec. 219.27(g).)

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### **SEC. 219.27 MANAGEMENT REQUIREMENTS.**

The minimum specific management requirements to be met in accomplishing goals and objectives for the National Forest System are set forth in this section. These requirements guide the development, analysis, approval, implementation, monitoring and evaluation of forest plans.

(a) Resource protection. All management prescriptions shall—

- (1) Conserve soil and water resources and not allow significant or permanent impairment of the productivity of the land;
- (2) Consistent with the relative resource values involved, minimize serious or long-lasting hazards from flood, wind, wildfire, erosion, or other natural physical forces unless these are specifically excepted, as in wilderness;
- (3) Consistent with the relative resource values involved, prevent or reduce serious, long lasting hazards and damage from pest organisms, utilizing principles of integrated pest management. Under this approach all aspects of a pest-host system should be weighed to determine situation-specific prescriptions which may utilize a combination of techniques including, as appropriate, natural controls, harvesting, use of resistant species, maintenance of diversity, removal of damaged trees, and judicious use of pesticides. The basic principle in the choice of strategy is that, in the long term, it be ecologically acceptable and compatible with the forest ecosystem and the multiple use objectives of the plan;
- (4) Protect streams, streambanks, shorelines, lakes, wetlands, and other bodies of water as provided under paragraphs (d) and (e) of this section;
- (5) Provide for and maintain diversity of plant and animal communities to meet overall multiple-use objectives, as provided in paragraph (g) of this section;
- (6) Provide for adequate fish and wildlife habitat to maintain viable populations of existing native vertebrate species and provide that habitat for species chosen under Sec. 219.19 is maintained and improved to the degree consistent with multiple-use objectives established in the plan;
- (7) Be assessed prior to project implementation for potential physical, biological, aesthetic, cultural, engineering, and economic impacts and for consistency with multiple uses planned for the general area;
- (8) Include measures for preventing the destruction or adverse modification of critical habitat for threatened and endangered species;
- (9) Provide that existing significant transportation and utility corridors and other significant right-of-ways that are capable and likely to be needed to accommodate the facility or use from an additional compatible right-of-way be designated as a right-of-way corridor. Subsequent right-of-way grants will, to the extent practicable, and as determined by the responsible line officer, use designated corridors;
- (10) Ensure that any roads constructed through contracts, permits, or leases are designed according to standards appropriate to the planned uses, considering safety, cost of transportation, and effects upon lands and resources;
- (11) Provide that all roads are planned and designed to re-establish vegetative cover on the disturbed area within a reasonable period of time, not to exceed 10 years after the termination of a contract, lease or permit, unless the road is determined necessary as a permanent addition to the National Forest Transportation System; and

(12) Be consistent with maintaining air quality at a level that is adequate for the protection and use of National Forest System resources and that meets or exceeds applicable Federal, State and/or local standards or regulations.

(b) Vegetative manipulation. Management prescriptions that involve vegetative manipulation of tree cover for any purpose shall—

(1) Be best suited to the multiple-use goals established for the area with potential environmental, biological, cultural resource, aesthetic, engineering, and economic impacts, as stated in the regional guides and forest plans, being considered in this determination;

(2) Assure that lands can be adequately restocked as provided in paragraph (c)(3) of this section, except where permanent openings are created for wildlife habitat improvement, vistas, recreation uses and similar practices;

(3) Not be chosen primarily because they will give the greatest dollar return or the greatest output of timber, although these factors shall be considered;

(4) Be chosen after considering potential effects on residual trees and adjacent stands;

(5) Avoid permanent impairment of site productivity and ensure conservation of soil and water resources;

(6) Provide the desired effects on water quantity and quality, wildlife and fish habitat, regeneration of desired tree species, forage production, recreation uses, aesthetic values, and other resource yields; and

(7) Be practical in terms of transportation and harvesting requirements, and total costs of preparation, logging, and administration.

(c) Silvicultural practices. The following management requirements apply to timber harvest and cultural treatments:

(1) No timber harvesting shall occur on lands classified as not suited for timber production pursuant to Sec. 219.14 except for salvage sales, sales necessary to protect other multiple-use values or activities that meet other objectives on such lands if the forest plan establishes that such actions are appropriate. These lands shall continue to be treated for reforestation purposes if necessary to achieve the multiple-use objectives of the plan.

(2) The selected sale schedule provides the allowable sale quantity for the first planning period. Within the planning period, the volume of timber to be sold in any one year may exceed the average annual allowable sale quantity so long as the total amount sold for the planning period does not exceed the allowable sale quantity. Nothing in this paragraph prohibits salvage or sanitation harvesting of timber stands which are substantially damaged by fire, windthrow, or other catastrophe, or which are in imminent danger of insect or disease attack and where such harvests are consistent with silvicultural and environmental standards. Such timber may either substitute for timber

that would otherwise be sold under the plan or, if not feasible, be sold over and above the planned volume.

(3) When trees are cut to achieve timber production objectives, the cuttings shall be made in such a way as to assure that the technology and knowledge exists to adequately restock the lands within 5 years after final harvest. Research and experience shall be the basis for determining whether the harvest and regeneration practices planned can be expected to result in adequate restocking. Adequate restocking means that the cut area will contain the minimum number, size, distribution, and species composition of regeneration as specified in regional silvicultural guides for each forest type. Five years after final harvest means 5 years after clearcutting, 5 years after final overstory removal in shelterwood cutting, 5 years after the seed tree removal cut in seed tree cutting, or 5 years after selection cutting.

(4) Cultural treatments such as thinning, weeding, and other partial cutting may be included in the forest plan where they are intended to increase the rate of growth of remaining trees, favor commercially valuable tree species, favor species or age classes which are most valuable for wildlife, or achieve other multiple-use objectives.

(5) Harvest levels based on intensified management practices shall be decreased no later than the end of each planning period if such practices cannot be completed substantially as planned.

(6) Timber harvest cuts designed to regenerate an even-aged stand of timber shall be carried out in a manner consistent with the protection of soil, watershed, fish and wildlife, recreation, and aesthetic resources, and the regeneration of the timber resource.

(7) Timber harvest and other silvicultural treatments shall be used to prevent potentially damaging population increases of forest pest organisms. Silvicultural treatments shall not be applied where such treatments would make stands susceptible to pest-caused damage levels inconsistent with management objectives.

(d) Even-aged management. When openings are created in the forest by the application of even-aged silviculture, the following management requirements apply:

(1) Openings shall be located to achieve the desired combination of multiple-use objectives. The blocks or strips cut shall be shaped and blended with the natural terrain, to the extent practicable, to achieve aesthetic, wildlife habitat, or other objectives established in the plan. Regional guides shall provide guidance on dispersion of openings in relation to topography, climate, geography, local land use patterns, forest types or other factors. As a minimum, openings in forest stands are no longer considered openings once a new forest is established. Forest plans may set forth variations to this minimum based on site-specific requirements for achieving multiple-use objectives. Regional guides shall provide guidance for determining variations to this minimum in the forest plan, based on requirements for watershed, wildlife habitat, scenery or other resource protection needs, or other factors.

(2) Individual cut blocks, patches, or strips shall conform to the maximum size limits for areas to be cut in one harvest operation established by the regional guide according to

geographic areas and forest types. This limit may be less than, but will not exceed, 60 acres for the Douglas-fir forest type of California, Oregon, and Washington; 80 acres for the southern yellow pine types of Alabama, Arkansas, Georgia, Florida, Louisiana, Mississippi, North Carolina, South Carolina, Oklahoma, and Texas; 100 acres for the hemlock-sitka spruce forest type of coastal Alaska; and 40 acres for all other forest types except as provided in paragraphs (d)(2)(i) through (iii) of this section:

(i) Cut openings larger than those specified may be permitted where larger units will produce a more desirable combination of net public benefits. Such exceptions shall be provided for in regional guides. The following factors shall be considered in evaluating harvest cuts of various sizes and shapes to determine size limits by geographic areas and forest types: Topography; relationship of units to other natural or artificial openings and proximity of units; coordination and consistency with adjacent forests and regions; effect on water quality and quantity; visual absorption capability; effect on wildlife and fish habitat; regeneration requirements for desirable tree species based upon the latest research findings; transportation and harvesting system requirements; environmental and forest pest hazards to regeneration, residual trees, and surrounding stands; and the relative total costs of preparation and administration, transportation requirements, harvesting, site preparation, planting, stocking control, and future stand tending of harvest cuts of various sizes and shapes. Specification for exceptions shall include the particular conditions under which the larger size is permitted and shall set a new maximum size permitted under those conditions.

(ii) Size limits exceeding those established in paragraphs (d)(2) and (d)(2)(i) of this section are permitted on an individual timber sale basis after 60 days' public notice and review by the Regional Forester.

(iii) The established limit 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.

(e) Riparian areas. Special attention shall be given to land and vegetation for approximately 100 feet from the edges of all perennial streams, lakes, and other bodies of water. This area shall correspond to at least the recognizable area dominated by the riparian vegetation. No management practices causing detrimental changes in water temperature or chemical composition, blockages of water courses, or deposits of sediment shall be permitted within these areas which seriously and adversely affect water conditions or fish habitat. Topography, vegetation type, soil, climatic conditions, management objectives, and other factors shall be considered in determining what management practices may be performed within these areas or the constraints to be placed upon their performance.

(f) Soil and water. Conservation of soil and water resources involves the analysis, protection, enhancement, treatment, and evaluation of soil and water resources and their responses under management and shall be guided by instructions in official technical handbooks. These handbooks must show specific ways to avoid or mitigate damage, and maintain or enhance productivity on specific sites. These handbooks may be regional in scope or, where feasible, specific to physiographic or climatic provinces.

(g) Diversity. Management prescriptions, where appropriate and to the extent practicable, shall preserve and enhance the diversity of plant and animal communities, including endemic and desirable naturalized plant and animal species, so that it is at least as great as that which would be expected in a natural forest and the diversity of tree species similar to that existing in the planning area. Reductions in diversity of plant and animal communities and tree species from that which would be expected in a natural forest, or from that similar to the existing diversity in the planning area, may be prescribed only where needed to meet overall multiple-use objectives. Planned type conversion shall be justified by an analysis showing biological, economic, social, and environmental design consequences, and the relation of such conversions to the process of natural change.

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### **SEC. 219.28 RESEARCH.**

(a) Research needs for management of the National Forest System shall be identified during planning and periodically reviewed during evaluation of implemented plans. Particular attention should be given to research needs identified during the monitoring and evaluation described in Sec. 219.12(k). These identified needs shall be included in formulating overall research programs and plans which involve private as well as public forest and rangelands.

(b) Research needed to support or improve management of the National Forest System shall be established and budgeted at the research station and national levels. Priorities for this portion of the Forest Service Research Program shall be based upon the information gathered at all planning levels of the National Forest System.

(c) An annual report shall be prepared at the national level with assistance from Regions and Stations which shall include, but not be limited to, a description of the status of major research programs which address National Forest System needs for Research, significant findings, and how this information is to be or has recently been applied.

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### **SEC. 219.29 TRANSITION PERIOD.**

(a) Until a forest planning area of the National Forest System is managed under a forest plan developed pursuant to this subpart and approved by the Regional Forester, the land may continue to be managed under existing land use and resource plans. As soon as practicable, existing plans shall be amended or revised to incorporate standards and guidelines in this subpart. Pending approval of a forest plan, existing plans may be amended or revised to include management requirements not inconsistent with the provisions of the RPA and these regulations.

(b) Requirements of amendments to this subpart shall be incorporated in forest plans and regional guides through the ongoing planning process. Planning process steps already completed need not be repeated.

(1) If, prior to the effective date of an amendment to this subpart, a forest plan either has been approved in final form or released in draft form for public review, the plan need



not be modified to incorporate requirements of such amendment, until the next scheduled revision of the forest plan;

(2) If, prior to the effective date of an amendment to this subpart, a regional guide either has been approved in final form or released in draft form for public review, the guide need not be modified to incorporate the requirements of such amendment, until a significant amendment to the guide is made for reasons other than incorporating requirements of amendments to this subpart.

(c) A forest plan may become effective prior to the development and approval of its related regional guide, provided that the forest plan is reviewed upon regional guide approval, and if necessary, amended to comply with regional management direction. If such an amendment is significant, it shall be accomplished pursuant to the requirements for the development of a forest plan as set forth in this subpart.

(d) As a result of the eruption of Mount St. Helens, a land management plan for the Mount St. Helens area shall be prepared substantially in accordance with the following procedures:

(1) Notwithstanding any other provisions in this subpart, the area included in the Mount St. Helens land management plan will not be subject to planning activities for the first generation Gifford Pinchot National Forest Plan unless the Regional Forester for the Pacific Northwest Region determines that additional planning activities are desirable.

(2) Lands which were inventoried as roadless and designated for non-wilderness uses in the Roadless Area Review and Evaluation (RARE II) shall be managed for uses other than wilderness. Except for a small part of the Mount Margaret roadless area (B 6071), the Mount St. Helens land management plan shall not consider wilderness designation for these lands.

(3) Lands which were inventoried as roadless and designated as further planning in the Roadless Area Review and Evaluation (RARE II) shall be evaluated in the Mount St. Helens land management plan and shall be managed in accordance with that plan.



# Appendix D – Alternative B Appeal Procedures

## Optional Appeal Procedures Available During the Planning Rule Transition Period

August 2009

### Introduction

This document sets out the optional administrative appeal and review procedures allowed by Title 36, Code of Federal Regulations (CFR), Part 219–Planning, Subpart A–National Forest System Land Management Planning (36 CFR part 219, subpart A or 2000 planning rule). Under 36 CFR 219.35(b) of the 2000 planning rule and a 2001 interpretive rule the responsible official may elect to use these procedures for land management plans and amendments approved during the planning rule transition period. See 65 FR (Federal Register) 67514 (November 9, 2000) and 66 FR 1864 (January 10, 2001). The appeal and review regulations at 36 CFR part 217 were effectively repealed by the 2000 Planning Rule and removed from the Code of Federal Regulations in 2001. Because it is inappropriate to refer to these procedures as if they were still in the Code of Federal Regulations, these “Optional Appeal Procedures Available during the Planning Rule Transition Period” are set out here with references to 36 CFR part 217 removed and wording and numbering changes made so the procedures do not read as a regulation. None of these changes are substantive changes to the appeal process.

The source of the “Optional Appeal Procedures Available during the Planning Rule Transition Period” is the Federal Register (FR), at 54 FR 3357 (January 23, 1989), as amended at 54 FR 13807 (April 5, 1989); 54 FR 34509 (August 21, 1989); 55 FR 7895 (March 6, 1990); 56 FR 4918 (February 6, 1991); 56 FR 46550 (September 13, 1991); and 58 FR 58915 (November 4, 1993).

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AUTHORITY: 16 U.S.C. 551, 472.

SOURCE: 54 FR 3357, Jan. 23, 1989, unless otherwise noted.

Appeal of land management plan development, plan revision, or plan amendment under transition procedures of Title 36 CFR 219.35(b) (2000). These procedures are to be used when the responsible official decides to use the administrative appeal option under 36 CFR 219.35(b) as further described in an interpretive rule at 66 FR 1864 (January 10, 2001).

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### **SECTION 1 – PURPOSE AND SCOPE.**

(a) This procedure provides a process by which a person or organization interested in the management of the National Forest System may administratively appeal decisions to approve, amend, or revise a national forest land and resource management plan or approve or amend a regional guide prepared pursuant to 36 CFR part 219. This procedure establishes who may appeal such decisions, the kind of decisions that may be appealed, the responsibilities of the participants in an appeal, and the procedures that apply. This procedure provides a review of such decisions by an official at the next administrative level.

(b) This procedure complements, but does not replace, numerous opportunities to participate in and influence agency decisionmaking provided pursuant to the National Environmental Policy Act of 1969 (NEPA) and the associated implementing regulations and procedures in 40 CFR parts 1500-1508, 36 CFR parts 215, 216, and 219, Forest

Service Manual chapters 1920 and 1950, and Forest Service Handbooks 1909.12 and 1909.15.

[58 FR 58915, Nov. 4, 1993]

## SECTION 2 – DEFINITIONS.

For the purposes of this procedure--

*Appellant* is the term used to refer to a person or organization (or an authorized agent or representative acting on their behalf) filing a notice of appeal under this procedure.

*Deciding officer* means the Forest Service line officer who has the delegated authority and responsibility to make the decision being questioned under these rules.

*Decision document* means a written document that a deciding officer signs to execute a decision subject to review under this procedure. Specifically a record of decision or a decision notice.

*Decision documentation* refers to the decision document and all relevant environmental and other analysis documentation on which the deciding officer based a decision that is at issue under the rules of this procedure. Decision documentation includes, but is not limited to, environmental assessments, findings of no significant impact, environmental impact statements, land and resource management plans, regional guides, documents incorporated by reference in any of the preceding documents, and drafts of these documents released for public review and comment.

*Decision notice* means the written document signed by a deciding officer when the decision was preceded by preparation of an environmental assessment (40 CFR 1508.9).

*Decision review* or *review* is the term used to refer to the process provided in this procedure by which a higher level officer reviews a decision of a subordinate officer in response to a notice of appeal.

*Forest Service line officer* is the Chief of the Forest Service or a Forest Service official who serves in a direct line of command from the Chief and who has the delegated authority to make and execute decisions under this procedure. Specifically, for the purposes of this procedure, a Forest Service employee who holds one of the following offices and titles: forest supervisor, deputy forest supervisor, regional forester, deputy regional forester, deputy chief, associate deputy chief, associate chief, or the Chief of the Forest Service.

*Intervenor* is an individual who, or organization that, is interested in or potentially affected by a decision under appeal pursuant to this procedure, who has made a timely request to intervene in that appeal.

*Legal notice* is notice of a decision appealable under this procedure published in the *Federal Register* or in the legal notices section of a newspaper of general circulation as required by section 5 of this procedure.

*Notice of appeal* is the written document filed with a reviewing officer by one who objects to a decision covered by this procedure and who requests review by the next higher line officer.

*Participants* include appellants, intervenors, the deciding officer, and the reviewing officer.

*Record of decision* is the document signed by a deciding officer recording a decision that was preceded by preparation of an environmental impact statement (40 CFR 1505.2).

*Reviewing officer* is the line officer one administrative level higher than the deciding officer or, in the case of a discretionary review, one level higher than the line officer who issued a first-level appeal decision.

[54 FR 3357, Jan. 23, 1989; 54 FR 13807, Apr. 5, 1989, as amended at 55 FR 7895, Mar. 6, 1990; 58 FR 58915, Nov. 4, 1993]

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### **SECTION 3 – DECISIONS SUBJECT TO APPEAL.**

(a) The following decisions are subject to appeal under this procedure:

(1) Decisions to approve, amend, or revise a national forest land and resource management plan including project or activity decisions for which environmental effects have been analyzed and disclosed within a final environmental impact statement (EIS) and documented in a record of decision including approval, significant amendments, or revisions of a land and resource management plan.

(2) Decisions to approve or amend a regional guide prepared pursuant to 36 CFR part 219 and documented in a decision notice or record of decision are subject to appeal under this procedure, except as provided in section 4.

(b) Decisions as defined in paragraph (a) of this section and documented in a decision notice or a record of decision that are made by a subordinate Forest Service staff officer acting within delegated authority are considered to be decisions of the Forest Service line officer.

[58 FR 58915, Nov. 4, 1993]

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### **SECTION 4 – DECISIONS NOT SUBJECT TO APPEAL.**

The following decisions are not subject to appeal under this procedure.

(a) Decisions on projects or activities implementing national forest land and resource management plans including project decisions that include a non-significant amendment to a national forest land and resource management plan.

(b) Preliminary planning decisions or preliminary decisions as to National Environmental Policy Act or National Forest Management Act processes made prior to release of final plans, guides, and environmental documents.

(c) Recommendations of Forest Service line officers to higher ranking Forest Service or Departmental officers or to other entities having final authority to implement the recommendations in question, such as wilderness and wild and scenic river recommendations.

[58 FR 58915, Nov. 4, 1993]

## **SECTION 5 – GIVING NOTICE OF DECISIONS SUBJECT TO APPEAL.**

(a) For decisions subject to appeal under this procedure, deciding officers shall promptly mail the appropriate decision document (sec. 3(a)(1)) to those who, in writing, have requested it, and to those who are known to have participated in the decisionmaking process.

(b) The deciding officer shall also give notice of decisions appealable under this procedure as follows:

(1) For all initial decisions of the Chief, notice shall be published in the *Federal Register*.

(2) For all other decisions, legal notice of the decision shall be published in a newspaper of general circulation identified pursuant to the requirements of paragraph (d) of this section. Deciding officers may, at their discretion, also publish notice of their decisions in additional newspapers. Where a deciding officer elects to publish such additional notices, they shall be published after an initial legal notice has been published in the principal newspaper identified in the biannual Federal Register notice provided for in paragraph (d) of this section. Any such additional newspaper notices shall indicate the date that the appeal period ends, which shall be calculated based on the date of publication of the initial notice in the principal newspaper identified in the biannual Federal Register notice.

(c) All notices published pursuant to this section shall include a concise description of the decision made by title or subject matter, the date of the decision, the name and title of the official making the decision, and information on how to obtain a copy of the decision, and shall specify that the appeal period begins the day following the notice's publication as provided for in section 8(b)(1).

(d) At least twice annually, in April and in October, each responsible Forest Service officer shall, through Federal Register notice, advise the public of the principal newspaper to be utilized for publishing legal notices required by this section. The Federal Register notice shall also list all additional newspapers which the deciding officer expects to use for purposes of providing additional notice pursuant to paragraph (b) of this section.

[54 FR 3357, Jan. 23, 1989, as amended at 55 FR 7895, Mar. 6, 1990; 56 FR 4918, Feb. 6, 1991]

## **SECTION 6 – PARTICIPANTS.**

(a) Other than Forest Service employees, any person or any non-Federal organization or entity may challenge a decision covered by this procedure and request a review by the Forest Service line officer at the next administrative level.

(b) An intervenor as defined in section 2 of the procedure.

## **SECTION 7 – LEVELS OF APPEAL.**

(a) Decisions made by the Chief. If the Chief of the Forest Service is the deciding officer, the notice of appeal is filed with the Secretary of Agriculture. Review by the Secretary is wholly discretionary. Within 15 days of receipt of a notice of appeal, the Secretary shall

determine whether or not to review the decision in question. If the Secretary has not decided to review the Chief's decision by the expiration of the 15-day period, the requester(s) shall be notified by the Secretary's office that the Chief's decision is the final administrative decision of the Department of Agriculture. When the Secretary elects to review an initial decision made by the Chief, the Secretary shall conduct the review in accordance with the first level appeal procedures outlined in this rule.

(b) Decisions made by forest supervisors and regional foresters. The levels of available review are as follows:

(1) If the decision is made by a forest supervisor, the notice of appeal is filed with the regional forester;

(2) If the decision is made by a regional forester, the notice of appeal is filed with the Chief of the Forest Service.

(c) Discretionary review of dismissal decisions. Dismissal decisions rendered by Forest Service line officers pursuant to this procedure (sec. 11) are subject to discretionary review as follows:

(1) If the initial reviewing officer was the regional forester, the Chief has discretion to review.

(2) If the reviewing officer was the Chief, the Secretary of Agriculture has discretion to review.

(d) Discretionary review of appeal decisions. Appeal decisions rendered by regional foresters and the Chief pursuant to this procedure are subject to discretionary review as follows:

(1) If the reviewing officer was the regional forester, the Chief has discretion to review.

(2) If the reviewing officer was the Chief, the Secretary of Agriculture has discretion to review.

[54 FR 3357, Jan. 23, 1989, as amended at 54 FR 34509, Aug. 21, 1989; 58 FR 58915, Nov. 4, 1993]

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## **SECTION 8 – APPEAL PROCESS SEQUENCE.**

(a) Filing procedures. To appeal a decision under this procedure, a person or organization must:

(1) File a written notice of appeal, in duplicate, with the next higher line officer in accordance with the provisions of section 9 of this procedure.

(2) File the notice of appeal within 45 days of the date specified in the published legal notice for non-significant amendments to land and resource management plans documented in a decision notice or record of decision.

(3) File the notice of appeal within 90 days of the date specified in the published legal notice for land and resource management plan approvals, significant amendments, or revisions, and for other programmatic decisions documented in a record of decision.



(b) Computation of time periods. (1) The day after the published notices required in section 5(b) is the first day of the appeal period provided for in paragraphs (a)(2) and (a)(3) of this section. All other time periods applicable to this procedure are tied to the filing of a notice of appeal and begin on the first day following that filing.

(2) All time periods in this procedure are to be computed using calendar days. Saturdays, Sundays, and Federal holidays are included in computing the time period for filing a notice of appeal; however, when the filing period would expire on a Saturday, Sunday, or Federal holiday, the filing time is extended to the end of the next Federal working day.

(c) Evidence of timely filing. It is the responsibility of the appellant to file the notice on or before the last day of the filing period. In the event of question, a legible postmark will be considered evidence of timely filing. Where postmarks are illegible, the reviewing officer shall rule on the timely filing of the appeal. Notices of appeal that are filed before the filing period specified in the published legal notice shall be accepted, but premature filing does not affect timeframes specified in this procedure.

(d) Time extensions.

(1) The 45-day/90-day filing periods for a notice of appeal are not extendable.

(2) Time extensions are not permitted except as provided in sections 12, 13, and 17 of this procedure.

(e) Upon receipt of a timely notice of appeal, the reviewing officer shall immediately forward a copy of it to the deciding officer.

(f) Appeal decision. Unless time has been extended as provided for in sections 12 and 13, the reviewing officer shall not exceed the following time periods for rendering an appeal decision:

(1) An appeal of a land and resource management plan approval, significant amendment, or revision, or on a programmatic decision documented in a record of decision, not more than 160 days from the date the notice of appeal was filed.

(2) In the event of multiple appeals of the same decision, the appeal decision date shall be calculated from the filing date of the last notice of appeal.

[54 FR 3357, Jan. 23, 1989, as amended at 55 FR 7895, Mar. 6, 1990; 56 FR 4918, Feb. 6, 1991; 58 FR 58916, Nov. 4, 1993]

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## **SECTION 9 – CONTENT OF A NOTICE OF APPEAL.**

(a) It is the responsibility of those who appeal a decision under this procedure to provide a reviewing officer sufficient narrative evidence and argument to show why the decision by the lower level officer should be changed or reversed.

(b) At a minimum, a written notice of appeal filed with the reviewing officer must:

(1) State that the document is a notice of appeal filed pursuant to 36 CFR 219.14(b)(2);

(2) List the name, address, and telephone number of the appellant;

(3) Identify the decision about which the requester objects;

- (4) Identify the document in which the decision is contained by title and subject, date of the decision, and name and title of the deciding officer.
- (5) Identify specifically that portion of the decision or decision document to which the requester objects;
- (6) State the reasons for objecting, including issues of fact, law, regulation, or policy, and, if applicable, specifically how the decision violates law, regulation, or policy; and
- (7) Identify the specific change(s) in the decision that the appellant seeks.

[54 FR 3357, Jan. 23, 1989, as amended at 55 FR 7895, Mar. 6, 1990; 56 FR 4918, Feb. 6, 1991]

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## **SECTION 10 – IMPLEMENTATION AND STAYS OF DECISIONS.**

- (a) Implementation of any decision subject to appeal pursuant to this procedure shall not occur for 7 calendar days following publication of the legal notice of the decision as required in this procedure.
- (b) Requests to stay the approval of land and resource management plans prepared pursuant to 36 CFR part 219 shall not be granted. However, requests to stay implementation of a project or activity included in such a plan will be considered as provided for in paragraph (c).
- (c) Where a project or activity would be implemented before an appeal decision could be issued, the reviewing officer shall consider written requests to stay implementation of that decision pending completion of the review.
- (d) To request a stay of implementation, an appellant must—
  - (1) File a written request with the reviewing officer;
  - (2) Simultaneously send a copy of the stay request to any other appellant(s), intervenor(s), and to the deciding officer; and
  - (3) Provide a written justification of the need for a stay, which at a minimum includes the following:
    - (i) A description of the specific project(s), activity(ies), or action(s) to be stopped.
    - (ii) Specific reasons why the stay should be granted in sufficient detail to permit the reviewing officer to evaluate and rule upon the stay request, including at a minimum:
      - (A) The specific adverse effect(s) upon the requester;
      - (B) Harmful site-specific impacts or effects on resources in the area affected by the activity(ies) to be stopped; and
      - (C) How the cited effects and impacts would prevent a meaningful decision on the merits.
- (e) The reviewing officer shall rule on stay requests within 10 days of receipt of a request.
- (f) In deciding a stay request, a reviewing officer shall consider:
  - (1) Information provided by the requester pursuant to paragraph (c) of this section;

- (2) The effect that granting a stay would have on preserving a meaningful appeal on the merits;
- (3) Any information provided by the deciding officer or other party to the appeal in response to the stay request; and
- (4) Any other factors the reviewing officer considers relevant to the decision.
- (g) A reviewing officer must issue a written decision on a stay request.
  - (1) If a stay is granted, the stay shall specify the specific activities to be stopped, duration of the stay, and reasons for granting the stay.
  - (2) If a stay is denied in whole or in part, the decision shall specify the reasons for the denial.
  - (3) A copy of a decision on a stay request shall be sent to the appellant(s), intervenor(s), and the deciding officer.
  - (h) A decision may be implemented during a review unless the reviewing officer has granted a stay.
    - (i) A reviewing officer's decision on a request to stay implementation of a project or activity included in a land and resource management plan or significant amendment or revision to the plan is not subject to discretionary review at the next administrative level. [54 FR 3357, Jan. 23, 1989, as amended at 55 FR 7896, Mar. 6, 1990; 56 FR 4918, Feb. 6, 1991; 58 FR 58916, Nov. 4, 1993]

## **SECTION 11 – DISMISSAL WITHOUT REVIEW.**

- (a) A reviewing officer shall dismiss an appeal and close the appeal record without decision on the merits when—
  - (1) The notice is not filed within the time specified in section 8 of this procedure;
  - (2) The requested relief or change cannot be granted under law, fact, or regulation existing when the decision was made.
  - (3) The notice of appeal fails to meet the minimum requirements of section 9 of this procedure to such an extent that the reviewing officer lacks adequate information on which to base a decision;
  - (4) The decision at issue is being appealed under another administrative proceeding;
  - (5) The decision is excluded from appeal pursuant to section 4 of this procedure;
  - (6) The appellant(s) withdraws the appeal;
  - (7) The deciding officer withdraws the appealed decision; or
  - (8) The Chief has invoked the provisions of section 18 of this procedure.
- (b) The reviewing officer shall give written notice of a dismissal to all participants that includes an explanation of why the appeal is dismissed.
- (c) A reviewing officer's dismissal decision is subject to discretionary review at the next administrative level as provided for in section 7(d) of this procedure, except when a

dismissal decision results from withdrawal of an appeal by an appellant or withdrawal of the initial decision by the deciding officer.

[54 FR 3357, Jan. 23, 1989, as amended at 55 FR 7896, Mar. 6, 1990; 56 FR 4918, Feb. 6, 1991]

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## **SECTION 12 – RESOLUTION OF ISSUES.**

(a) When a decision is appealed, appellants or intervenors may request meetings with the deciding officer to discuss the appeal, either together or separately, to narrow issues, agree on facts, and explore opportunities to resolve the issues by means other than review and decision on the appeal. Reviewing officers may, on their own initiative, request the deciding officer to meet with participants to discuss the appeal and explore opportunities to resolve the issues. However, reviewing officers may not participate in such discussions. At the request of the deciding officer, or on their own initiative, reviewing officers may extend the time periods for review to allow for conduct of meaningful negotiations. Such extensions may occur only after the time period for intervention and for the deciding officer to transmit the decision documentation has elapsed. In granting an extension, the reviewing officer must establish a specific time period for the conduct of negotiations.

(b) The deciding officer has the authority to withdraw a decision, in whole or in part, during the appeal. Where a deciding officer decides to withdraw a decision, all participants to the appeal will be notified that the case is dismissed. A deciding officer's subsequent decision to reissue or modify the withdrawn decision constitutes a new decision and is subject to appeal under this procedure.

[54 FR 3357, Jan. 23, 1989, as amended at 56 FR 46550, Sept. 13, 1991]

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## **SECTION 13 – REVIEWING OFFICER AUTHORITY.**

(a) Discretion to establish procedures. A reviewing officer may issue such determinations and procedural instructions as appropriate to ensure orderly and expeditious conduct of the appeal process as long as they are in accordance with all the applicable rules and procedures of this procedure.

(1) In appeals involving intervenors, the reviewing officer may prescribe special procedures to conduct the appeal.

(2) In case of multiple appeals of a decision, the reviewing officer may prescribe special procedures as necessary to conduct the review.

(3) All participants shall receive notice of any procedural instructions or decisions governing conduct of an appeal.

(4) Procedural instructions and decisions are not subject to review by higher level officers.

(b) Consolidation of multiple appeals.

(1) The reviewing officer shall determine whether to issue one appeal decision or separate decisions in cases involving multiple notices of appeal under this procedure, or if

the same decision is also under appeal pursuant to 36 CFR part 251. In the event of a consolidated decision, the reviewing officer shall give advance notice to all who have appealed the decision.

(2) Decisions to consolidate an appeal decision are not subject to review by higher level officers.

(c) Requests for information. At any time during the appeal process, the reviewing officer at the levels specified in section 7 (a), (b), or (c)(1) of this procedure may extend the time periods for review to request additional information from an appellant, intervenor, or the deciding officer. Such requests shall be limited to obtaining and evaluating information needed to clarify issues raised. The reviewing officer shall notify all participants of such requests and provide them opportunity to comment on the information obtained.

[54 FR 3357, Jan. 23, 1989, as amended at 54 FR 34509, Aug. 21, 1989]

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## **SECTION 14 – INTERVENTION.**

(a) For a period not to exceed 20 days following the filing of a notice of appeal, the reviewing officer shall accept requests to intervene in the appeal from any interested or potentially affected person or organization. Requests to intervene in an appeal during the discretionary review (sec. 7(d)) shall not be accepted.

(b) Upon receiving such a request, the reviewing officer shall promptly acknowledge the request, in writing, and mail the notice of appeal to the intervenor.

(c) The reviewing officer shall accept into the appeal record written comments about the appeal from an intervenor for a period not to exceed 30 days following acknowledgement of the intervention request (sec. 14(b)).

(d) Intervenors must concurrently furnish copies of all submissions to the appellant. Failure to provide copies may result in removal of a submission from the appeal record.

(e) An intervenor cannot continue an appeal if the appeal is dismissed (sec. 11).

[54 FR 3357, Jan. 23, 1989, as amended at 58 FR 58916, Nov. 4, 1993]

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## **SECTION 15 – APPEAL RECORD.**

(a) Upon receipt of a copy of the notice of appeal, the deciding officer shall assemble the relevant decision documentation (sec. 2) and pertinent records, and transmit them to the reviewing officer within 30 days in appeal of non-significant amendments to land and resource management plans or within 60 days for appeals of land and resource management plan approvals, significant amendments, or revisions, and for other programmatic decisions. The time period for forwarding the decision documentation is not extendable.

(b) In transmitting the decision documentation to the reviewing officer, the deciding officer shall indicate where the documentation addresses the issues raised in the notice of appeal. The deciding officer shall provide a copy of the transmittal letter to the appellant(s) and intervenor(s).

(c) The review of decisions appealed under this procedure focuses on the documentation developed by the deciding officer in reaching decisions. The records on which the reviewing officer shall conduct the review consists of the notice of appeal, any written comments submitted by intervenors, the official documentation prepared by the deciding officer in the decisionmaking process, the deciding officer's letter transmitting those documents to the reviewing officer, and any appeal related correspondence, including additional information requested by the reviewing officer pursuant to section 13 of this procedure.

(d) It is the responsibility of the reviewing officer to maintain in one location a file of documents related to the decision and appeal.

(e) Closing the record.

(1) In appeals with intervenors, the appeal record shall close upon receipt of comments on the appeal by the intervenor, but not later than the end of the 30-day period provided for intervenors to submit comments (sec. 14(c)).

(2) In appeals without intervenors, the appeal record shall close upon receipt of the decision documentation from the deciding officer, unless time has been extended as provided for in sections 12 and 13.

(f) The appeal record is open to public inspection at any time during the review.

(g) In appeals involving initial decisions of the Chief (sec. 7(a)), the establishment of an administrative record as defined in paragraph (a) of this section shall not begin unless the Secretary elects to review the appeal. Except for the initial notice of appeal, any filings made previous to the Secretary's election to review will not be accepted.

[54 FR 3357, Jan. 23, 1989, as amended at 54 FR 34509, Aug. 21, 1989; 55 FR 7896, Mar. 6, 1990; 56 FR 4918, Feb. 6, 1991; 58 FR 58916, Nov. 4, 1993]

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## **SECTION 16 – DECISION.**

(a) The reviewing officer shall not issue a decision prior to the record closing (sec. 15(e)).

(b) The reviewing officer's decision shall, in whole or in part, affirm or reverse the original decision. The reviewing officer's decision may include instructions for further action by the deciding officer.

(c) An appeal decision must be consistent with applicable law, regulations, and orders.

(d) The reviewing officer shall send a copy of the decision to all participants and to others upon request.

(e) Unless a higher level officer exercises the discretion to review a receiving officer's decision as provided at section 7(d), the reviewing officer's decision is the final administrative decision of the Department of Agriculture and the decision is not subject to further review under this procedure.

[54 FR 3357, Jan. 23, 1989, as amended at 58 FR 58916, Nov. 4, 1993]

**SECTION 17 – DISCRETIONARY REVIEW.**

- (a) Petitions or requests for discretionary review shall not, in and of themselves, give rise to a decision to exercise discretionary review. In electing to exercise discretion, a reviewing officer should consider, but is not limited to, such factors as controversy surrounding the decision, the potential for litigation, whether the decision is precedential in nature, or whether the decision modifies existing or establishes new policy.
- (b) As provided for a sections 7 (c) and (d), 10(h), and 11, certain dismissal decisions rendered by Forest Service line officers, and appeal decisions rendered by regional foresters and the Chief (sec. 16) are subject to discretionary review at the next highest administrative level. Within one day following the date of any decision subject to such discretionary review, the reviewing officer shall forward a copy of the decision and the decision documents (sec. 2) upon which the appeal was predicated to the next higher officer.
- (c) When a stay of implementation is in effect, it shall remain in effect until the end of the 15-day period in which a higher level officer must decide whether or not to review a reviewing officer's decision (sec. 17(d)). If the higher level officer decides to review the reviewing officer's decision, the stay will remain in effect until a decision is issued (sec. 17(f)), or until the end of the 30-day review period provided in section 17(g) whichever is less.
- (d) The higher level officer shall have 15 days from date of receipt to decide whether or not to review a lower level appeal decision, and may request and use the appeal record in deciding whether or not to review the decision, including decisions to dismiss. If the record is requested, the 15-day period is suspended at that point. The lower level reviewing officer shall forward it within 5 days of the request. Upon receipt, the higher level officer shall have 15 days to decide whether or not to review the lower level decision. If that officer takes no action by the expiration of the 15-day period or the additional 15-day period following receipt of the record, the decision of the reviewing officer stands as the final administrative decision of the Department of Agriculture. All participants shall be notified by the discretionary level whether or not the decision will be reviewed.
- (e) Where an official exercises the discretion in section 7 (d) or (e) of this procedure to review a dismissal or appeal decision, the discretionary review shall be made on the existing appeal record and the lower level reviewing officer's appeal decision. The record shall not be reopened to accept additional submissions from any source including the reviewing officer whose appeal decision is being reviewed.
- (f) The discretionary level reviewing officer shall conclude the review within 30 days of the date of the notice issued to participants that the lower decision will be reviewed, and shall send a copy of the review decision to all participants.
- (g) If a discretionary review decision is not issued by the end of the 30-day review period, appellants and intervenors shall be deemed to have exhausted their administrative remedies for purposes of judicial review. In such case, the participants shall be notified by the discretionary level.



[54 FR 3357, Jan. 23, 1989; 54 FR 13807, Apr. 5, 1989, as amended at 54 FR 34510, Aug. 21, 1989; 55 FR 7896, Mar. 6, 1990; 58 FR 58916, Nov. 4, 1993]

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### **SECTION 18 – POLICY IN EVENT OF JUDICIAL PROCEEDINGS.**

It is the position of the Department of Agriculture that any filing for Federal judicial review of a decision subject to review under this procedure is premature and inappropriate unless the plaintiff has first sought to invoke and exhaust the procedures available under this procedure. This position may be waived upon a written finding by the Chief.

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### **SECTION 19 – APPLICABILITY AND EFFECTIVE DATE.**

- (a) The appeal procedures established in this procedure apply to all appealable decision documents published on or after February 6, 1991.
- (b) Notices of appeal filed under 36 CFR 211.16, 36 CFR 211.18, 36 CFR 228.14, and 36 CFR 292.15 prior to February 22, 1989, remain subject to those procedures.

[54 FR 3357, Jan. 23, 1989, as amended at 56 FR 46550, Sept. 13, 1991]





# APPENDIX E – ALTERNATIVE C

This alternative was developed to address concerns that land management planning has greatly exceeded the scope and intent of National Forest Management Act (NFMA) and in so doing taken an excessive toll in cost and time invested, by both Forest Service employees and the public. This alternative requires the land management planning process and resulting plans be limited to the minimum requirements of NFMA, with the addition of minimal requirements to meet the purpose and need for a new rule set out in this draft programmatic environmental impact statement.

To facilitate comparison, rule text for this alternative was drafted following the same outline as the proposed rule (Alternative A).

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# SUBPART A—NATIONAL FOREST SYSTEM LAND MANAGEMENT PLANNING

## § 219.1 PURPOSE AND APPLICABILITY

(a) This subpart sets out the planning requirements for developing, amending, and revising land management plans (also referred to as plans) for the National Forest System (NFS), as required by the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976 (16 U.S.C. 1600 *et seq.*) (NFMA). This subpart also sets out the requirements of plan content. This part is applicable to all units of the NFS as defined by 16 U.S.C. 1609 or subsequent statute.

(b) Consistent with the Multiple-Use Sustained-Yield Act of 1960 (16 U.S.C. 528–531) (MUSYA), the Forest Service manages the NFS to sustain the multiple uses, including ecosystem services, of its renewable resources in perpetuity while maintaining the long-term health and productivity of the land. Resources are managed through a combination of approaches and concepts for the benefit of human communities and natural resources. Land management plans guide sustainable, integrated resource management of the resources within the plan area in the context of the broader landscape, giving due consideration to the relative values of the various resources in particular areas.

(c) The objective of this part is to guide the collaborative and science-based development, amendment, and revision of land management plans that promote healthy, resilient, diverse, and productive national forests and grasslands. Plans will guide management of NFS lands so that they are ecologically sustainable and contribute to social and economic sustainability, with resilient ecosystems and watersheds, diverse plant and animal communities, and the capacity to provide people and communities with a range of social, economic, and ecological benefits for the present and into the future, including clean water; habitat for fish, wildlife, and plant communities; and opportunities for recreational, spiritual, educational, and cultural sustenance.

(d) The Chief of the Forest Service must establish planning procedures for this part on plan development, plan amendment, or plan revision in the Forest Service Directive System in Forest Service Manual 1920—Land Management Planning and in Forest Service Handbook 1909.12—Land Management Planning Handbook.

(e) This part does not affect treaty rights or valid existing rights established by statute or legal instruments.

(f) During the planning process, the responsible official shall comply with Section 8106 of the Food, Conservation, and Energy Act of 2008 (25 U.S.C. 3056) with respect to disclosing or withholding under the Freedom of Information Act (5 U.S.C. 552) certain information regarding reburial sites or other information that is culturally sensitive to an Indian Tribe or Tribes.

(g) Plans must comply with all applicable laws and regulations, including, NFMA, MUSYA, the Clean Air Act, the Clean Water Act, the Wilderness Act, and the Endangered Species Act.

## § 219.2 LEVELS OF PLANNING AND RESPONSIBLE OFFICIALS.

Forest Service planning occurs at different organizational levels and geographic scales. Planning occurs at three levels—national strategic planning, NFS unit planning, and project or activity planning.

(a) *National.* The Chief of the Forest Service is responsible for national planning, such as preparation of the Forest Service strategic plan required under the Government Performance and Results Act of 1993 (5 U.S.C. 306; 31 U.S.C. 1115–1119; 31 U.S.C. 9703–9704), which is integrated with the requirements of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the NFMA. The strategic plan establishes goals, objectives, performance measures, and strategies for management of the NFS, as well as the other Forest Service mission areas: Research and Development, State and Private Forestry, and International Programs.

(b) *Forest, grassland, prairie, or other comparable administrative unit.*

(1) A land management plan provides a framework for integrated resource management and for guiding project and activity decisionmaking in a national forest, grassland, prairie, or other administrative unit. A plan reflects the unit's expected distinctive roles and contributions to the local area, region, and Nation, and the roles for which the unit is best suited, considering the Agency mission, unique capabilities, and the resources and management of other lands in the vicinity. Through the adaptive planning cycle set forth in this subpart, a plan can be changed to reflect new information and changing conditions.

(2) A plan does not authorize projects or activities or commit the Forest Service to take action. But, a plan may constrain the Agency from authorizing or carrying out actions, and projects and activities must be consistent with the plan (§ 219.15). A plan does not regulate uses by the public, but a project or activity decision that regulates a use by the public under Title 36, Code of Federal Regulations, Part 261—Prohibitions, Subpart B—Prohibitions in Areas Designated by Order, may be made contemporaneously with the approval of a plan, plan amendment, or plan revision. Plans should not repeat laws, regulations, or program management policies, practices, and procedures from the Forest Service Directive System.

(3) The supervisor of the national forest, grassland, prairie, or other comparable administrative unit is the responsible official for development and approval of a plan, plan amendment, or plan revision for lands under the responsibility of the supervisor, unless a regional forester, the Chief, the Under Secretary, or the Secretary acts as the responsible official. Two or more responsible officials may undertake joint planning over lands under their respective jurisdictions.

(4) A plan for a unit that contains an experimental area may not be approved without the concurrence of the appropriate station director with respect to the direction applicable to

that area, and a plan amendment applicable to an experimental area may not be approved without the concurrence of the appropriate station director.

(c) *Projects and activities.* The supervisor or district ranger is the responsible official for project and activity decisions, unless a higher-level official acts as the responsible official. Requirements for project or activity planning are established in the Forest Service Directive System. Except as provided in the plan consistency requirements in § 219.15, none of the requirements of this part apply to projects or activities.

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### **§ 219.3 ROLE OF SCIENCE IN PLANNING.**

An interdisciplinary team shall develop, revise or amend the land management plan of each unit of the national forest system using an interdisciplinary approach to achieve integrated consideration of physical, biological, economic, and other sciences.

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### **§ 219.4 REQUIREMENTS FOR PUBLIC PARTICIPATION.**

The responsible official must use a collaborative and participatory approach to land management planning, in accord with this subpart and consistent with applicable laws, regulations, and policies, by engaging the skills and interests of appropriate combinations of Forest Service staff, consultants, contractors, other Federal agencies, federally recognized Indian Tribes, Alaska Native Corporations, State or local governments, or other interested or affected communities, groups, or persons. The responsible official has the discretion to determine the methods and timing of public involvement opportunities.

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### **§ 219.5 RESERVED.**

*[To facilitate comparison, rule text for this alternative was drafted following the same outline as the proposed rule (Alternative A). This alternative does not contain any text in this section. ]*

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### **§ 219.6 RESERVED.**

*[To facilitate comparison, rule text for this alternative was drafted following the same outline as the proposed rule (Alternative A). This alternative does not contain any text in this section. ]*

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### **§ 219.7 PLAN DEVELOPMENT OR PLAN REVISION.**

(a) *Plan revisions.* A plan revision creates a new plan for the entire unit, whether the plan revision differs from the prior plan to a small or large extent. A plan must be revised at least every 15 years (16 U.S.C. 1604(f)(5)). But, the responsible official has the discretion to determine at any time that conditions on a unit have changed significantly such that a plan must be revised .

(b) *New plan development.* New plan development is required for new NFS units. The process for developing a new plan is the same as the process for plan revision.

(c) *Process for plan development or revision.* The process for developing or revising a plan includes: public notification and participation (§ 219.4 and 219.16), developing a proposed plan, considering the environmental effects of the proposal, providing an opportunity to comment on the proposed plan, providing an opportunity to object before the proposal is approved (subpart B), and, finally, approving the plan or plan revision. Environmental analysis and documentation for a new plan or plan revision shall be in accord with Forest Service National Environmental Policy Act (NEPA) procedures at 36 CFR part 220.

(d) *Plan components.* Plan components guide future project and activity decisionmaking. The plan must indicate where in the plan area specific plan components apply. Plan components may apply to the entire plan area, to specific management or geographic areas, or to other areas as identified in the plan. Every project and activity must be consistent with the applicable plan components (§ 219.15).

(1) *Required components.* Every plan must include the following components:

(i) *Desired conditions.* A desired condition is a description of specific social, economic, and/or ecological characteristics of the plan area, or a portion of the plan area, toward which management of the land and resources should be directed. Desired conditions must be described in terms that are specific enough to allow progress toward their achievement to be determined, but do not include completion dates.

(ii) *Objectives.* An objective is a concise, measurable, and time-specific statement of a desired rate of progress toward a desired condition or conditions. Objectives should reflect reasonably foreseeable budgets.

(iii) *Standards.* A standard is a mandatory constraint on project and activity decisionmaking, established to help achieve or maintain the desired condition or conditions, to avoid or mitigate undesirable effects, or to meet applicable legal requirements.

(iv) *Guidelines.* A guideline is a constraint on project and activity decisionmaking that allows for departure from its terms, so long as the intent of the guideline is met. (§ 219.15(d)(3)). Guidelines are established to help achieve a desired condition or conditions, to avoid or mitigate undesirable effects, or to meet applicable legal requirements.

(v) *Suitability of lands.* Specific lands within a plan area may be identified as suitable for various multiple uses or activities based on the desired conditions applicable to that area. The plan may also identify lands within the plan area as not suitable for uses that are not compatible with desired conditions for those lands. Suitability does not need to be determined for every multiple use or activity, but every plan must identify those lands not suitable for timber production (§ 219.11).

(2) *Optional component: Goals.* A plan may include goals as plan components. Goals are broad statements of intent, other than desired conditions, usually related to process or interaction with the public. Goals are expressed in broad, general terms, and have no specific dates by which they are completed.

(3) *Requirements for the set of plan components.* The set of plan components must meet the requirements set forth in this part for sustainability (§ 219.8); plant and animal diversity (§ 219.9), multiple uses (§ 219.10), and timber (§ 219.11).

(e) *Other required plan content.* Every plan must:

(i) Include the monitoring program required by § 219.12; and

(ii) Contain information reflecting proposed and possible actions that may occur on the unit during the life of the plan, including expected timber harvest levels, the planned timber sale program, and proportion of probable methods of forest vegetation management practices expected to be used, as required by NFMA (16 U.S.C. 1604(f)(2)). Such information is not a commitment to take any action and is not a “proposal” as defined by the Council on Environmental Quality regulations for implementing NEPA (40 CFR 1508.23, 42 U.S.C. 4322 (2)(C)).

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### **§ 219.8 SUSTAINABILITY.**

Within Forest Service authority and the capability of the plan area, the plan must include components to provide for social, economic, and ecological sustainability as follows:

(a) The plan must include plan components to maintain or restore terrestrial and aquatic ecosystems and watersheds in the plan area; and

(b) The plan must include plan components to guide the unit’s contribution to social and economic conditions relevant to the area influenced by the plan and the distinctive roles and contributions of the unit within the broader landscape.

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### **§ 219.9 DIVERSITY OF PLANT AND ANIMAL COMMUNITIES**

Within Forest Service authority, the plan must include components to provide for diversity of plant and animal communities based on the suitability and capability of the specific land area in order to meet overall multiple-use objectives, and within the multiple-use objectives of a land management plan adopted pursuant to this subpart, provide, where appropriate, to the degree practicable, for steps to be taken to preserve the diversity of tree species similar to that existing in the region controlled by the plan.

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### **§ 219.10 MULTIPLE USES**

In meeting the requirements of §§ 219.8 and 219.9, and within Forest Service authority, the capability of the plan area and the fiscal capability of the unit, the plan must provide for multiple uses, including ecosystem services, outdoor recreation, range, timber, watershed, wildlife and fish, as follows:

(a) *Integrated resource management.* When developing plan components for integrated resource management, to the extent relevant to the plan area and the public participation process and the requirements of §§ 219.7-219.11, the responsible official shall consider aesthetic values, air quality, climate, cultural and heritage resources, fish and wildlife species, forage, geologic features, grazing and rangelands, habitat and habitat

connectivity, recreational values and settings, scenery, soil, surface and subsurface water, timber, trails, vegetation, viewsheds, wilderness, and other relevant resources;

*(b) Requirements for plan components for a new plan or plan revision.*

(1) The plan components for a new plan or plan revision must provide for:

(i) Sustainable recreation, considering opportunities and access for a range of uses. The plan should identify recreational settings and desired conditions for scenic landscape character.

(ii) Protection of cultural and historic resources;

(iii) Protection of wilderness areas as well as the protection of recommended wilderness areas to protect the ecologic and social values and character for which they might be added to the National Wilderness System;

(iv) Protection of wild and scenic rivers as well as the protection of eligible wild and scenic rivers to protect the values for which they might be added to the national system of wild and scenic rivers until suitability is determined; and

(v) Protection and appropriate management of other designated or recommended areas that exist in the plan area, including research natural areas.

## **§ 219.11 TIMBER REQUIREMENTS BASED ON NFMA.**

In meeting the requirements of §§ 219.8-219.10 and within Forest Service authority, the capability of the plan area, and the fiscal capability of the unit, the plan must provide for multiple uses and ecosystem services, including timber, as follows:

*(a) Identification of lands as not suitable and suitable for timber production.*

(1) *Lands not suitable for timber production.* The plan must identify lands within the plan area as not suitable for timber production if any one of the following factors applies:

(i) Statute, executive order, or regulation prohibits timber production on the land;

(ii) The Secretary of Agriculture or the Chief of the Forest Service has withdrawn the land from timber production;

(iii) Timber production would not be compatible with the achievement of desired conditions and objectives established by the plan for those lands;

(iv) The technology is not available for conducting timber harvest without causing irreversible damage to soil, slope, or other watershed conditions or substantial and permanent impairment of the productivity of the land; or

(v) There is no reasonable assurance that such lands can be adequately restocked within 5 years after final regeneration harvest; and

(vi) The land is not forest land as defined at § 219.19.



(2) *Lands suitable for timber production.* All lands not identified in the plan as not suitable for timber production are suited for timber production. Timber harvest on lands suitable for timber production may be for other multiple-use purposes (16 U.S.C. 1604(k)).

(3) *Review of lands not suitable for timber production.* The responsible official shall review lands identified in the plan as not suitable for timber production at least once every 10 years as required by NFMA (16 U.S.C. 1604(k)), or as otherwise prescribed by law, to determine whether conditions have changed so that they have become suitable for timber production. As a result of this 10-year review, the plan may be amended to identify such lands as suitable for timber production.

(b) *Harvest of trees on land not suitable for timber production.*

(1) Where a plan identifies lands as not suitable for timber production, harvesting of trees for the purpose of timber production is prohibited.

(2) The identification in a plan of lands as not suitable for timber production does not preclude the harvest of trees on those lands for other purposes (16 U.S.C. 1604(k)); in particular, timber harvest may be authorized as a tool to assist in achieving or maintaining one or more applicable desired conditions or objectives of the plan. Examples of using timber harvest on lands not suited for timber production may include improving wildlife or fish habitat, thinning to reduce extreme fire risk, or restoring meadow or savanna ecosystems where trees have invaded.

(c) Timber harvest may be approved for salvage, sanitation, or public health or safety, where consistent with the plan.

(d) *Limits on timber harvest on suitable and non-suitable lands.* A plan for a unit on which timber harvest may occur must have plan components to:

(1) Ensure that timber will be harvested from NFS lands only where such harvest would comply with the minimum limits identified in the NFMA (16 U.S.C. 1604 (g)(3)(E) and (F)).

(2) Ensure that harvest is carried out in a manner consistent with the protection of soil, watershed, fish, wildlife, recreation, and aesthetic resources.

(3) Establish maximum size limits for areas to be cut in one harvest operation for administrative units that use clearcutting, seed tree cutting, shelterwood cutting, or other cuts designed to regenerate an even-aged stand of timber. Plan components must include standards limiting the maximize size limits for areas to be cut in one harvest operation, according to geographic areas, forest types, or other suitable classifications. This limit may be less than, but must not exceed, 60 acres for the Douglas-fir forest type of California, Oregon, and Washington; 80 acres for the southern yellow pine types of Alabama, Arkansas, Georgia, Florida, Louisiana, Mississippi, North Carolina, South Carolina, Oklahoma, and Texas; 100 acres for the hemlock-Sitka spruce forest type of coastal Alaska; and 40 acres for all other forest types except as provided in this paragraph. The plan standards must allow for exceeding their limitations on maximum

size openings after appropriate public notice and review by the supervisor of the responsible official who normally would approve the harvest proposal. The plan maximum size openings shall not apply to the size of areas harvested as a result of natural catastrophic conditions such as fire, insect and disease attack, or windstorm (16 U.S.C. 1604(g)(3)(F)(iv)).

(4) Limit the quantity of timber that can be removed annually in perpetuity on a sustained-yield basis and provide for departure from this limit, as provided by NFMA. The Chief of the Forest Service must include in the Forest Service Directive System procedures for estimating the quantity of timber that can be removed annually in perpetuity on a sustained-yield basis, and exceptions, consistent with 16 U.S.C. 1611.

(5) Stands of trees authorized for final regeneration harvest should generally have reached culmination of mean annual increment of growth. This requirement applies only to final regeneration harvest of even-aged stands on lands identified as suitable for timber production and where timber production is the primary purpose for the harvest. Exceptions are permitted (16 U.S.C. 1604(m)) if consistent with the land management plan. If such exceptions are anticipated, the responsible official should include those exceptions in the land management plan as standards or guidelines. The Chief of the Forest Service must include in the Forest Service Directive System, requirements for assuring that even-aged stands of trees scheduled for final regeneration harvest during the planning period have generally reached culmination of mean annual increment of growth with exceptions as permitted by the NFMA (16 U.S.C. 1604(m)).

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### § 219.12 MONITORING.

(a) The responsible official shall develop a monitoring program for the plan area, and include it in the plan. The Chief shall provide further guidance in the Forest Service Directive System.

(b) The responsible official has the discretion to set unit monitoring program scope and scale. The responsible official shall consider financial and technical capabilities.

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### § 219.13 PLAN AMENDMENT AND ADMINISTRATIVE CHANGES.

(a) *Plan Amendment.* A plan may be amended at any time. Plan amendments may be broad or narrow, depending on the need for change, and should be used to keep plans current and help units adapt to new information or changing conditions. The responsible official has the discretion to determine whether and how to amend the plan. A plan amendment is required for the addition, modification, or removal of one or more plan components or a change in how one or more plan components apply to all or part of the plan area.

(b) *Amendment Process.* The responsible official shall:

(1) Document the need to change the plan;

(2) Provide opportunities for public participation as required in § 219.4 and public notification as required in § 219.16. The responsible official may combine processes and

associated public notifications where appropriate, considering the scope and scale of the need to change the plan.;

(3) Amend plans consistent with Forest Service NEPA procedures. The appropriate NEPA documentation for an amendment may be an EIS, an EA, or a CE, depending upon the scope and scale of the amendment and its likely effects.

(c) *Administrative changes.* An administrative change is any change to a plan that is not a plan amendment or plan revision. Administrative changes include corrections of clerical errors to any part of the plan, including components; changes to plan content other than plan components; or conformance of the plan to new statutory or regulatory requirements.

(1) A change to the monitoring program may be made as part of plan revision or amendment, but also can be made as an administrative change outside of the process for plan revision or amendment. Any change to the monitoring program may be made only after notice to the public (§ 219.16(c)(5)) of the intended change and consideration of public concerns and suggestions.

(2) All other administrative changes may be made following notice (§ 219.16(c)(5)).

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## **§ 219.14 DECISION DOCUMENTS AND PLANNING RECORDS.**

(a) *Decision document.* The responsible official shall record approval of a new plan, plan revision, or amendment in a decision document prepared according to Forest Service NEPA procedures (36 CFR 220). The decision document must include:

(1) The rationale for approval;

(2) An explanation of how the plan components meet the sustainability requirements of § 219.8 and the diversity requirements of § 219.9, taking into account the limits of Forest Service authority and the capability of the plan area;

(3) A statement of how the plan, plan revision or plan amendment applies to approved projects and activities (§ 219.15);

(4) The concurrence by the appropriate Research station director with any part of the plan applicable to any designated experimental forests or experimental ranges (§ 219.2(b)(4)); and

(5) The effective date of the approval.

(b) *Planning records.*

(1) The responsible official shall keep the following documents readily accessible to the public by posting them online and through other means; plan decision documents (§ 219.12); the proposed plan, plan revision, or plan amendment; public notices and environmental documents associated with a plan; the monitoring program and monitoring evaluation reports (§ 219.13); and the plan.

(2) The planning record includes documents that support analytical conclusions made and alternatives considered throughout the planning process. The responsible official shall make the planning record available at the office where the plan, plan revision, or amendment was developed.

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### **§ 219.15 PROJECT AND ACTIVITY CONSISTENCY WITH THE PLAN**

(a) *Application to existing authorizations and approved projects or activities.* Every document approving a plan, plan amendment, or plan revision must state whether the plan, plan amendment, or plan revision allows any prior approval of occupancy and use. If a plan approval document does not expressly allow such occupancy and use, the permit, contract, and other authorizing instrument for the use and occupancy must be made consistent with the plan, plan amendment, or plan revision as soon as practicable, subject to valid existing rights.

(b) *Application to projects or activities authorized after plan approval.* Projects and activities authorized after approval of a plan, plan amendment, or plan revision must be consistent with the plan.

(c) *Resolving inconsistency.* When a proposed project or activity would not be consistent with the applicable plan components, the responsible official shall take one of the following steps, subject to valid existing rights:

(1) Modify the proposed project or activity to make it consistent with the applicable plan components;

(2) Reject the proposal or terminate the project or activity;

(3) Amend the plan so that the project or activity will be consistent with the plan as amended; or

(4) Amend the plan contemporaneously with the approval of the project or activity so that the project or activity will be consistent with the plan as amended. This amendment may be limited to apply only to the project or activity.

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### **§ 219.16 PUBLIC NOTIFICATIONS.**

The following public notification requirements apply to plan development, amendment, or revision. Formal notifications may be combined where appropriate.

(a) *When formal public notification is required.* Public notification must be provided at the following times:

(1) To initiate the development of a proposed plan or plan revision, or, when appropriate, a plan amendment;

(2) To invite comments on a proposed plan, plan revision, or plan amendment, and associated environmental analysis. For a new plan, plan revision, or a plan amendment for which a draft environmental impact statement is prepared, the comment period is at

least 90 days. For an amendment for which a draft environmental impact statement is not prepared, the comment period is at least 30 days;

(3) To begin the objection period for a plan, plan amendment, or plan revision before approval (§ 219.52);

(4) To approve a final plan, plan amendment, or plan revision; or

(5) To announce and describe how a plan, plan amendment, or plan revision process initiated under the provisions of a previous planning regulation will be conformed to meet the provisions of this part, when appropriate under § 219.17(b)(3).

(b) When a plan amendment is approved in a decision document approving a project or activity and the amendment applies only to the project or activity, the notification requirements of 36 CFR part 215 or part 218, subpart A, applies instead of this section.

(c) *How public notice is provided.* The responsible official should use contemporary tools to provide notice to the public. At a minimum, all public notifications required by this part must be posted online, and:

(1) When the Chief, the Under Secretary, or the Secretary is the responsible official, notice must be published in the *Federal Register*;

(2) For a new plan or plan revision, when an official other than the Chief, the Under Secretary, or the Secretary is the responsible official, notice must be published in the *Federal Register* and the applicable newspaper(s) of record;

(3) For a plan amendment when an official other than the Chief, the Under Secretary, or the Secretary is the responsible official, notices must be published in the newspaper(s) of record. Notification in the *Federal Register* may also be required by Forest Service NEPA procedures;

(4) If a plan, plan revision or plan amendment applies to two or more units, notices must be published in the *Federal Register* and the newspaper(s) of record for the applicable units; and

(5) Public notice of administrative changes, changes to the monitoring program, or other notices not listed in paragraph (a) of this section, may be made in any way the responsible official deems appropriate.

(d) *Content of public notices.* Public notices required by this section must clearly describe the action subject to notice and the nature and scope of the decisions to be made; identify the responsible official; describe when, where, and how the responsible official will provide opportunities for the public to participate in the planning process; and explain how to obtain additional information.

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## § 219.17 EFFECTIVE DATES AND TRANSITION.

((a) *Effective dates.* A plan, plan amendment, or plan revision is effective 30 days after publication of notice of its approval, except when a plan amendment is approved in a

decision document approving a project or activity and the amendment applies only to the project or activity, so that the requirements of 36 CFR part 215 or part 218, subpart A, apply. Plans remain in effect until the effective date of a new plan, plan amendment, or plan revision.

(b) *Plan amendment and plan revision transition.* For the purposes of this section, initiation means that the Agency has issued a notice of intent or other notice announcing the beginning of the process to develop a proposed plan, plan amendment, or plan revision.

(1) *Initiating plan development and plan revisions.* Plan development and plan revisions initiated after the effective date of this part must conform to the requirements of this part.

(2) *Initiating plan amendments.* With respect to plans approved or revised under a prior planning regulation, a 3-year transition period for plan amendments begins on the effective date of this part. During the transition period, plan amendments may be initiated under the provisions of the prior planning regulation, or may conform to the requirements of this part. Plan amendments initiated after the transition period must conform to the requirements of this part.

(3) *Plan development, plan amendments, or plan revisions initiated before this part.* For plan development, plan amendments, or plan revisions that were initiated before the effective date of this part, the responsible official may complete the plan, plan amendment, or plan revision in conformance with the provisions of the prior planning regulation, or may conform the plan or plan revision to the requirements of this part. When the responsible official chooses to conform an ongoing planning process to this part, public notice must be made (§ 219.16(a)(6)).

(c) *Plans developed, amended, or revised under a prior planning regulation.* This part supersedes any prior planning regulation. For units with plans developed, amended, or revised using the provisions of a prior planning regulation, no obligations remain from any prior planning regulation, except those that are specifically included in the plan.

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## § 219.18 SEVERABILITY.

In the event that any specific provision of this part is deemed by a court to be invalid, the remaining provisions shall remain in effect.

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## § 219.19 DEFINITIONS

Definitions of the special terms used in this subpart are set out as follows.

*Alaska native corporation.* One of the regional, urban, and village native corporations formed under the Alaska Native Claims Settlement Act of 1971.

*Collaborative and participatory approach.* A structured manner in which a collection of people with diverse interests share knowledge, ideas, and resources while working together in an inclusive and cooperative manner towards a common purpose. Collaboration, in the context of this part, falls within the full spectrum of public

engagement described in the Council on Environmental Quality's publication: *Collaboration in NEPA—A Handbook for NEPA Practitioners*. The Forest Service retains decisionmaking authority and responsibility for all decisions throughout the process.

*Culmination of mean annual increment of growth*. See mean annual increment of growth.

*Designated areas*. Areas or features within a planning unit with specific management direction that are normally established through a process separate from the land management planning process. Designations may be made by statute or by an administrative process of the Federal executive branch. The Forest Service Directive System contains policy for recognition and establishment of designations. Designated areas include experimental forests, national heritage areas, national monuments, national recreational areas, national scenic trails, research natural areas, scenic byways, wild and scenic rivers, wilderness areas, and wilderness study areas.

*Ecosystem*. A spatially explicit, relatively homogeneous unit of the Earth that includes all interacting organisms and components of the abiotic environment within its boundaries. An ecosystem is commonly described in terms of its: (1) *Composition*. Major vegetation types, rare communities, aquatic systems, and riparian systems. (2) *Structure*. Vertical and horizontal distribution of vegetation, stream habitat complexity, and riparian habitat components. (3) *Function*. Ecological processes such as stream flows, nutrient cycling, and disturbance regimes. (4) *Connectivity*. Habitats that exist for breeding, feeding, or movement of wildlife and fish within species home ranges or migration areas.

*Ecosystem services*. Benefits people obtain from ecosystems, including: (1) Provisioning services, such as clean air and fresh water, as well as energy, fuel, forage, fiber, and minerals; (2) Regulating services, such as long term storage of carbon; climate regulation; water filtration, purification, and storage; soil stabilization; flood control; and disease regulation; (3) Supporting services, such as pollination, seed dispersal, soil formation, and nutrient cycling; and (4) Cultural services, such as educational, esthetic, spiritual, and cultural heritage values, as well as recreational experiences and tourism opportunities.

*Environmental assessment (EA)*. See definition in § 219.62.

*Environmental document*. Includes an environmental assessment, environmental impact statement, finding of no significant impact, categorical exclusion, and notice of intent.

*Environmental impact statement*. See definition in § 219.62.

*Even-aged stand*. A stand of trees composed of a single age class.

*Federally recognized Indian Tribe*. An Indian or Alaska Native Tribe, band, nation, pueblo, village, or community that the Secretary of the Interior acknowledges to exist as an Indian Tribe under the Federally Recognized Indian Tribe List Act of 1994, 25 U.S.C. 479a.

*Forest land.* Land at least 10 percent occupied by forest trees of any size or formerly having had such tree cover and not currently developed for non-forest uses. Lands developed for non-forest use include areas for crops; improved pasture; residential or administrative areas; improved roads of any width and adjoining road clearing; and power line clearings of any width.

*Geographic area.* A spatially contiguous land area identified within the planning unit that has one or more applicable plan components. A geographic area may overlap with a management area.

*Health(y).* The degree of ecological integrity that is related to the completeness or wholeness of the composition, structure, and function of native ecosystems existing within the inherent capability of the land.

*Landscape.* A spatial mosaic of terrestrial and aquatic ecosystems, landforms, and plant communities across a defined area irrespective of ownership or other artificial boundaries and repeated in similar form throughout.

*Landscape character.* A combination of physical, biological, and cultural images that gives an area its visual and cultural identity and helps to define a "sense of place." Landscape character provides a frame of reference from which to determine scenic attractiveness and to measure scenic integrity.

*Management area.* A land area identified within the planning unit that has the same set of applicable plan components. A management area does not have to be spatially contiguous.

*Mean annual increment of growth and culmination of mean annual increment of growth.* Mean annual increment of growth is the total increment of increase of volume of a stand (standing crop plus thinnings) up to a given age divided by that age. Culmination of mean annual increment of growth is the age in the growth cycle of an even-aged stand at which the average annual rate of increase of volume is at a maximum. In land management plans, mean annual increment is expressed in cubic measure and is based on the expected growth of stands, according to intensities and utilization guidelines in the plan.

*Monitoring.* A systematic process of collecting information over time and space to evaluate effects of actions or changes in conditions or relationships.

*Multiple use.* The management of all the various renewable surface resources of the NFS so they are used in the combination that will best meet the needs of the American people: making the most judicious use of the land for some or all of these resources or related services over areas large enough to provide sufficient latitude for periodic adjustments in the use to conform to changing needs and conditions; recognizing that some lands will be used for less than all of the resources; and providing for harmonious and coordinated management of the various resources, each with the other, without impairment of the productivity of the land, with consideration being given to the relative values of the various resources, and not necessarily the combination of uses that will give the greatest dollar return or the greatest unit output, consistent with the Multiple-Use Sustained-Yield



Act of 1960 (16 U.S.C. 528–531). Ecosystem services are included as part of all the various renewable surface resources of the NFS.

*National Forest System.* See definition in § 219.62.

*Newspaper(s) of record.* See definition in § 219.62.

*Objection.* See definition in § 219.62.

*Online.* See definition in § 219.62.

*Participation.* Activities that include a wide range of public involvement tools and processes, such as collaboration, public meetings, open houses, workshops, and comment periods.

*Plan or land management plan.* A document or set of documents that describe management direction for an administrative unit of the NFS.

*Plan area.* The National Forest System lands covered by a plan.

*Plant and animal communities.* A naturally occurring assemblage of plant and animal species living within a defined area or habitat.

*Potential wilderness areas.* All areas within the National Forest System lands that satisfy the definition of wilderness found in section 2(c) of the 1964 Wilderness Act. Inventory criteria are listed in Forest Service Handbook 1909.12 – Land Management Planning Handbook, Chapter 70 – Wilderness Evaluation.

*Productivity.* The capacity of National Forest System lands and their ecological systems to provide the various renewable resources in certain amounts in perpetuity. For the purposes of this subpart, productivity is an ecological, not an economic, term.

*Project.* An organized effort subject to NEPA to achieve an outcome identified by location, tasks, outputs, effects, times, and responsibilities for execution.

*Recreational setting.* The surroundings or the environment for the recreational activities. The Forest Service uses the recreational opportunity spectrum that defines six recreational opportunity classes that provide different settings for recreational use: primitive, semi-primitive nonmotorized, semi-primitive motorized, roaded natural, rural, and urban.

*Resilience.* The capacity of a system to absorb disturbance and reorganize while undergoing change so as to still retain essentially the same function, structure, identity, and feedbacks.

*Responsible official.* See definition in § 219.62.

*Risk.* A combination of the likelihood that a negative outcome will occur and the severity of the subsequent negative consequences.

*Sustainability.* Capability of meeting the needs of the present generation without compromising the ability of future generations to meet their needs.

*Timber harvest.* The removal of trees for wood fiber use and other multiple-use purposes.

*Timber production.* The purposeful growing, tending, harvesting, and regeneration of regulated crops of trees to be cut into logs, bolts, or other round sections for industrial or consumer use.

*Watershed.* A region or land area drained by a single stream, river, or drainage network; a drainage basin.

*Watershed condition.* The state of a watershed based on physical and biogeochemical characteristics and processes.

*Wild and scenic river.* A river designated by Congress as part of the National Wild and Scenic Rivers System that was established in the Wild and Scenic Rivers Act of 1968 (16 U.S.C. 1271(note), 1271-1287).

*Wilderness.* Any area of land designated by Congress as part of the National Wilderness Preservation System that was established in the Wilderness Act of 1964 (16 U.S.C. 1131-1136).

## **SUBPART B — PRE-DECISIONAL ADMINISTRATIVE REVIEW PROCESS**

Provisions at Subpart B are identical to Alternative A.



# Appendix F – Alternative D

§ 219.4 Requirements for public participation. .... 1  
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This alternative was designed to evaluate additional protections for watersheds and an alternative approach to diversity of plant and animal communities. These approaches were addressed together because they both involve requirements for plan content for resource protection, as opposed to other issues that are concerned with procedural requirements. This alternative consists of the proposed rule (Alternative A) with additional and replacement direction focused on coordination requirements at § 219.4, assessment requirements at § 219.6, sustainability requirements at § 219.8, species requirements at § 219.9, monitoring requirements at § 219.12, and some additional and alternative definitions at § 219.19.

Instead of repeating all of the rule text common to both this alternative and the proposed rule, text of this alternative is displayed in a side-by-side format to demonstrate how and where it differs from the proposed rule.

Alternative A	Alternative D
<b>§ 219.4 REQUIREMENTS FOR PUBLIC PARTICIPATION.</b>	
<p>(a) <i>Providing opportunities for participation.</i>                      The responsible official shall engage the public—including Tribes and Alaska Native Corporations, other Federal agencies, State and local governments, individuals, and public and private organizations or entities—early and throughout the planning process as required by this part, using collaborative processes where feasible and appropriate. When developing opportunities for public participation, the responsible official shall take into account the discrete and diverse roles, jurisdictions, responsibilities, and skills of interested and affected parties; the accessibility of the process, opportunities, and information; and the cost, time, and available staffing. The responsible official</p>	<p><i>[Provisions at § 219.4 (a) are identical to Alternative A]</i></p>

Alternative A	Alternative D
<p>should be proactive and use contemporary tools, such as the internet, to engage the public, and should share information in an open way with interested parties.</p> <p>(1) <i>Scope, methods, and timing.</i> The responsible official shall provide opportunities for participating in the assessment process; developing a plan proposal, including the monitoring program; commenting on the proposal and the disclosure of its environmental impacts in accompanying NEPA documents; and reviewing the results of monitoring information. Subject to the notification requirements in § 219.16, the responsible official has the discretion to determine the scope, methods, forum, and timing of those opportunities.</p> <p>(2) <i>Participation opportunities for individual members of the public and entities.</i> The responsible official shall encourage participation by interested individuals and entities, including those interested at the local, regional, and national levels.</p> <p>(3) <i>Participation opportunities for youth, low-income populations, and minority populations.</i> The responsible official shall encourage participation by youth, low-income populations, and minority populations.</p> <p>(4) <i>Participation opportunities for private landowners.</i> The responsible official shall encourage participation by private landowners whose lands are in, adjacent to, or otherwise affected by, or whose actions may impact, future management actions in the plan area.</p> <p>(5) <i>Consultation with federally recognized Indian Tribes and Alaska Native Corporations.</i> The Department recognizes the Federal Government's trust responsibility for federally recognized Indian Tribes. The</p>	

Alternative A	Alternative D
<p>responsible official shall honor the government-to-government relationship between federally recognized Indian Tribes and the Federal government. The responsible official shall provide to federally recognized Indian Tribes and Alaska Native Corporations the opportunity to undertake consultation in accordance with Executive Order 13175 of November 6, 2000 and 25 U.S.C. 450 note.</p> <p><i>(6) Participation opportunities for federally recognized Indian Tribes and Alaska Native Corporations.</i> The responsible official shall encourage participation in the planning process by interested or affected federally recognized Indian Tribes or Alaska Native Corporations. The responsible official may participate in planning efforts of federally recognized Indian Tribes and Alaska Native Corporations, where practicable and appropriate.</p> <p><i>(7) Native knowledge, indigenous ecological knowledge, and land ethics.</i> As part of tribal participation and consultation as set forth in paragraphs (a)(5) and (6) of this section, the responsible official shall request information about native knowledge, land ethics, cultural issues, and sacred and culturally significant sites.</p> <p><i>(8) Participation opportunities for other Federal agencies, federally recognized Tribes, States, counties, and local governments.</i> The responsible official shall provide opportunities for other government agencies to participate in planning for NFS lands. Where appropriate, the responsible official shall encourage federally recognized Tribes, States, counties, and other local governments to seek cooperating agency status in the NEPA process for a plan development, amendment, or revision. The responsible official may participate in planning efforts of States, counties, local</p>	

Alternative A	Alternative D
<p>governments, and other Federal agencies, where practicable and appropriate.</p> <p>(b) <i>Coordination with other public planning efforts.</i> (1) The responsible official shall coordinate land management planning with the equivalent and related planning efforts of federally recognized Indian Tribes, Alaska Native Corporations, other Federal agencies, and State and local governments, to the extent practicable and appropriate.</p> <p>(2) For plan development or revision, the responsible official shall review the planning and land use policies of federally recognized Indian Tribes, Alaska Native Corporations, other Federal agencies, and State and local governments, where relevant to the plan area. The results of this review shall be displayed in the environmental impact statement for the plan (40 CFR 1502.16(c), 1506.2). The review shall include consideration of:</p> <p>(i) The objectives of federally recognized Indian Tribes, Alaska Native Corporations, other Federal agencies, and State and local governments, as expressed in their plans and policies;</p> <p>(ii) The compatibility and interrelated impacts of these plans and policies;</p> <p>(iii) Opportunities for the plan to address the impacts identified or contribute to joint objectives; and</p> <p>(iv) Opportunities to resolve or reduce conflicts, within the context of achieving the Forest Service desired conditions or objectives.</p> <p>(3) Nothing in this section should be read to indicate that the responsible official will seek to direct or control management of lands outside of the planning area, nor will the responsible official conform management to meet non-Forest Service objectives or</p>	<p><i>[Provisions at § 219.4(b) are identical to Alternative A]</i></p>

Alternative A	Alternative D
<p>policies.</p>	<p><i>(c) Coordination for species viability.</i></p> <p>(1) Management coordination – If a population is distributed across more than one planning area, plan development and management, assessments and monitoring for each planning area shall be coordinated to provide for viable populations of native and desired non-native species within each planning area.</p> <p>(2) Interagency coordination - to the maximum extent practicable and consistent with applicable law, the agency shall coordinate at the landscape level the management of planning areas with the management of the National Forest System, Public Lands, the National Wildlife Refuge System and National Park System, other Federal agencies, State fish and wildlife agencies, other State agencies with responsibility for management of natural resources, tribes, local governments, and non-governmental organizations engaged in species conservation in order to:</p> <p>(i) maintain viable populations of native and desired non-native species;</p> <p>(ii) develop strategies to address the impacts of global climate change on plant and animal communities;</p> <p>(iii) establish linkages between habitats and discrete populations;</p> <p>(iv) develop, where appropriate and practicable, joint resource management plans; and</p> <p>(v) conduct other joint efforts in support of maintaining viable populations of native and desired non-native species across jurisdictional boundaries</p> <p>(3) Coordination with conservation activities</p>



Alternative A	Alternative D
	<p>-In planning for the management of lands for the purpose of maintaining viable populations of native and desired non-native species within a planning area, the agency shall, to the maximum extent practicable and consistent with Federal law:</p> <p>(i) consult with and offer opportunities for participation to adjoining Federal, State, tribal, local, and private landowners, State and tribal fish and wildlife agencies, and other State and tribal agencies with responsibility for management of natural resources; and</p> <p>(ii) coordinate such management planning with relevant conservation plans for fish, plants, and wildlife and their habitats, including State comprehensive wildlife strategies and other State conservation strategies for species, National Fish Habitat partnerships, North American Wetland Conservation Joint Ventures, and the Federal-State-private partnership known as Partners in Flight.</p>

**§ 219.6 ASSESSMENTS.**

Assessments may range from narrow in scope to comprehensive, depending on the issue or set of issues to be evaluated, and should consider relevant ecological, economic, and social conditions, trends, and sustainability within the context of the broader landscape. The responsible official has the discretion to determine the scope, scale, and timing of an assessment, subject to the requirements of this section.

(a) *Process for plan development or revision assessments.* One or more assessments must be conducted for the development of a new plan or for a plan revision. The responsible official shall:

(1) Notify and encourage the public and

*[Provisions at § 219.6 through § 219.6(a)(5) are identical to Alternative A]*

Alternative A	Alternative D
<p>appropriate Federal agencies, States, local governments, other entities, and scientists to participate in the assessment process (§§ 219.4 and 219.16).</p> <p>(2) Notify and encourage potentially interested or affected federally recognized Indian Tribes and Alaska Native Corporations to participate in the assessment process (§§ 219.4 and 219.16).</p> <p>(3) Coordinate with the regional forester, Agency staff from State and Private Forestry and Research and Development, and other governmental and non-governmental partners to consolidate existing information and leverage resources for additional information needs.</p> <p>(4) Document the assessment in a report or set of reports available to the public. Document in the report(s) how the relevant best available scientific information was taken into account (§ 219.3), and include the report(s) in the planning record (§ 219.14).</p> <p>(5) Identify in the report how a new plan should be proposed, or identify a potential need to change an existing plan, based on the assessment.</p> <p><i>(b) Content of assessments for plan development or revision.</i> In the assessment(s) for plan development or revision, the responsible official shall:</p> <p>(1) Identify and evaluate information needed to understand and assess existing and potential future conditions and stressors in order to inform and develop required plan components and other content in the plan (§ 219.7), including plan components for sustainability (§ 219.8), diversity of plant and animal communities (§ 219.9), multiple uses (§ 219.10), and timber requirements based on NFMA (§ 219.11).</p>	<p><i>[Provisions at § 219.6(b) through § 219.6(b)(5) are identical to Alternative A]</i></p>

Alternative A	Alternative D
<p>(2) Identify and consider relevant information contained in governmental or non-governmental assessments, plans, monitoring evaluation reports, and studies, including relevant neighboring land management plans. Such documents may include State forest assessments and strategies, the Resources Planning Act assessment, ecoregional assessments, non-governmental reports, State comprehensive outdoor recreation plans, community wildfire protection plans, and State wildlife action plans. Relevant private information will be considered if voluntarily provided.</p> <p>(3) Identify the distinctive roles and contributions of the unit within the context of the broader landscape, considering the roles of the unit in providing multiple uses, including ecosystem services, from the NFS lands to the local area, region, and Nation. The unit’s distinctive roles and contributions within the broader landscape are those for which the unit is best suited, considering the Agency mission, unique capabilities, and the resources and management of other lands in the vicinity.</p> <p>(4) Identify potential monitoring questions or information needs to inform the development or modification of the unit’s monitoring program.</p>	<p>(6) Prepare watershed-scale assessments including an assessment of climate change vulnerability, using the best available science, to provide information on the ecological status – aquatic, riparian, and terrestrial – of watersheds within the planning unit. Managers will use information gathered during the watershed assessment to refine default Conservation Area boundaries and develop monitoring programs.</p> <p>(7) Identify key watersheds that are areas of highest quality habitat for native fish,</p>

Alternative A	Alternative D
<p>(c) <i>Plan amendment assessments.</i> (1) A plan amendment must be based on a documented need to change the plan. This documentation may be a new assessment; may be a monitoring report; or may be other documentation of new information, changed conditions, or changed circumstances. Where the responsible official determines that a new assessment is needed to inform the need for an amendment, the responsible official has the discretion to determine the scope, scale, process, and content for the assessment depending on the issue or issues to be addressed.</p> <p>(2) When a plan amendment is made together with, and only applies to, a project or activity decision, the analysis prepared for the project or activity may serve as the documented need to change the plan.</p>	<p>amphibians, and for species of reptiles, mammals, and birds known to be highly dependent on aquatic habitats.</p> <p>(b) To provide the basis for complying with 219.9(a) the Secretary shall utilize the best available science to determine:</p> <p>(1) current and historic ecological conditions and trends, including the effects of global climate change;</p> <p>(2) ecological conditions required to support viable populations of native species and desired non-native species within the planning area; and</p> <p>(3) current and likely future viability of focal species within the planning area.</p> <p><i>[Provisions at § 219.6(c) are identical to Alternative A]</i></p>
<b>§ 219.8 SUSTAINABILITY.</b>	
<p>Within Forest Service authority and consistent with the inherent capability of the plan area, the plan must provide for social, economic, and ecological sustainability, as</p>	<p><i>[This provision at § 219.8 is identical to Alternative A]</i></p>

Alternative A	Alternative D
<p>follows:</p> <p>(a) Ecological sustainability. (1) <i>Ecosystem plan components</i>. The plan must include plan components to maintain or restore the structure, function, composition, and connectivity of healthy and resilient terrestrial and aquatic ecosystems and watersheds in the plan area, taking into account:</p> <p>(i) Landscape-scale integration of terrestrial and aquatic ecosystems;</p> <p>(ii) Potential system drivers, stressors, and disturbance regimes, how they might affect ecosystem and watershed health and resilience, and the ability of those systems on the unit to adapt to change;</p> <p>(iii) Air quality; and</p> <p>(iv) Wildland fire and opportunities to restore fire adapted ecosystems.</p> <p>(2) <i>Ecosystem elements</i>. The plan must include plan components to maintain, protect, or restore:</p> <p>(i) Aquatic elements, such as lakes, streams, wetlands, stream banks, and shorelines;</p> <p>(ii) Terrestrial elements, such as forest stands, grasslands, meadows, and other</p>	<p><i>[The provisions at § 219.8(a) through § 219.8(a)(1)(iv) are identical to Alternative A]</i></p> <p>(v) Key watersheds across the planning unit in order to establish a network that can serve as anchor points for the protection, maintenance, and restoration of broad scale processes and recovery of broadly distributed species; and—</p> <p>(vi) Spatial connectivity within or between watersheds, including lateral, longitudinal, and drainage network connections between floodplains, wetlands, upslope areas, headwater tributaries, and intact habitat refugia.</p> <p><i>[Provisions at § 219.8(a)(2) are identical to Alternative A]</i></p>

Alternative A	Alternative D
<p>habitat types;</p> <p>(iii) Rare aquatic and terrestrial plant and animal communities, consistent with § 219.9;</p> <p>(iv) Public water supplies, sole source aquifers, source water protection areas, groundwater, and other bodies of water (including guidance to prevent or mitigate detrimental changes in quantity, quality, and availability, including temperature changes, blockages of water courses, and deposits of sediments); and</p> <p>(v) Soils and soil productivity (including guidance to reduce soil erosion and sedimentation).</p> <p>(3) <i>Riparian areas</i>. The plan must include plan components to maintain, protect, or restore riparian areas (RAs). Plans must establish a default width for riparian areas around all lakes, perennial or intermittent streams, and open water wetlands, within which these plan components will apply. The default may be a standard width for all lakes, perennial or intermittent streams, and open water wetlands, or may vary based on ecologic or geomorphic factors, or the type of waterbody. The default width will apply unless the actual riparian area for a waterbody or a site has been delineated based on best available scientific information.</p>	<p>(3) <i>Riparian areas</i>.</p> <p>Each plan must include standards and guidelines for—</p> <p>(i) Establishment of Riparian Conservation Areas based on the best available science. Until these riparian conservation areas are established, the minimum standard buffer for riparian conservation areas shall be no less than 100 feet on each side of the stream at bank-full flow, unless the stream has an intermittently or potentially shifting channel course, in which case the default buffer must start from the edge of the 200-year channel migration zone.</p> <p>(ii) Protection, maintenance, and restoration of Riparian Conservation areas, such that—</p> <p>(A) management activities within riparian conservation areas are primarily for restoration.</p> <p>(B) activities within riparian conservation areas that are not for restoration such as construction of new facilities (for example boat landings, road and trail crossings or campsites) must be designed using best available science to minimize impacts to the</p>

Alternative A	Alternative D
<p>(b) <i>Social and economic sustainability.</i> The plan must include plan components to guide the unit’s contribution to social and economic sustainability, taking into account:</p> <p>(1) Social, cultural, and economic conditions</p>	<p>ecological function of the area.</p> <p>(4) <i>Watershed standards and guidelines.</i> Each plan must include standards and guidelines for—</p> <p>(i) Biological and biophysical connectivity of key watersheds across the planning unit.</p> <p>(ii) Road densities in key watersheds to achieve sediment reduction, minimized alteration of surface and subsurface flows, and connectivity of aquatic and riparian habitat.</p> <p>(iii) Maintenance and restoration of lakes, streams, wetlands, public water supplies, source water protection areas, groundwater, other bodies of water, instream flows, and thermal refugia, and protection of these resources from detrimental changes in quantity (subject to existing rights) and quality, including temperature, blockages of water courses, deposits of sediments</p> <p>(iv) Protection, maintenance, and restoration of a natural range of variability in sediment regime. Elements of the sediment regime include the timing, volume, rate, and character if sediment input, storage, and transport.</p> <p>(v) Sustaining soil productivity and preventing soil erosion and sedimentation.</p> <p>(vi) Road removal and remediation in riparian conservation areas and key watersheds as the top restoration priority</p> <p>(vii) A minimum necessary road systems as required by 36 CFR 212.5(b)(1) and (2).</p> <p><i>[Provisions at § 219.8(b) are identical to Alternative A]</i></p>

Alternative A	Alternative D
<p>relevant to the area influenced by the plan and the distinctive roles and contributions of the unit within the broader landscape;</p> <p>(2) Sustainable recreational opportunities and uses;</p> <p>(3) Multiple uses, including ecosystem services, that contribute to local, regional, and national economies in a sustainable manner; and</p> <p>(4) Cultural and historic resources and uses.</p>	
<p><b>§ 219.9 DIVERSITY OF PLANT AND ANIMAL COMMUNITIES</b></p>	<p><b>219.9 SPECIES VIABILITY</b></p>
<p>Within Forest Service authority and consistent with the inherent capability of the plan area, the plan must include plan components to maintain the diversity of plant and animal communities, as follows:</p> <p>(a) <i>Ecosystem Diversity</i>. The plan must include plan components to maintain or restore the structure, function, composition, and connectivity of healthy and resilient terrestrial and aquatic ecosystems and watersheds in the plan area, consistent with § 219.8(a), to maintain the diversity of native species.</p> <p>(b) <i>Species Conservation</i>. The plan components must provide for the maintenance or restoration of ecological conditions within the plan area to:</p> <p>(1) Contribute to the recovery of threatened and endangered species;</p> <p>(2) Conserve candidate species; and</p> <p>(3) Maintain viable populations of species of conservation concern within the plan area. Where it is beyond the authority of the Forest Service or the inherent capability of the plan area to do so, the plan components must</p>	<p>(a) <i>Management Direction</i>. The Secretary shall develop plans for and manage plan areas to provide viable populations of native and desired non-native species within the planning area, except that management for desired non-native species shall not interfere with the maintenance of viable populations of native species within a planning area.</p> <p>(b) <i>Extrinsic Conditions</i>. If the Secretary determines based upon the best available science and after providing notice to the public by publication in the Federal Register and opportunity for public comment for a period of at least 60 days, that conditions outside the authority of the Secretary make it impossible to comply with paragraph (a) of this section with respect to any species' population within the planning area, the agency shall: 1) to the maximum extent practicable provide for the viability of that population; and 2) ensure that any activity authorized, funded or carried out within the planning area does not increase the likelihood of extirpation of the population in such planning area.</p>



Alternative A	Alternative D
<p>provide for the maintenance or restoration of ecological conditions to contribute to the extent practicable to maintaining a viable population of a species within its range. When developing such plan components, the responsible official shall coordinate to the extent practicable with other Federal, State, tribal, and private land managers having management authority over lands where the population exists.</p> <p>(c) <i>Diversity of tree and other plant species.</i> The plan must include plan components to preserve, where appropriate, and to the degree practicable, the diversity of native tree and other native plant species similar to that existing in the plan area, as required by NFMA (16 U.S.C. 1604(g)(3)(B)).</p>	<p>[Provisions at § 219.9(c) are identical to Alternative A]</p>
<p><b>§ 219.12 MONITORING.</b></p>	
<p>(a) <i>Unit monitoring program.</i> (1) The responsible official shall develop a unit monitoring program for the plan area, and include it in the plan. The development of the monitoring program must be coordinated with the regional forester and Agency staff from State and Private Forestry, and Research and Development. Responsible officials for two or more administrative units may jointly develop their unit monitoring programs.</p> <p>(2) The unit monitoring program sets out the unit monitoring questions and associated indicators. Monitoring questions and associated indicators must be designed to inform the management of resources on the unit, including by testing relevant assumptions, tracking relevant changes, and measuring management effectiveness and progress toward achieving or maintaining desired conditions or objectives. Questions and indicators should be based on one or more desired conditions, objectives, or other plan component in the plan, but not every</p>	<p>[Provisions at § 219.12(a)(1) through § 219.12(a)(5)(i) are identical to Alternative A]</p>

Alternative A	Alternative D
<p>plan component needs to have a corresponding monitoring question.</p> <p>(3) The unit monitoring program should be coordinated and integrated with relevant broader-scale monitoring strategies (paragraph (b) of this section) to ensure that monitoring is complementary and efficient, and that information is gathered at scales appropriate to the monitoring questions.</p> <p>(4) Subject to the requirements of paragraph (a)(5) of this section, the responsible official has the discretion to set the scope and scale of the unit monitoring program, after considering:</p> <ul style="list-style-type: none"> <li>(i) Information needs identified through the planning process as most critical for informed management of resources on the unit;</li> <li>(ii) Existing best available scientific information; and</li> <li>(iii) Financial and technical capabilities of the Agency.</li> </ul> <p>(5) Each unit monitoring program must contain one or more monitoring questions or indicators addressing each of the following:</p> <ul style="list-style-type: none"> <li>(i) The status of select watershed conditions.</li> <li>(ii) The status of select ecological conditions.</li> <li>(iii) The status of focal species;</li> </ul>	<p>(ii) The status and trends of ecological conditions within the planning area, including critical values for ecological conditions and focal species that trigger reviews of planning and management decisions to achieve compliance with 219.9(a);</p> <p>Population surveys, of focal species using methods to assess the degree to which ecological conditions within the planning area are supporting a diversity of plant and animal communities within the planning area, such as presence/absence occupancy</p>

Alternative A	Alternative D
<p>(iv) The status of visitor use and progress towards meeting recreational objectives.</p> <p>(v) Measurable changes on the unit related to climate change and other stressors on the unit;</p> <p>(vi) The carbon stored in above ground vegetation;</p> <p>(vii) The progress towards fulfilling the unit’s distinctive roles and contributions to ecologic, social, and economic conditions of the local area, region, and Nation.</p> <p>(viii) The effects of management systems to determine that they do not substantially and permanently impair the productivity of the land (16 U.S.C. 1604(g)(3)(C)).</p> <p>(6) A range of monitoring techniques may be used to carry out the monitoring requirements in paragraph (a)(5) of this section.</p> <p>(7) This section does not apply to projects or activities; project and activity monitoring may be used to gather information, but monitoring is not a prerequisite for carrying out a project or activity.</p> <p>(b) <i>Broader-scale monitoring strategies.</i> (1) The regional forester shall develop a broader-scale monitoring strategy for unit monitoring questions that can best be answered at a geographic scale broader than one unit.</p> <p>(2) When developing a monitoring strategy, the regional forester shall coordinate with the relevant responsible officials, and Agency staff from State and Private Forestry, and</p>	<p>modeling, traditional count-based methods and genetic monitoring;</p> <p><i>[Provisions at § 219.12(a)(5)(iv) through § 219.12(a)(5)(vii) are identical to Alternative A]</i></p> <p>(viii) The validity of the assessments developed under 219.6(b)</p> <p><i>[Provisions at § 219.12(a)(6) through § 219.12(a)(7) are identical to Alternative A]</i></p> <p><i>[Provisions at § 219.12(b) are identical to Alternative A]</i></p>

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<p>Research and Development, partners, and the public. Two or more regional foresters may jointly develop broader-scale monitoring strategies.</p> <p>(3) Each regional forester shall ensure that the broader-scale monitoring strategy is within the financial and technical capabilities of the region and complements other ongoing monitoring efforts.</p> <p>(4) Projects and activities may be carried out under plans developed, amended, or revised under this part before the regional forester has developed a broad scale monitoring strategy.</p> <p><i>(c) Timing and process for developing the unit monitoring program and broader-scale strategies.</i> (1) In the assessment phase, the responsible official shall work with the public to identify potential monitoring needs relevant to inform effective management (§ 219.6).</p> <p>(2) The responsible official shall develop the unit monitoring program as part of the planning process for a new plan development or plan revision. Where a unit’s monitoring program has been developed under the provisions of a prior planning regulation and the unit has not initiated plan revision, the responsible official shall change the unit monitoring program within 4 years of the effective date of this part, or as soon as practicable, to meet the requirements of this section.</p> <p>(3) The regional forester shall develop a broader-scale monitoring strategy as soon as is practicable.</p> <p>(4) The responsible official and regional forester shall ensure that scientists are involved in the design and evaluation of unit and broad scale monitoring.</p>	<p><i>[Provisions at § 219.12(c) are identical to Alternative A]</i></p>

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<p>(5) To the extent practicable, appropriate, and relevant to the monitoring questions in the program, unit monitoring programs and broader-scale strategies must be designed to take into account:</p> <p>(i) Existing national and regional inventory, monitoring, and research programs of the Agency, including from the NFS, State and Private Forestry, and Research and Development, and of other governmental and non-governmental parties;</p> <p>(ii) Opportunities to design and carry out multi-party monitoring with other Forest Service units, Federal, State or local government agencies, scientists, partners, and members of the public; and</p> <p>(iii) Opportunities to design and carry out monitoring with federally recognized Indian Tribes and Alaska Native Corporations.</p> <p>(d) <i>Biennial evaluation of the monitoring information.</i> (1) The responsible official shall conduct a biennial evaluation of new information gathered through the unit monitoring program and relevant information from the broader-scale strategy, and shall issue a written report of the evaluation and make it available to the public. The evaluation must indicate whether a change to the plan, management activities, or monitoring program may be warranted based on the new information; whether a new assessment should be conducted; or that no amendment, revision, or administrative change is needed.</p> <p>(i) The first monitoring evaluation for a plan or plan revision developed in accordance with this subpart must be completed no later than 2 years from the effective date of plan approval.</p> <p>(ii) Where the monitoring program developed under the provisions of a prior</p>	<p><i>[Provisions at § 219.12(d) are identical to Alternative A]</i></p>

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<p>planning regulation has been changed to meet the requirements of paragraph (c)(2) of this section, the first monitoring evaluation must be completed no later than 2 years from the date the change takes effect.</p> <p>(iii) The monitoring evaluation report must describe how best available scientific information was taken into account (§ 219.3).</p> <p>(2) The monitoring evaluation report may be incorporated into other planning documents if the responsible official has initiated a plan revision or relevant amendment.</p> <p>(3) The monitoring evaluation report may be postponed for one year in case of exigencies, but notice of the postponement must be provided to the public prior to the date the report is due for that year (§ 219.16(c)(5)).</p> <p>(4) The monitoring evaluation report is not a decision document representing final agency action, and is not subject to the objection provisions of subpart B.</p>	
<b>§ 219.19 DEFINITIONS</b>	
<p>Definitions of the special terms used in this subpart are set out as follows.</p> <p><i>Alaska native corporation.</i> One of the regional, urban, and village native corporations formed under the Alaska Native Claims Settlement Act of 1971.</p> <p><i>Assessment.</i> A synthesis of information in support of land management planning to determine whether a change to the plan is needed. Assessments are not decisionmaking documents but provide current information on select issues. An assessment report on the need to change the plan may range from a many page broad scale comprehensive report to a one-page report, depending on the scope and scale of issues driving the need to</p>	<p>Definitions of the special terms used in this subpart are set out as follows.</p> <p><i>[Only additional definitions or those that would differ from Alternative A are presented here. All other definitions in § 219.19 are identical to Alternative A]</i></p>

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<p>change.</p> <p><i>Collaboration.</i> A structured manner in which a collection of people with diverse interests share knowledge, ideas, and resources while working together in an inclusive and cooperative manner towards a common purpose. Collaboration, in the context of this part, falls within the full spectrum of public engagement described in the Council on Environmental Quality's publication: Collaboration in NEPA—A Handbook for NEPA Practitioners. The Forest Service retains decisionmaking authority and responsibility for all decisions throughout the process.</p> <p><i>Connectivity.</i> Pertaining to the extent to which conditions exist or should be provided between separate national forest or grassland areas to ensure habitat for breeding, feeding, or movement of wildlife and fish within their home range or migration areas.</p> <p><i>Conservation.</i> The protection, preservation, management, or restoration of natural environments and ecological communities.</p> <p><i>Culmination of mean annual increment of growth.</i> See mean annual increment of growth.</p> <p><i>Designated areas.</i> Areas or features within a planning unit with specific management direction that are normally established through a process separate from the land management planning process. Designations may be made by statute or by an administrative process of the Federal executive branch. The Forest Service Directive System contains policy for recognition and establishment of designations. Designated areas include experimental forests, national heritage areas, national monuments, national recreational areas, national scenic trails, research natural areas, scenic byways, wild and scenic rivers,</p>	

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<p>wilderness areas, and wilderness study areas.</p> <p><i>Disturbance.</i> Any relatively discrete event in time that disrupts ecosystem, watershed, community, or species population structure and/or function and changes resources, substrate availability, or the physical environment.</p> <p><i>Ecological conditions.</i> The biological and physical environment that can affect diversity of plant and animal communities and the productive capacity of ecological systems. Examples of ecological conditions include the abundance and distribution of aquatic and terrestrial habitats, connectivity, roads and other structural developments, human uses, and invasive species.</p> <p><i>Ecological system.</i> See ecosystem.</p> <p><i>Economic system.</i> The system of production, distribution, and consumption of goods and services including consideration of jobs and income.</p> <p><i>Ecosystem.</i> A spatially explicit, relatively homogeneous unit of the Earth that includes all interacting organisms and elements of the abiotic environment within its boundaries. An ecosystem is commonly described in terms of its: (1) Composition. Major vegetation types, rare communities, aquatic systems, and riparian systems. (2) Structure. Vertical and horizontal distribution of vegetation, stream habitat complexity, and riparian habitat elements. (3) Function. Ecological processes such as stream flows, nutrient cycling, and disturbance regimes. (4) Connectivity. Habitats that exist for breeding, feeding, or movement of wildlife</p>	<p><i>Desired non-native species.</i> Those wild species of plants or animals that are not indigenous to a planning area but are valued for their contribution to species diversity or their social, cultural, or economic value.</p> <p><i>Ecological Conditions.</i> Elements of the biological and physical environment that can affect species viability, including the historical range of diversity of ecological systems within a planning area, the abundance and distribution of aquatic and terrestrial habitats, roads and other structural developments, human uses, and invasive and exotic species.</p>



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<p>and fish within species home ranges or migration areas.</p> <p><i>Ecosystem diversity.</i> The variety and relative extent of ecosystem types, including their composition, structure, and processes.</p> <p><i>Ecosystem services.</i> Benefits people obtain from ecosystems, including: (1) <u>Provisioning services</u>, such as clean air and fresh water, as well as energy, fuel, forage, fiber, and minerals; (2) <u>Regulating services</u>, such as long term storage of carbon; climate regulation; water filtration, purification, and storage; soil stabilization; flood control; and disease regulation; (3) <u>Supporting services</u>, such as pollination, seed dispersal, soil formation, and nutrient cycling; and (4) <u>Cultural services</u>, such as educational, esthetic, spiritual, and cultural heritage values, as well as recreational experiences and tourism opportunities.</p> <p><i>Environmental assessment (EA).</i> See definition in § 219.62.</p> <p><i>Environmental document.</i> Includes an environmental assessment, environmental impact statement, finding of no significant impact, categorical exclusion, and notice of intent to prepare an environmental impact statement.</p> <p><i>Environmental impact statement.</i> See definition in § 219.62.</p> <p><i>Even-aged stand.</i> A stand of trees composed of a single age class.</p> <p><i>Federally recognized Indian Tribe.</i> An Indian or Alaska Native Tribe, band, nation, pueblo, village, or community that the Secretary of the Interior acknowledges to exist as an Indian Tribe under the Federally Recognized Indian Tribe List Act of 1994, 25 U.S.C. 479a.</p>	

Alternative A	Alternative D
<p><i>Focal species.</i> A small number of species selected for monitoring whose status is likely to be responsive to changes in ecological conditions and effects of management. Monitoring the status of focal species is one of many ways to gauge progress towards achieving desired conditions in the plan.</p> <p><i>Forest land.</i> Land at least 10 percent occupied by forest trees of any size or formerly having had such tree cover and not currently developed for non-forest uses. Lands developed for non-forest use include areas for crops; improved pasture; residential or administrative areas; improved roads of any width and adjoining road clearing; and power line clearings of any width.</p> <p><i>Geographic area.</i> A spatially contiguous land area identified within the planning. A geographic area may overlap with a management area.</p> <p><i>Health(y).</i> The degree of ecological integrity that is related to the completeness or wholeness of the composition, structure, and function of native ecosystems existing within the inherent capability of the land.</p> <p><i>Independent peer review.</i> The process of subjecting an author's document using accepted practices to the scrutiny of others who are experts in the same field, before the document is published. A peer is a person who has substantially equal knowledge and standing in relation to the author.</p> <p><i>Landscape.</i> A spatial mosaic of terrestrial and aquatic ecosystems, landforms, and plant communities across a defined area irrespective of ownership or other artificial boundaries and repeated in similar form</p>	<p><i>Focal species.</i> Species selected, based on the best available science, for assessment and monitoring because their population status and trends are likely to be responsive to changes in ecological conditions, and provide reliable and meaningful information regarding the effectiveness of planning and management decisions in maintaining a diversity of plant and animal communities within the planning area. A species-at-risk also may be selected as a focal species.</p>

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<p>throughout.</p> <p><i>Landscape character.</i> A combination of physical, biological, and cultural images that gives an area its visual and cultural identity and helps to define a "sense of place." Landscape character provides a frame of reference from which to determine scenic attractiveness and to measure scenic integrity.</p> <p><i>Management area.</i> A land area identified within the planning unit that has the same set of applicable plan components. A management area does not have to be spatially contiguous.</p> <p><i>Mean annual increment of growth and culmination of mean annual increment of growth.</i> Mean annual increment of growth is the total increment of increase of volume of a stand (standing crop plus thinnings) up to a given age divided by that age. Culmination of mean annual increment of growth is the age in the growth cycle of an even-aged stand at which the average annual rate of increase of volume is at a maximum. In land management plans, mean annual increment is expressed in cubic measure and is based on the expected growth of stands, according to intensities and utilization guidelines in the plan.</p> <p><i>Monitoring.</i> A systematic process of collecting information over time and space to evaluate effects of actions or changes in conditions or relationships.</p> <p><i>Multiple use.</i> The management of all the various renewable surface resources of the NFS so they are used in the combination that will best meet the needs of the American people: making the most judicious use of the land for some or all of these resources or related services over areas large enough to provide sufficient latitude for periodic adjustments in the use to conform to</p>	

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<p>changing needs and conditions; recognizing that some lands will be used for less than all of the resources; and providing for harmonious and coordinated management of the various resources, each with the other, without impairment of the productivity of the land, with consideration being given to the relative values of the various resources, and not necessarily the combination of uses that will give the greatest dollar return or the greatest unit output, consistent with the Multiple-Use Sustained-Yield Act of 1960 (16 U.S.C. 528–531). Ecosystem services are included as part of all the various renewable surface resources of the NFS.</p> <p><i>National Forest System land.</i> See definition in § 219.62.</p> <p><i>Native knowledge.</i> A way of knowing or understanding the world, including traditional ecological and social knowledge of the environment derived from multiple generations of indigenous peoples' interactions, observations, and experiences with their ecological systems. Native knowledge is place-based and culture-based knowledge in which people learn to live in and adapt to their own environment through interactions, observations, and experiences with their ecological system. This knowledge is generally not solely gained, developed by, or retained by individuals, but is rather accumulated over successive generations and is expressed through oral traditions, ceremonies, stories, dances, songs, art, and other means within a cultural context.</p> <p><i>Newspaper(s) of record.</i> See definition in § 219.62.</p> <p><i>Objection.</i> See definition in § 219.62.</p> <p><i>Online.</i> See definition in § 219.62.</p> <p><i>Participation.</i> Activities that include a wide range of public involvement tools and</p>	

Alternative A	Alternative D
<p>processes, such as collaboration, public meetings, open houses, workshops, and comment periods.</p> <p><i>Plan or land management plan.</i> A document or set of documents that describe management direction for an administrative unit of the NFS.</p> <p><i>Plan area.</i> The National Forest System lands covered by a plan</p> <p><i>Plant and animal communities.</i> A naturally occurring assemblage of plant and animal species living within a defined area or habitat.</p> <p><i>Potential wilderness areas.</i> All areas within the National Forest System lands that satisfy the definition of wilderness found in section 2(c) of the 1964 Wilderness Act. Inventory criteria are listed in Forest Service Handbook 1909.12 – Land Management Planning Handbook, Chapter 70 – Wilderness Evaluation.</p> <p><i>Productivity.</i> The capacity of National Forest System lands and their ecological systems to provide the various renewable resources in certain amounts in perpetuity. For the purposes of this subpart, productivity is an ecological, not an economic, term.</p> <p><i>Project.</i> An organized effort to achieve an outcome on NFS lands identified by location, tasks, outputs, effects, times, and responsibilities for execution.</p>	<p><i>Planning Area.</i> The geographic area of National Forest System lands covered by an individual land and resource management plan. The planning area may include one or more administrative units.</p> <p><i>Plan and Management Decisions.</i> Includes but is not limited to: desired ecological conditions; objectives; designation of management areas; standards; suitability determinations; monitoring plans; and special area designations.</p>

Alternative A	Alternative D
<p><i>Recreational setting.</i> The surroundings or the environment for the recreational activities. The Forest Service uses the recreational opportunity spectrum that defines six recreational opportunity classes that provide different settings for recreational use: primitive, semi-primitive nonmotorized, semi-primitive motorized, roaded natural, rural, and urban.</p> <p><i>Resilience.</i> The capacity of a system to absorb disturbance and reorganize while undergoing change so as to still retain essentially the same function, structure, identity, and feedbacks.</p> <p><i>Responsible official.</i> See definition in § 219.62.</p> <p><i>Restoration.</i> The process of assisting the recovery of resilience and the capacity of a system to adapt to change if the environment where the system exists has been degraded, damaged, or destroyed. Ecological restoration focuses on reestablishing ecosystem functions by modifying or managing the composition, structure, arrangement, and processes necessary to make terrestrial and aquatic ecosystems sustainable, and resilient under current and future conditions.</p> <p><i>Riparian areas.</i> A transition area between the aquatic ecosystem and the adjacent terrestrial ecosystem that is geographically delineable with distinctive resource values and characteristics; identified by soil characteristics or distinctive vegetation communities that require free or unbound water.</p> <p><i>Risk.</i> A combination of the likelihood that a negative outcome will occur and the severity of the subsequent negative consequences.</p> <p><i>Sole Source aquifer.</i> A porous geologic formation, usually consisting of sand and</p>	

Alternative A	Alternative D
<p>gravel, that holds ground water, and designated by the Environmental Protection Agency because it supplies at least 50 percent of the drinking water consumed in the area overlying the aquifer, and where contamination would present both a significant public health hazard and an economic hardship in the high cost of replacing the contaminated water.</p> <p><i>Source water protection areas.</i> The area delineated by a State or Tribe for a public water system (PWS) or including numerous PWSs, whether the source is ground water or surface water or both, as part of a State or tribal source water assessment and protection program (SWAP) approved by Environmental Protection Agency under section 1453 of the Safe Drinking Water Act.</p> <p><i>Species of conservation concern.</i> Species other than federally listed threatened or endangered species or candidate species, for which the responsible official has determined that there is evidence demonstrating significant concern about its capability to persist over the long-term in the plan area.</p> <p><i>Sustainability.</i> Capability of meeting the needs of the present generation without compromising the ability of future generations to meet their needs.</p> <p><i>Sustainable recreation.</i> The set of recreational opportunities, uses and access that, individually and combined, are ecologically, economically, and socially sustainable, allowing the responsible official to offer recreation opportunities now and into</p>	<p><i>Species-at-risk.</i> Federally listed endangered, threatened, candidate, and proposed species and other species for which loss of viability, including reduction in distribution or abundance, is a concern within the plan area. Other species-at-risk may include sensitive species and state listed species.</p>

Alternative A	Alternative D
<p>the future. Recreational opportunities can include non-motorized, motorized, developed, and dispersed recreation on land, water, and air.</p> <p><i>System drivers.</i> Natural or human-induced factors that directly or indirectly cause a change in an ecosystem, such as climate change, habitat change, or non-native invasive species, human population change, economic activity, or technology.</p> <p><i>Timber harvest.</i> The removal of trees for wood fiber use and other multiple-use purposes.</p> <p><i>Timber production.</i> The purposeful growing, tending, harvesting, and regeneration of regulated crops of trees to be cut into logs, bolts, or other round sections for industrial or consumer use.</p> <p><i>Viable population.</i> A population of a species that continues to persist over the long term with sufficient distribution to be resilient and adaptable to stressors and likely future environments.</p> <p><i>Watershed.</i> A region or land area drained by a single stream, river, or drainage network; a drainage basin.</p> <p><i>Watershed condition.</i> The state of a watershed based on physical and biogeochemical characteristics and processes.</p> <p><i>Wild and scenic river.</i> A river designated by Congress as part of the National Wild and</p>	<p><i>Viability Analysis.</i> The process of evaluating the current state and likely future status of a species, based on information on trends in its abundance, density, or geographic distribution.</p> <p><i>Viable Population.</i> A population that has a high likelihood of persisting well distributed throughout its range within a planning area for a period of at least 50 years into the future, based on the best available scientific information on its ecological conditions, abundance, distribution, reproduction, and survival rates.</p>



Alternative A	Alternative D
<p>Scenic Rivers System that was established in the Wild and Scenic Rivers Act of 1968 (16 U.S.C. 1271(note), 1271-1287).</p> <p><i>Wilderness.</i> Any area of land designated by Congress as part of the National Wilderness Preservation System that was established in the Wilderness Act of 1964 (16 U.S.C. 1131-1136).</p>	



# Appendix G – Alternative E

§ 219.4 Requirements for public participation. .... 1  
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This alternative was developed in response to concerns and suggestions for prescriptive monitoring and assessment questions and requirements to establish signals for each question to identify the need for plan amendment or revision. Additionally, this alternative responds to the desires of some people to see specific requirements for collaboration in the planning rule in order to ensure consistency and accountability across NFS units. This alternative consists of the proposed rule (Alternative A) with additional and replacement direction focused on prescriptive requirements for public notification at § 219. 4, assessment requirements at § 219.6, monitoring requirements at § 219.12, and public notification requirements at § 219.16.

Instead of repeating all of the rule text common to both this alternative and the proposed rule, the text of the additional and replacement direction is displayed in a side-by-side format to demonstrate how and where it differs from the proposed rule.

Alternative A	Alternative E
<b>§ 219.4 REQUIREMENTS FOR PUBLIC PARTICIPATION.</b>	
<p>(a) <i>Providing opportunities for participation.</i> The responsible official shall engage the public—including Tribes and Alaska Native Corporations, other Federal agencies, State and local governments, individuals, and public and private organizations or entities—early and throughout the planning process as required by this part, using collaborative processes where feasible and appropriate. When developing opportunities for public participation, the responsible official shall take into account the discrete and diverse roles, jurisdictions, responsibilities, and skills of interested and affected parties; the accessibility of the process, opportunities, and information; and the cost, time, and available staffing. The responsible official should be proactive and use contemporary</p>	<p><i>[This provision at § 219.4(a) is identical to Alternative A]</i></p>

Alternative A	Alternative E
<p>tools, such as the internet, to engage the public, and should share information in an open way with interested parties.</p> <p>(1) <i>Scope, methods, and timing.</i> The responsible official shall provide opportunities for participating in the assessment process; developing a plan proposal, including the monitoring program; commenting on the proposal and the disclosure of its environmental impacts in accompanying NEPA documents; and reviewing the results of monitoring information. Subject to the notification requirements in § 219.16, the responsible official has the discretion to determine the scope, methods, forum, and timing of those opportunities.</p>	<p>(1) <i>Scope, methods, and timing for public participation in plan development and revisions.</i> Subject to § 219.16, the responsible official shall design and implement a public participation effort for plan development and revisions using, at a minimum, the following process –</p> <p>(i) Assess what collaborative resources are available for the planning process, considering resources both within and external to the Agency;</p> <p>(ii) Consider obtaining specialized assistance for the public participation process, using the resources identified in the assessment at § 219.4(a)(1)(i), as appropriate;</p> <p>(iii) Identify key stakeholders to involve in the public participation. Interview forest resource specialists and managers to help identify relevant stakeholder groups;</p> <p>(iv) Use personal knowledge and connections as well as traditional outreach methods to bring all needed stakeholders to the table;</p> <p>(v) Consult with the stakeholders to determine the best methods to use in the public participation process and to identify additional stakeholders that need to be involved;</p> <p>(vi) Working with the stakeholders identified at § 219.4(a)(1)(iii), identify the key areas of planning to be addressed through collaboration, establish clear objectives, roles and responsibilities for all participants in the land management planning process;</p>

Alternative A	Alternative E
	<p>(vii) Hold at least one public meeting during each of the following plan revision phases: the development of the assessment that precedes the plan revision, the development of the proposed plan, the NEPA process to develop alternatives to the proposed plan, the comment period on the proposed plan and DEIS. Consider holding a “kickoff” public meeting to orient the stakeholders and forest service planning personnel;</p> <p>(viii) Initiate a collaborative group to meet regularly on the plan revision. If a collaborative group already exists on the forest, then the responsible official can use the existing collaborative group. The group may or may not be a formally chartered FACA group; and</p> <p>(ix) Develop a schedule of public participation activities to be held throughout the plan revision process and publicize the schedule widely on the unit website, with unit partners and through other relevant outreach methods.</p> <p><i>(2) Scope, methods, and timing of public participation for plan amendments.</i> Subject to § 219.16, the responsible official has the discretion to determine the scope, methods, and timing of public participation opportunities for the development of plan amendments, taking into consideration the following—</p> <p>(i) diversity and spectrum of interests among potential participants;</p> <p>(ii) accessibility to process, discussion, and information;</p> <p>(iii) level of controversy and understanding of issues; and</p> <p>(iv) roles and responsibilities of the Forest</p>

Alternative A	Alternative E
<p>(2) <i>Participation opportunities for individual members of the public and entities.</i> The responsible official shall encourage participation by interested individuals and entities, including those interested at the local, regional, and national levels.</p> <p>(3) <i>Participation opportunities for youth, low-income populations, and minority populations.</i> The responsible official shall encourage participation by youth, low-income populations, and minority populations.</p> <p>(4) <i>Participation opportunities for private landowners.</i> The responsible official shall encourage participation by private landowners whose lands are in, adjacent to, or otherwise affected by, or whose actions may impact, future management actions in the plan area.</p> <p>(5) <i>Consultation with federally recognized Indian Tribes and Alaska Native Corporations.</i> The Department recognizes the Federal Government’s trust responsibility for federally recognized Indian Tribes. The responsible official shall honor the government-to-government relationship between federally recognized Indian Tribes and the Federal government. The responsible official shall provide to federally recognized Indian Tribes and Alaska Native Corporations the opportunity to undertake consultation in accordance with Executive Order 13175 of November 6, 2000 and 25 U.S.C. 450 note.</p> <p>(6) <i>Participation opportunities for federally recognized Indian Tribes and Alaska Native Corporations.</i> The responsible official shall encourage participation in the planning process by</p>	<p>Service and non-agency participants.</p> <p><i>[The provisions at § 219.4(a)(2) through (8) are re-designated as (3) through (9) respectively but are otherwise identical to Alternative A]</i></p>

Alternative A	Alternative E
<p>interested or affected federally recognized Indian Tribes or Alaska Native Corporations. The responsible official may participate in planning efforts of federally recognized Indian Tribes and Alaska Native Corporations, where practicable and appropriate.</p> <p><i>(7) Native knowledge, indigenous ecological knowledge, and land ethics.</i> As part of tribal participation and consultation as set forth in paragraphs (a)(5) and (6) of this section, the responsible official shall request information about native knowledge, land ethics, cultural issues, and sacred and culturally significant sites.</p> <p><i>(8) Participation opportunities for other Federal agencies, federally recognized Tribes, States, counties, and local governments.</i> The responsible official shall provide opportunities for other government agencies to participate in planning for NFS lands. Where appropriate, the responsible official shall encourage federally recognized Tribes, States, counties, and other local governments to seek cooperating agency status in the NEPA process for a plan development, amendment, or revision. The responsible official may participate in planning efforts of States, counties, local governments, and other Federal agencies, where practicable and appropriate.</p> <p><i>(b) Coordination with other public planning efforts.</i> (1) The responsible official shall coordinate land management planning with the equivalent and related planning efforts of federally recognized Indian Tribes, Alaska Native Corporations, other Federal agencies, and State and local governments, to the extent practicable and appropriate.</p> <p>(2) For plan development or revision, the</p>	<p><i>[Provisions at § 219.4(b) are identical to Alternative A]</i></p>

Alternative A	Alternative E
<p>responsible official shall review the planning and land use policies of federally recognized Indian Tribes, Alaska Native Corporations, other Federal agencies, and State and local governments, where relevant to the plan area. The results of this review shall be displayed in the environmental impact statement for the plan (40 CFR 1502.16(c), 1506.2). The review shall include consideration of:</p> <p>(i) The objectives of federally recognized Indian Tribes, Alaska Native Corporations, other Federal agencies, and State and local governments, as expressed in their plans and policies;</p> <p>(ii) The compatibility and interrelated impacts of these plans and policies;</p> <p>(iii) Opportunities for the plan to address the impacts identified or contribute to joint objectives; and</p> <p>(iv) Opportunities to resolve or reduce conflicts, within the context of achieving the Forest Service desired conditions or objectives.</p> <p>(3) Nothing in this section should be read to indicate that the responsible official will seek to direct or control management of lands outside of the planning area, nor will the responsible official conform management to meet non-Forest Service objectives or policies.</p>	
<p><b>§ 219.6 ASSESSMENTS.</b></p>	
<p>Assessments may range from narrow in scope to comprehensive, depending on the issue or set of issues to be evaluated, and should consider relevant ecological, economic, and social conditions, trends, and sustainability within the context of the broader landscape. The responsible official</p>	<p><i>[Provisions at § 219.6 through (a)(5) are identical to Alternative A]</i></p>



Alternative A	Alternative E
<p>has the discretion to determine the scope, scale, and timing of an assessment, subject to the requirements of this section.</p> <p><i>(a) Process for plan development or revision assessments.</i> One or more assessments must be conducted for the development of a new plan or for a plan revision. The responsible official shall:</p> <p>(1) Notify and encourage the public and appropriate Federal agencies, States, local governments, other entities, and scientists to participate in the assessment process (§§ 219.4 and 219.16).</p> <p>(2) Notify and encourage potentially interested or affected federally recognized Indian Tribes and Alaska Native Corporations to participate in the assessment process (§§ 219.4 and 219.16).</p> <p>(3) Coordinate with the regional forester, Agency staff from State and Private Forestry and Research and Development, and other governmental and non-governmental partners to consolidate existing information and leverage resources for additional information needs.</p> <p>(4) Document the assessment in a report or set of reports available to the public. Document in the report(s) how the relevant best available scientific information was taken into account (§ 219.3), and include the report(s) in the planning record (§ 219.14).</p> <p>(5) Identify in the report how a new plan should be proposed, or identify a potential need to change an existing plan, based on the assessment.</p> <p><i>(b) Content of assessments for plan development or revision.</i> In the assessment(s) for plan development or</p>	<p><i>(b) Content of assessments for plan development or revision.</i></p> <p>In the assessment(s) for plan development</p>

Alternative A	Alternative E
<p>revision, the responsible official shall:</p> <p>(1) Identify and evaluate information needed to understand and assess existing and potential future conditions and stressors in order to inform and develop required plan components and other content in the plan (§ 219.7), including plan components for sustainability (§ 219.8), diversity of plant and animal communities (§ 219.9), multiple uses (§ 219.10), and timber requirements based on NFMA (§ 219.11).</p>	<p>or revision, the responsible official shall:</p> <p>(1) Identify existing conditions, past and projected trends, and possible scenarios at a scale appropriate to the roles and contributions of the planning unit to the larger geographic area, to develop plan components, as required by:</p> <p>(i) § 219.7, plan development or plan revision;</p> <p>(ii) § 219.8, sustainability including watershed elements; ecological variables such as structure, composition, processes, and connectivity that are needed to sustain healthy and resilient terrestrial and aquatic ecosystems; provision of ecosystem services including multiple uses such as recreation; contribution to local, regional and National social and economic systems; renewal and recovery of systems from disturbances; risks, stressors, and affects of invasive species; public safety; risks and uncertainties associated with climate change;</p> <p>(iii) § 219.9, diversity of plant and animal communities including status of plant and animal species, their communities; their capacity for resiliency; and ability to move across landscapes. For example, to comply with § 219.9, the assessment for a plan revision should consider the existing status, trends, and future possibilities of key ecological conditions affecting ecosystem diversity and species of conservation concern within the plan area focusing on threats and stressors that may affect ecological sustainability, such as development pressure, invasive species, or climate change; and</p> <p>(iv) § 219.11 Timber requirements based on NFMA, including cumulative effects over the plan area and indicators of soil</p>



Alternative A	Alternative E
<p>discretion to determine the scope, scale, process, and content for the assessment depending on the issue or issues to be addressed.</p> <p>(2) When a plan amendment is made together with, and only applies to, a project or activity decision, the analysis prepared for the project or activity may serve as the documented need to change the plan.</p>	
<p><b>§ 219.10 MULTIPLE USES.</b></p>	
<p>In meeting the requirements of §§ 219.8 and 219.9, and within Forest Service authority, the capability of the plan area and the fiscal capability of the unit, the plan must provide for multiple uses, including ecosystem services, outdoor recreation, range, timber, watershed, wildlife and fish, as follows:</p> <p><i>(a) Integrated resource management.</i> When developing plan components for integrated resource management, to the extent relevant to the plan area and the public participation process and the requirements of §§ 219.7, 219.8, 219.9, and 219.11, the responsible official shall consider:</p> <p>(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, recreational values and settings, riparian areas, scenery, soil, surface and subsurface water quality, timber, trails, vegetation, viewsheds, wilderness, and other relevant resources;</p> <p>(2) Renewable and nonrenewable energy and mineral resources;</p> <p>(3) Sustainable management of infrastructure, such as recreational</p>	<p><i>[Provisions at § 219.10 through (b)(1)(vi) are identical to Alternative A]</i></p>

Alternative A	Alternative E
<p>facilities and transportation and utility corridors;</p> <p>(4) Opportunities to coordinate with neighboring landowners to link open spaces and take into account joint management objectives where feasible and appropriate;</p> <p>(5) Habitat conditions, subject to the requirements of § 219.9, for wildlife, fish, and plants commonly enjoyed and used by the public, such as species that are hunted, fished, trapped, gathered, observed, or needed for subsistence;</p> <p>(6) The landscape-scale context for management as identified in the assessment;</p> <p>(7) Land ownership and access patterns relative to the plan area;</p> <p>(8) Reasonably foreseeable risks to ecological, social, and economic sustainability; and</p> <p>(9) Potential impacts of climate and other system drivers, stressors and disturbance regimes, such as wildland fire, invasive species, and human-induced stressors, on the unit's resources (§ 219.8).</p> <p><i>(b) Requirements for plan components for a new plan or plan revision. (1) The plan components for a new plan or plan revision must provide for:</i></p> <p>(i) Sustainable recreation, considering opportunities and access for a range of uses. The plan should identify recreational settings and desired conditions for scenic landscape character.</p> <p>(ii) Protection of cultural and historic resources;</p>	

Alternative A	Alternative E
<p>(iii) Management of areas of tribal importance;</p> <p>(iv) Protection of wilderness areas as well as the protection of recommended wilderness areas to protect the ecologic and social values and character for which they might be added to the National Wilderness System;</p> <p>(v) Protection of wild and scenic rivers as well as the protection of those rivers eligible for inclusion in the national wild and scenic river system to protect the values for which they might be included in the system until their suitability is determined; and</p> <p>(vi) Protection and appropriate management of other designated or recommended areas that exist in the plan area, including research natural areas.</p> <p>(2) Other plan components for integrated resource management to provide for multiple uses that should be included as necessary.</p>	<p>(2) Plan components for conservation education, volunteer, and partnership programs.</p> <p><i>[The provision at § 219.10(b)(2) would be redesignated § 219.10(b)(3)]</i></p>
<p><b>§ 219.12 MONITORING.</b></p>	
<p><i>(a) Unit monitoring program.</i> (1) The responsible official shall develop a unit monitoring program for the plan area, and include it in the plan. The development of the monitoring program must be coordinated with the regional forester and Agency staff from State and Private Forestry, and Research and Development. Responsible officials for two or more administrative units may jointly develop their unit monitoring programs.</p>	<p><i>[Provisions at § 219.12(a)(1) through (4)(iii) are identical to Alternative A]</i></p>

Alternative A	Alternative E
<p>(2) The unit monitoring program sets out the unit monitoring questions and associated indicators. Monitoring questions and associated indicators must be designed to inform the management of resources on the unit, including by testing relevant assumptions, tracking relevant changes, and measuring management effectiveness and progress toward achieving or maintaining desired conditions or objectives. Questions and indicators should be based on one or more desired conditions, objectives, or other plan component in the plan, but not every plan component needs to have a corresponding monitoring question.</p> <p>(3) The unit monitoring program should be coordinated and integrated with relevant broader-scale monitoring strategies (paragraph (b) of this section) to ensure that monitoring is complementary and efficient, and that information is gathered at scales appropriate to the monitoring questions.</p> <p>(4) Subject to the requirements of paragraph (a)(5) of this section, the responsible official has the discretion to set the scope and scale of the unit monitoring program, after considering:</p> <p>(i) Information needs identified through the planning process as most critical for informed management of resources on the unit;</p> <p>(ii) Existing best available scientific information; and</p> <p>(iii) Financial and technical capabilities of the Agency.</p> <p>(5) Each unit monitoring program must contain one or more monitoring questions or indicators addressing each of the</p>	

Alternative A	Alternative E
<p>following:</p> <p>(i) The status of select watershed conditions.</p> <p>(ii) The status of select ecological conditions.</p> <p>(iii) The status of focal species;</p> <p>(iv) The status of visitor use and progress towards meeting recreational objectives.</p> <p>(v) Measurable changes on the unit related to climate change and other stressors on the unit;</p> <p>(vi) The carbon stored in above ground vegetation;</p>	<p>(i) The status of watershed conditions and watershed elements of § 219.8. How effective are management actions in moving the National Forest/Grassland toward improving watershed health?</p> <p>(ii) status of key ecological conditions affecting species of conservation concern and ecosystem diversity within each plan area focusing on threats and stressors that may affect ecological sustainability such as management activities, invasive species, or climate change;</p> <p>(A) The status of key ecological variables such as structure, composition, processes, and connectivity that are needed to sustain healthy and resilient terrestrial and aquatic ecosystems.</p> <p>(B) The status of recovery of threatened and endangered species dependent on the plan unit for movement across landscapes.</p> <p>(C) The status of recovery of threatened and endangered species on the plan unit.</p> <p>(iii) The status and trends of a small set of focal species selected by the responsible official based on plant and animal communities stated in § 219.9.</p> <p>(iv) Recreation user satisfaction and status and trend of recreation settings and opportunities provided by the NFS unit compared to Desired Conditions stated in the plan.</p> <p><i>[Provisions at § 219.12(a)(5)(v) through (4)(viii) are identical to Alternative A]</i></p>



Alternative A	Alternative E
<p>(vii) The progress towards fulfilling the unit’s distinctive roles and contributions to ecologic, social, and economic conditions of the local area, region, and Nation.</p> <p>(viii) The effects of management systems to determine that they do not substantially and permanently impair the productivity of the land (16 U.S.C. 1604(g)(3)(C)).</p>	<p>(ix) The status and trends of vegetation diversity, including vegetation composition, structure, abundance, distribution, and successional processes contribute to the diversity of native plant and animal species in the plan area. How are management actions maintaining or making progress toward desired conditions for the key characteristics of vegetation in the plan area?</p> <p>(x) The status and trends of areas infested by aquatic and terrestrial invasive species on the unit’s plan area relative to the desired condition. How effective were our management activities including partnerships in preventing or controlling targeted invasive species?</p> <p>(xi) status and trends of outbreaks of native insects and pathogens on the National Forest/Grassland;</p> <p>(xii) goods and services provided by or derived from the NFS unit that contribute to sustaining economic systems. What are the status and trends of goods and services provided from the unit with regards to progress towards desired conditions?</p> <p>(xiii) public safety and environmental impacts of road and trail system on the NFS unit, including appropriate access, needs of adjacent landowners, public demand, and geological risks; and</p> <p>(A) How many miles of the designated</p>

Alternative A	Alternative E
<p>(6) A range of monitoring techniques may be used to carry out the monitoring requirements in paragraph (a)(5) of this section.</p> <p>(7) This section does not apply to projects or activities; project and activity monitoring may be used to gather information, but monitoring is not a prerequisite for carrying out a project or activity.</p> <p>(b) <i>Broader-scale monitoring strategies.</i>                      (1) The regional forester shall develop a broader-scale monitoring strategy for unit monitoring questions that can best be answered at a geographic scale broader</p>	<p>roads and trails are maintained to standard?</p> <p>(B) Where is unauthorized use occurring on or off the road and trail system?</p> <p>(xiv) emerging risks and current uncertainties associated with climatic changes in the vicinity of the unit and neighboring units where species may need to migrate or shift to locations with conditions hospitable to continued viability.</p> <p>(8) The monitoring program must include questions and a description of periodic evaluations which enable the agency to evaluate adjustments of the monitoring program or plan content as appropriate to account for unanticipated changes in conditions, new information, or new policy.</p> <p>(9) Each monitoring question and its associated indicator will also be accompanied by a description of one or more signal points which are to be used by the responsible official to determine the need to take action(s) appropriate to the situation. Such as changing plan component(s), collecting additional information, or requesting new research.</p> <p><i>[The provisions at § 219.12(b) are identical to Alternative A]</i></p>

Alternative A	Alternative E
<p>than one unit.</p> <p>(2) When developing a monitoring strategy, the regional forester shall coordinate with the relevant responsible officials, and Agency staff from State and Private Forestry and Research and Development, partners, and the public. Two or more regional foresters may jointly develop broader-scale monitoring strategies.</p> <p>(3) Each regional forester shall ensure that the broader-scale monitoring strategy is within the financial and technical capabilities of the region and complements other ongoing monitoring efforts.</p> <p>(4) Projects and activities may be carried out under plans developed, amended, or revised under this part before the regional forester has developed a broad scale monitoring strategy.</p> <p><i>(c) Timing and process for developing the unit monitoring program and broader-scale strategies.</i> (1) In the assessment phase, the responsible official shall work with the public to identify potential monitoring needs relevant to inform effective management (§ 219.6).</p> <p>(2) The responsible official shall develop the unit monitoring program as part of the planning process for a new plan development or plan revision. Where a unit’s monitoring program has been developed under the provisions of a prior planning regulation and the unit has not initiated plan revision, the responsible official shall change the unit monitoring program within 4 years of the effective date of this part, or as soon as practicable, to meet the requirements of this section.</p> <p>(3) The regional forester shall develop a</p>	<p><i>[The provisions at § 219.12(c) are identical to Alternative A]</i></p>

Alternative A	Alternative E
<p>broader-scale monitoring strategy as soon as is practicable.</p> <p>(4) The responsible official and regional forester shall ensure that scientists are involved in the design and evaluation of unit and broad scale monitoring.</p> <p>(5) To the extent practicable, appropriate, and relevant to the monitoring questions in the program, unit monitoring programs and broader-scale strategies must be designed to take into account:</p> <p>(i) Existing national and regional inventory, monitoring, and research programs of the Agency, including from the NFS, State and Private Forestry, and Research and Development, and of other governmental and non-governmental parties;</p> <p>(ii) Opportunities to design and carry out multi-party monitoring with other Forest Service units, Federal, State or local government agencies, scientists, partners, and members of the public; and</p> <p>(iii) Opportunities to design and carry out monitoring with federally recognized Indian Tribes and Alaska Native Corporations.</p> <p><i>(d) Biennial evaluation of the monitoring information.</i> (1) The responsible official shall conduct a biennial evaluation of new information gathered through the unit monitoring program and relevant information from the broader-scale strategy, and shall issue a written report of the evaluation and make it available to the public. The evaluation must indicate whether a change to the plan, management activities, or monitoring program may be warranted based on the new information; whether a new assessment should be</p>	<p><i>[The provisions at § 219.12(d) are identical to Alternative A]</i></p>

Alternative A	Alternative E
<p>conducted; or that no amendment, revision, or administrative change is needed.</p> <p>(i) The first monitoring evaluation for a plan or plan revision developed in accordance with this subpart must be completed no later than 2 years from the effective date of plan approval.</p> <p>(ii) Where the monitoring program developed under the provisions of a prior planning regulation has been changed to meet the requirements of paragraph (c)(2) of this section, the first monitoring evaluation must be completed no later than 2 years from the date the change takes effect.</p> <p>(iii) The monitoring evaluation report must describe how best available scientific information was taken into account (§ 219.3).</p> <p>(2) The monitoring evaluation report may be incorporated into other planning documents if the responsible official has initiated a plan revision or relevant amendment.</p> <p>(3) The monitoring evaluation report may be postponed for one year in case of exigencies, but notice of the postponement must be provided to the public prior to the date the report is due for that year (§ 219.16(c)(5)).</p> <p>(4) The monitoring evaluation report is not a decision document representing final agency action, and is not subject to the objection provisions of subpart B.</p>	<p>(e) <i>Periodic evaluation of monitoring programs and strategies.</i> The Chief shall establish standards to periodically evaluate the efficiency and effectiveness of unit plan monitoring programs, broader-scale strategies, and associated monitoring</p>

Alternative A	Alternative E
	<p>programs under control of the agency.</p> <p>These evaluations may be scheduled at the discretion of the responsible official and may be targeted to specific topics of concern or comprehensive evaluations. At least one evaluation of monitoring effectiveness must occur every 10 years. The responsible official should consider the following set of evaluation topics:</p> <ol style="list-style-type: none"> <li>(1) Ability of unit monitoring programs to meaningfully inform unit plan decisions.</li> <li>(2) Effectiveness of unit monitoring programs and broader-scale monitoring strategies to contribute information useful to assess cumulative effects analyses conducted in project NEPA.</li> <li>(3) Effectiveness of unit monitoring programs and broader-scale monitoring strategies to identify emerging risks to the ecological and social sustainability.</li> <li>(4) Effectiveness of monitoring programs and broader-scale monitoring strategies engage interested parties to meaningfully share resources, expertise, and encourage learning and continual improvement of people’s understanding of complex environmental and social systems.</li> </ol>



# Appendix H – Alternative G: NFMA Minimum Requirements Rule

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### § 219.1 PURPOSE AND APPLICABILITY.

(a) This rule sets out the planning requirements for developing, amending, and revising land management plans (also referred to as plans) for the National Forest System, as required by the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976 (16 U.S.C. 1600 *et seq.*) (NFMA). This subpart also sets out the requirements of plan content. This subpart is applicable to all units of the National Forest System as defined by 16 U.S.C. 1609 or subsequent statute.

(b) This rule does not affect treaty rights or valid existing rights established by statute or legal instruments.

### § 219.2 STANDARDS AND GUIDELINES FOR THE NATIONAL FOREST SYSTEM.

(a) *Consistency of resource plans, permits, contracts, and other instruments with land management plans.* Subsequent plans, projects, activities, permits, contracts, and other instruments for the use or occupancy of national forest system lands must be consistent with the provisions of the applicable land management plan as described in 219.4. Plans, permits, contracts and other instruments currently in existence shall be revised as soon as practicable to be made consistent with an applicable new, revised or amended plan. Any such revision to present or future permits, contracts and other instruments is subject to valid existing rights.

(b) *Requirements for the Forest Service Directives System.* The Chief of the Forest Service through the Forest Service Directives System shall establish the following:

(1) Standards and procedures for obtaining inventory data on the renewable resources, soil, and water of the National Forest System;

(2) Methods to identify special conditions or situations involving hazards to the various resources and relationship to alternative activities;

(3) Standards so that even-aged stands of trees scheduled for harvest during the planning period have generally reached culmination of mean annual increment of growth; and appropriate exceptions to this standard.



### **§ 219.3 STANDARDS AND GUIDELINES FOR LAND MANAGEMENT PLANNING.**

(a) *Coordinated approach.* Development, revision and maintenance of land management plans shall be coordinated with the planning processes of state and local government and other federal agencies.

(b) *Public Participation.* Provide opportunities for public participation in the development, revision and amendment of land management plans. This public participation shall include but is not limited to:

(1) Make plans and related environmental documents available to the public at convenient locations near the planning unit for a review period of at least 3 months before final decision.

(2) Publicize and hold public meetings or other comparable processes to foster public participation during the plan review period.

(c) *Interdisciplinary Team.* An interdisciplinary team shall develop, revise or amend the land management plan of each unit of the national forest system using an interdisciplinary approach to achieve integrated consideration of physical, biological, economic, and other sciences.

(d) *Procedures for planning in accordance with the National Environmental Policy Act.* An environmental impact statement shall be prepared for the development of a new plan or the revision of an existing plan. Determination of the type of environmental documentation for plan amendments shall be based on Forest Service NEPA procedures.

(e) *Renewable resource consideration.* Development, revision or amendment of land management plans must insure consideration of the economic and environmental aspects of various systems of renewable resource management, including the related systems of silviculture and protection of forest resources, to provide for outdoor recreation (including wilderness), range, timber, watershed, wildlife and fish. The Forest Service Directive system may provide further guidance on the procedures for consideration of these resources in the planning process.

(f) *Revision.* The plan shall be revised when conditions on the planning unit have significantly changed or at least every 15 years.

(g) *Amendment.* The plan may be amended at any time after public notice. Amendments documented in an environmental assessment or an environmental impact statement must be prepared in accordance with 219.3 (b).

### **§ 219.4 STANDARDS AND GUIDELINES FOR LAND MANAGEMENT PLANS.**

Land management plans provide for multiple use and sustained yield of the products and services in accordance with the Multiple Use Sustained Yield Act [16 U.S.C. 528-531] and include coordination of outdoor recreation, range, timber watershed, wildlife and fish and wilderness. Plans for each unit of the National Forest System shall form one

integrated plan in one document or one set of documents available to the public. These plans contain appropriate written material, maps and descriptive documents.

(a) *Contents of land management plans.* Land management plans must contain the following:

(1) Availability of lands and their suitability for resource management. Plans must identify lands that are not suited for timber production considering physical, economic and other pertinent factors (219.4(b)(4) to the extent feasible. Except for salvage sales or sales necessitated to protect other multiple-use values, no timber harvesting shall occur on such lands for a period of ten years. These lands may be treated for reforestation purposes, particularly with regard to multiple-use values. Lands classified as not suited for timber production shall be reviewed every ten years to determine if conditions have changed so that they have become suitable for timber production.

(2) Determination of forest management systems, harvesting levels and procedures consistent with the Multiple Use Sustained Yield Act [16 U.S.C. 528-531];

(3) Proposed and probable actions that could occur under the plan, including the planned timber sale program and the proportion of probable harvest methods; and

(4) Other appropriate provisions as needed to meet the purposes of this subpart.

(b) Plans shall include provisions to accomplish the following:

(1) Provide for diversity of plant and animal communities based on the suitability and capability of the planning unit in order to meet overall multiple use objectives. To the degree practicable and appropriate, preserve the diversity of tree species existing in the planning unit.

(2) Provide for evaluation and research (based on continuous monitoring and assessment in the field) on the effects of each management system to insure that it will not produce substantial and permanent of the productivity of the land.

(3) Permit increases in harvest levels through intensified management practices if -

(i) These practices are consistent with the Multiple Use Sustained Yield Act [16 U.S.C. 528-531], and

(ii) The increased harvest level is decreased at the end of the first decade of the plan period if these practices cannot be successfully implemented during the first decade or cannot be continued as planned.

(4) Insure that timber will be harvested on lands managed for permanent forest cover only where -

(i) Soil, slope, or other watershed conditions will not be irreversibly damaged;

(ii) there is assurance that such lands can be adequately restocked within five years after harvest;

(iii) protection is provided for streams, streambanks, shorelines, lakes, wetlands, and other bodies of water from detrimental changes in water temperatures, blockages of water courses, and deposits of sediment, where harvests are likely to seriously and adversely affect water conditions or fish habitat; and

(iv) the harvesting system to be used is not selected primarily because it will give the greatest dollar return or the greatest unit output of timber.

(5) Insure that clearcutting, seed tree cutting, shelterwood cutting and other cuts designed to regenerate an evenaged stand of timber will be used as a cutting method on National Forest System lands only where the following criteria are met-

(i) for clearcutting, it is determined to be the optimum method, and for other such cuts it is determined to be appropriate to meet the objectives and requirements of the plan;

(ii) the interdisciplinary review has been completed and the potential environmental, biological, esthetic, engineering and economic impacts on each advertised sale area have been assessed, as well as the consistency of the sale with the multiple use of the general area;

(iii) cut blocks, patches, or strips are shaped and belended to the extent practicable with the natural terrain;

(iv) the created openings cut in one harvest operation are within the maximum size limits of the plan based on geographic areas, forest types or other classifications. These limits may be less than, but must not exceed, 60 acres for the Douglas-fir forest type of California, Oregon and Washington; 80 acres for the southern yellow pine types of Alabama, Arkansas, Georgia, Florida, Louisiana, Mississippi, North Carolina, South Carolina, Oklahoma, and Texas; 100 acres for the hemlock-Sitka spruce forest tpe of coastal Alaska; and 40 acres for all other forest types, except as provided in this paragraph. The plan must allow for exceeding its limitations on maximum size openings after appropriate public notice and review by the supervisor of the line officer who would normally approve the harvest proposal. These limits shall not apply to the size of areas harvested as a result of natural catastrophic conditions such as fire, insect and disease attack, or windstorm; and

(v) such cuts are carried out in a manner consistent with the protection of soil, watershed, fish, wildlife, recreation and esthetic resources and the regeneration of the timber resource.



# APPENDIX I – MODIFIED ALTERNATIVE A

## **Subpart A – National Forest System Land Management Planning**

- § 219.1 Purpose and applicability.
- § 219.2 Levels of planning and responsible officials.
- § 219.3 Role of science in planning.
- § 219.4 Requirements for public participation.
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- § 219.6 Assessment.
- § 219.7 New plan development or plan revision.
- § 219.8 Sustainability.
- § 219.9 Diversity of plant and animal communities.
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- § 219.11 Timber requirements based on the NFMA.
- § 219.12 Monitoring.
- § 219.13 Plan amendment and administrative changes.
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## **Subpart B – Pre-decisional Administrative Review Process**

- § 219.50 Purpose and scope.
- § 219.51 Plans, plan amendments, or plan revisions not subject to objection.
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- § 219.53 Who may file an objection.
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§ 219.57 Resolution of objections.

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§ 219.61 Information collection requirements.

§ 219.62 Definitions.

# SUBPART A—NATIONAL FOREST SYSTEM LAND MANAGEMENT PLANNING

## § 219.1 PURPOSE AND APPLICABILITY.

- (a) This subpart sets out the planning requirements for developing, amending, and revising land management plans (also referred to as plans) for units of the National Forest System (NFS), as required by the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976 (16 U.S.C. 1600 *et seq.*) (NFMA). This subpart also sets out the requirements for plan components and other content in land management plans. This part is applicable to all units of the NFS as defined by 16 U.S.C. 1609 or subsequent statute.
- (b) Consistent with the Multiple-Use Sustained-Yield Act of 1960 (16 U.S.C. 528–531) (MUSYA), the Forest Service manages the NFS to sustain the multiple use of its renewable resources in perpetuity while maintaining the long-term health and productivity of the land. Resources are managed through a combination of approaches and concepts for the benefit of human communities and natural resources. Land management plans guide sustainable, integrated resource management of the resources within the plan area in the context of the broader landscape, giving due consideration to the relative values of the various resources in particular areas.
- (c) The purpose of this part is to guide the collaborative and science-based development, amendment, and revision of land management plans that promote the ecological integrity of national forests and grasslands and other administrative units of the NFS. Plans will guide management of NFS lands so that they are ecologically sustainable and contribute to social and economic sustainability; consist of ecosystems and watersheds with ecological integrity and diverse plant and animal communities; and have the capacity to provide people and communities with ecosystem services and multiple uses that provide a range of social, economic, and ecological benefits for the present and into the future. These benefits include clean air and water; habitat for fish, wildlife, and plant communities; and opportunities for recreational, spiritual, educational, and cultural benefits.
- (d) This part does not affect treaty rights or valid existing rights established by statute or legal instruments.
- (e) During the planning process, the responsible official shall comply with Section 8106 of the Food, Conservation, and Energy Act of 2008 (25 U.S.C. 3056), Executive Order 13007 of May 24, 1996, Executive Order 13175 of November 6, 2000, laws, and other requirements with respect to disclosing or withholding under the Freedom of Information Act (5 U.S.C. 552) certain information regarding reburial sites or other information that is culturally sensitive to an Indian Tribe or Tribes.

(f) Plans must comply with all applicable laws and regulations, including NFMA, MUSYA, the Clean Air Act, the Clean Water Act, the Wilderness Act, and the Endangered Species Act.

(g) The responsible official shall ensure that the planning process, plan components, and other plan content are within Forest Service authority, the inherent capability of the plan area, and the fiscal capability of the unit.

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## **§ 219.2 LEVELS OF PLANNING AND RESPONSIBLE OFFICIALS.**

Forest Service planning occurs at different organizational levels and geographic scales. Planning occurs at three levels—national strategic planning, NFS unit planning, and project or activity planning.

(a) *National strategic planning.* The Chief of the Forest Service is responsible for national planning, such as preparation of the Forest Service strategic plan required under the Government Performance and Results Modernization Act of 2010 (5 U.S.C. 306; 31 U.S.C. 1115–1125; 31 U.S.C. 9703–9704), which is integrated with the requirements of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the NFMA. The strategic plan establishes goals, objectives, performance measures, and strategies for management of the NFS, as well as the other Forest Service mission areas: Research and Development, State and Private Forestry, and International Programs.

(b) *National Forest System unit planning.* (1) NFS unit planning results in the development, amendment, or revision of a land management plan. A land management plan provides a framework for integrated resource management and for guiding project and activity decisionmaking on a national forest, grassland, prairie, or other administrative unit. A plan reflects the unit’s expected distinctive roles and contributions to the local area, region, and Nation, and the roles for which the plan area is best suited, considering the Agency’s mission, the unit’s unique capabilities, and the resources and management of other lands in the vicinity. Through the adaptive planning cycle set forth in this subpart, a plan can be changed to reflect new information and changing conditions.

(2) A plan does not authorize projects or activities or commit the Forest Service to take action. A plan may constrain the Agency from authorizing or carrying out projects and activities, or the manner in which they may occur. Projects and activities must be consistent with the plan (§ 219.15). A plan does not regulate uses by the public, but a project or activity decision that regulates a use by the public under Title 36, Code of Federal Regulations, Part 261—Prohibitions, Subpart B—Prohibitions in Areas Designated by Order, may be made contemporaneously with the approval of a plan, plan amendment, or plan revision. Plans should not repeat laws, regulations, or program management policies, practices, and procedures that are in the Forest Service Directive System.

(3) The supervisor of the national forest, grassland, prairie, or other comparable administrative unit is the responsible official for development and approval of a plan, plan amendment, or plan revision for lands under the responsibility of the supervisor, unless a regional forester; the Chief; the Under Secretary, Natural Resources and



Environment; or the Secretary acts as the responsible official. Two or more responsible officials may undertake joint planning over lands under their respective jurisdictions.

(4) A plan for a unit that contains an experimental area may not be approved without the concurrence of the appropriate research station director with respect to the direction applicable to that area, and a plan amendment applicable to an experimental area may not be approved without the concurrence of the appropriate research station director.

(5) The Chief is responsible for leadership and direction for carrying out the NFS land management planning program under this part. The Chief shall:

(i) Establish planning procedures for this part in the Forest Service Directive System in Forest Service Manual 1920—Land Management Planning and in Forest Service Handbook 1909.12—Land Management Planning Handbook.

(ii) Establish and administer a national oversight process for accountability and consistency of NFS land management planning under this part.

(iii) Establish procedures in the Forest Service Directive System for obtaining inventory data on the various renewable resources, and soil and water.

(c) *Project and activity planning.* The supervisor or district ranger is the responsible official for project and activity decisions, unless a higher-level official acts as the responsible official. Requirements for project or activity planning are established in the Forest Service Directive System. Except as provided in the plan consistency requirements in § 219.15, none of the requirements of this part apply to projects or activities.

### **§ 219.3 ROLE OF SCIENCE IN PLANNING.**

The responsible official shall use the best available scientific information to inform the planning process required by this subpart. In doing so, the responsible official shall determine what information is the most accurate, reliable, and relevant to the issues being considered. The responsible official shall document how the best available scientific information was used to inform the assessment, the plan decision, and the monitoring program as required in §§ 219.6(a)(3) and 219.14(a)(4). Such documentation must: identify what information was determined to be the best available scientific information, explain the basis for that determination, and explain how the information was applied to the issues considered.

### **§ 219.4 REQUIREMENTS FOR PUBLIC PARTICIPATION.**

(a) *Providing opportunities for participation.* The responsible official shall provide opportunities to the public for participating in the assessment process; developing a plan proposal, including the monitoring program; commenting on the proposal and the disclosure of its environmental impacts in accompanying NEPA documents; and reviewing the results of monitoring information. When developing opportunities for public participation, the responsible official shall take into account the discrete and diverse roles, jurisdictions, responsibilities, and skills of interested and affected parties; the accessibility of the process, opportunities, and information; and the cost, time, and

available staffing. The responsible official should be proactive and use contemporary tools, such as the internet, to engage the public, and should share information in an open way with interested parties. Subject to the notification requirements in § 219.16, the responsible official has the discretion to determine the scope, methods, forum, and timing of those opportunities. The Forest Service retains decisionmaking authority and responsibility for all decisions throughout the process.

(1) *Outreach.* The responsible official shall engage the public—including Tribes and Alaska Native Corporations, other Federal agencies, State and local governments, individuals, and public and private organizations or entities—early and throughout the planning process as required by this part, using collaborative processes where feasible and appropriate. In providing opportunities for engagement, the responsible official shall encourage participation by:

(i) Interested individuals and entities, including those interested at the local, regional, and national levels.

(ii) Youth, low-income populations, and minority populations.

(iii) Private landowners whose lands are in, adjacent to, or otherwise affected by, or whose actions may impact, future management actions in the plan area.

(iv) Federal agencies, States, counties, and local governments, including State fish and wildlife agencies, State foresters and other relevant State agencies. Where appropriate, the responsible official shall encourage States, counties, and other local governments to seek cooperating agency status in the NEPA process for development, amendment, or revision of a plan. The responsible official may participate in planning efforts of States, counties, local governments, and other Federal agencies, where practicable and appropriate.

(v) Interested or affected federally recognized Indian Tribes or Alaska Native Corporations. Where appropriate, the responsible official shall encourage federally recognized Tribes to seek cooperating agency status in the NEPA process for development, amendment, or revision of a plan. The responsible official may participate in planning efforts of federally recognized Indian Tribes and Alaska Native Corporations, where practicable and appropriate.

(2) *Consultation with federally recognized Indian Tribes and Alaska Native Corporations.* The Department recognizes the Federal Government has certain trust responsibilities and a unique legal relationship with federally recognized Indian Tribes. The responsible official shall honor the government-to-government relationship between federally recognized Indian Tribes and the Federal government. The responsible official shall provide to federally recognized Indian Tribes and Alaska Native Corporations the opportunity to undertake consultation consistent with Executive Order 13175 of November 6, 2000, and 25 U.S.C. 450 note.

(3) *Native knowledge, indigenous ecological knowledge, and land ethics.* As part of tribal participation and consultation as set forth in paragraphs (a)(1)(v) and (a)(2) of this section, the responsible official shall request information about native knowledge, land ethics, cultural issues, and sacred and culturally significant sites.

(b) *Coordination with other public planning efforts.* (1) The responsible official shall coordinate land management planning with the equivalent and related planning efforts of federally recognized Indian Tribes, Alaska Native Corporations, other Federal agencies, and State and local governments.

(2) For plan development or revision, the responsible official shall review the planning and land use policies of federally recognized Indian Tribes (43 U.S.C. 1712(b)), Alaska Native Corporations, other Federal agencies, and State and local governments, where relevant to the plan area. The results of this review shall be displayed in the environmental impact statement (EIS) for the plan (40 CFR 1502.16(c), 1506.2). The review shall include consideration of:

(i) The objectives of federally recognized Indian Tribes, Alaska Native Corporations, other Federal agencies, and State and local governments, as expressed in their plans and policies;

(ii) The compatibility and interrelated impacts of these plans and policies;

(iii) Opportunities for the plan to address the impacts identified or contribute to joint objectives; and

(iv) Opportunities to resolve or reduce conflicts, within the context of developing the plan's desired conditions or objectives.

(3) Nothing in this section should be read to indicate that the responsible official will seek to direct or control management of lands outside of the plan area, nor will the responsible official conform management to meet non-Forest Service objectives or policies.

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## **§ 219.5 PLANNING FRAMEWORK.**

(a) Planning for a national forest, grassland, prairie, or other comparable administrative unit of the NFS is an iterative process that includes assessment (§ 219.6); developing, amending, or revising a plan (§§ 219.7 and 219.13); and monitoring (§ 219.12). These three phases of the framework are complementary and may overlap. The intent of this framework is to create a responsive planning process that informs integrated resource management and allows the Forest Service to adapt to changing conditions, including climate change, and improve management based on new information and monitoring.

(1) *Assessment.* Assessments rapidly evaluate existing information on relevant ecological, economic, and social conditions, trends, and sustainability and their relationship to the land management plan within the context of the broader landscape. The responsible official shall consider and evaluate existing and possible future conditions and trends of the plan area, and assess the sustainability of social, economic, and ecological systems within the plan area, in the context of the broader landscape (§ 219.6).

(2) *Plan development, plan amendment, or plan revision.*

(i) The process for developing or revising a plan includes: assessment, preliminary identification of the need to change the plan based on the assessment, development of a

proposed plan, consideration of the environmental effects of the proposal, providing an opportunity to comment on the proposed plan, providing an opportunity to object before the proposal is approved, and, finally, approval of the plan or plan revision. A new plan or plan revision requires preparation of an environmental impact statement.

(ii) The process for amending a plan includes: preliminary identification of the need to change the plan, development of a proposed amendment, consideration of the environmental effects of the proposal, providing an opportunity to comment on the proposed amendment, providing an opportunity to object before the proposal is approved, and, finally, approval of the plan amendment. 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.

(3) *Monitoring.* Monitoring is continuous and provides feedback for the planning cycle by testing relevant assumptions, tracking relevant conditions over time, and measuring management effectiveness (§ 219.12). The monitoring program includes plan-level and broader-scale monitoring. The plan-level monitoring program is informed by the assessment phase; developed during plan development, plan amendment, or plan revision; and implemented after plan decision. The regional forester develops broader-scale monitoring strategies. Biennial monitoring evaluation reports document whether a change to the plan or change to the monitoring program is warranted based on new information, whether a new assessment may be needed, or whether there is no need for change at that time.

(b) *Interdisciplinary team(s).* The responsible official shall establish an interdisciplinary team or teams to prepare assessments; new plans, plan amendments, and plan revisions; and plan monitoring programs.

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## § 219.6 ASSESSMENT.

The responsible official has the discretion to determine the scope, scale, and timing of an assessment described in § 219.5(a)(1), subject to the requirements of this section.

(a) *Process for plan development or revision assessments.* An assessment must be completed for the development of a new plan or for a plan revision. The responsible official shall:

(1) Identify and consider relevant existing information contained in governmental or non-governmental assessments, plans, monitoring reports, studies, and other sources of relevant information. Such sources of information may include State forest assessments and strategies, the Resources Planning Act assessment, ecoregional assessments, non-governmental reports, State comprehensive outdoor recreation plans, community wildfire protection plans, public transportation plans, State wildlife data and action plans, and relevant Agency or interagency reports, resource plans or assessments. Relevant private information, including relevant land management plans and local knowledge, will be considered if publicly available or voluntarily provided.

(2) Coordinate with or provide opportunities for the regional forester, agency staff from State and Private Forestry and Research and Development, federally recognized Indian Tribes and Alaska Native Corporations, other governmental and non-governmental parties, and the public to provide existing information for the assessment.

(3) Document the assessment in a report available to the public. The report should document information needs relevant to the topics of paragraph (b) of this section. Document in the report how the best available scientific information was used to inform the assessment (§ 219.3). Include the report in the planning record (§ 219.14).

(b) *Content of the assessment for plan development or revision.* In the assessment for plan development or revision, the responsible official shall identify and evaluate existing information relevant to the plan area for the following:

- (1) Terrestrial ecosystems, aquatic ecosystems, and watersheds;
- (2) Air, soil, and water resources and quality;
- (3) 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;
- (4) Baseline assessment of carbon stocks;
- (5) Threatened, endangered, proposed and candidate species, and potential species of conservation concern present in the plan area;
- (6) Social, cultural, and economic conditions;
- (7) Benefits people obtain from the NFS planning area (ecosystem services);
- (8) Multiple uses and their contributions to local, regional, and national economies;
- (9) Recreation settings, opportunities and access, and scenic character;
- (10) Renewable and nonrenewable energy and mineral resources;
- (11) Infrastructure, such as recreational facilities and transportation and utility corridors;
- (12) Areas of tribal importance;
- (13) Cultural and historic resources and uses;
- (14) Land status and ownership, use, and access patterns; and
- (15) Existing designated areas located in the plan area including wilderness and wild and scenic rivers and potential need and opportunity for additional designated areas.

(c) *Plan amendment assessments.* Where the responsible official determines that a new assessment is needed to inform an amendment, the responsible official has the discretion to determine the scope, scale, process, and content for the assessment depending on the topic or topics to be addressed.

## § 219.7 NEW PLAN DEVELOPMENT OR PLAN REVISION.

(a) *Plan revisions.* A plan revision creates a new plan for the entire plan area, whether the plan revision differs from the prior plan to a small or large extent. A plan must be revised at least every 15 years. But, the responsible official has the discretion to determine at any time that conditions on a plan area have changed significantly such that a plan must be revised (16 U.S.C. 1604(f)(5)).

(b) *New plan development.* New plan development is required for new NFS units. The process for developing a new plan is the same as the process for plan revision.

(c) *Process for plan development or revision.* (1) The process for developing or revising a plan includes: public notification and participation (§§ 219.4 and 219.16), assessment (§§ 219.5 and 219.6), developing a proposed plan, considering the environmental effects of the proposal, providing an opportunity to comment on the proposed plan, providing an opportunity to object before the proposal is approved (subpart B), and, finally, approving the plan or plan revision. A new plan or plan revision requires preparation of an environmental impact statement.

(2) In developing a proposed new plan or proposed plan revision, the responsible official shall:

(i) Review relevant information from the assessment and monitoring to identify a preliminary need to change the existing plan and to inform the development of plan components and other plan content.

(ii) Consider the goals and objectives of the Forest Service strategic plan (§ 219.2(a)).

(iii) Identify the presence and consider the importance of various physical, biological, social, cultural, and historic resources on the plan area (§ 219.6), with respect to the requirements for plan components of §§ 219.8 through 219.11.

(iv) Consider conditions, trends, and stressors (§ 219.6), with respect to the requirements for plan components of §§ 219.8 through 219.11.

(v) Identify and evaluate lands that may be suitable for inclusion in the National Wilderness Preservation System and determine whether to recommend any such lands for wilderness designation.

(vi) Identify the eligibility of rivers for inclusion in the National Wild and Scenic Rivers System, unless a systematic inventory has been previously completed and documented and there are no changed circumstances that warrant additional review.

(vii) Identify existing designated areas other than the areas identified in paragraphs (c)(2)(v) and (c)(2)(vi) of this section, and determine whether to recommend any additional areas for designation. If the responsible official has the delegated authority to designate a new area or modify an existing area, then the responsible official may designate such area when approving the plan, plan amendment, or plan revision.

(viii) Identify the suitability of areas for the appropriate integration of resource management and uses, with respect to the requirements for plan components of §§ 219.8

through 219.11, including identifying lands which are not suitable for timber production (§ 219.11).

(ix) Identify the maximum quantity of timber that may be removed from the plan area (§ 219.11(d)(4)).

(x) Identify questions and indicators for the plan monitoring program (§ 219.12).

(xi) Identify potential other content in the plan (paragraph (f) of this section).

(3) The regional forester shall identify the species of conservation concern for the plan area in coordination with the responsible official.

(d) *Management areas or geographic areas.* Every plan must have management areas or geographic areas or both. The plan may identify designated or recommended designated areas as management areas or geographic areas.

(e) *Plan components.* Plan components guide future project and activity decisionmaking. The plan must indicate whether specific plan components apply to the entire plan area, to specific management areas or geographic areas, or to other areas as identified in the plan.

(1) *Required plan components.* Every plan must include the following plan components:

(i) *Desired conditions.* A desired condition is a description of specific social, economic, and/or ecological characteristics of the plan area, or a portion of the plan area, toward which management of the land and resources should be directed. Desired conditions must be described in terms that are specific enough to allow progress toward their achievement to be determined, but do not include completion dates.

(ii) *Objectives.* An objective is a concise, measurable, and time-specific statement of a desired rate of progress toward a desired condition or conditions. Objectives should be based on reasonably foreseeable budgets.

(iii) *Standards.* A standard is a mandatory constraint on project and activity decisionmaking, established to help achieve or maintain the desired condition or conditions, to avoid or mitigate undesirable effects, or to meet applicable legal requirements.

(iv) *Guidelines.* A guideline is a constraint on project and activity decisionmaking that allows for departure from its terms, so long as the intent of the guideline is met. (§ 219.15(d)(3)). Guidelines are established to help achieve a desired condition or conditions, to avoid or mitigate undesirable effects, or to meet applicable legal requirements.

(v) *Suitability of lands.* Specific lands within a plan area will be identified as suitable for various multiple uses or activities based on the desired conditions applicable to those lands. The plan will also identify lands within the plan area as not suitable for uses that are not compatible with desired conditions for those lands. The suitability of lands need not be identified for every use or activity. Suitability identifications may be made after consideration of historic uses and of issues that have arisen in the planning process. Every plan must identify those lands that are not suitable for timber production (§ 219.11).

(2) *Optional plan component: goals.* A plan may include goals as plan components. Goals are broad statements of intent, other than desired conditions, usually related to process or interaction with the public. Goals are expressed in broad, general terms, but do not include completion dates.

(3) *Requirements for the set of plan components.* The set of plan components must meet the requirements set forth in this part for sustainability (§ 219.8); plant and animal diversity (§ 219.9), multiple use (§ 219.10), and timber (§ 219.11).

(f) *Other content in the plan.*

(1) *Other required content in the plan.* Every plan must:

(i) Identify watershed(s) that are a priority for maintenance or restoration;

(ii) Describe the plan area's distinctive roles and contributions within the broader landscape;

(iii) Include the monitoring program required by § 219.12; and

(iv) Contain information reflecting proposed and possible actions that may occur on the plan area during the life of the plan, including: the planned timber sale program; timber harvesting levels; and the proportion of probable methods of forest vegetation management practices expected to be used (16 U.S.C. 1604(e)(2) and (f)(2)). Such information is not a commitment to take any action and is not a "proposal" as defined by the Council on Environmental Quality regulations for implementing NEPA (40 CFR 1508.23, 42 U.S.C. 4322(2)(C)).

(2) *Optional content in the plan.* A plan may include additional content, such as potential management approaches or strategies and partnership opportunities or coordination activities.

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## **§ 219.8 SUSTAINABILITY.**

The plan must provide for social, economic, and ecological sustainability within Forest Service authority and consistent with the inherent capability of the plan area, as follows:

(a) *Ecological sustainability.* (1) *Ecosystem Integrity.* The plan must include plan components, including standards or guidelines, to maintain or restore the ecological integrity of terrestrial and aquatic ecosystems and watersheds in the plan area, including plan components to maintain or restore structure, function, composition, and connectivity, taking into account:

(i) Interdependence of terrestrial and aquatic ecosystems in the plan area.

(ii) Contributions of the plan area to ecological conditions within the broader landscape influenced by the plan area.

(iii) Conditions in the broader landscape that may influence the sustainability of resources and ecosystems within the plan area.



(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.

(2) *Air, soil, and water.* The plan must include plan components, including standards or guidelines, to maintain or restore:

(i) Air quality.

(ii) Soils and soil productivity, including guidance to reduce soil erosion and sedimentation.

(iii) Water quality.

(iv) Water resources in the plan area, including lakes, streams, and wetlands; ground water; public water supplies; sole source aquifers; source water protection areas; and other sources of drinking water (including guidance to prevent or mitigate detrimental changes in quantity, quality, and availability).

(3) *Riparian areas.* (i) The plan must include plan components, including standards or guidelines, to maintain or restore the ecological integrity of riparian areas in the plan area, including plan components to maintain or restore structure, function, composition, and connectivity, taking into account:

(A) Water temperature and chemical composition;

(B) Blockages (uncharacteristic and characteristic) of water courses;

(C) Deposits of sediment;

(D) Aquatic and terrestrial habitats;

(E) Ecological connectivity;

(F) Restoration needs; and

(G) Floodplain values and risk of flood loss.

(ii) Plans must establish width(s) for riparian management zones around all lakes, perennial and intermittent streams, and open water wetlands, within which the plan components required by paragraph (a)(3)(i) of this section will apply, giving special attention to land and vegetation for approximately 100 feet from the edges of all perennial streams and lakes.

(A) Riparian management zone width(s) may vary based on ecological or geomorphic factors or type of water body; and will apply unless replaced by a site-specific delineation of the riparian area.

(B) Plan components must ensure that no management practices causing detrimental changes in water temperature or chemical composition, blockages of water courses, or

deposits of sediment that seriously and adversely affect water conditions or fish habitat shall be permitted within the riparian management zones or the site-specific delineated riparian areas.

(4) *Best management practices for water quality.* The Chief shall establish requirements for national best management practices for water quality in the Forest Service Directive System. Plan components must ensure implementation of these practices.

(b) *Social and economic sustainability.* The plan must include plan components, including standards or guidelines, to guide the plan area's contribution to social and economic sustainability, taking into account:

- (1) Social, cultural, and economic conditions relevant to the area influenced by the plan;
- (2) Sustainable recreation; including recreation settings, opportunities, and access; and scenic character;
- (3) Multiple uses that contribute to local, regional, and national economies in a sustainable manner;
- (4) Ecosystem services;
- (5) Cultural and historic resources and uses; and
- (6) Opportunities to connect people with nature.

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## **§ 219.9 DIVERSITY OF PLANT AND ANIMAL COMMUNITIES.**

This section adopts a complementary ecosystem and species-specific approach to maintaining the diversity of plant and animal communities and the persistence of native species in the plan area. Compliance with the ecosystem requirements of paragraph (a) is intended to provide the ecological conditions to both maintain the diversity of plant and animal communities and support the persistence of most native species in the plan area. Compliance with the requirements of paragraph (b) is intended to provide for additional ecological conditions not otherwise provided by compliance with paragraph (a) for individual species as set forth in paragraph (b). The plan must provide for the diversity of plant and animal communities, within Forest Service authority and consistent with the inherent capability of the plan area, as follows:

- (a) *Ecosystem plan components.*
- (1) *Ecosystem integrity.* As required by § 219.8(a), the plan must include plan components, including standards or guidelines, to maintain or restore the ecological integrity of terrestrial and aquatic ecosystems and watersheds in the plan area, including plan components to maintain or restore their structure, function, composition, and connectivity.
  - (2) *Ecosystem diversity.* The plan must include plan components, including standards or guidelines, to maintain or restore the diversity of ecosystems and habitat types throughout the plan area. In doing so, the plan must include plan components to maintain or restore:
    - (i) Key characteristics associated with terrestrial and aquatic ecosystem types;
    - (ii) Rare aquatic and terrestrial plant and animal communities; and

(iii) The diversity of native tree species similar to that existing in the plan area.

(b) *Additional, species-specific plan components.* (1) If the responsible official determines that the plan components required in paragraph (a) are insufficient to provide the ecological conditions necessary to: contribute to the recovery of federally listed threatened and endangered species, conserve proposed and candidate species, or maintain a viable population of each species of conservation concern within the plan area, then additional, species-specific plan components, including standards or guidelines, must be developed to provide such ecological conditions in the plan area.

(2) If the responsible official determines that it is beyond the authority of the Forest Service or not within the inherent capability of the plan area to maintain or restore the ecological conditions to maintain a viable population of a species of conservation concern in the plan area, then the responsible official shall:

(i) Document the basis for that determination (§ 219.14(a)); and

(ii) Include plan components, including standards or guidelines, to maintain or restore ecological conditions within the plan area to contribute to maintaining a viable population of the species within its range. In providing such plan components, the responsible official shall coordinate to the extent practicable with other Federal, State, Tribal, and private land managers having management authority over lands relevant to that population.

(c) *Species of conservation concern.* For purposes of this subpart, a species of conservation concern is a species, other than federally recognized threatened, endangered, proposed, or candidate species, that is known to occur in the plan area and for which the regional forester has determined that the best available scientific information indicates substantial concern about the species' capability to persist over the long-term in the plan area.

## **§ 219.10 MULTIPLE USE.**

While meeting the requirements of §§ 219.8 and 219.9, the plan must provide for ecosystem services and multiple uses, including outdoor recreation, range, timber, watershed, wildlife, and fish, within Forest Service authority and the inherent capability of the plan area as follows:

(a) *Integrated resource management for multiple use.* The plan must include plan components, including standards or guidelines, for integrated resource management to provide for ecosystem services and multiple uses in the plan area. When developing plan components for integrated resource management, to the extent relevant to the plan area and the public participation process and the requirements of §§ 219.7, 219.8, 219.9, and 219.11, the responsible official shall consider:

(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.

- (2) Renewable and nonrenewable energy and mineral resources.
  - (3) Appropriate placement and sustainable management of infrastructure, such as recreational facilities and transportation and utility corridors.
  - (4) Opportunities to coordinate with neighboring landowners to link open spaces and take into account joint management objectives where feasible and appropriate.
  - (5) Habitat conditions, subject to the requirements of § 219.9, for wildlife, fish, and plants commonly enjoyed and used by the public; for hunting, fishing, trapping, gathering, observing, subsistence, and other activities (in collaboration with federally recognized Tribes, Alaska Native Corporations, other Federal agencies, and State and local governments).
  - (6) Land status and ownership, use, and access patterns relevant to the plan area.
  - (7) Reasonably foreseeable risks to ecological, social, and economic sustainability.
  - (8) 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 the terrestrial and aquatic ecosystems on the plan area to adapt to change (§ 219.8);
  - (9) Public water supplies and associated water quality.
  - (10) Opportunities to connect people with nature.
- (b) *Requirements for plan components for a new plan or plan revision.* (1) The plan must include plan components, including standards or guidelines, to provide for:
- (i) Sustainable recreation; including recreation settings, opportunities, access; and scenic character. Recreation opportunities may include non-motorized, motorized, developed, and dispersed recreation on land, water, and in the air.
  - (ii) Protection of cultural and historic resources.
  - (iii) Management of areas of tribal importance.
  - (iv) Protection of congressionally designated wilderness areas as well as management of areas recommended for wilderness designation to protect and maintain the ecological and social characteristics that provide the basis for their suitability for wilderness designation.
  - (v) Protection of designated wild and scenic rivers as well as management of rivers found eligible or determined suitable for the National Wild and Scenic River system to protect the values that provide the basis for their suitability for inclusion in the system.
  - (vi) Appropriate management of other designated areas or recommended designated areas in the plan area, including research natural areas.
- (2) Other plan components for integrated resource management to provide for multiple use as necessary.

## § 219.11 TIMBER REQUIREMENTS BASED ON THE NFMA.

While meeting the requirements of §§ 219.8 through 219.10, the plan must include plan components, including standards or guidelines, and other plan content regarding timber management within Forest Service authority and the inherent capability of the plan area, as follows:

(a) *Lands not suited for timber production.* (1) The responsible official shall identify lands within the plan area as not suited for timber production if any one of the following factors applies:

(i) Statute, Executive order, or regulation prohibits timber production on the land;

(ii) The Secretary of Agriculture or the Chief has withdrawn the land from timber production;

(iii) Timber production would not be compatible with the achievement of desired conditions and objectives established by the plan for those lands;

(iv) The technology is not currently available for conducting timber harvest without causing irreversible damage to soil, slope, or other watershed conditions;

(v) There is no reasonable assurance that such lands can be adequately restocked within 5 years after final regeneration harvest; or

(vi) The land is not forest land.

(2) The responsible official shall review lands identified in the plan as not suited for timber production at least once every 10 years, or as otherwise prescribed by law, to determine whether conditions have changed so that they have become suitable for timber production. As a result of this 10-year review, the plan may be amended to identify any such lands as suitable for timber production, if warranted by changed conditions.

(b) *Timber harvest for purposes of timber production.* A plan that identifies lands as suitable for timber production must include plan components, including standards or guidelines, to guide timber harvest for timber production or for other multiple use purposes on such lands.

(c) *Timber harvest for purposes other than timber production.* Except as provided in paragraph (d) of this section, the plan may include plan components to allow for timber harvest for purposes other than timber production throughout the plan area, or portions of the plan area, as a tool to assist in achieving or maintaining one or more applicable desired conditions or objectives of the plan in order to protect other multiple-use values, and for salvage, sanitation, or public health or safety. Examples of using timber harvest to protect other multiple use values may include improving wildlife or fish habitat, thinning to reduce fire risk, or restoring meadow or savanna ecosystems where trees have invaded.

(d) *Limitations on timber harvest.* Whether timber harvest would be for the purposes of timber production or other purposes, plan components, including standards or guidelines, must ensure the following:

- (1) No timber harvest for the purposes of timber production may occur on lands not suited for timber production.
- (2) Timber harvest would occur only where soil, slope, or other watershed conditions would not be irreversibly damaged;
- (3) Timber harvest would be carried out in a manner consistent with the protection of soil, watershed, fish, wildlife, recreation, and aesthetic resources.
- (4) Where plan components will allow clearcutting, seed tree cutting, shelterwood cutting, or other cuts designed to regenerate an even-aged stand of timber, the plan must include standards limiting the maximize size for openings that may be cut in one harvest operation, according to geographic areas, forest types, or other suitable classifications. Except as provided in paragraphs (d)(4)(i) through (iii) of this section, this limit may not exceed 60 acres for the Douglas-fir forest type of California, Oregon, and Washington; 80 acres for the southern yellow pine types of Alabama, Arkansas, Georgia, Florida, Louisiana, Mississippi, North Carolina, South Carolina, Oklahoma, and Texas; 100 acres for the hemlock-Sitka spruce forest type of coastal Alaska; and 40 acres for all other forest types.
  - (i) Plan standards may allow for openings larger than those specified in paragraph (d)(4) of this section to be cut in one harvest operation where the responsible official determines that larger harvest openings are necessary to help achieve desired ecological conditions in the plan area. If so, standards for exceptions shall include the particular conditions under which the larger size is permitted and must set a maximum size permitted under those conditions.
  - (ii) Plan components may allow for size limits exceeding those established in paragraphs (d)(4) and (d)(4)(i) of this section on an individual timber sale basis after 60 days public notice and review by the regional forester.
  - (iii) The plan maximum size for openings to be cut in one harvest operation shall not apply to the size of openings harvested as a result of natural catastrophic conditions such as fire, insect and disease attack, or windstorm (16 U.S.C. 1604(g)(3)(F)(iv)).
- (5) Timber will be harvested from NFS lands only where such harvest would comply with the resource protections set out in sections 6(g)(3)(E) and (F) of the NFMA (16 U.S.C. 1604(g)(3)(E) and (F)). Some of these requirements are listed in paragraphs (d)(2) to (d)(4) of this section.
- (6) The quantity of timber that may be sold from the national forest is limited to an amount equal to or less than that which can be removed from such forest annually in perpetuity on a sustained-yield basis. This limit may be measured on a decadal basis. The plan may provide for departures from this limit as provided by the NFMA when departure would be consistent with the plan's desired conditions and objectives. Exceptions for departure from this limit on the quantity sold may be made only after a public review and comment period of at least 90 days. The Chief must include in the Forest Service Directive System procedures for estimating the quantity of timber that can be removed annually in perpetuity on a sustained-yield basis, and exceptions, consistent with 16 U.S.C. 1611.

(7) The regeneration harvest of even-aged stands of trees is limited to stands that generally have reached the culmination of mean annual increment of growth. This requirement would apply only to regeneration harvest of even-aged stands on lands identified as suitable for timber production and where timber production is the primary purpose for the harvest. Plan components may allow for exceptions, set out in 16 U.S.C. 1604(m), only if such harvest is consistent with the other plan components of the land management plan.

## **§ 219.12 MONITORING.**

(a) *Plan monitoring program.* (1) The responsible official shall develop a monitoring program for the plan area and include it in the plan. Monitoring information should enable the responsible official to determine if a change in plan components or other plan content that guide management of resources on the plan area may be needed. The development of the plan monitoring program must be coordinated with the regional forester and Forest Service State and Private Forestry and Research and Development. Responsible officials for two or more administrative units may jointly develop their plan monitoring programs.

(2) The plan monitoring program sets out the plan monitoring questions and associated indicators. Monitoring questions and associated indicators must be designed to inform the management of resources on the plan area, including by testing relevant assumptions, tracking relevant changes, and measuring management effectiveness and progress toward achieving or maintaining the plan's desired conditions or objectives. Questions and indicators should be based on one or more desired conditions, objectives, or other plan components in the plan, but not every plan component needs to have a corresponding monitoring question.

(3) The plan monitoring program should be coordinated and integrated with relevant broader-scale monitoring strategies (paragraph (b) of this section) to ensure that monitoring is complementary and efficient, and that information is gathered at scales appropriate to the monitoring questions.

(4) Subject to the requirements of paragraph (a)(5) of this section, the responsible official has the discretion to set the scope and scale of the plan monitoring program, after considering:

(i) Information needs identified through the planning process as most critical for informed management of resources on the plan area; and

(ii) The financial and technical capabilities of the Agency.

(5) Each plan monitoring program must contain one or more monitoring questions and associated indicators addressing each of the following:

(i) The status of select watershed conditions.

(ii) The status of select ecological conditions including key characteristics of terrestrial and aquatic ecosystems.

- (iii) The status of focal species to assess the ecological conditions required under § 219.9.
  - (iv) The status of a select set of the ecological conditions required under § 219.9 to contribute to the recovery of federally listed threatened and endangered species, conserve proposed and candidate species, and maintain a viable population of each species of conservation concern.
  - (v) The status of visitor use, visitor satisfaction, and progress toward meeting recreation objectives.
  - (vi) Measurable changes on the plan area related to climate change and other stressors that may be affecting the plan area.
  - (vii) Progress toward meeting the desired conditions and objectives in the plan, including for providing multiple use opportunities.
  - (viii) The effects of each management system to determine that they do not substantially and permanently impair the productivity of the land (16 U.S.C. 1604(g)(3)(C)).
- (6) A range of monitoring techniques may be used to carry out the monitoring requirements in paragraph (a)(5) of this section.
- (7) This section does not apply to projects or activities. Project and activity monitoring may be used to gather information for the plan monitoring program, and information gathered through plan monitoring may be used to inform development of projects or activities. But, the monitoring requirements of this section are not a prerequisite for making a decision to carry out a project or activity.
- (b) *Broader-scale monitoring strategies.* (1) The regional forester shall develop a broader-scale monitoring strategy for plan monitoring questions that can best be answered at a geographic scale broader than one plan area.
- (2) When developing a monitoring strategy, the regional forester shall coordinate with the relevant responsible officials, Forest Service State and Private Forestry and Research and Development, partners, and the public. Two or more regional foresters may jointly develop broader-scale monitoring strategies.
- (3) Each regional forester shall ensure that the broader-scale monitoring strategy is within the financial and technical capabilities of the region and complements other ongoing monitoring efforts.
- (4) Projects and activities may be carried out under plans developed, amended, or revised under this part before the regional forester has developed a broader-scale monitoring strategy.
- (c) *Timing and process for developing the plan monitoring program and broader-scale strategies.* (1) The responsible official shall develop the plan monitoring program as part of the planning process for a new plan development or plan revision. Where a plan's monitoring program has been developed under the provisions of a prior planning regulation and the unit has not initiated plan revision under this part, the responsible official shall modify the plan monitoring program within 4 years of the effective date of this part, or as soon as practicable, to meet the requirements of this section.



- (2) The regional forester shall develop a broader-scale monitoring strategy as soon as practicable.
- (3) To the extent practicable, appropriate, and relevant to the monitoring questions in the plan monitoring program, plan monitoring programs and broader-scale strategies must be designed to take into account:
- (i) Existing national and regional inventory, monitoring, and research programs of the Agency, including from the NFS, State and Private Forestry, and Research and Development, and of other governmental and non-governmental entities;
  - (ii) Opportunities to design and carry out multi-party monitoring with other Forest Service units, Federal, State or local government agencies, scientists, partners, and members of the public; and
  - (iii) Opportunities to design and carry out monitoring with federally recognized Indian Tribes and Alaska Native Corporations.
- (d) *Biennial evaluation of the monitoring information.* (1) The responsible official shall conduct a biennial evaluation of new information gathered through the plan monitoring program and relevant information from the broader-scale strategy, and shall issue a written report of the evaluation and make it available to the public.
- (i) The first monitoring evaluation for a plan or plan revision developed in accordance with this subpart must be completed no later than 2 years from the effective date of plan decision.
  - (ii) Where the monitoring program developed under the provisions of a prior planning regulation has been modified to meet the requirements of paragraph (c)(2) of this section, the first monitoring evaluation must be completed no later than 2 years from the date the change takes effect.
  - (iii) The monitoring evaluation report may be postponed for 1 year in case of exigencies, but notice of the postponement must be provided to the public prior to the date the report is due for that year (§ 219.16(c)(6)).
- (2) The monitoring evaluation report must indicate whether or not a change to the plan, management activities, or the monitoring program, or a new assessment, may be warranted based on the new information. The monitoring evaluation report must be used to inform adaptive management of the plan area.
- (3) The monitoring evaluation report may be incorporated into other planning documents if the responsible official has initiated a plan revision or relevant amendment.
- (4) The monitoring evaluation report is not a decision document representing final Agency action, and is not subject to the objection provisions of subpart B.

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### **§ 219.13 PLAN AMENDMENT AND ADMINISTRATIVE CHANGES.**

- (a) *Plan amendment.* A plan may be amended at any time. Plan amendments may be broad or narrow, depending on the need for change, and should be used to keep plans

current and help units adapt to new information or changing conditions. The responsible official has the discretion to determine whether and how to amend the plan. Except as provided by paragraph (c) of this section, a plan amendment is required to add, modify, or remove one or more plan components, or to change how or where one or more plan components apply to all or part of the plan area (including management areas or geographic areas).

(b) *Amendment process.* The responsible official shall:

(1) Base an amendment on a preliminary identification of the need to change the plan. The preliminary identification of the need to change the plan may be based on a new assessment; a monitoring report; or other documentation of new information, changed conditions, or changed circumstances. When a plan amendment is made together with, and only applies to, a project or activity decision, the analysis prepared for the project or activity may serve as the documentation for the preliminary identification of the need to change the plan;

(2) Provide opportunities for public participation as required in § 219.4 and public notification as required in § 219.16. The responsible official may combine processes and associated public notifications where appropriate, considering the scope and scale of the need to change the plan; and

(3) 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. A proposed amendment that may create a significant environmental effect and thus require preparation of an environmental impact statement is considered a significant change in the plan for the purposes of the NFMA.

(c) *Administrative changes.* An administrative change is any change to a plan that is not a plan amendment or plan revision. Administrative changes include corrections of clerical errors to any part of the plan, conformance of the plan to new statutory or regulatory requirements, or changes to other content in the plan (§ 219.7(f)).

(1) A substantive change to the monitoring program made outside of the process for plan revision or amendment may be made only after notice to the public of the intended change and consideration of public comment (§ 219.16(c)(6)).

(2) All other administrative changes may be made following public notice (§ 219.16(c)(6)).

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## **§ 219.14 DECISION DOCUMENT AND PLANNING RECORDS.**

(a) *Decision document.* The responsible official shall record approval of a new plan, plan amendment, or revision in a decision document prepared according to Forest Service NEPA procedures (36 CFR 220). The decision document must include:

(1) The rationale for approval;

(2) An explanation of how the plan components meet the sustainability requirements of § 219.8, the diversity requirements of § 219.9, the multiple use requirements of § 219.10, and the timber requirements of § 219.11;

(3) A statement of how the plan, plan amendment, or plan revision applies to approved projects and activities (§ 219.15);

(4) The documentation of how the best available scientific information was used to inform planning, the plan components, and other plan content, including the plan monitoring program (§ 219.3);

(5) The concurrence by the appropriate research station director with any part of the plan applicable to any experimental forests or experimental ranges (§ 219.2(b)(4)); and

(6) The effective date of the plan, amendment, or revision.

(b) *Planning records.* (1) The responsible official shall keep the following documents readily accessible to the public by posting them online and through other means: assessment reports (§ 219.6); the plan, including the monitoring program; the proposed plan, plan amendment, or plan revision; public notices and environmental documents associated with a plan; plan decision documents; and monitoring evaluation reports (§ 219.12).

(2) The planning record includes documents that support analytical conclusions made and alternatives considered throughout the planning process. The responsible official shall make the planning record available at the office where the plan, plan amendment, or plan revision was developed.

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### **§ 219.15 PROJECT AND ACTIVITY CONSISTENCY WITH THE PLAN.**

(a) *Application to existing authorizations and approved projects or activities.* Every decision document approving a plan, plan amendment, or plan revision must state whether authorizations of occupancy and use made before the decision document may proceed unchanged. If a plan decision document does not expressly allow such occupancy and use, the permit, contract, and other authorizing instrument for the use and occupancy must be made consistent with the plan, plan amendment, or plan revision as soon as practicable, as provided in paragraph (d) of this section, subject to valid existing rights.

(b) *Application to projects or activities authorized after plan decision.* Projects and activities authorized after approval of a plan, plan amendment, or plan revision must be consistent with the plan as provided in paragraph (d) of this section.

(c) *Resolving inconsistency.* When a proposed project or activity would not be consistent with the applicable plan components, the responsible official shall take one of the following steps, subject to valid existing rights:

(1) Modify the proposed project or activity to make it consistent with the applicable plan components;

(2) Reject the proposal or terminate the project or activity;

- (3) Amend the plan so that the project or activity will be consistent with the plan as amended; or
- (4) Amend the plan contemporaneously with the approval of the project or activity so that the project or activity will be consistent with the plan as amended. This amendment may be limited to apply only to the project or activity.
- (d) *Determining consistency.* Every project and activity must be consistent with the applicable plan components. A project or activity approval document must describe how the project or activity is consistent with applicable plan components developed or revised in conformance with this part by meeting the following criteria:
  - (1) *Goals, desired conditions, and objectives.* The project or activity contributes to the maintenance or attainment of one or more goals, desired conditions, or objectives, or does not foreclose the opportunity to maintain or achieve any goals, desired conditions, or objectives, over the long term.
  - (2) *Standards.* The project or activity complies with applicable standards.
  - (3) *Guidelines.* The project or activity:
    - (i) Is designed to comply with applicable guidelines as set out in the plan; or
    - (ii) Is designed in a way that is as effective in carrying out the intent of the applicable guidelines (§ 219.7(e)(2)(iv)).
  - (4) *Suitability.* A project or activity would occur in an area:
    - (i) That the plan identifies as suitable for that type of project or activity; or
    - (ii) For which the plan is silent with respect to its suitability for that type of project or activity.
- (e) *Consistency of resource plans within the planning area with the land management plan.* Any resource plans (for example, travel management plans) developed by the Forest Service that apply to the resources or land areas within the planning area must be consistent with the plan components. Resource plans developed prior to plan decision must be evaluated for consistency with the plan and amended if necessary.

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## § 219.16 PUBLIC NOTIFICATIONS.

The following public notification requirements apply to plan development, amendment, or revision. Notifications may be combined where appropriate.

- (a) *When formal public notification is required.* Public notification must be provided as follows:
  - (1) To initiate the development of a proposed plan, plan amendment, or plan revision;
  - (2) To invite comments on a proposed plan, plan amendment, or plan revision, and associated environmental analysis. For a new plan, plan amendment, or a plan revision for which a draft environmental impact statement (EIS) is prepared, the comment period

is at least 90 days. For an amendment for which a draft EIS is not prepared, the comment period is at least 30 days;

(3) To begin the objection period for a plan, plan amendment, or plan revision before approval (§ 219.52);

(4) To approve a final plan, plan amendment, or plan revision; or

(5) To announce whenever a plan, plan amendment, or plan revision process initiated under the provisions of a previous planning regulation will be conformed to meet the provisions of this part (§ 219.17(b)(3)).

(b) *Project or activity plan amendments.* When a plan amendment is approved in a decision document approving a project or activity and the amendment applies only to the project or activity, the notification requirements of 36 CFR part 215 or part 218, subpart A, applies instead of this section.

(c) *How public notice is provided.* The responsible official should use contemporary tools to provide notice to the public. At a minimum, all public notifications required by this part must be posted online, and:

(1) When the Chief, the Under Secretary, or the Secretary is the responsible official, notice must be published in the **Federal Register**.

(2) For a new plan or plan revision, when an official other than the Chief, the Under Secretary, or the Secretary is the responsible official, notice must be published in the **Federal Register** and the applicable newspaper(s) of record.

(3) When the notice is for the purpose of inviting comments on a proposed plan, plan amendment, or plan revision for which a draft EIS is prepared, the Environmental Protection Agency (EPA) **Federal Register** notice of availability of a draft EIS shall serve as the required **Federal Register** notice.

(4) For a plan amendment when an official other than the Chief, the Under Secretary, or the Secretary is the responsible official, and for which a draft EIS is not prepared, notices must be published in the newspaper(s) of record.

(5) If a plan, plan amendment, or plan revision applies to two or more units, notices must be published in the **Federal Register** and the newspaper(s) of record for the applicable units.

(6) Additional public notice of administrative changes, changes to the monitoring program, opportunities to provide information for assessments, assessment reports, monitoring evaluation reports, or other notices not listed in paragraph (a) of this section may be made in any way the responsible official deems appropriate.

(d) *Content of public notices.* Public notices required by this section except for notices applicable to paragraph (c)(3) of this section, must clearly describe the action subject to notice and the nature and scope of the decisions to be made; identify the responsible official; describe when, where, and how the responsible official will provide opportunities for the public to participate in the planning process; and explain how to obtain additional information.

## § 219.17 EFFECTIVE DATES AND TRANSITION.

(a) *Effective dates.* (1) A plan or plan revision is effective 30 days after publication of notice of its approval.

(2) Except as provided in paragraph (3), a plan amendment for which an environmental impact statement (EIS) has been prepared is effective 30 days after publication of notice of its approval; a plan amendment for which an EIS has not been prepared is effective immediately.

(3) A plan amendment that applies to only one specific project or activity is effective on the date the project may be implemented in accordance with administrative review regulations at 36 CFR parts 215 and 218.

(b) *Plan amendment and plan revision transition.* For the purposes of this section, initiation means that the Agency has issued a notice of intent or other notice announcing the beginning of the process to develop a proposed plan, plan amendment, or plan revision.

(1) *Initiating plan development and plan revisions.* Plan development and plan revisions initiated after [Insert date 30 days after date of publication in the **FEDERAL REGISTER**] must conform to the requirements of this part.

(2) *Initiating plan amendments.* All plan amendments initiated after [Insert date 30 days after date of publication in the **FEDERAL REGISTER**] are subject to the objection process in subpart B of this part. With respect to plans approved or revised under a prior planning regulation, including the transition provisions of the reinstated 2000 rule (74 FR 67062, December 18, 2009), plan amendments may be initiated under the provisions of the prior planning regulation for 3 years after [Insert date 30 days after date of publication in the **FEDERAL REGISTER**], and may be completed and approved under those provisions (except for the optional appeal procedures of the prior planning regulation); or may be initiated, completed, and approved under the requirements of this part. After the 3-year transition period, all plan amendments must be initiated, completed, and approved under the requirements of this part.

(3) *Plan development, plan amendments, or plan revisions initiated before this part.* For plan development, plan amendments, or plan revisions that were initiated before [Insert date of publication in the **FEDERAL REGISTER**], the responsible official may complete and approve the plan, plan amendment, or plan revision in conformance with the provisions of the prior planning regulation, including its transition provisions (74 FR 67062, December 18, 2009), or may conform the plan, plan amendment, or plan revision to the requirements of this part. If the responsible official chooses to complete an ongoing planning process under the provisions of the prior planning regulation, but chooses to allow for an objection rather than an administrative appeal, the objection process in subpart B of this part shall apply. When the responsible official chooses to conform an ongoing planning process to this part, public notice must be made (§ 219.16(a)(5)). An objection process may be chosen only if the public is provided the opportunity to comment on a proposed plan, plan amendment, or plan revision, and associated environmental analysis.

(c) *Plans developed, amended, or revised under a prior planning regulation.* This part supersedes any prior planning regulation. No obligations remain from any prior planning regulation, except those that are specifically included in a unit's existing plan. Existing plans will remain in effect until revised. This part does not compel a change to any existing plan, except as required in § 219.12(c)(1). None of the requirements of this part apply to projects or activities on units with plans developed or revised under a prior planning rule until the plan is revised under this part, except that projects or activities on such units must comply with the consistency requirement of § 219.15 with respect to any amendments that are developed and approved pursuant to this part.

### § 219.18 SEVERABILITY.

In the event that any specific provision of this part is deemed by a court to be invalid, the remaining provisions shall remain in effect.

### § 219.19 DEFINITIONS.

Definitions of the special terms used in this subpart are set out as follows.

*Alaska Native Corporation.* One of the regional, urban, and village native corporations formed under the Alaska Native Claims Settlement Act of 1971.

*Assessment.* For the purposes of this subpart, an assessment is the identification and evaluation of existing information to support land management planning. Assessments are not decisionmaking documents, but provide current information on select topics relevant to the plan area, in the context of the broader landscape.

*Best management practices for water quality (BMPs).* Methods, measures, or practices selected by an agency to meet its nonpoint source control needs. BMPs include but are not limited to structural and nonstructural controls and operation and maintenance procedures. BMPs can be applied before, during, and after pollution-producing activities to reduce or eliminate the introduction of pollutants into receiving waters.

*Candidate species.* For U.S. Fish and Wildlife Service candidate species: A species for which the U.S. Fish and Wildlife Service possesses sufficient information on vulnerability and threats to support a proposal to list as endangered or threatened, but for which no proposed rule has yet been published by the U.S. Fish and Wildlife Service. For National Marine Fisheries Service candidate species: A species that is (1) the subject of a petition to list and for which the National Marine Fisheries Service has determined that listing may be warranted, pursuant to section 4(b)(3)(A) of the Endangered Species Act (16 U.S.C. 1533(b)(3)(A)), and (2) not the subject of a petition but for which the National Marine Fisheries Service has announced in the **Federal Register** the initiation of a status review.

*Collaboration or collaborative process.* A structured manner in which a collection of people with diverse interests share knowledge, ideas, and resources while working together in an inclusive and cooperative manner toward a common purpose. Collaboration, in the context of this part, falls within the full spectrum of public



engagement described in the Council on Environmental Quality's publication of October, 2007: *Collaboration in NEPA—A Handbook for NEPA Practitioners*.

*Connectivity.* Ecological conditions that exist at several spatial and temporal scales that provide landscape linkages that permit the exchange of flow, sediments, and nutrients; the daily and seasonal movements of animals within home ranges; the dispersal and genetic interchange between populations; and the long distance range shifts of species, such as in response to climate change.

*Conservation.* The protection, preservation, management, or restoration of natural environments, ecological communities, and species.

*Conserve.* For purposes of subpart A, § 219.9, to protect, preserve, manage, or restore natural environments and ecological communities to potentially avoid federally listing of proposed and candidate species.

*Culmination of mean annual increment of growth.* See mean annual increment of growth.

*Designated area.* An area or feature identified and managed to maintain its unique special character or purpose. Some categories of designated areas may be designated only by statute; some categories may be established administratively in the land management planning process; or by other administrative processes of the Federal executive branch. Statutorily designated areas include national heritage areas, national recreational areas, national scenic trails, wild and scenic rivers, wilderness areas, and wilderness study areas. Administratively designated areas include experimental forests, research natural areas, scenic byways, botanical areas, and significant caves.

*Disturbance.* Any relatively discrete event in time that disrupts ecosystem, watershed, community, or species population structure and/or function and changes resources, substrate availability, or the physical environment.

*Disturbance regime.* A description of the characteristic types of disturbance on a given landscape; the frequency, severity, and size distribution of these characteristic disturbance types; and their interactions.

*Ecological conditions.* The biological and physical environment that can affect the diversity of plant and animal communities, the persistence of native species, and the productive capacity of ecological systems. Ecological conditions include habitat and other influences on species and the environment. Examples of ecological conditions include the abundance and distribution of aquatic and terrestrial habitats, connectivity, roads and other structural developments, human uses, and invasive species.

*Ecological integrity.* The quality or condition of an ecosystem when its dominant ecological characteristics (for example, composition, structure, function, connectivity, and species composition and diversity) occur within the natural range of variation and can withstand and recover from most perturbations imposed by natural environmental dynamics or human influence.

*Ecological sustainability.* See sustainability.

*Ecological system.* See ecosystem.



*Economic sustainability.* See sustainability.

*Ecosystem.* A spatially explicit, relatively homogeneous unit of the Earth that includes all interacting organisms and elements of the abiotic environment within its boundaries. An ecosystem is commonly described in terms of its:

- (1) *Composition.* The biological elements within the different levels of biological organization, from genes and species to communities and ecosystems.
- (2) *Structure.* The organization and physical arrangement of biological elements such as, snags and down woody debris, vertical and horizontal distribution of vegetation, stream habitat complexity, landscape pattern, and connectivity.
- (3) *Function.* Ecological processes that sustain composition and structure, such as energy flow, nutrient cycling and retention, soil development and retention, predation and herbivory, and natural disturbances such as wind, fire, and floods.
- (4) *Connectivity.* (see connectivity above).

*Ecosystem diversity.* The variety and relative extent of ecosystems.

*Ecosystem services.* Benefits people obtain from ecosystems, including:

- (1) *Provisioning services*, such as clean air and fresh water, energy, fuel, forage, fiber, and minerals;
- (2) *Regulating services*, such as long term storage of carbon; climate regulation; water filtration, purification, and storage; soil stabilization; flood control; and disease regulation;
- (3) *Supporting services*, such as pollination, seed dispersal, soil formation, and nutrient cycling; and
- (4) *Cultural services*, such as educational, aesthetic, spiritual and cultural heritage values, recreational experiences and tourism opportunities.

*Environmental assessment (EA).* See definition in § 219.62.

*Environmental document.* For the purposes of this part: an environmental assessment, environmental impact statement, finding of no significant impact, categorical exclusion, and notice of intent to prepare an environmental impact statement.

*Environmental impact statement (EIS).* See definition in § 219.62.

*Even-aged stand.* A stand of trees composed of a single age class.

*Federally recognized Indian Tribe.* An Indian or Alaska Native Tribe, band, nation, pueblo, village, or community that the Secretary of the Interior acknowledges to exist as an Indian Tribe under the Federally Recognized Indian Tribe List Act of 1994, 25 U.S.C. 479a.

*Focal species.* A small subset of species whose status permits inference to the integrity of the larger ecological system to which it belongs and provides meaningful information regarding the effectiveness of the plan in maintaining or restoring the ecological

conditions to maintain the diversity of plant and animal communities in the plan area. Focal species would be commonly selected on the basis of their functional role in ecosystems.

*Forest land.* Land at least 10 percent occupied by forest trees of any size or formerly having had such tree cover and not currently developed for non-forest uses. Lands developed for non-forest use include areas for crops, improved pasture, residential or administrative areas, improved roads of any width and adjoining road clearing, and power line clearings of any width.

*Geographic area.* A spatially contiguous land area identified within the planning area. A geographic area may overlap with a management area.

*Inherent capability of the plan area.* The ecological capacity or ecological potential of an area characterized by the interrelationship of its physical elements, its climatic regime, and natural disturbances.

*Integrated resource management.* Multiple use management that recognizes the interdependence of ecological resources and is based on the need for integrated consideration of ecological, social, and economic factors

*Landscape.* A defined area irrespective of ownership or other artificial boundaries, such as a spatial mosaic of terrestrial and aquatic ecosystems, landforms, and plant communities, repeated in similar form throughout such a defined area.

*Maintain.* In reference to an ecological condition: to keep in existence or continuance of the desired ecological condition in terms of its desired composition, structure, and processes. Depending upon the circumstance, ecological conditions may be maintained by active or passive management or both.

*Management area.* A land area identified within the planning area that has the same set of applicable plan components. A management area does not have to be spatially contiguous.

*Management system.* For purposes of this subpart, a timber management system including even-aged management and uneven-aged management.

*Mean annual increment of growth and culmination of mean annual increment of growth.* Mean annual increment of growth is the total increment of increase of volume of a stand (standing crop plus thinnings) up to a given age divided by that age. Culmination of mean annual increment of growth is the age in the growth cycle of an even-aged stand at which the average annual rate of increase of volume is at a maximum. In land management plans, mean annual increment is expressed in cubic measure and is based on the expected growth of stands, according to intensities and utilization guidelines in the plan.

*Monitoring.* A systematic process of collecting information to evaluate effects of actions or changes in conditions or relationships.

*Multiple use.* The management of all the various renewable surface resources of the NFS so that they are utilized in the combination that will best meet the needs of the American people; making the most judicious use of the land for some or all of these resources or

related services over areas large enough to provide sufficient latitude for periodic adjustments in use to conform to changing needs and conditions; that some land will be used for less than all of the resources; and harmonious and coordinated management of the various resources, each with the other, without impairment of the productivity of the land, with consideration being given to the relative values of the various resources, and not necessarily the combination of uses that will give the greatest dollar return or the greatest unit output, consistent with the Multiple-Use Sustained-Yield Act of 1960 (16 U.S.C. 528–531).

*National Forest System.* See definition in § 219.62.

*Native knowledge.* A way of knowing or understanding the world, including traditional ecological and social knowledge of the environment derived from multiple generations of indigenous peoples' interactions, observations, and experiences with their ecological systems. Native knowledge is place-based and culture-based knowledge in which people learn to live in and adapt to their own environment through interactions, observations, and experiences with their ecological system. This knowledge is generally not solely gained, developed by, or retained by individuals, but is rather accumulated over successive generations and is expressed through oral traditions, ceremonies, stories, dances, songs, art, and other means within a cultural context.

*Native species.* An organism that was historically or is present in a particular ecosystem as a result of natural migratory or evolutionary processes; and not as a result of an accidental or deliberate introduction into that ecosystem. An organism's presence and evolution (adaptation) in an area are determined by climate, soil, and other biotic and abiotic factors.

*Newspaper(s) of record.* See definition in § 219.62.

*Objection.* See definition in § 219.62.

*Online.* See definition in § 219.62.

*Participation.* Activities that include a wide range of public involvement tools and processes, such as collaboration, public meetings, open houses, workshops, and comment periods.

*Persistence.* Continued existence.

*Plan or land management plan.* A document or set of documents that provide management direction for an administrative unit of the NFS developed under the requirements of this part or a prior planning rule.

*Plan area.* The NFS lands covered by a plan.

*Plant and animal community.* A naturally occurring assemblage of plant and animal species living within a defined area or habitat.

*Productivity.* The capacity of NFS lands and their ecological systems to provide the various renewable resources in certain amounts in perpetuity. For the purposes of this subpart, productivity is an ecological term, not an economic term.

*Project.* An organized effort to achieve an outcome on NFS lands identified by location, tasks, outputs, effects, times, and responsibilities for execution.

*Proposed Species.* Any species of fish, wildlife, or plant that is proposed by the U.S. Fish and Wildlife Service or the National Marine Fisheries Service in the **Federal Register** to be listed under Section 4 of the Endangered Species Act.

*Recovery.* For the purposes of this subpart, and with respect to threatened or endangered species: The improvement in the status of a listed species to the point at which listing as federally endangered or threatened is no longer appropriate.

*Recreation.* See Sustainable recreation.

*Recreation opportunity.* An opportunity to participate in a specific recreation activity in a particular recreation setting to enjoy desired recreation experiences and other benefits that accrue. Recreation opportunities include non-motorized, motorized, developed, and dispersed recreation on land, water, and in the air.

*Recreation setting.* The social, managerial, and physical attributes of a place that, when combined, provide a distinct set of recreation opportunities. The Forest Service uses the recreation opportunity spectrum to define recreation settings and categorize them into six distinct classes: primitive, semi-primitive non-motorized, semi-primitive motorized, roaded natural, rural, and urban.

*Responsible official.* See definition in § 219.62.

*Restoration.* The process of assisting the recovery of an ecosystem that has been degraded, damaged, or destroyed. Ecological restoration focuses on reestablishing the composition, structure, pattern, and ecological processes necessary to facilitate terrestrial and aquatic ecosystems sustainability, resilience, and health under current and future conditions.

*Restore.* To renew by the process of restoration (see restoration).

*Riparian Areas.* Three-dimensional ecotones of interaction that include terrestrial and aquatic ecosystems that extend down into the groundwater, up above the canopy, outward across the floodplain, up the near-slopes that drain to the water, laterally into the terrestrial ecosystem, and along the water course at variable widths.

*Riparian management zone.* Portions of a watershed where riparian-dependent resources receive primary emphasis, and for which plans include plan components to maintain or restore riparian functions and ecological functions.

*Risk.* A combination of the likelihood that a negative outcome will occur and the severity of the subsequent negative consequences.

*Scenic character.* A combination of the physical, biological, and cultural images that gives an area its scenic identity and contributes to its sense of place. Scenic character provides a frame of reference from which to determine scenic attractiveness and to measure scenic integrity.

*Social sustainability.* See sustainability.

*Sole source aquifer.* Underground water supply designated by the Environmental Protection Agency (EPA) as the "sole or principle" source of drinking water for an area as established under section 1424(e) of the Safe Drinking Water Act (42 U.S.C. 300h-3(e)).

*Source water protection areas.* The area delineated by a State or Tribe for a public water system (PWS) or including numerous PWSs, whether the source is ground water or surface water or both, as part of a State or tribal source water assessment and protection program (SWAP) approved by Environmental Protection Agency under section 1453 of the Safe Drinking Water Act (42 U.S.C. 300h-3(e)).

*Stressors.* For the purposes of this subpart: A factor that may directly or indirectly degrade or impair ecosystem composition, structure or ecological process in a manner that may impair its ecological integrity, such as an invasive species, loss of connectivity, or the disruption of a natural disturbance regime.

*Sustainability.* The capability to meet the needs of the present generation without compromising the ability of future generations to meet their needs. For purposes of this part, "ecological sustainability" refers to the capability of ecosystems to maintain ecological integrity; "economic sustainability" refers to the capability of society to produce and consume or otherwise benefit from goods and services including contributions to jobs and market and nonmarket benefits; and "social sustainability" refers to the capability of society to support the network of relationships, traditions, culture, and activities that connect people to the land and to one another, and support vibrant communities.

*Sustainable recreation.* The set of recreation settings and opportunities on the National Forest System that is ecologically, economically, and socially sustainable for present and future generations.

*Timber harvest.* The removal of trees for wood fiber use and other multiple-use purposes.

*Timber production.* The purposeful growing, tending, harvesting, and regeneration of regulated crops of trees to be cut into logs, bolts, or other round sections for industrial or consumer use.

*Viable population.* A population of a species that continues to persist over the long term with sufficient distribution to be resilient and adaptable to stressors and likely future environments.

*Watershed.* A region or land area drained by a single stream, river, or drainage network; a drainage basin.

*Watershed condition.* The state of a watershed based on physical and biogeochemical characteristics and processes.

*Wild and scenic river.* A river designated by Congress as part of the National Wild and Scenic Rivers System that was established in the Wild and Scenic Rivers Act of 1968 (16 U.S.C. 1271(note), 1271-1287).

*Wilderness.* Any area of land designated by Congress as part of the National Wilderness Preservation System that was established in the Wilderness Act of 1964 (16 U.S.C. 1131-1136).

## SUBPART B—PRE-DECISIONAL ADMINISTRATIVE REVIEW PROCESS

### § 219.50 PURPOSE AND SCOPE.

This subpart establishes a pre-decisional administrative review (hereinafter referred to as objection) process for plans, plan amendments, or plan revisions. This process gives an individual or organization an opportunity for an independent Forest Service review and resolution of issues before the approval of a plan, plan amendment, or plan revision. This subpart identifies who may file objections to a plan, plan amendment, or plan revision; the responsibilities of the participants in an objection; and the procedures that apply to the review of the objection.

### § 219.51 PLANS, PLAN AMENDMENTS, OR PLAN REVISIONS NOT SUBJECT TO OBJECTION.

- (a) A plan, plan amendment, or plan revision is not subject to objection when the responsible official receives no substantive formal comments (§ 219.62) on that proposal during the opportunities for public comment (§ 219.53(a)).
- (b) Plans, plan amendments, or plan revisions proposed by the Secretary of Agriculture or the Under Secretary for Natural Resources and Environment are not subject to the procedures set forth in this section. A decision by the Secretary or Under Secretary constitutes the final administrative determination of the U.S. Department of Agriculture.
- (c) A plan, plan amendment, or plan revision is not subject to objection under this subpart if another administrative review process is used consistent with § 219.59.
- (d) When a plan, plan amendment, or plan revision is not subject to objection under this subpart, the responsible official shall include an explanation with the signed decision document.

### § 219.52 GIVING NOTICE OF A PLAN, PLAN AMENDMENT, OR PLAN REVISION SUBJECT TO OBJECTION BEFORE APPROVAL.

- (a) The responsible official shall disclose during the NEPA scoping process and in the appropriate NEPA documents that the proposed plan, plan amendment, or plan revision is subject to the objection procedures in this subpart. This disclosure is in addition to the public notice that begins the objection filing period, as required at § 219.16. When a responsible official chooses to use the objection process of this subpart for a plan, plan amendment, or plan revision process initiated before the effective date of this rule, notice that the objection process will be used must be given prior to an opportunity to provide substantive formal comment on a proposed plan, plan amendment, or revision and associated environmental analysis.

(b) The responsible official shall make available the public notice for the beginning of the objection period for a plan, plan amendment, or plan revision (§ 219.16(a)(3)) to those who have requested the environmental documents or are eligible to file an objection consistent with § 219.53.

(c) The content of the public notice for the beginning of the objection period for a plan, plan amendment, or plan revision before approval (§ 219.16(a)(3)) must:

(1) Inform the public of the availability of the plan, plan amendment, or plan revision, the appropriate final environmental documents, the draft plan decision document, and any relevant assessment or monitoring evaluation report; the commencement of the objection filing period under 36 CFR part 219 subpart B; and the process for objecting. The documents in this paragraph will be made available online at the time of public notice.

(2) Include the name of the plan, plan amendment, or plan revision, the name and title of the responsible official, and instructions on how to obtain a copy of the appropriate final environmental documents; the draft plan decision document; and the plan, plan amendment, or plan revision.

(3) Include the name and address of the reviewing officer with whom an objection is to be filed. The notice must specify a street, postal, fax, and e-mail address; the acceptable format(s) for objections filed electronically; and the reviewing officer's office business hours for those filing hand-delivered objections.

(4) Include a statement that objections will be accepted only from those who have previously submitted substantive formal comments specific to the proposed plan, plan amendment, or plan revision during any opportunity for public comment as provided in subpart A.

(5) Include a statement that the publication date of the public notice in the applicable newspaper of record (or the **Federal Register**, if the responsible official is the Chief) is the exclusive means for calculating the time to file an objection (§ 219.56).

(6) Include a statement that an objection, including attachments, must be filed with the appropriate reviewing officer (§ 219.62) within 60 days, if an environmental impact statement has been prepared, otherwise within 45 days of the date of publication of the public notice for the objection process.

(7) Include a statement describing the minimum content requirements of an objection (§ 219.54(c)).

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### **§ 219.53 WHO MAY FILE AN OBJECTION.**

(a) Individuals and organizations who have submitted substantive formal comments related to a plan, plan amendment, or plan revision during the opportunities for public comment as provided in subpart A during the planning process for that decision may file an objection. Objections must be based on previously submitted substantive formal comments attributed to the objector unless the objection concerns an issue that arose after the opportunities for formal comment. The burden is on the objector to demonstrate compliance with requirements for objection. Objections from individuals or organizations



that do not meet the requirements of this paragraph may not be accepted; however, objections not accepted must be documented in the planning record.

(b) Formal comments received from an authorized representative(s) of an organization are considered those of the organization only. Individual members of that organization do not meet objection eligibility requirements solely based on membership in an organization. A member or an individual must submit substantive formal comments independently to be eligible to file an objection in an individual capacity.

(c) When an objection lists multiple individuals or organizations, each individual or organization must meet the requirements of paragraph (a) of this section. Individuals or organizations listed on an objection that do not meet eligibility requirements may not be considered objectors, although an objection must be accepted (if not otherwise set aside for review under § 219.55) if at least one listed individual or organization meets the eligibility requirements.

(d) Federal agencies may not file objections.

(e) Federal employees who otherwise meet the requirements of this subpart for filing objections in a non-official capacity must comply with Federal conflict of interest statutes at 18 U.S.C. 202-209 and with employee ethics requirements at 5 CFR part 2635. Specifically, employees may not be on official duty nor use government property or equipment in the preparation or filing of an objection. Further, employees may not include information unavailable to the public, such as Federal agency documents that are exempt from disclosure under the Freedom of Information Act (5 U.S.C. 552(b)).

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## **§ 219.54 FILING AN OBJECTION.**

(a) 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.

(b) Including documents by reference is not allowed, except for the following list of items that may be referenced by including the name, date, page number (where applicable), and relevant section of the cited document. All other documents or web links to those documents, or both must be included with the objection, if referenced in the objection.

(1) All or any part of a Federal law or regulation.

(2) Forest Service Directive System documents and land management plans or other published Forest Service documents.

(3) Documents referenced by the Forest Service in the planning documentation related to the proposal subject to objection.

(4) Formal comments previously provided to the Forest Service by the objector during the proposed plan, plan amendment, or plan revision comment period.

(c) At a minimum, an objection must include the following:

- (1) The objector's name and address (§ 219.62), along with a telephone number or email address if available;
- (2) Signature or other verification of authorship upon request (a scanned signature for electronic mail may be filed with the objection);
- (3) Identification of the lead objector, when multiple names are listed on an objection (§ 219.62). Verification of the identity of the lead objector if requested;
- (4) The name of the plan, plan amendment, or plan revision being objected to, and the name and title of the responsible official;
- (5) A statement of the issues and/or the parts of the plan, plan amendment, or plan revision to which the objection applies;
- (6) A concise statement explaining the objection and suggesting how the proposed plan decision may be improved. If applicable, the objector should identify how the objector believes that the plan, plan amendment, or plan revision is inconsistent with law, regulation, or policy; and
- (7) A statement that demonstrates the link between prior substantive formal comments attributed to the objector and the content of the objection, unless the objection concerns an issue that arose after the opportunities for formal comment (§ 219.53(a)).

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### **§ 219.55 OBJECTIONS SET ASIDE FROM REVIEW.**

- (a) The reviewing officer shall set aside and not review an objection when one or more of the following applies:
  - (1) Objections are not filed in a timely manner (§ 219.56);
  - (2) The proposed plan, plan amendment, or plan revision is not subject to the objection procedures of this subpart pursuant to §§ 219.51 and 219.59;
  - (3) The individual or organization did not submit substantive formal comments (§ 219.53) during opportunities for public comment on the proposed decision (§ 219.16(a)(1) and (a)(2));
  - (4) None of the issues included in the objection is based on previously submitted substantive formal comments unless one or more of those issues arose after the opportunities for formal comment;
  - (5) The objection does not provide sufficient information as required by § 219.54(c);
  - (6) The objector withdraws the objection in writing;
  - (7) The objector's identity is not provided or cannot be determined from the signature (written or electronically scanned), and a reasonable means of contact is not provided (§ 219.54(c)); or
  - (8) The objection is illegible for any reason and a legible copy cannot easily be obtained.

(b) When an objection includes an issue that is not based on previously submitted substantive formal comments and did not arise after the opportunities for formal comment, that issue will be set aside and not reviewed. Other issues raised in the objection that meet the requirements of this subpart will be reviewed.

(c) The reviewing officer shall give written notice to the objector and the responsible official when an objection or part of an objection is set aside from review and shall state the reasons for not reviewing the objection in whole or part. If the objection is set aside from review for reasons of illegibility or lack of a means of contact, the reasons must be documented in the planning record.

### **§ 219.56 OBJECTION TIME PERIODS AND PROCESS.**

(a) *Time to file an objection.* For a new plan, plan amendment, or plan revision for which an environmental impact statement (EIS) is prepared, written objections, including any attachments, must be filed within 60 days following the publication date of the public notice for a plan, plan amendment, or plan revision before approval (§§ 219.16 and 219.52). For an amendment for which an EIS is not prepared, the time to file an objection is within 45 days. It is the responsibility of the objector to ensure that the reviewing officer receives the objection in a timely manner.

(b) *Computation of time periods.* (1) All time periods are computed using calendar days, including Saturdays, Sundays, and Federal holidays in the time zone of the reviewing officer. However, when the time period expires on a Saturday, Sunday, or Federal holiday, the time is extended to the end of the next Federal working day (11:59 p.m. for objections filed by electronic means such as e-mail or facsimile machine).

(2) The day after publication of the public notice for a plan, plan amendment, or plan revision before approval (§§ 219.16 and 219.52), is the first day of the objection filing period.

(3) The publication date of the public notice for a plan, plan amendment, or plan revision before approval (§§ 219.16 and 219.52), is the exclusive means for calculating the time to file an objection. Objectors may not rely on dates or timeframe information provided by any other source.

(c) *Evidence of timely filing.* The objector is responsible for filing the objection in a timely manner. Timeliness must be determined by one of the following indicators:

(1) The date of the U.S. Postal Service postmark for an objection received before the close of the fifth business day after the objection filing date;

(2) The electronically generated posted date and time for e-mail and facsimiles;

(3) The shipping date for delivery by private carrier for an objection received before the close of the fifth business day after the objection filing date; or

(4) The official agency date stamp showing receipt of hand delivery.

(d) *Extensions.* Time extensions for filing are not permitted except as provided at paragraph (b)(1) of this section.

(e) *Reviewing officer role and responsibilities.* The reviewing officer is the U.S. Department of Agriculture (USDA) or Forest Service official having the delegated authority and responsibility to review an objection filed under this subpart. The reviewing officer is a line officer at the next higher administrative level above the responsible official; except that:

(1) For a plan amendment, that next higher-level line officer may delegate the reviewing officer authority and responsibility to a line officer at the same administrative level as the responsible official. Any plan amendment delegation of reviewing officer responsibilities must be made prior to the public notification of an objection filing period (§ 219.52).

(2) For an objection or part of an objection specific to the identification of species of conservation concern, the regional forester who identified the species of conservation concern for the plan area may not be the reviewing officer. The Chief may choose to act as the reviewing officer or may delegate the reviewing officer authority to a line officer at the same administrative level as the regional forester. The reviewing officer for the plan will convey any such objections or parts thereof to the appropriate line officer.

(f) *Notice of objections filed.* Within 10 days after the close of the objection period, the responsible official shall publish a notice of all objections in the applicable newspaper of record and post the notice online.

(g) *Response to objections.* The reviewing officer must issue a written response to the objector(s) concerning their objection(s) within 90 days of the end of the objection-filing period. The reviewing officer has the discretion to extend the time when it is determined to be necessary to provide adequate response to objections or to participate in discussions with the parties. The reviewing officer must notify all parties (lead objectors and interested persons) in writing of any extensions.

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## **§ 219.57 RESOLUTION OF OBJECTIONS.**

(a) *Meetings.* Prior to the issuance of the reviewing officer's written response, either the reviewing officer or the objector may request to meet to discuss issues raised in the objection and potential resolution. The reviewing officer must allow other interested persons to participate in such meetings. An interested person must file a request to participate in an objection within 10 days after publication of the notice of objection by the responsible official (§ 219.56(f)). The responsible official shall be a participant in all meetings involving the reviewing officer, objectors, and interested persons. During meetings with objectors and interested persons, the reviewing officer may choose to use alternative dispute resolution methods to resolve objections. All meetings are open to observation by the public.

(b) *Response to objections.* (1) The reviewing officer must render a written response to the objection(s) within 90 days of the close of the objection-filing period, unless the allowable time is extended as provided at § 219.56(g). A written response must set forth the reasons for the response but need not be a point-by-point response, and may contain instructions to the responsible official. In cases involving more than one objection to a plan, plan amendment, or plan revision, the reviewing officer may consolidate objections

and issue one or more responses. The response must be sent to the objecting party(ies) by certified mail, return receipt requested, and posted online.

(2) The reviewing officer's review of and response to the objection(s) is limited to only those issues and concerns submitted in the objection(s).

(3) The response of the reviewing officer will be the final decision of the U.S. Department of Agriculture on the objection.

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### **§ 219.58 TIMING OF A PLAN, PLAN AMENDMENT, OR PLAN REVISION DECISION.**

(a) The responsible official may not issue a decision document concerning a plan, plan amendment, or plan revision subject to the provisions of this subpart until the reviewing officer has responded in writing to all objections.

(b) A decision by the responsible official approving a plan, plan amendment, or plan revision must be consistent with the reviewing officer's response to objections.

(c) When no objection is filed within the allotted filing period, the reviewing officer must notify the responsible official. The responsible official's approval of the plan, plan amendment, or plan revision in a plan decision document consistent with § 219.14, may occur on, but not before, the fifth business day following the end of the objection-filing period.

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### **§ 219.59 USE OF OTHER ADMINISTRATIVE REVIEW PROCESSES.**

(a) Where the Forest Service is a participant in a multi-federal agency effort that would otherwise be subject to objection under this subpart, the responsible official may waive the objection procedures of this subpart and instead adopt the administrative review procedure of another participating federal agency. As a condition of such a waiver, the responsible official for the Forest Service must have agreement with the responsible official of the other agency or agencies that a joint agency response will be provided to those who file for administrative review of the multi-agency effort. When such an agreement is reached, the responsible official for the Forest Service shall ensure public notice required in § 219.52 sets forth which administrative review procedure is to be used.

(b) When a plan amendment is approved in a decision document approving a project or activity and the amendment applies only to the project or activity, the administrative review process of 36 CFR part 215 or part 218, subpart A, applies instead of the objection process established in this subpart. When a plan amendment applies to all future projects or activities, the objection process established in this subpart applies only to the plan amendment decision; the review process of 36 CFR part 215 or part 218 would apply to the project or activity part of the decision.

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### **§ 219.60 SECRETARY'S AUTHORITY.**

Nothing in this subpart restricts the Secretary of Agriculture from exercising any statutory authority regarding the protection, management, or administration of NFS lands.

## § 219.61 INFORMATION COLLECTION REQUIREMENTS.

This subpart specifies the information that objectors must give in an objection to a plan, plan amendment, or plan revision (§ 219.54(c)). As such, this subpart contains information collection requirements as defined in 5 CFR part 1320 and have been approved by the Office of Management and Budget and assigned control number 0596-0158.

## § 219.62 DEFINITIONS.

Definitions of the special terms used in this subpart are set out as follows.

*Address.* An individual's or organization's current mailing address used for postal service or other delivery services. An e-mail address is not sufficient.

*Decision memo.* A concise written record of the responsible official's decision to implement an action that is categorically excluded from further analysis and documentation in an environmental impact statement (EIS) or environmental assessment (EA), where the action is one of a category of actions which do not individually or cumulatively have a significant effect on the human environment, and does not give rise to extraordinary circumstances in which a normally excluded action may have a significant environmental effect.

*Environmental assessment (EA).* A public document that provides sufficient evidence and analysis for determining whether to prepare an EIS or a finding of no significant impact, aids an agency's compliance with the National Environmental Policy Act (NEPA) when no EIS is necessary, and facilitates preparation of a statement when one is necessary (40 CFR 1508.9; FSH 1909.15, Chapter 40).

*Environmental impact statement (EIS).* A detailed written statement as required by section 102(2)(C) of the National Environmental Policy Act (NEPA) of 1969 (40 CFR 1508.11; 36 CFR 220).

*Formal comments.* See substantive formal comments.

*Lead objector.* For an objection submitted with multiple individuals, multiple organizations, or combination of individuals and organizations listed, the individual or organization identified to represent all other objectors for the purposes of communication, written or otherwise, regarding the objection.

*Line officer.* A Forest Service official who serves in a direct line of command from the Chief.

*Name.* The first and last name of an individual or the name of an organization. An electronic username is insufficient for identification of an individual or organization.

*National Forest System.* The National Forest System includes national forests, national grasslands, and the National Tallgrass Prairie.

*Newspaper(s) of record.* The newspaper(s) of record is (are) the principal newspaper(s) of general circulation annually identified and published in the **Federal Register** by each

regional forester to be used for publishing notices as required by 36 CFR 215.5. The newspaper(s) of record for projects in a plan area is (are) the newspaper(s) of record for notices related to planning.

*Objection.* The written document filed with a reviewing officer by an individual or organization seeking pre-decisional administrative review of a plan, plan amendment, or plan revision.

*Objection period.* The allotted filing period following publication of a public notice in the applicable newspaper of record (or the **Federal Register**, if the responsible official is the Chief) of the availability of the appropriate environmental documents and draft decision document, including a plan, plan amendment, or plan revision during which an objection may be filed with the reviewing officer.

*Objection process.* Those procedures established for pre-decisional administrative review of a plan, plan amendment, or plan revision.

*Objector.* An individual or organization who meets the requirements of § 219.53, and files an objection that meets the requirements of §§ 219.54 and 219.56.

*Online.* Refers to the appropriate Forest Service Web site or future electronic equivalent.

*Responsible official.* The official with the authority and responsibility to oversee the planning process and to approve a plan, plan amendment, and plan revision.

*Reviewing officer.* The USDA or Forest Service official having the delegated authority and responsibility to review an objection filed under this subpart.

*Substantive formal comments.* Written comments submitted to, or oral comments recorded by, the responsible official or his designee during an opportunity for public participation provided during the planning process (§§ 219.4 and 219.16), and attributed to the individual or organization providing them. Comments are considered substantive when they are within the scope of the proposal, are specific to the proposal, have a direct relationship to the proposal, and include supporting reasons for the responsible official to consider.





# APPENDIX J – ALTERNATIVE M 2008 PLANNING RULE TEXT

## **PART 219—PLANNING**

### **Subpart A—National Forest System Land Management Planning**

Sec.

219.1 Purpose and applicability.

219.2 Levels of planning and planning authority.

219.3 Nature of land management planning.

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219.5 Environmental management systems.

219.6 Evaluations and monitoring.

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219.8 Application of a new plan, plan amendment, or plan revision.

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219.10 Sustainability.

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219.12 Suitable uses and provisions required by NFMA.

219.13 Objections to plans, plan amendments, or plan revisions.

219.14 Effective dates and transition.

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219.16 Definitions.

### **Subpart B—[Reserved]**

Authority: 5 U.S.C. 301; 16 U.S.C. 1604, 1613.

#### **§ 219.1 Purpose and applicability.**

(a) The rules of this subpart set forth a process for land management planning, including the process for developing, amending, and revising land management plans (also referred to as plans) for the National Forest System (NFS), as required by the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976 (16 U.S.C. 1600 *et seq.*), hereinafter referred to as NFMA. This subpart also describes the nature and scope of plans and plan components. This subpart is applicable to all units of the NFS as defined by 16 U.S.C. 1609 or subsequent statute.

(b) Consistent with the Multiple-Use Sustained-Yield Act of 1960 (16 U.S.C. 528–531) (MUSYA), the overall goal of managing the NFS is to sustain the multiple uses of its renewable resources in perpetuity while maintaining the long-term productivity of the land. Resources are to be managed so they are utilized in the combination that will best meet the needs of the American people. Maintaining or restoring the health of the land enables the NFS to provide a sustainable flow of uses, benefits, products, services, and visitor opportunities.

(c) The Chief of the Forest Service shall establish planning procedures for this subpart for plan development, plan amendment, or plan revision in the Forest Service Directive System.

### **§ 219.2 Levels of planning and planning authority.**

Planning occurs at multiple organizational levels and geographic areas.

(a) *National.* The Chief of the Forest Service is responsible for national planning, such as preparation of the Forest Service Strategic Plan required under the Government Performance and Results Act of 1993 (5 U.S.C. 306; 31 U.S.C. 1115–1119; 31 U.S.C. 9703–9704), which is integrated with the requirements of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act (NFMA). The Strategic Plan establishes goals, objectives, performance measures, and strategies for management of the NFS, as well as the other Forest Service mission areas.

(b) *Forest, grassland, prairie, or other comparable administrative unit.*

(1) Land management plans provide broad guidance and information for project and activity decisionmaking in a national forest, grassland, prairie, or other comparable administrative unit. The supervisor of the national forest, grassland, prairie, or other comparable administrative unit is the responsible official for development and approval of a plan, plan amendment, or plan revision for lands under the responsibility of the supervisor, unless a regional forester, the Chief, or the Secretary chooses to act as the responsible official.

(2) When plans, plan amendments, or plan revisions are prepared for more than one administrative unit, a unit supervisor identified by the regional forester, or the regional forester, the Chief, or the Secretary may be the responsible official. Two or more responsible officials may undertake joint planning over lands under their respective jurisdictions.

(3) The appropriate station director must concur with that part of a plan applicable to any experimental forest within the plan area.

(c) *Projects and activities.* The supervisor or district ranger is the responsible official for project and activity decisions, unless a higher-level official chooses to act as the responsible official. Requirements for project or activity planning are established in the Forest Service Directive System. Except as specifically provided, none of the requirements of this subpart apply to projects or activities.

(d) *Developing, amending, and revising plans*

(1) *Plan development.* If a new national forest, grassland, prairie, or other administrative unit of the NFS is established, the regional forester, or a forest, grassland, prairie, or other comparable unit supervisor identified by the regional forester must either develop a plan for the unit or amend or revise an existing plan to apply to the lands within the new unit.

(2) *Plan amendment.* The responsible official may amend a plan at any time.

(3) *Plan revision.* The responsible official must revise the plan if the responsible official concludes that conditions within the plan area have significantly changed. Unless otherwise provided by law, a plan must be revised at least every 15 years.

**§ 219.3 Nature of land management planning.**

(a) *Principles of land management planning.* Land management planning is an adaptive management process that includes social, economic, and ecological evaluation; plan development, plan amendment, and plan revision; and monitoring. The aim of planning is to produce responsible land management for the NFS based on useful and current information and guidance. Land management planning guides the Forest Service in fulfilling its responsibilities for stewardship of the NFS to best meet the needs of the American people.

(b) *Force and effect of plans.* Plans developed in accord with this subpart generally contain desired conditions, objectives, and guidance for project and activity decisionmaking in the plan area. Plans do not grant, withhold, or modify any contract, permit, or other legal instrument; subject anyone to civil or criminal liability; or create any legal rights. Plans typically do not approve or execute projects and activities. Decisions with effects that can be meaningfully evaluated (40 CFR 1508.23) typically are made when projects and activities are approved.

**§ 219.4 National Environmental Policy Act compliance.**

(a) In accord with 16 U.S.C. 1604(g)(1) this subpart clarifies how the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4346) (hereinafter referred to as NEPA) applies to NFS land management planning.

(b) Approval of a plan, plan amendment, or plan revision, under the authority of this subpart, will be done in accord with the Forest Service NEPA procedures.

(c) Nothing in this subpart alters the application of NEPA to proposed projects and activities.

(d) Monitoring and evaluations, including those required by § 219.6, may be used or incorporated by reference, as appropriate, in applicable NEPA documents.

#### **§ 219.5 Environmental management systems.**

The responsible official will establish an environmental management system (EMS) or conform to a multi-unit, regional, or national level EMS. The scope of an EMS will include, at the minimum, land management environmental aspects as determined by the responsible official or established in a multi-unit, regional, or national level EMS. An EMS may also include environmental aspects unrelated to land management if deemed appropriate.

(a) An EMS may be established independently of the planning process.

(b) The Chief of the Forest Service shall establish procedures in the Forest Service Directive System to ensure that an appropriate EMS(s) is in place. The responsible official may determine whether and how to change and improve an EMS, consistent with those procedures.

(c) The EMS must conform to the consensus standard developed by the International Organization for Standardization (ISO) and adopted by the American National Standards Institute (ANSI) as “ISO 14001: Environmental Management Systems—Specification With Guidance For Use” (ISO 14001). The ISO 14001 describes EMSs and outlines the elements of an EMS.

(d) No project or activity approved under a plan developed, amended, or revised under the requirements of this subpart may be implemented until the responsible official establishes an EMS or the responsible official conforms to a multi-unit, regional, or national level EMS as required by this section.

#### **§ 219.6 Evaluations and monitoring.**

(a) *Evaluations.* The responsible official shall keep the plan set of documents up to date with evaluation reports, which will reflect changing conditions, science, and other relevant information. The following three types of evaluations are required for land management planning: Comprehensive evaluations for plan development and revision, evaluations for plan amendment, and annual evaluations of monitoring information. The responsible official shall document evaluations in evaluation reports, make these reports available to the public as required in § 219.9, and include these reports in the plan set of documents (§ 219.7(a)(1)). Evaluations under this section should be commensurate to the level of risk or benefit associated with the nature and level of expected management activities in the plan area.

(1) *Comprehensive evaluations.* These evaluate current social, economic, and ecological conditions and trends that contribute to sustainability, as described in § 219.10. Comprehensive evaluations and comprehensive evaluation reports must be

updated at least every 5 years to reflect any substantial changes in conditions and trends since the last comprehensive evaluation. A comprehensive evaluation report may be combined with other documents, including NEPA documents. The responsible official must ensure that comprehensive evaluations, including any updates necessary, include the following elements:

(i) *Area of analysis.* The area(s) of analysis must be clearly identified.

(ii) *Conditions and trends.* The current social, economic, and ecological conditions and trends and substantial changes from previously identified conditions and trends must be described based on available information, including monitoring information, surveys, assessments, analyses, and other studies as appropriate. Evaluations may build upon existing studies and evaluations.

(2) *Evaluation for a plan amendment.* An evaluation for a plan amendment must analyze the issues relevant to the purposes of the amendment and may use the information in comprehensive evaluations relevant to the plan amendment. When a plan amendment is made contemporaneously with, and only applies to, a project or activity decision, the analysis prepared for the project or activity may be used to satisfy the requirements for an evaluation for an amendment.

(3) *Annual evaluation of the monitoring information.* Monitoring results must be evaluated annually and in accord with paragraph (b)(2) of this section.

(b) *Monitoring.* The plan must describe the monitoring program for the plan area. Monitoring information in the plan document or set of documents may be changed and updated as appropriate, at any time. Such changes and updates are administrative corrections (§ 219.7(b)) and do not require a plan amendment or revision.

(1) The plan-monitoring program shall be developed with public participation and take into account:

(i) Financial and technical capabilities;

(ii) Key social, economic, and ecological performance measures relevant to the plan area; and

(iii) The best available science.

(2) The plan-monitoring program shall provide for:

(i) Monitoring to assist in evaluating the effects of each management system to the end that it will not produce substantial and permanent impairment of the productivity of the land;

(ii) Monitoring of the degree to which on-the-ground management is maintaining or making progress toward the desired conditions and objectives for the plan; and

(iii) Adjustment of the monitoring program as appropriate to account for unanticipated changes in conditions.

(3) The responsible official may conduct monitoring jointly with others, including but not limited to, Forest Service units, Federal, State or local government agencies, federally recognized Indian Tribes, Alaska Native Corporations, and members of the public.

**§ 219.7 Developing, amending, or revising a plan.**

(a) *General planning requirements*

(1) *Plan documents or set of documents.* The responsible official must maintain a *plan document or set of documents* for the plan. A plan document or set of documents includes, but is not limited to evaluation reports; documentation of public involvement; the plan, including applicable maps; applicable plan approval documents; applicable NEPA documents, if any; applicable EMS documents, if any; and the monitoring program for the plan area.

(2) *Plan components.* Plan components may apply to all or part of the plan area. A plan should include the following components:

(i) *Desired conditions.* Desired conditions are the social, economic, and ecological attributes toward which management of the land and resources is to be directed. Desired conditions are aspirations and are not commitments or final decisions approving projects and activities, and may be achievable only over a long time period.

(ii) *Objectives.* Objectives are concise projections of measurable, time-specific intended outcomes. The objectives for a plan are the means of measuring progress toward achieving or maintaining desired conditions. Like desired conditions, objectives are aspirations and are not commitments or final decisions approving projects and activities.

(iii) *Guidelines.* Guidelines provide information and guidance for project and activity decisionmaking to help achieve desired conditions and objectives. Guidelines are not commitments or final decisions approving projects and activities.

(iv) *Suitability of areas.* Areas of each NFS unit are identified as generally suitable for various uses (§ 219.12). An area may be identified as generally suitable for uses that are compatible with desired conditions and objectives for that area. An area may be identified as generally not suitable for uses that are not compatible with desired conditions and objectives for that area. Identification of an area as generally suitable or not suitable for a use is guidance for project and activity decisionmaking and not a commitment nor a final decision approving projects and activities. Uses of specific areas are approved through project and activity decisionmaking.

(v) *Special areas.* Special areas are areas in the NFS designated because of their unique or special characteristics. Special areas such as botanical areas or significant caves may be designated, by the responsible official in approving a plan, plan amendment, or plan revision. Such designations are not final decisions approving projects and activities. The plan may also recognize special areas designated by statute or through a separate administrative process in accord with NEPA requirements (§ 219.4) and other applicable laws.

(3) *Standards.* A plan may include standards as a plan component. Standards are constraints upon project and activity decisionmaking and are explicitly identified in a plan as “standards.” Standards are established to help achieve the desired conditions and objectives of a plan and to comply with applicable laws, regulations, Executive orders, and agency directives.

(4) *Changing plan components.* Plan components may be changed through plan amendment or revision or through an administrative correction in accord with § 219.7(b).

(5) *Planning authorities.* The responsible official has the discretion to determine whether and how to change the plan, subject to the requirement that the plan be revised at least every 15 years. A decision by a responsible official about whether or not to initiate the plan amendment or plan revision process and what issues to consider for plan development, plan amendment, or plan revision is not subject to objection under this subpart (§ 219.13).

(6) *Plan process.* (i) Required evaluation reports, plans, plan amendments, and plan revisions must be prepared by an interdisciplinary team; and

(ii) Unless otherwise provided by law, all NFS lands possessing wilderness characteristics must be considered for recommendation as potential wilderness areas during plan development or revision.

(7) *Developing plan options.* In the collaborative and participatory process of land management planning, the responsible official may use an iterative approach in development of a plan, plan amendment, and plan revision in a way that plan options are developed and narrowed successively. The key steps in this process shall be documented in the plan set of documents.

(b) *Administrative corrections.* Administrative corrections may be made at any time, and are not plan amendments or revisions. Administrative corrections include the following:

- (1) Corrections and updates of data and maps;
- (2) Corrections of typographical errors or other non-substantive changes;
- (3) Changes in the monitoring program and monitoring information (§ 219.6(b));
- (4) Changes in timber management projections or other projections of uses or activities; and

(5) Other changes in the plan document or set of documents that are not substantive changes in the plan components.

(c) *Approval document.* The responsible official must record approval of a new plan, plan amendment, or plan revision in a plan approval document, which must include:

- (1) The reasons for the approval of the plan, plan amendment, or plan revision;

(2) Concurrence by the appropriate station director with any part of the plan applicable to any experimental forest in the plan area, in accord with § 219.2(b)(3);

(3) A statement of how the plan, plan amendment, or plan revision applies to approved projects and activities, in accord with § 219.8;

(4) Science documentation, in accord with § 219.11; and

(5) The effective date of the approval (§ 219.14(a)).

If a plan approval document is, in whole or part, the culmination of an EA or EIS process, the plan approval document or pertinent part thereof, must be prepared in accord with Forest Service NEPA procedures.

### **§ 219.8 Application of a new plan, plan amendment, or plan revision.**

(a) *Application of a new plan, plan amendment, or plan revision to existing authorizations and approved projects or activities.* (1) The responsible official must include in any document approving a plan amendment or revision a description of the effects of the plan, plan amendments, or plan revision on existing occupancy and use authorized by permits, contracts, or other instruments carrying out approved projects and activities. If not expressly excepted, approved projects and activities must be consistent with applicable plan components, as provided in paragraph (e) of this section. Approved projects and activities are those for which a responsible official has signed a decision document.

(2) Any modifications of such permits, contracts, or other instruments needed to make them consistent with applicable plan components as developed, amended, or revised are subject to valid existing rights. Such modifications should be made as soon as practicable following approval of a new plan, plan amendment, or plan revision.

(b) *Application of a new plan, plan amendment, or plan revision to authorizations and projects or activities subsequent to plan approval.* Decisions approving projects and activities subsequent to approval of a plan, plan amendment, or plan revision must be consistent with the plan as provided in paragraph (e) of this section.

(c) *Application of a plan.* Plan provisions remain in effect until the effective date of a new plan, plan amendment, or plan revision.

(d) *Effect of new information on projects or activities.* Although new information will be considered in accord with agency NEPA procedures, nothing in this subpart requires automatic deferral, suspension, or modification of approved decisions in light of new information.

(e) *Ensuring project or activity consistency with plans.* Projects and activities must be consistent with the applicable plan components. If an existing (paragraph (a) of this section) or proposed (paragraph (b) of this section) use, project, or activity is not consistent with the applicable plan components, the responsible official may take one of the following steps, subject to valid existing rights:



(1) Modify the project or activity to make it consistent with the applicable plan components;

(2) Reject the proposal or terminate the project or activity, subject to valid existing rights; or

(3) Amend the plan contemporaneously with the approval of the project or activity so that it will be consistent with the plan as amended. The amendment may be limited to apply only to the project or activity.

**§ 219.9 Public participation, collaboration, and notification.**

The responsible official must use a collaborative and participatory approach to land management planning, in accord with this subpart and consistent with applicable laws, regulations, and policies, by engaging the skills and interests of appropriate combinations of Forest Service staff, consultants, contractors, other Federal agencies, federally recognized Indian Tribes, Alaska Native Corporations, State or local governments, or other interested or affected communities, groups, or persons.

(a) *Providing opportunities for participation.* The responsible official must provide opportunities for the public to collaborate and participate openly and meaningfully in the planning process, taking into account the discrete and diverse roles, jurisdictions, and responsibilities of interested and affected parties. Specifically, as part of plan development, plan amendment, and plan revision, the responsible official shall involve the public in developing and updating the comprehensive evaluation report, establishing the components of the plan, and designing the monitoring program. The responsible official has the discretion to determine the methods and timing of public involvement opportunities.

(1) *Engaging interested individuals and organizations.* The responsible official must provide for and encourage collaboration and participation by interested individuals and organizations, including private landowners whose lands are in, adjacent to, or otherwise affected by future management actions in the plan area.

(2) *Engaging State and local governments and Federal agencies.* The responsible official must provide opportunities for the coordination of Forest Service planning efforts undertaken in accord with this subpart with those of other resource management agencies. The responsible official also must meet with and provide early opportunities for other government agencies to be involved, to collaborate, and to participate in planning for NFS lands. The responsible official should seek assistance, where appropriate, from other State and local governments, Federal agencies, and scientific and academic institutions to help address management issues or opportunities.

(3) *Engaging Tribal governments and Alaska Native Corporations.* The Forest Service recognizes the Federal Government's trust responsibility for federally recognized Indian Tribes. The responsible official must consult with, invite, and provide opportunities for any federally recognized Indian Tribes and Alaska Native Corporations that may be affected by the planning process to collaborate and participate. In working with federally recognized Indian Tribes, the responsible official must honor the

government-to-government relationship between Tribes and the Federal Government. The responsible official should seek assistance, where appropriate, from federally recognized Indian Tribes and Alaska Native Corporations to help address management issues or opportunities.

(b) *Public notification.* The following public notification requirements apply to plan development, amendment, or revision, except when a plan amendment is approved contemporaneously with approval of a project or activity and the amendment applies only to the project or activity, in a way that 36 CFR part 215 or part 218, subpart A, applies:

(1) *When formal public notification is provided.* Public notification must be provided at the following times.

(i) Initiation of development of a plan, plan amendment, or plan revision

(ii) Commencement of the 90-day comment period on a proposed plan, plan amendment, or plan revision

(iii) Commencement of the 30-day objection period prior to approval of a plan, plan amendment, or plan revision

(iv) Approval of a plan, plan amendment, or plan revision

(v) Adjustment to conform to this subpart of a planning process for a plan, plan amendment, or plan revision initiated under the provisions of a previous planning regulation

(2) *How public notice is provided.* Public notice must be provided in the following ways.:

(i) All required public notices applicable to a new plan, plan revision, or any ongoing plan revision as provided in § 219.14(b) must be published in the Federal Register and newspaper(s) of record.

(ii) Required notifications that are associated with a plan amendment or any ongoing plan amendment as provided in § 219.14(b) and that apply to one plan must be published in the newspaper(s) of record. Required notifications that are associated with plan amendments and any ongoing plan amendments (as provided at § 219.14(b)) and that apply to more than one plan must be published in the Federal Register.

(iii) Public notification of evaluation reports and monitoring program changes may be made in a way deemed appropriate by the responsible official.

(3) *Content of the public notice.* Public notices must contain the following information.

(i) *Content of the public notice for initiating a plan development, plan amendment, or plan revision.* The notice must inform the public of the documents available for review and how to obtain them; provide a summary of the need to develop a plan or change a plan; invite the public to comment on the need for change in a plan;

identify any other need for change in a plan that they feel should be addressed during the planning process; provide an estimated schedule for the planning process, including the time available for comments; and inform the public how to submit comments.

(ii) *Content of the public notice for a proposed plan, plan amendment, or plan revision.* The notice must inform the public of the availability of the proposed plan, plan amendment, or plan revision, including any relevant evaluation report; the commencement of the 90-day comment period; and the process for submitting comments.

(iii) *Content of the public notice for a plan, plan amendment, or plan revision before approval.* The notice must inform the public of the availability of the plan, plan amendment, or plan revision; any relevant evaluation report; and the commencement of the 30-day objection period; and the process for objecting.

(iv) *Content of the public notice for approval of a plan, plan amendment, or plan revision.* The notice must inform the public of the availability of the approved plan, plan amendment, or plan revision, the approval document, and the effective date of the approval (§ 219.14(a)).

(v) *Content of the public notice for an ongoing planning process.* The notice must state whether or not a planning process initiated before [Insert date of publication in the FEDERAL REGISTER] (§ 219.14(b)) will be adjusted to conform to this subpart.

### **§ 219.10 Sustainability.**

Sustainability, for any unit of the NFS, has three interrelated and interdependent elements; Social, economic, and ecological. A plan can contribute to sustainability by creating a framework to guide on-the-ground management of projects and activities; however, a plan by itself cannot ensure sustainability. Agency authorities, the nature of a plan, and the capabilities of the plan area are some of the factors that limit the extent to which a plan can contribute to achieving sustainability.

(a) *Sustaining social and economic systems.* The overall goal of the social and economic elements of sustainability is to contribute to sustaining social and economic systems within the plan area. To understand the social and economic contributions that National Forest System lands presently make, and may make in the future, the responsible official, in accordance with § 219.6, must evaluate relevant economic and social conditions and trends as appropriate during plan development, plan amendment, or plan revision.

(b) *Sustaining ecological systems.* The overall goal of the ecological element of sustainability is to provide a framework to contribute to sustaining native ecological systems by providing appropriate ecological conditions to support diversity of native plant and animal species in the plan area. This will satisfy the statutory requirement to provide for diversity of plant and animal communities based on the suitability and capability of the specific land area in order to meet overall multiple-use objectives (16 U.S.C. 1604(g)(3)(B)). Procedures developed pursuant to § 219.1(c) for sustaining ecological systems must be consistent with the following:

(1) *Ecosystem diversity*. Ecosystem diversity is the primary means by which a plan contributes to sustaining ecological systems. Plan components must establish a framework to provide the characteristics of ecosystem diversity in the plan area.

(2) *Species diversity*. If the responsible official determines that provisions in plan components, in addition to those required by paragraph (b)(1) of this section, are needed to provide appropriate ecological conditions for specific threatened and endangered species, species-of-concern, and species-of-interest, then the plan must include additional provisions for these species, consistent with the limits of Agency authorities, the capability of the plan area, and overall multiple use objectives.

**§ 219.11 Role of science in planning.**

(a) The responsible official must take into account the best available science. For purposes of this subpart, taking into account the best available science means the responsible official must:

(1) Document how the best available science was taken into account in the planning process within the context of the issues being considered;

(2) Document that the science was appropriately interpreted and applied.

(b) To meet the requirements of paragraph (a) of this section, the responsible official may use independent peer review, a science advisory board, or other review methods to evaluate the consideration of science in the planning process.

**§ 219.12 Suitable uses and provisions required by NFMA.**

(a) *Suitable uses*. (1) *Identification of suitable land uses*. National Forest System lands are generally suitable for a variety of multiple uses, such as outdoor recreation, range, timber, watershed, and wildlife and fish purposes. The responsible official, as appropriate, shall identify areas within a National Forest System unit as generally suitable for uses that are compatible with desired conditions and objectives for that area. The responsible official may identify lands within the plan area as generally not suitable for uses that are not compatible with desired conditions and objectives for that area. Identification of an area as generally suitable or not suitable for a use is guidance for project and activity decisionmaking and not a permanent land designation, and is subject to change through plan amendment or plan revision.

A plan approval document may include project and activity decisions including prohibitions of a specific use (or uses) under 36 CFR 261 or authorization of a specific use (or uses) when the supporting analysis and plan approval document for the prohibition or use is in accordance with the Forest Service NEPA procedures.

(2) *Identification of lands not suitable for timber production*. (i) The responsible official must identify lands within the plan area as not suitable for timber production (§ 219.16) if:

(A) Statute, Executive order, or regulation prohibits timber production on the land; or

(B) The Secretary of Agriculture or the Chief of the Forest Service has withdrawn the land from timber production; or

(C) The land is not forest land (as defined at § 219.16); or

(D) Timber production would not be compatible with the achievement of desired conditions and objectives established by the plan for those lands; or

(E) The technology is not available for conducting timber harvest without causing irreversible damage to soil, slope, or other watershed conditions or substantial and permanent impairment of the productivity of the land; or

(F) There is no reasonable assurance that such lands can be adequately restocked within 5 years after final regeneration harvest.

(ii) This identification in a plan is not a final decision compelling, approving, or prohibiting projects and activities. A final determination of suitability for timber production is made through project and activity decisionmaking.

(3) *Lands suitable for timber production.* After considering physical, ecological, social, economic, and other pertinent factors to the extent feasible, a Responsible Official may establish timber production as an objective in a plan for any lands not identified in paragraph (a)(2)(i) of this section. The responsible official must review lands not suited for timber production at least once every 10 years, or as otherwise prescribed by law, to determine their suitability for timber production. As a result of this 10-year review, timber production may be established as a plan objective for any lands found to be suitable for such purpose through amendment or revision of the plan.

(4) *Other lands where trees may be harvested for multiple use values other than timber production.* Designation of lands as not suitable for timber production does not preclude the harvest of trees on those lands for salvage, sanitation, or other multiple use purposes. Except for lands described at paragraph (a)(2)(i)(E) of this section, timber harvest may be used as a tool to assist in achieving or maintaining applicable desired conditions or objectives.

(b) *Plan provisions for resource management.* A plan should include provisions for the following:

(1) Limitations on even-aged timber harvest methods, including provisions to require harvest in a manner consistent with the protection of soil, watershed, fish, wildlife, recreation, and aesthetic resources and the regeneration of the timber resource, including requirements that even-aged harvest may occur only upon a finding that it is appropriate and that clearcutting may occur only upon a finding that it is the optimum method to meet the objectives and requirements of the plan;

(2) Maximum size openings created by timber harvest according to geographic areas, forest types, or other suitable classifications for areas to be cut in one regeneration harvest operation. This limit may be less than, but will not exceed, 60 acres for the Douglas-fir forest type of California, Oregon, and Washington; 80 acres for the southern yellow pine types of Alabama, Arkansas, Georgia, Florida, Louisiana, Mississippi, North

Carolina, South Carolina, Oklahoma, and Texas; 100 acres for the hemlock-Sitka spruce forest type of coastal Alaska; and 40 acres for all other forest types. The plan must allow for exceeding its limitations on maximum size openings after appropriate public notice and review by the supervisor of the responsible official who normally would approve the harvest proposal. The plan maximum size openings must not apply to the size of areas harvested as a result of natural catastrophic conditions such as fire, insect and disease attack, or windstorm;

(3) Provisions that cut blocks, patches, or strips that are shaped and blended to the extent practicable with the natural terrain;

(4) Provisions for maintaining or restoring soil and water resources, including protection for streams, streambanks, shorelines, lakes, wetlands, and other bodies of water from detrimental changes in water temperatures, blockages of water courses, and deposits of sediment, when management activities are likely to seriously and adversely affect water conditions or fish habitat;

(5) Provisions that timber harvest projects be considered through interdisciplinary review, assessing the potential environmental, biological, aesthetic, engineering, and economic impacts on the sale area, as well as the consistency of the sale with the multiple use of the general area, and that the harvesting system used is not selected primarily because it will give the greatest dollar return or the greatest unit output of timber;

(6) Provisions that there is reasonable assurance that lands can be adequately restocked within 5 years after final regeneration harvest; and

(7) Provisions that soil, slope, or other watershed conditions will not be irreversibly damaged by timber harvest.

(c) *Forest Service Directive System procedures.*

(1) The Chief of the Forest Service must include in the Forest Service Directive System procedures for estimating the quantity of timber that can be removed annually in perpetuity on a sustained-yield basis in accordance with 16 U.S.C. 1611.

(2) The Chief of the Forest Service must include in the Forest Service Directive System requirements assuring that even-aged stands of trees scheduled for harvest during the planning period have generally reached culmination of mean annual increment of growth. This requirement applies only to regeneration harvest of even-aged stands on lands identified as suitable for timber production and where timber production is a management purpose for the harvest.

(3) Forest Service Directive System procedures to fulfill the requirements of this paragraph shall be adopted following public involvement as described in 36 CFR 216.

### **§ 219.13 Objections to plans, plan amendments, or plan revisions.**

(a) *Opportunities to object.* Before approving a plan, plan amendment, or plan revision, the responsible official must provide the public 30 calendar days for pre-

decisional review and the opportunity to object. Federal agencies may not object under this subpart. During the 30-day review period, any person or organization, other than a Federal agency, who participated in the planning process through the submission of written comments, may object to a plan, plan amendment, or plan revision according to the procedures in this section, except in the following circumstances:

(1) When a plan amendment is approved contemporaneously with a project or activity decision and the plan amendment applies only to the project or activity, in a way that the administrative review process of 36 CFR part 215 or part 218, subpart A, applies instead of the objection process established in this section; or

(2) When the responsible official is an official in the Department of Agriculture at a level higher than the Chief of the Forest Service, in way that there is no opportunity for administrative review.

(b) *Submitting objections.* The objection must be in writing and must be filed with the reviewing officer within 30 days following the publication date of the legal notice in the newspaper of record of the availability of the plan, plan amendment, or plan revision. Specific details will be in the Forest Service Directive System. An objection must contain:

(1) The name, mailing address, and telephone number of the person or entity filing the objection. Where a single objection is filed by more than one person, the objection must indicate the lead objector to contact. The reviewing officer may appoint the first name listed as the lead objector to act on behalf of all parties to the single objection when the single objection does not specify a lead objector. The reviewing officer may communicate directly with the lead objector and is not required to notify the other listed objectors of the objection response or any other written correspondence related to the single objection;

(2) A statement of the issues, the parts of the plan, plan amendment, or plan revision to which the objection applies, and how the objecting party would be adversely affected; and

(3) A concise statement explaining how the objector believes that the plan, plan amendment, or plan revision is inconsistent with law, regulation, or policy or how the objector disagrees with the decision and providing any recommendations for change.

(c) *Responding to objections.* (1) The reviewing officer (§ 219.16) has the authority to make all procedural determinations related to the objection not specifically explained in this subpart, including those procedures necessary to ensure compatibility, to the extent practicable, with the administrative review processes of other Federal agencies. The reviewing officer must promptly render a written response to the objection. The response must be sent to the objecting party by certified mail, return receipt requested.

(2) The response of the reviewing officer shall be the final decision of the Department of Agriculture on the objection.

(d) *Use of other administrative review processes.* Where the Forest Service is a participant in a multi-Federal agency effort that would otherwise be subject to objection under this subpart, the reviewing officer may waive the objection procedures of this subpart and instead adopt the administrative review procedure of another participating Federal agency. As a condition of such a waiver, the responsible official for the Forest Service must have agreement with the responsible official of the other agency or agencies that a joint agency response will be provided to those who file for administrative review of the multi-agency effort.

(e) *Compliance with the Paperwork Reduction Act.* The information collection requirements associated with submitting an objection have been approved by the Office of Management and Budget and assigned control number 0596–0158.

#### **§ 219.14 Effective dates and transition.**

(a) *Effective dates.* A plan, plan amendment, or plan revision is effective 30 days after publication of notice of its approval (§ 219.9(b)), except when a plan amendment is approved contemporaneously with a project or activity and applies only to the project or activity, in a way that 36 CFR part 215 or part 218, subpart A, apply.

(b) *Transition.* For the purposes of this section, initiation means that the Agency has provided notice under § 219.9(b) or issued a notice of intent or other public notice announcing the commencement of the process to develop a plan, plan amendment, or plan revision.

(1) *Plan development and plan revisions.* Plan development and plan revisions initiated after [Insert date of publication in the FEDERAL REGISTER] must conform to the requirements of this subpart, except that the plan for the Tongass National Forest may be revised once under this subpart or the planning regulations in effect before November 9, 2000.

(2) *Plan Amendments.* With respect to plans approved or revised pursuant to the planning regulation in effect before November 9, 2000 (see 36 CFR parts 200 to 299, Revised as of July 1, 2000), a 3-year transition period for plan amendments begins on [Insert date of publication in the FEDERAL REGISTER]. During the transition period, plan amendments may continue using the provisions of the planning regulation in effect before November 9, 2000, or may conform to the requirements of this subpart. If the responsible official uses the provisions of the prior planning regulations, the responsible official may elect to use either the administrative appeal and review procedures at 36 CFR part 217 in effect prior to November 9, 2000 (See 36 CFR parts 200 to 299, Revised as of July 1, 2000), or the objection procedures of this subpart. Plan amendments initiated after the transition period must conform to the requirements of this subpart.

(3) *Plan development, plan amendments, or plan revisions underway before this rule.* (i) For plan development, plan amendments, or plan revisions that had been underway before [Insert date of publication in the FEDERAL REGISTER], using the provisions of the planning regulations in effect before November 9, 2000 (See 36 CFR parts 200 to 299, Revised as of July 1, 2000) the responsible official is not required to



halt the process and start over but may complete those processes in conformance of the provisions of those regulations or in conformance to the requirements of this subpart.

(ii) For plan development plan amendment, or plan revisions that had been underway before [Insert date of publication in the FEDERAL REGISTER] using the provisions of the planning regulations in effect January 5, 2005 (See 36 CFR parts 200 to 299, Revised as of July 1, 2000) the responsible official is not required to start over under this subpart upon a finding that the plan, plan amendment, or plan revision process undertaken before [Insert date of publication in the FEDERAL REGISTER] conforms to the requirements of this subpart.

(iii) The responsible official may elect to use either the administrative appeal and review procedures at 36 CFR part 217 in effect prior to November 9, 2000 (See 36 CFR parts 200 to 299, Revised as of July 1, 2000), or the objection procedures of this subpart, except when a plan amendment is approved contemporaneously with a project or activity and applies only to the project or activity, in a way that 36 CFR part 215 or part 218, subpart A, apply.

(4) *Plans developed, amended, or revised using the provisions of the planning rule in effect prior to November 9, 2000.* For units with plans developed, amended, or revised using the provisions of the planning rule in effect prior to November 9, 2000 (See 36 CFR parts 200 to 299, Revised as of July 1, 2000), that rule is without effect. No obligations remain from that regulation, except those that are those specifically in the plan.

#### **§ 219.15 Severability.**

In the event that any specific provision of this rule is deemed by a court to be invalid, the remaining provisions shall remain in effect.

#### **§ 219.16 Definitions.**

Definitions of the special terms used in this subpart are set out in alphabetical order.

*Adaptive management:* A system of management practices based on clearly identified outcomes and monitoring to determine if management actions are meeting desired outcomes, and if not, to facilitate management changes that will best ensure that outcomes are met or re-evaluated. Adaptive management stems from the recognition that knowledge about natural resource systems is sometimes uncertain.

*Alaska Native Corporations:* The regional, urban, and village native corporations formed under the Alaska Native Claims Settlement Act of 1971.

*Area of analysis:* The geographic area within which ecosystems, their components, or their processes are evaluated during analysis and development of one or more plans, plan revisions, or plan amendments. This area may vary in size depending on the relevant planning issue. For a plan, an area of analysis may be larger than a plan area.

For development of a plan amendment, an area of analysis may be smaller than the plan area. An area of analysis may include multiple ownerships.

*Diversity of plant and animal communities:* The distribution and relative abundance or extent of plant and animal communities and their component species, including tree species, occurring within an area.

*Ecological conditions:* Components of the biological and physical environment that can affect diversity of plant and animal communities and the productive capacity of ecological systems. These components could include the abundance and distribution of aquatic and terrestrial habitats, roads and other structural developments, human uses, and invasive, exotic species.

*Ecosystem diversity:* The variety and relative extent of ecosystem types, including their composition, structure, and processes within all or a part of an area of analysis.

*Environmental management system:* The part of the overall management system that includes organizational structure, planning activities, responsibilities, practices, procedures, processes, and resources for developing, implementing, achieving, reviewing, and maintaining environmental policy.

*Federally recognized Indian Tribe:* An Indian or Alaska Native Tribe, band, nation, pueblo, village, or community that the Secretary of the Interior acknowledges to exist as an Indian Tribe pursuant to the Federally Recognized Indian Tribe List Act of 1994, 25 U.S.C. 479a.

*Forest land:* Land at least 10 percent occupied by forest trees of any size or formerly having had such tree cover and not currently developed for non-forest uses. Lands developed for non-forest use include areas for crops; improved pasture; residential or administrative areas; improved roads of any width and adjoining road clearing; and power line clearings of any width.

*ISO 14001:* A consensus standard developed by the International Organization for Standardization and adopted by the American National Standards Institute that describes environmental management systems and outlines the elements of an environmental management system.

*Newspaper(s) of record:* The principal newspapers of general circulation annually identified and published in the *Federal Register* by each regional forester to be used for publishing notices as required by 36 CFR 215.5. The newspaper(s) of record for projects in a plan area is (are) the newspaper(s) of record for notices related to planning.

*Plan:* A document or set of documents that integrates and displays information relevant to management of a unit of the National Forest System.

*Plan area:* The National Forest System lands covered by a plan.

*Productivity:* The capacity of National Forest System lands and their ecological systems to provide the various renewable resources in certain amounts in perpetuity. For the purposes of this subpart it is an ecological, not an economic, term.

*Public participation:* Activities that include a wide range of public involvement tools and processes, such as collaboration, public meetings, open houses, workshops, and comment periods.

*Responsible official:* The official with the authority and responsibility to oversee the planning process and to approve plans, plan amendments, and plan revisions.

*Reviewing officer:* The supervisor of the responsible official. The reviewing officer responds to objections made to a plan, plan amendment, or plan revision prior to approval.

*Species-of-concern:* Species for which the responsible official determines that management actions may be necessary to prevent listing under the Endangered Species Act.

*Species-of-interest:* Species for which the responsible official determines that management actions may be necessary or desirable to achieve ecological or other multiple use objectives.

*Timber harvest:* The removal of trees for wood fiber use and other multiple-use purposes.

*Timber production:* The purposeful growing, tending, harvesting, and regeneration of regulated crops of trees to be cut into logs, bolts, or other round sections for industrial or consumer use.

*Visitor opportunities:* The spectrum of settings, landscapes, scenery, facilities, services, access points, information, learning-based recreation, wildlife, natural features, cultural and heritage sites, and so forth available for National Forest System visitors to use and enjoy.

*Wilderness:* Any area of land designated by Congress as part of the National Wilderness Preservation System that was established in the Wilderness Act of 1964 (16 U.S.C. 1131–1136).



# Appendix K – Cost-Benefit Analysis Methodology and Assumptions

The material below is extracted from the Regulatory Impact Analysis /Cost-Benefit Analysis prepared for the planning rule (USDA Forest Service 2011a).

Annual costs are estimated separately for years during which units are engaged in plan revision and years engaged in plan maintenance/amendment. Costs are then aggregated for all years (i.e., 15-year planning cycle) and all management units to estimate total planning costs. Over a 15-year planning cycle, it is assumed that management units will be engaged in plan revision for 3 to 4 years under Alternative A and Modified Alternative A and 5 years under Alternative B (current rule procedures), implying that plan maintenance or amendment will be occurring for the remaining 11 to 12 and 10 years, respectively. There remains some uncertainty regarding projected time and corresponding resources needed to complete plan revisions under the action alternatives.

It is also assumed that approximately 120 management units will at least initiate plan revision over the next 15 years (2012 through 2026). Total costs are assumed to cover activities directly related to planning and planning-related monitoring at the unit and regional office levels, as well as indirect or overhead (i.e., add-on or cost pools) activities to support planning activities. Costs do not include project-level activities (project and alternative development, NEPA analysis, etc.). Costs associated with planning activities at national offices and research stations are assumed to remain relatively constant across alternatives and therefore are not included in total cost estimates. Total costs (in 2009 dollars) are estimated for a 15-year planning cycle and then annualized assuming a 3 percent and 7 percent discount rate in accordance with Office of Management and Budget Circular A-4 (USOMB, 2003).

## **Cost Assumptions: Alternatives A, Modified Alternative A and Alternative B (No Action)**

Estimates of planning and monitoring costs during plan revision years—as well as distributions of costs across key planning activities (e.g., assessment, analysis, appeal resolution, etc.) under Alternative B (current rule procedures)—are based initially on past cost estimates for plan revision under current rule procedures (USDA Forest Service 2007b) and then adjusted to reflect recent information and data regarding Forest Service paid expenditures (USDA Forest Service 2010a) and Forest Service budget allocations for planning and monitoring activities (USDA Forest Service 2010b, 2010c), as represented by Agency budget line items for planning (NFPN) and monitoring (NFIM) for 1996 to 2010.

Costs during plan maintenance periods, including plan amendment activities, are not available from past planning rule analyses, so historical expenditures and funding allocations (USDA Forest Service 2010a, 2010c) were examined to help derive planning costs during maintenance periods. Historical data suggest that annual expenditures per management unit associated with the non-monitoring planning activities (budget line item

NFPN) during maintenance years are about 30 percent of annual expenditures during periods of revision. Based on final cost estimates for this analysis, average annual costs associated with non-monitoring planning activities for plan maintenance are approximately 25 percent and 35 percent of non-monitoring planning activities during plan revision for alternatives A and B respectively. Additional details about cost assumptions and estimation for key activity categories are noted below:

### ***Collaboration***

Costs for collaboration are assumed to cover all collaboration activities and traditional public meetings, except activities related to public comments and content analysis for complying with NEPA and NFMA formal notification and comment solicitation requirements (those costs are included within the Analysis/Revision section). The costs for Alternative B (current rule procedures) during periods of revision are based on the cost of traditional public meetings and minimal amounts of additional collaboration; costs during maintenance periods are assumed to be negligible (zero costs) relative to other planning expenses. Costs for collaboration under Alternative A and Modified Alternative A include all costs under Alternative B (current rule procedures) and also include estimates of expenses for additional collaboration involvement, training, facilitation, tribal involvement, facilities, and travel (USDA Forest Service 2010g). Collaboration costs account for 21 percent of plan revision costs under Alternative A, which is slightly lower though still similar to the 24 percent estimated for the 2008 planning rule (USDA Forest Service 2007b). Collaboration accounts for 5 percent of projected costs during plan maintenance periods under Alternative A. Collaboration is projected to account for a substantially lower percentage of costs under the 1982 rule procedures (3 percent).

### ***Science Support***

Costs for science support include expenses for consultations and other activities to help take into account best science and provide documentation in assessment reports, plan decision documents, and monitoring evaluation reports. Science support costs under current rule procedures and Alternative A are approximately 3 percent and 4 percent of plan revision costs respectively, consistent with percentages described in previous assessments of planning rule costs (USDA Forest Service 2002a, 2007b). Costs decrease to less than 1 percent of costs during plan maintenance periods under both alternatives. Modified Alternative A will limit the documentation for best available science to inform the assessment, the plan approval, and the design of the monitoring program instead of in every assessment report, plan decision document and monitoring evaluation report. Cost for science support under Modified Alternative A is estimated to be 7 % less than Alternative A.

### ***Assessments***

Assessment costs (pre-notice of intent) include activities related to a number of pre-NOI activities such as assessments of current conditions and trends as described under Modified Alternative A, as well as assessments of species of conservation concern and viability. Assessments under current rule procedures include analyses of management

situations (AMS) and benchmark analysis. Alternative A required assessments of unit contributions within the context of a broader-scale landscape. Previous analyses of planning costs (USDA Forest Service 2002a) found that consideration of broad-scale assessments can have a large impact on overall assessment costs.

Assessment costs were estimated to account for 19 percent to 28 percent of plan revision costs for the 2000 and 2002 planning rules (USDA Forest Service 2002a), and a similar percentage (19 percent) is projected for this proposed rule, decreasing to 9 percent under current rule procedures. Cost percentages during plan maintenance periods decrease to approximately 8 percent for both alternatives.

The Modified Alternative A (final rule) places more emphasis on rapid assessments using existing information to assess relevant ecological, economic and social conditions, trends, and their relationship to the land management plan within the context of the broader landscape. Modified Alternative A would eliminate the requirement for notification of an assessment and instead require responsible officials to coordinate or provide opportunities for the public and others to provide relevant information to contribute to the assessment. Modified Alternative A removes explicit requirements for assessments to address roles and contributions and monitoring questions. As a result of the changes in rule language, Modified Alternative A would reduce analysis time, and better frame the scope, scale, and intent of assessments. It would eliminate need to notify scientists. Assessment cost for Modified Alternative A is estimated to be about 25% lower than Alternative A

### ***Analysis/Decisions***

These costs cover primarily post-NOI NEPA-related activities including effects analysis, public comment solicitation and content analysis, and alternative development. Costs also include timber (suitability) analysis requirements, comparison of alternatives, and documentation of decisions. Costs associated with evaluations of special or designated areas (e.g., wilderness) are assumed to remain constant across all alternatives and are not included in cost estimates.

Under the Modified Alternative A the requirements for amendments are simpler than those for plan development or revision. The rule allows amendments to be proposed without completing an assessment or the separate process step of developing a proposal. As a consequence, the level of effort (and resources) associated with amendments is expected to be reduced in many cases.

Projected analysis and decision costs account for 37 percent of plan revision costs under Alternative A, slightly lower than percentages previously estimated for 2000, 2002, and 2008 planning rules (47 percent to 58 percent) (USDA Forest Service 2002a, 2007b). Corresponding costs under Alternative B (current rule procedures) are estimated to be 47 percent of plan revision costs. Analysis and decision costs during plan maintenance are estimated to decrease to 14 percent and 33 percent for Alternative A and Alternative B respectively.

Under Modified Alternative A, the responsible official is required to review relevant information from the assessment phase to identify a preliminary need to change the existing plan when revising a plan. “Need to change” determinations are grouped with revisions and more prescriptive language regarding ecological sustainability, riparian sustainability, and BMPs for water resources. A slightly (2%) higher cost is estimated for Modified Alternative A than Alternative A.

### ***Resolutions***

Costs to address post-decisional appeals under Alternative B (current rule procedures) and pre-decisional objections under Alternative A account for 3 percent and 2 percent of plan revision costs respectively. These percentages are similar to those reported in previous planning cost analyses (USDA Forest Service 2002a, 2007b). Resolution costs are estimated to account for less than 1 percent of costs during plan maintenance periods for Alternative A, and 1.5 percent under current rule procedures. Estimates of agency costs do not account for litigation costs. The sources of information used to estimate planning costs, including past cost benefit analyses completed for previous planning rules, did not include litigation costs. Much of the litigation related to planning occurs at the project level, and it is not possible to separate out litigation costs for land management planning from other Agency expenses.

### ***Monitoring***

Monitoring costs are assumed to be represented by funds and expenses under the Agency’s NFIM budget line item. Historical expense and budget allocation data indicate that annual monitoring costs during plan revision and plan maintenance are similar and that monitoring funds directed toward planning range from 40 percent to 57 percent of non-monitoring funds (budget line item NFPN) for planning (USDA Forest Service 2002b, 2010a, 2010c). Monitoring costs during plan revision under current rule procedures are estimated to be 23 percent of non-monitoring costs and 21 percent under Alternative A. During periods of plan maintenance, monitoring costs as a percentage of non-monitoring costs increase slightly under current rule procedures and to a greater extent under Alternative A. Monitoring costs account for a similar percentage of total plan revision costs (17 percent to 19 percent) for both rules, which is similar to the percentage (13 percent) estimated in previous analyses for the 1982 procedures and the 2008 proposed rule (USDA Forest Service 2007b). Modified Alternative A Modified Alternative A changes the “unit” monitoring program in Alternative A to ‘plan’ monitoring program, and clarified the role of monitoring (as opposed to assessments) in determining the need to change. Monitoring is clarified for ecosystems and focal species. Monitoring cost for Modified Alternative A is estimated to be 5% less than Alternative A.

### **Cost Assumptions: Alternatives C, D, and E**

Alternatives C, D, and E can all be considered to be modifications or refinements of Alternative A, whereby prescriptive requirements for the key planning activities are removed, adjusted, or augmented. As such, changes in Agency costs for these alternatives



are described, by planning activity, as qualitative or percentage changes with respect to Alternative A or Alternative B costs in the Agency Cost Impacts section below.

### ***Alternative E: Scenario Building***

Alternative E would require consideration of plausible scenarios as part of assessments conducted for plan revision. This approach likely would involve methods commonly referred to as scenario planning or scenario building. Those methods are not widely adopted in the Forest Service. That lack of familiarity would result in short-term cost increases associated with training necessary to learn the methods. That investment, however, is expected to produce possible long-term gains in efficiency. At local units, similar need to develop skills would add short-term cost and effort to transition periods as forests start to apply scenario planning. Because scenario planning is "story like," it is a natural way for people to talk about possible futures and alternative responses to different circumstances (Schoemaker 1993). Other agencies, such as National Institutes of Health, the U.S. Army Corps of Engineers (USACE), and Department of Defense, have processes for scenario planning that are accepted as effective approaches to identifying, communicating, and characterizing plausible futures where uncertainty is high and risks are profound. (Peterson et al. 2003). Examples include scenario applied to space defense (Huntley, Bock, et al 2010), the future of internal medicine (Hemmer and Costa, et al 2007), and scenario-based strategic planning (USACE 2010).

Scenario planning is a method for strategic planning that focuses on identifying multiple, reasonably plausible futures. While these multiple futures can be thought of as analogous to multiple forecasts, true scenario planning seeks to describe multiple plausible futures and does not seek to establish probabilities associated with those futures. The emphasis on plausibility instead of probability is overlooked by some disciplines that have embraced the terminology of scenarios without understanding the origins of scenario planning. Emphasis on probabilities reinforces a problematic search for a single best answer (Mitroff and Linstone 1995), a problem the founders of scenario planning sought to address (Van Der Heijden 2000). Searches for single best answers reflect cognitive and heuristic biases that scenario planning is designed to avoid (Schoemaker 1993, Selin 2006). This difference between emphasizing plausibility and emphasizing probability complicates the need to develop new skills because those trained in natural resource sciences are taught about probabilistic methods. Some of the new skills needed require rethinking fundamental training, which is an especially challenging demand.

Scenario planning is different from many other approaches to strategic planning. Approaches that are more traditional focus first on establishing a single-point forecast, often in the form of desired conditions. Those methods then focus on identifying probabilities associated with different alternatives for moving from current to desired conditions. Scenario planning, in contrast, was developed in part as a way to offset cognitive biases to which those traditional methods are often prone, such as bounded decision models, overconfidence, and deterministic reasoning (Chermack 2004, Van Der Heijden 2002). The method relies heavily on collaborative engagement between participants—including but not exclusively technical experts and scientists—so that biases and assumptions are brought to the surface and used to construct the plausible

alternative futures (Ringland 2002, Schoemaker 1993). Traditional approaches to strategic planning typically pit competing perspectives against each other in search for a single best forecast or scenario, occasionally looking for multiple single-point forecasts. In contrast with scenario planning, traditional methods are fundamentally adversarial and, therefore, at odds with more collaborative, learning-oriented approaches of planning and decision-making (Chermack and Lynham 2006). Scenario planning, while promising, requires consideration of plausible scenarios, which, by extension, requires the skills to develop those scenarios. Implicitly, developing the skills would be a required organizational investment; developing the scenarios would be a required investment of the local unit, its stakeholders, and its other interested participants.



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# Appendix M – Economic Contributions

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## Contribution of National Forest and Grassland Resource Management to the US Economy

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### OBJECTIVE

This paper describes the methods used to estimate the economic contribution of Forest Service (FS) National Forest and Grassland resource management activities to the US economy. This is a summary analysis for National Forest System (NFS) activities. A far more detailed study for the entire Forest Service is carried out periodically for the Strategic Plan Analysis.

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### ECONOMIES AS SYSTEMS

Economies are webs of interactions between producers and consumers of goods and services. Economic activity supports jobs and jobs give people the disposable income to support economic activity. Natural resource management on National Forests and Grasslands contributes to economic activity nation-wide by providing recreation opportunities and commodities such as timber and grazing. Additionally, a portion of the revenues collected by the Forest Service is returned to states and counties to support schools, road maintenance, and stewardship management projects. The information presented in this report quantifies the economic contribution of Forest Service resource management activities; recreation, hunting, fishing, wildlife watching, grazing, forest management, minerals, secure rural schools returns to states and counties, and budget expenditures supporting management of the National Forest System.

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### SUMMARY TABLES: ECONOMIC CONTRIBUTION

Table A presents an estimate of the annual economic activity supported by FS management of the National Forests and Grasslands. This includes the effects of expenditures by the Agency to manage natural resources as well as including expenditures made by visitors enjoying recreational opportunities on the National Forests, wildlife related activities such as hunting, fishing, and wildlife watching, economic activity supported by minerals extraction, economic activity in the livestock sector supported by access to FS grazing allotments, and the economic activity supported by logging companies and primary processors of forest products, as well as the gathering and sales other forest products.

**Table A: National Forest and Grassland Contributions to US Employment, Income, GDP and Total Sales by Program for 2009.**

Resource *	Total Contribution (Initial Expenditures plus Ripple Effects)			
	Full and Part Time Jobs	Labor Income (Thousands of 2009 dollars)	GDP (Thousands of 2009 dollars)	Output (Total Sales) (Thous. of 2009 dollars)
Recreation - Not Wildlife Related	199,883	\$8,036,853	\$13,688,259	\$26,418,402
Wildlife and Fish Recreation	24,259	\$1,034,624	\$1,756,845	\$3,392,073
Grazing	3,695	\$91,919	\$194,047	\$540,565
Timber	44,083	\$2,054,923	\$2,333,635	\$11,820,121
Minerals	110,409	\$6,885,261	\$13,317,234	\$24,905,595
Other Forest Products	100	\$3,821	\$5,906	\$12,773
Payments to States/Counties	10,634	\$506,774	\$705,061	\$1,295,913
Forest Service Expenditures	37,175	\$1,764,434	\$2,504,903	\$3,475,555
Total Forest Management	430,238	\$20,378,609	\$34,505,890	\$71,860,997

\* Only the "Forest Service Expenditures" line reflects jobs and income generated from FS program budget expenditures. All the previous lines reflect private sector activity stimulated by FS resources entering the national economy.

These estimates include backward linkages - the ripple effects through the economy of an infusion of money from the use of products and amenities on the National Forests. For example, in FY 2009, visitors to the National Forests spent \$13billion for things like lodging, food and fuel ([National Visitor Use Monitoring Result, National Summary Report, FY2009, April 2010](#)). The full contribution of these expenditures are realized as the hotels, restaurants and gas stations turn around and pay for labor, utilities, taxes and other inputs that enable them to sell goods and services to the visitors. In addition, an economic contribution is made when the employees of the hotels, restaurants and gas stations spend their disposable income. As can be seen in Table A, the total contribution stemming from the initial expenditure of \$13billion is more than 24,000 jobs from wildlife related recreation, and over 199,000 jobs from other recreation. The same type of ripple effect can be seen economy-wide in income, GDP and sales.

As another example, the Grazing Program contributed almost 4,000 jobs and over \$91 million of wages and proprietor's income economy-wide in 2009. It is important to note that this does not include the total number of ranchers and their employees, but rather is the economic contribution of value added to livestock given access to forage on the National Forests and Grasslands.

The other Programs shown in Table A have comparable ripple effects through the US economy. See Tables C & D for a detailed display of results for this analysis. Table E shows the data and data sources used.

## GENERATING ESTIMATES OF INCOME AND EMPLOYMENT

For this analysis, one model was built for the entire US using the “IMPLAN” economic software and data system first developed by the Forest Service and now updated and supported by the Minnesota IMPLAN Group ([www.implan.com](http://www.implan.com)). IMPLAN models show the interdependencies and interactions of businesses and consumers. Models contain data for 440 economic sectors and 9 income brackets using 2009 data, the most recent data available. Table B shows the source of some of the key data pieces in IMPLAN.

**Table B: Sources for the 2009 IMPLAN data set**

Data Type	Source Data	Comments
<b>Industry sales</b>	<ul style="list-style-type: none"> <li>▪ U.S. Bureau of Census (Census) economic censuses,</li> <li>▪ U.S. Bureau of Economic Analysis (BEA) output estimates</li> <li>▪ U.S. Bureau of Labor Statistics (BLS) employment projections.</li> </ul>	Total Industry Output equals the value of all sales to intermediate (business to business) and final (consumers, exports) demand.
<b>Employment (jobs)</b>	<ul style="list-style-type: none"> <li>▪ BEA: Regional Economic Information System (REIS)</li> <li>▪ BLS: ES202 employment security data</li> <li>▪ Census: County Business Patterns</li> </ul>	Employment (jobs) is defined as in 2009 employment. It includes full and part time, temporary, and seasonal jobs as well as multiple jobs held by a single person.
<b>Labor Income</b>	<ul style="list-style-type: none"> <li>▪ Employee compensation:               <ul style="list-style-type: none"> <li>○ BLS ES202</li> <li>○ BEA REIS data.</li> </ul> </li> <li>▪ Proprietor's Income: Federal tax forms.</li> </ul>	Labor Income includes: <ul style="list-style-type: none"> <li>▪ Employee compensation: the value of wages <u>and</u> benefits</li> <li>▪ Proprietor's income: Any income received for payment of self-employed work.</li> </ul>

IMPLAN is an “Input-output (I-O)” model and is used as a means of examining relationships within an economy both among businesses and between businesses and final consumers. It captures all monetary market transactions for consumption in a given time period. There are two principle ways IMPLAN is used; an examination of the current situation is a “Contribution Analysis”, while a prediction of economic activity in response to a change in management or policy is an “Impact Analysis”. The purpose of this report is to estimate the *contribution* of current natural resource management to the US economy.

Input-output models are driven by final consumption (or final demand). Industries respond to meet demand for their product or service directly or indirectly (by supplying goods or services to industries responding directly). Each industry that produces goods or services generates demands for other goods and services. A \$1 final demand for the goods and services of an industry ultimately leads to an output of more than \$1 of the goods and services of the total economy. Other industries supply inputs to the industry

receiving a demand for its product and increase the stimulus to the regional economy. These are secondary effects. People spending wages earned in any of these industries also provide income to other goods and service industries, an “induced effect”. Direct, indirect and induced effects are measured with “multipliers” which measure how much employment and income is stimulated by demand for goods and services. Complex economies generate larger multipliers than simple, rural economies. “Response coefficients” are a type of multiplier that measures economic response as a result of each \$1million of spending related to natural resource management.

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### RESPONSE COEFFICIENTS AND FEAST

After the IMPLAN model was built, a million dollars was run through the model for; wildlife and other recreation, range, timber, minerals, and secure rural schools payments. These “response coefficients” are then imported into FEAST, an Excel workbook which handles calculation and reporting tasks.

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### RESOURCE DATA AND ANALYSIS RESULTS

Table D shows the resource data inputs used in FEAST with the data sources noted. FEAST multiplies these data by the response coefficients from IMPLAN to get the jobs and income estimates. The results tables from FEAST are displayed in Tables A, C and D.

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### A WORD ABOUT IMPLAN ESTIMATES

In order to use these estimates correctly, please keep a few words of warning in mind:

1. IMPLAN is used to examine “marginal” changes: The numbers presented in Appendix A hold only for relatively small changes to the US economy. Any resource management action large enough to change the underlying structure and trade relationships of the economy will necessarily change the relationships quantified in the coefficients. A new model would need to be specified and run.
2. In reality, effects would be “lumpy”: These estimates were generated for a large geographic area which contains well developed and complex economies. At a smaller scale, management actions that affect rural, simple economies would necessarily have smaller response coefficients and thus a smaller job and income response.
3. Jobs do NOT equal Full Time Equivalents. Jobs are annual average full and part time, seasonal, and temporary employment in the private sector.
4. Labor income includes employee compensation (wages plus the value of benefits) and the income of sole proprietors.
5. GDP (Gross National Product): GDP measures the incremental value added to a product or service at each step of the production process. This is a conventional and widely used measure of economic growth. This is called “Value Added” in IMPLAN output.

6. Output (Total Sales): Sales value of goods and services. This is not normally used as a measure of economic growth as it counts both intermediate and final sales of goods and services in the production process.

## FULL FEAST OUTPUT TABLES

### Contribution of National Forest Management to the US Economy

Table A. Current Economic Contribution of National Forest & Grassland Resource Management

Resource	Jobs (Full and Part Time)	Labor Income (Thous. \$2009)	GDP (Thous. \$2009)	Output (Total Sales: Thous. \$2009)
Recreation - Not Wildlife Related	199,883	\$8,036,853	\$13,688,259	\$26,418,402
Wildlife and Fish Recreation	24,259	\$1,034,624	\$1,756,845	\$3,392,073
Grazing	3,695	\$91,919	\$194,047	\$540,565
Timber	44,083	\$2,054,923	\$2,333,635	\$11,820,121
Minerals	110,409	\$6,885,261	\$13,317,234	\$24,905,595
Other Forest Products	100	\$3,821	\$5,906	\$12,773
Payments to States/Counties	10,634	\$506,774	\$705,061	\$1,295,913
Forest Service Expenditures	37,175	\$1,764,434	\$2,504,903	\$3,475,555
<b>Total Forest Management</b>	<b>430,238</b>	<b>\$20,378,609</b>	<b>\$34,505,890</b>	<b>\$71,860,997</b>

Table C. Economic Contribution by Major Industry in 2009

Industry	Jobs (Full and Part Time)	Labor Income (Thous. \$2009)	GDP (Thous. \$2009)	Output (Total Sales: Thous. \$2009)
Agriculture	20,526	516,748	699,493	2,811,386
Mining	32,962	3,051,344	6,581,766	12,385,148
Utilities	1,630	252,497	827,197	1,507,650
Construction	6,382	338,808	371,855	730,657
Manufacturing	28,850	1,858,583	2,818,865	13,381,590
Wholesale Trade	13,998	1,045,712	1,730,686	2,978,726
Transportation & Warehousing	15,957	828,588	1,134,839	2,274,238
Retail Trade	43,160	1,230,102	2,057,695	3,149,274
Information	6,796	629,640	1,112,651	2,747,190
Finance & Insurance	15,653	1,258,586	2,045,412	3,990,378
Real Estate & Rental & Leasing	15,382	436,353	3,508,654	5,407,818
Prof, Scientific, & Tech Services	22,252	1,625,880	2,051,446	3,553,553
Mngt of Companies	4,930	545,615	682,300	1,184,572
Admin, Waste Mngt & Rem Serv	21,325	689,485	859,386	1,475,795
Educational Services	5,212	173,929	184,969	351,445
Health Care & Social Assistance	26,340	1,309,558	1,439,731	2,630,646
Arts, Entertainment, and Rec	20,075	577,228	1,040,958	2,359,514
Accommodation & Food Services	89,218	2,237,936	3,602,751	6,594,857
Other Services	17,444	516,430	636,763	1,295,518
Government	27,824	1,540,977	1,563,423	1,666,160
Total Forest Management	435,914	20,664,001	34,950,838	72,582,327



Table D. Current Role of Forest Service-Related Contributions to the US Economy

Industry	Employment (jobs)		Labor Income (Thousands of 2009 dollars)	
	US Totals	FS-Related	US Totals	FS-Related
Agriculture	3,760,534	20,526	\$71,689,938	\$ 516,748
Mining	905,275	32,962	\$125,532,267	\$ 3,051,344
Utilities	557,117	1,630	\$96,592,447	\$ 252,497
Construction	11,286,915	6,382	\$581,557,209	\$ 338,808
Manufacturing	13,829,566	28,850	\$1,079,427,116	\$ 1,858,583
Wholesale Trade	6,323,779	13,998	\$475,756,596	\$ 1,045,712
Transportation & Warehousing	18,850,522	15,957	\$557,046,036	\$ 828,588
Retail Trade	5,652,794	43,160	\$302,253,880	\$ 1,230,102
Information	3,592,765	6,796	\$334,252,107	\$ 629,640
Finance & Insurance	8,178,963	15,653	\$713,060,733	\$ 1,258,586
Real Estate & Rental & Leasing	7,564,435	15,382	\$230,879,080	\$ 436,353
Prof, Scientific, & Tech Services	12,035,141	22,252	\$932,623,837	\$ 1,625,880
Mngt of Companies	1,861,054	4,930	\$211,683,964	\$ 545,615
Admin, Waste Mngt & Rem Serv	10,442,019	21,325	\$349,340,727	\$ 689,485
Educational Services	3,492,557	5,212	\$115,082,530	\$ 173,929
Health Care & Social Assistance	17,562,096	26,340	\$862,689,084	\$ 1,309,558
Arts, Entertainment, and Rec	3,531,574	20,075	\$97,209,354	\$ 577,228
Accommodation & Food Services	11,949,225	89,218	\$257,694,287	\$ 2,237,936
Other Services	10,080,334	17,444	\$267,143,307	\$ 516,430
Government	24,860,136	27,824	\$1,587,921,038	\$ 1,540,977
Total	176,316,800	435,914	\$9,249,435,537	\$ 20,664,001
FS as Percent of Total	---	0.25%	---	0.22%

**DATA INPUT SUMMARY REPORT**

- NL - NonLocal Visitors who live more than 50 miles from the National Forest
- L – Local Visitors who live within 50 miles of the National Forest
- Day – Day use
- OVN-NF – Overnight on the National Forest
- OVN – Overnight off the National Forest
- NOTE: Non-primary visits (visitors who were recreating on the forest or grassland but not in the area primarily to visit the forest) were added to the Local Day use visit total to reflect their low spending on NF recreation.

Table E: Data Input to FEAST

1

Recreation Use	Units	Current
NL-Day	Visits	12,941,720
NL-OVN-NF	Visits	9,412,160
NL-OVN	Visits	20,000,840
L-Day Trips	Visits	69,414,680
L-OVN-NF	Visits	4,706,080
L-OVN	Visits	1,176,520
NL-Day Downhill Ski	Visits	4,477,800
NL-OVN Downhill Ski	Visits	13,134,880
L-Day Downhill Ski	Visits	11,642,280
L-OVN Downhill Ski	Visits	597,040

Source: "Spending Profiles of National Forest Visitors, NVUM Round 2 Update", White, Eric and Dan Stynes, March 2010

2

Recreation Expenditures / Unit	Units	Current
NL-Day Trips	\$/Visit	24.30
NL-OVN-NF	\$/Visit	79.70
NL-OVN	\$/Visit	205.13
L-Day Trips	\$/Visit	15.08
L-OVN-NF	\$/Visit	57.41
L-OVN	\$/Visit	86.04
NL-Day Downhill Ski	\$/Visit	53.86
NL-OVN Downhill Ski	\$/Visit	268.16
L-Day Downhill Ski	\$/Visit	29.33
L-OVN Downhill Ski	\$/Visit	88.80

Source: "Spending Profiles of National Forest Visitors, NVUM Round 2 Update", White, Eric and Dan Stynes, March 2010

3	Range Use	Units	Current
	Cattle & Horses	HMs	4,818,401
	Sheep & Goats	HMs	1,984,715
	Cattle Inventory -- Impact Area	Animals	96,034,500
	Cattle weighted proportion marketed	Number	.46
	Cattle weighted selling price	\$/Animal	1,104
	FS Cattle HMs in Inventory Data Year	HMs	4,818,401
	Sheep Inventory -- Impact Area	Animals	4,636,500
	Sheep weighted proportion marketed	Number	.26
	Sheep weighted selling price	\$/Animal	306
	FS Sheep HMs in Inventory Data Year	HMs	1,984,715

Sources: "Annual Grazing Statistical Report", ([www.fs.fed.us/rangelands/reports/index.shtml](http://www.fs.fed.us/rangelands/reports/index.shtml))  
And National Agricultural Statistics Service ([www.usda.gov/nass](http://www.usda.gov/nass))

4	Wildlife & Fish Use	Units	Current
	NL-Day Trips	Visits	3,609,341
	NL-OVN-NF	Visits	3,886,982
	NL-OVN	Visits	3,054,058
	L-Day Trips	Visits	15,825,571
	L-OVN-NF	Visits	832,925
	L-OVN	Visits	555,283

Source: "Spending Profiles of National Forest Visitors, NVUM Round 2 Update",  
White, Eric and Dan Stynes, March 2010

5	Wildlife & Fish Expenditures/Unit	Units	Current
	NL-Day Trips	\$/Visit	27.83
	NL-OVN-NF	\$/Visit	125.84
	NL-OVN	\$/Visit	199.17
	L-Day Trips	\$/Visit	21.12
	L-OVN-NF	\$/Visit	81.57
	L-OVN	\$/Visit	88.71

Source: "Spending Profiles of National Forest Visitors, NVUM Round 2 Update",  
White, Eric and Dan Stynes, March 2010

6	Timber	Units	Current
	Softwood Sawtimber	CCF	2,094,229
	Softwood Pulp	CCF	493,911
	Hardwood Sawtimber	CCF	167,253
	Hardwood Pulp	CCF	252,089
	Poles	CCF	12,724
	Posts	CCF	7,237
	Fuelwood	CCF	501,376
	All Other Products	CCF	410,911

Sources: Annual Cut and Sold Reports, Volume harvested, "Service-wide Products FY 2009"  
([www.fs.fed.us/forestmanagement/reports/sold-harvest/cut-sold.html](http://www.fs.fed.us/forestmanagement/reports/sold-harvest/cut-sold.html)).

7	Secure Rural Schools/25% Fund	Units	Current
	Roads	\$	198,733
	Schools	\$	198,733
	General Gov't	\$	23,380
	Title II Projects	\$	46,761

Source: "ASR18-1\_18-2\_FY2009.xls", ([www.fs.fed.us/srs/county2009.shtml](http://www.fs.fed.us/srs/county2009.shtml))

8	FS Employment & Expenditures All Programs	Units	Current
	NFS FTEs All Programs	FTEs	14,500
	<b>Expenditures</b>		
	Salary	%	.39
	Nonsalary	%	.61
	Total NFS	Thous \$\$	\$1,452,729

Source: Ross Arnold, WO Research, SPRA, personal communication, and National Finance Center, Budget Object Code annual expenditure data.

9	Minerals Quantities and Prices	Units	Quantity	Price/Unit (\$2009)
	1. Oil and Gas Extraction			
	Natural Gas	M Cubic Feet	159,241,085	4
	Crude Oil	Barrels	132,388,830	69
	Natural Gas Liquids	Gallons	788,702,427	1
	2. Coal Mining	Short Tons	271,600,000	14
	4. Copper, Nickel, Lead and Zinc Mining			
	Copper	Short Tons	36,810	2
	Lead	Short Tons	230,113	1
	Zinc	Short Tons	120,392	1
	5. Gold, Silver, and Other Metal Ore Mining			
	Gold	Troy Ounces	86,300	972
	Silver	Troy Ounces	8,600,000	15
	6. Stone Mining and Quarrying			
	Crushed Stone (Common Variety)	Short Tons	6,100,000	42
	7. Sand, Gravel, Clay, and Refractory Mining			
	Construction Sand and Gravel	Short Tons	11,600,000	8
	8. Other Nonmetallic Mineral Mining			
	Phosphate	Short Tons	2,200,000	127
	16. Primary Nonferrous Metal, Except Copper & Alumn			
	Platinum	Troy Ounces	123,000	1207.55
	Palladium	Troy Ounces	407,000	265.65

Source: FS Minerals Management

10	Other Forest Products Quantities	Units	Current
	Other Forest Products	ccf	410,911

Source: Source: Annual Cut and Sold Reports, Volume harvested, "Service-wide Products FY 2009" ([www.fs.fed.us/forestmanagement/reports/sold-harvest/cut-sold.html](http://www.fs.fed.us/forestmanagement/reports/sold-harvest/cut-sold.html)).

11	<b>Other Forest Products Costs (2008 dollars)</b>	<b>Units</b>	<b>Current</b>
	Other Forest Products	ccf	10

Sources: Annual Cut and Sold Reports, Volume harvested, "Service-wide Products FY 2009" ([www.fs.fed.us/forestmanagement/reports/sold-harvest/cut-sold.html](http://www.fs.fed.us/forestmanagement/reports/sold-harvest/cut-sold.html)).

12	<b>IMPLAN Data for Impact Area</b>	<b>Units</b>	<b>Current</b>
	Employment	number	176,316,800
	Employee Compensation	\$	8,038,855,998,714
	Proprietary Income	\$	1,106,300,002,875
	Labor Income	\$	9,145,155,991,341
	Other Property Income	\$	4,248,944,035,175
	Total Income	\$	13,394,100,039,978

Source: 2009 US IMPLAN model



# Appendix N – Review of Roadless Rules, Legislation, and Policy

## US Forest Service Update

November 8, 2011

### **SUBJECT: Status of Roadless Rules**

#### *Litigation History of Roadless Area Conservation Rule (RACR)*

The RACR prohibits, with some exceptions, road construction and timber harvesting across 58.5 million acres of the National Forest System. The rule was published in the Federal Register on January 12, 2001 (66 FR 3244).<sup>\*</sup> Ten lawsuits were filed challenging the rule. In May 2001, a preliminary injunction barring implementation of the rule was issued by a federal district court in Idaho. The Ninth Circuit Court of Appeals reversed that ruling, and the RACR became effective in April 2003. In June 2003, the State of Alaska settled its claims regarding the RACR and after further rulemaking the Tongass National Forest was exempted from the RACR (68 FR 75136). Two cases in North Dakota that involved the RACR were eventually settled in March 2007 and three others were dismissed.

However, in July 2003, a federal district court in Wyoming upheld the State of Wyoming's challenge to the RACR holding that promulgation of the RACR was procedurally flawed under NEPA and substantively illegal under the Wilderness Act. The court set aside the rule and permanently enjoined the rule. The decision was appealed to the Tenth Circuit Court of Appeals, but the court declared the case moot and vacated the Wyoming order after the 2005 State Petitions Rule was promulgated.

The 2005 State Petitions Rule triggered two additional lawsuits in a district court of California. One lawsuit was filed by the States of California, New Mexico, and Oregon; and the other was filed by a coalition of environmental groups. On September 20, 2006, the California court set aside the State Petitions Rule, and reinstated the RACR (including the Tongass amendment). The decision was appealed and on August 5, 2009, the appellate court affirmed the district court's ruling.

In response to the reinstatement of the RACR, the State of Wyoming filed a second lawsuit (*Wyoming II*) challenging the RACR. On August 12, 2008, the Wyoming court again set aside and enjoined the RACR. The government filed an appeal on August 13, 2009 to the Tenth Circuit Court.

The Wyoming decision placed the Forest Service in a conundrum of trying to comply with the California court's order *to follow* the RACR and the Wyoming court's order *to not follow* the RACR. The Department of Justice submitted motions on August 20, 2008

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<sup>\*</sup> 66 FR 3244 – Federal Register references indicate volume and page number.

to both courts requesting a stay or limiting the scope of both injunctions. On December 2, 2008, the California court changed its injunction to affect only the Ninth Circuit and the plaintiff State of New Mexico. On June 16, 2009, the Wyoming court denied the government's motion for reconsideration and suspension of its injunction. On October 21, 2011, the Tenth Circuit Court of Appeals overturned the Wyoming District Court decision (*WY v. USDA*).

On December 22, 2009, a coalition of Alaska Natives, recreation groups and environmentalists filed a lawsuit seeking to set aside the Tongass exemption of 2003 and all projects not fully consistent with the RACR. Briefs have been filed and the case is pending.

All alternatives in this programmatic environmental impact statement require that plans developed or revised under a final planning rule would comply with applicable law and regulation. None of the alternatives would affect the ability to comply with constraints of any existing or future roadless rule or statute.

### ***State Petitions Status***

The States of California, Idaho, New Mexico, North Carolina, South Carolina, and Virginia filed petitions under the State Petitions Rule. Other States announcing they intended to file a petition under the State Petitions Rule included Arizona, Colorado, Illinois, Oregon, Washington, and Wisconsin.

After the California district court ruling, Idaho Governor James Risch re-submitted Idaho's petition under the Administrative Procedure Act (APA) for the management of 9.3 million inventoried roadless acres within that state. A final Idaho Roadless rule was published in October 2008 (73 FR 61456). The final Idaho roadless rule supersedes the RACR in Idaho. Several environmental groups filed a lawsuit challenging the Idaho rule on January 16, 2009 claiming violations of the Endangered Species Act, National Forest Management Act, and the National Environmental Policy Act. Briefs were filed and a hearing was held October 22, 2010. Judge Windmill issued a ruling January 29, 2011. The Court found the Fish and Wildlife Service did not violate the ESA in preparing the Biological Opinion and the Court also found that the Forest Service did not violate NEPA in relying on the Biological Opinion or in preparing the FEIS and ROD approving the Idaho Roadless Rule.

In November 2006, then Colorado Governor Bill Owen submitted a petition for the management of 4 million roadless acres of IRAs within that state. Governor Bill Ritter amended the petition in April 2007 and submitted it under the APA. With the State as a cooperating agency, a proposed rule was published on July 25, 2008 (73 FR 43544) and notice of availability of the supporting DEIS on August 1. On August 3, 2009, the State released a revised version of the rule with a 60-day comment period. Governor Ritter submitted a revised petition to the Secretary of Agriculture on April 6, 2010. A new proposed rule and a revised DEIS are expected early in 2011.



***Action by the Secretary of Agriculture***

On May 28, 2009, Secretary of Agriculture Tom Vilsack issued Memorandum 1042-154 which reserves “to the Secretary the authority to approve or disapprove road construction or reconstruction and the cutting, sale, or removal of timber in those areas identified in the set of inventoried roadless area maps contained in Forest Service Roadless Area Conservation, Final Environmental Impact Statement, Volume 2, dated November 2000.” The Memorandum did not affect lands covered by the Idaho rule (9.3 million acres), but includes the Tongass National Forest (9.3 million acres) in Alaska. Approximately, 49.2 million acres are affected. The Secretary has since re-delegated some authorities back to the Forest Service.

On May 29, 2010, the Secretary issued a new Memorandum 1042-155. It is essentially the same as the previous memorandum with the re-delegations, but includes the re-delegation to the Under Secretary Natural Resources and Environment for decisions covered by the 1872 Mining Laws. The new memorandum expires within one year, but can be re-issued.

***Pending Legislation***

Since 2001 four House and four Senate bills to legislate the RACR have been submitted but none were enacted. On October 1, 2009 Representative Jay Inslee (WA) and 154 cosponsors introduced HR 3692 and Senator Maria Cantwell (WA) and 24 cosponsors introduced S 1738 for the protection of roadless areas based on the 2001 rule. A related bill reintroduced on February 11, 2009, by Representative Carolyn Maloney and 95 cosponsors is the Northern Rockies Ecosystem Protection Act to designate certain National Forest System lands and public lands under the jurisdiction of the Secretary of the Interior in the States of Idaho, Montana, Oregon, Washington, and Wyoming as wilderness, wild and scenic rivers, wildland recovery areas, and biological connecting corridors, and for other purposes. Copies of these bills can be found at <http://thomas.loc.gov/>.

***Additional information***

The Forest Service maintains a roadless website at <http://roadless.fs.fed.us/>. Copies of the Secretary’s Memorandum, RACR and state-specific rules, supporting documents, and other information are available.

**Contact:** Steve Cossette, Forest Service, Roadless Coordinator, 202-205-1791.



# Appendix O – Response to Comments on the Draft PEIS and Proposed Planning Rule

## Comments on the Draft PEIS

These comments were raised by the public specifically to address concerns related to the draft programmatic . Since the public framed their comments around the proposed rule, that terminology was retained in the comment summary statements. However, the responses are framed around the alternatives in the PEIS. A similar set of comments will also be included in the preamble of the final rule, once it has been selected and at that time, the responses will be specific to the proposed and final rule and any changes made between the two.

The discussion of the alternatives refers to those alternatives analyzed in detail unless otherwise noted.

### Comments regarding the analysis of public comments

*Comment:* Some respondents commented that the Department should review attachments that accompanied their comments. These attachments supported the respondents' comments, but in most cases the enclosures and attachments were not written by the respondent in response to the draft programmatic environmental impact statement (draft PEIS).

*Response:* The Department has reviewed all these comments and enclosures. In some cases, the additional information led the agency to revise portions of the analysis or wording in the final PEIS. Specific changes and revisions to the final PEIS based on public comments and their attachments are discussed throughout this appendix.

*Comment:* Some respondents submitted comments that endorsed comments made by other organizations or individuals in response to the request for comments on the draft PEIS.

*Response:* The Department has reviewed all these comments and enclosures. In many cases, the comments from the public led the agency to revise portions of the analysis or wording in the PEIS. Those specific changes and revisions are discussed throughout this appendix.

### General comments about the Draft PEIS

*Comment:* Some respondents expressed general support or opposition for the draft PEIS. Other respondents said the draft PEIS was not written clearly, was too long, and contained vague terminology.

*Response:* The Department is required to write its documents in a manner that is clear and understandable by the general public. The Department attempted to use clear

language and display the effects as clearly as possible, but recognizes that much of the analysis is technical in nature. In response to public comment, the Department revised the display of effects in the PEIS and added clarifying language and supporting analysis. Specific technical terms in the PEIS are defined when they are used.

There are not any limitations or length requirements of for an EIS; the Department tried to keep the EIS as brief as possible while still meeting its obligations to disclose the effects of the alternatives, provide a description of the range of scientific opinion and literature related to the issues and respond to public comment.

*Comment:* Some respondents believed that the phrase “would be expected” was used too often and that its use implies too much uncertainty.

*Response:* The final PEIS continues to use this phrase when describing the programmatic effects to plans and the planning process. The use of this phrase is generally meant to portray outcomes to a resource as plans are developed or revised and then implemented over time recognizing the uncertainty of predicting effects at the programmatic level and the general uncertainty associated with managing natural resources under changing conditions.

The PEIS displays the differences in the effects of alternatives on the process and content for developing, revising, and amending plans and a relative comparison of effects to resources over time as each of the alternatives is implemented, including the relative differences in uncertainty related to outcomes of the various alternatives. This approach provides the necessary information for making an informed decision at the planning rule level.

*Comment:* Some respondents requested that the draft PEIS further explain its use of the term “at-risk species,” and believed it pertained to another category of species not already identified under an alternative.

*Response:* In the final PEIS, the term “at-risk species” is clarified to pertain to species that are federally listed as threatened or endangered, species that are proposed or candidates for Federal listing, and species whose viability or persistence within a particular plan area is a concern (species of conservation concern).

*Comment:* Some respondents expressed concern over the use of the phrase “inherent capability of the plan area” and believed that it was not adequately defined or discussed in the draft PEIS.

*Response:* The Inherent Capability of the Land portion of Chapter 3 in the final PEIS has been revised to more clearly define what is meant by this phrase.

*Comment: Listing of contributors.* One respondent asked why his organization was not listed as a contributor to the draft PEIS because it sent in comments in response to the notice of intent (NOI).

*Response:* Chapter 4 of the PEIS contains a list of contributors to the PEIS. It is only a list of USDA personnel who prepared this document. All comments received in response to the NOI were considered during development of the proposed rule and draft PEIS. A list of all comments and respondents to the NOI is available online at [www.contentanalysisgroup.com/fsr](http://www.contentanalysisgroup.com/fsr)

*Comment:* A few respondents remarked that an environmental impact statement is not particularly useful when evaluating the effects to the environment from a programmatic planning rule.

*Response:* The Department views the development of this new planning rule to be a major federal action that may have a significant effect on the human environment, as described in the National Environmental Policy Act (NEPA) (42 USC § 4332(C)), and in CEQ's regulations to implement NEPA (CFR 40 1502.4(b)). The Department has determined that the appropriate scale for analyzing effects is at the programmatic level, since site specific effects are not known at this time. As a result, the EIS is programmatic. Since the effects of the proposed action occur at the programmatic level as broad effects manifested differently across forests, the effects analysis was best conducted at that same level. The use of a programmatic EIS (PEIS) for broad decisionmaking such as the approval of a planning rule is consistent with CEQ guidance. (CEQ Guidance on Implementing NEPA Regulations, 48 *Federal Register* 34263 (1983)).

*Comment:* Some respondents raised the concern that the purpose and need was vague and as a result all alternatives could meet them and none could be rationally eliminated.

*Response:* Based in part on public comment, the purpose and need was reformatted and clarifying detail was added. These changes, although helping to clarify the purpose and need, do not change the original intent. The discussion of why certain alternatives were eliminated from detailed consideration has also been revised to more clearly explain the Agency's rationale. See Chapter 2 of the final PEIS for more detailed discussion about the purpose and need for action, and alternatives dismissed from detailed analysis.

### **Comments on Adequacy of Effects Analysis**

*Comment: Adequacy of effects analysis on species viability and other specific aspects of the affected environment.* Some respondents said the Department did not adequately disclose the effects of the proposed action on specific resource areas such as species viability, potential and recommended wilderness areas, grazing, developed and dispersed recreation, and oil and gas leasing. Some said the Department's discussion of effects was not clear. Some respondents believed that the analysis should include analysis of site-specific effects to resources.

*Response:* The Department believes the analysis in the PEIS is appropriate and adequate given the nature of the decision to be made – the promulgation of a planning rule. Promulgation of a planning rule is a programmatic decision. The PEIS therefore analyzes the effects of the alternatives at the programmatic level. This approach is consistent with CEQ guidance (CEQ Guidance on Implementing NEPA Regulations, 48 *Federal Register* 34263 (1983)); CEQ regulations on the “tiering” of NEPA analyses (40 CFR

1502.4(d)); and the extensive case law on the requirements for programmatic EISs. For example, in *Friends of Yosemite Valley v. Norton*, 348 F.3d 789, 801 (9th Cir. 2003), the court explained that an EIS for a programmatic plan must provide sufficient detail to foster informed decision-making, but site-specific impacts need not be fully evaluated until a critical decision has been made to act on site development. Similarly, in *Northern Alaska Environmental Center v. Kempthorne*, 457 F.3d 969, 976-77 (9th Cir. 2006), the court noted the “chicken or egg” conundrum agencies would face if they were required to discuss currently unidentifiable environmental effects in a programmatic EIS.

This is not to suggest that promulgation of a planning rule will not have any environmental effects. The Department recognizes that the rule will have on-the-ground effects through its influence on subsequent plan-level and project-level decisions. The PEIS displays the differences in the effects of alternatives on the process and content for developing, revising, and amending plans, and provides a comparison of effects to resources over time as each of the alternatives is implemented, including the relative differences in uncertainty related to outcomes of the various alternatives. But given the programmatic nature of the rule and the number of intervening decisions that are required before any projects or activities are undertaken, it is not possible to precisely predict the direct, site-specific physical impacts of any of the alternatives at this stage. Any such predictions of site-specific effects or quantifiable effects to resources would be extremely speculative. Accordingly, the effects raised by the respondents are best analyzed at the site-specific level.

Chapter 3 of the PEIS provides an updated, more detailed description of the methods used to analyze the effects of the planning rule alternatives, including a description of the context for this decision, staged decisionmaking and tiered NEPA analysis, and the rationale for using a programmatic approach to analyzing the effects of a rule. The Department believes the analytical methodology described in Chapter 3 of the PEIS is the most appropriate methodology available, and provides the information necessary to allow the decisionmaker to make an informed decision while avoiding unsupportable predictions and speculation. While certain members of the public requested a more detailed effects analysis, to include more forecasting of actual physical effects of the various alternatives on the environment, none of those individuals or groups proposed any practical or reliable analytical methodologies. Therefore, based on the agency’s extensive history, experience, and technical expertise in conducting NEPA analyses, and the lack of other practical solutions, the agency used a programmatic approach, recognizing its inability to better predict specific, future, physical impacts to the environment from the various alternatives at this time.

As explained in detail in Chapter 3, there are several factors that make predicting a disclosing the effects of a Forest Service planning rule particularly difficult. First, as noted in Chapter 3, forest management is a multi-tiered process, and while the content of a planning rule in part defines the context of forest plans, and forest plans, in turn help define on-the-ground projects, at each stage the decisionmaker has discretion and flexibility. So while it is possible to draw general conclusions about the impacts of a planning rule at the site-specific level, the agency cannot define those impacts with precision.

The Agency's ability to predict and disclose site-specific effects of a new planning rule is also complicated by the change over time inherent in the natural environment. The impacts of a planning rule are determined in part by the natural environment in which they are being implemented. The fact that the environment will be changing over the time the planning rule is in place, and that the magnitude and direction of those changes is not always predictable, lessens the Agency's ability to reasonably predict the site-specific environmental impacts of implementing the various planning rule alternatives.

Finally, changes within human values also make it difficult for the agency to predict and disclose the site-specific effects of a new planning rule. The Forest Service's multiple use mandates under the Multiple-Use Sustained-Yield Act (MUSYA) and National Forest Management Act (NFMA) are quite broad and able to accommodate a wide array of uses, depending on the prevailing values within and outside the agency. Therefore, the balance between multiple uses – recreation, watershed protection, grazing, timber harvest, wildlife protection, mining, etc. – is likely to fluctuate over time, resulting in different environmental impacts as that balance changes. Because the direction and degree of change is unpredictable, so too are the environmental impacts that may flow from different multiple use balances.

These factors should not be construed to mean that the Forest Service's decisionmaking structure avoids the analysis and disclosure of environmental effects. Rather, it is meant to clarify that at each stage of the decisionmaking process (rule, plan and project) there is an appropriate level of specificity with which effects can be displayed.

For a planning rule, predictive analysis of the site-specific effects is very problematic. At the next stage – the forest plan level – analysis becomes more feasible, since the set of alternatives being considered relate to a specific National Forest and is one step closer to a site-specific decision. That being said, detailed analysis is even problematic at the forest plan stage, since it is still a programmatic inquiry, where there remains great uncertainty about the number, scope, and intensity of site-specific actions to be implemented pursuant to the forest plan. Only when site-specific decisions are being considered does the agency have sufficient details about the proposed land-management activities to engage in reasonably accurate predictive analysis. That is the stage where the bulk of Forest Service NEPA effects analysis has occurred and will continue to occur. At the planning-rule level, the number of variables and amount of uncertainty make it difficult to disclose the likely site-specific physical consequences of implementing the various planning rule alternatives.

While precise information on site-specific effects cannot be known at this time, this information is not a necessary prerequisite for the responsible official's decision on selecting an alternative as the final rule. Where possible, the PEIS *does* make general predictions and provides general discussions of the environmental consequences and potential trade-offs between the alternatives. But, even those general evaluations need to be viewed with caution given the various factors of uncertainty described above. In the end, the agency tried to strike a reasonable balance, where the PEIS provided information that would be useful to the public and decisionmakers, without engaging in speculation that might convey an inaccurate level of certainty over the impacts of the plan alternatives.

In sum, while the agency recognizes that some members of the public wanted a more detailed analysis of site-specific effects, the agency believes such an analysis would have been highly speculative and potentially misleading, and thus contrary to NEPA's fundamental principles.

*Comment: Analysis of environmental consequences and effects.* Some respondents commented that the Department should disclose how the Forest Service will be able to satisfy the NFMA diversity requirement for old growth dependent species. One respondent urged the Department to disclose the percentage of riparian habitat on National Forest System lands that have been adversely impacted by past management activities. Another respondent said the Department should disclose the environmental effects of a rule that does not contain enforceable standards.

*Response:* NFMA does not have a requirement that specifically addresses the diversity or distribution of old growth dependent species. The Department based the requirements of § 219.9 (c) on the NFMA. The Department included a requirement in Modified Alternative A which requires plans to include plan components to maintain or restore the diversity of ecosystems and habitat types throughout the plan area, including the diversity of native tree species similar to that existing in the plan area. The Department determined that specific consideration and plan components designed to provide for the amount and spatial distribution of various ecosystem components, including vegetation successional stages, snags, and downed woody debris, as well as vegetation management techniques are more appropriately made by local responsible officials when revising and amending plans.

The analysis of effects to species diversity is included in Chapter 3. Literature citations for the existing condition of riparian areas are included in Chapter 3, Watershed Protection, Riparian Areas. Riparian area condition is also included as one of the factors in determining watershed condition class in the Watershed Condition Framework and this information is also included in Chapter 3, Watershed Condition. The PEIS displays the effects of alternatives that do and do not include national standards with the exceptions of those national standards specifically required by NFMA, which are included in all of the alternatives analyzed in detail.

*Comment:* Respondents wanted the draft PEIS to include an analysis of the effects of grazing, climate change, or timber harvest on various resources. One respondent wanted the PEIS to include an analysis of the effects of salvage logging.

*Response:* See response above related to the analysis of programmatic effects of a planning rule. The role of this PEIS is to analyze the effects of the alternative planning rules. The affected environment section for each issue includes a discussion of the existing condition of resources related to the issue as well as an overall discussion of ecological integrity and the stressors on NFS lands. The PEIS also includes an analysis of the effects of the various alternatives on timber, recreation and grazing program levels. Since all of alternatives analyzed in detail are consistent with the NFMA, an analysis of the effects of salvage logging does not provide a useful comparison between alternatives for the decisionmaker.



*Comment: Hierarchy of direction and staged decisionmaking.* A respondent did not agree with the explanation of the hierarchy of direction and staged decisionmaking discussion (draft PEIS, pp. 50-52). The respondent felt the proposed rule was an attempt to control the outcome of individual forest plans, and if implemented as proposed, the rule would render Agency manual and handbook direction obsolete because they would be in direct conflict with the preservation direction of the new rule.

*Response:* The Department believes explanation of the hierarchy of direction in the PEIS is accurate. The PEIS analyzes a range of alternatives from those that are very prescriptive (Alternatives D, E, F, I) to some that have few requirements beyond those required by NFMA (Alternatives C and G). The selected alternative will guide the development, amendment and revision and amendment of land management plans. Under all alternatives, planning would consider the full suite of multiple uses, as appropriate for each NFS unit. All of the alternatives analyzed in detail meet the requirements of the NFMA and the Multiple-Use Sustained-Yield Act (MUSYA), which allow for a mix of uses.

Staged decisionmaking ensures that the proper attention is given to site-specific impacts at the scale at which they are most effectively analyzed. See the description of staged decisionmaking in Chapter 3 of the PEIS for more detail about how staged decisionmaking ensures that effects to resources are analyzed and disclosed at the appropriate scale and level of detail. A new planning rule would influence decisions to the extent that it would provide a planning framework.

New directives will be developed based on the final rule. The draft directives will be available for public comment. The directives will not be in conflict with the intent of the selected planning rule alternative.

*Comment:* Some respondents said the draft PEIS failed to disclose the effects of applying the proposed action to only plans instead of extending its application to site-specific activities, as the 1982 planning provisions did.

*Response:* The effects of all alternatives are displayed in Chapter 3. In response to this concern, an additional alternative was considered. Alternative N is the 1982 rule in its entirety including the requirements for projects. The 1982 planning rule elements that govern the development, revision and amendment of forest plans are part of Alternative B (No Action). Alternative B's transition provisions at 36 CFR 219.35 allow use of the 1982 rule provisions for land management planning. The analysis of Alternative B provides a description of these planning procedures and the effects of those procedures as compared to the other alternatives under consideration in the PEIS. Comments have suggested that there are other elements in the 1982 planning rule that are not incorporated into the design of Alternative B and that these elements would represent a substantial change in the effects that would be experienced on National Forest System lands. Alternative N is essentially an incremental alternative that would add these elements to Alternative B. None of these provisions of the 1982 planning rule are currently in effect as they were replaced by the 2000 planning rule. See 2000 Rule at 36 CFR 219.25 (b) and clarification of it in Appendix B to Section 219.35, "Interpretative Rule Related to Paragraphs 219.35 (a) (and (b))," 69 *Federal Register* 58057 (September 29, 2004). The

2000 planning rule replaced any provisions of the 1982 rule that applied directly to projects. The interpretative rule to 219.35 clarified that the 1982 planning rule was not in effect, although its provisions could be used for plan development, revision and amendment. Projects implementing land management plans therefore must comply with the transition provisions of 219.35 that include the requirement to consider the best available science, but not any other provisions of the 2000 rule or the 1982 rule. An approach to assuring that the provisions of the rule are carried forward to the project level are encompassed in the consistency provisions of Alternatives A, Modified A, D and E. While Alternatives A, Modified A, D, and E do not include provisions specific to the project level, they incorporate consistency provisions that ensure that plans are consistent with the rule and that projects are consistent with plans.

Differences in effects based on differences between an alternative that includes provisions that apply at the project level and those alternatives that require that plans be consistent with the rule and that projects be consistent with plans are impossible to detect at the programmatic (Rule) level of analysis.

### **Comments on specific alternatives**

*Comment: General comments on the range of alternatives.* Many respondents said the Department failed to consider the entire range of reasonable alternatives. Other respondents said that the number of alternatives that were analyzed in detail was appropriate, given the requirement that alternatives must meet the purpose and need. Some respondents criticized the draft PEIS, saying the draft PEIS did not analyze less costly and burdensome alternatives.

*Response:* The draft PEIS documented the examination of 13 alternatives, 8 of which were dismissed from detailed analysis because they did not meet the purpose and need for action. The alternatives studied in detail describe the different programmatic effects each would have on forest planning components and process, and also the effects to resources over time (the resources identified as significant issues identified during the scoping process, as described in Chapter 1 of the draft PEIS). The alternatives differ in how they meet the purpose and need for action and how each addresses the issues raised in scoping. CEQ regulations for implementing NEPA require consideration and analysis of all reasonable alternatives, not an infinite number of alternatives (40 CFR 1502.14 (a)). CEQ has explained that "When there is potentially a very large number of alternatives, only a reasonable number of examples, covering the *full spectrum* of alternatives, must be analyzed and compared in the EIS." (Forty Most Asked Questions Concerning CEQ's National Environmental Policy Act Regulations, 46 FR 18026 at 18027 (March 23, 1981) (emphasis added)). The alternatives considered in detail do cover the full spectrum, from highly prescriptive to applying little more than the bare minimum required by the NFMA. The CEQ NEPA regulations also allows alternatives to be eliminated from detailed study, with a brief explanation of why they were eliminated (40 CFR 1502.14 (a)). See Chapter 2 of the PEIS for more detailed discussion on why certain alternatives were eliminated from detailed analysis or study. Based on public comment on the draft PEIS, two additional alternatives (Alternative M and Alternative N) were considered but eliminated from detailed study in the final PEIS because they did not meet the purpose and need, nor constitute new alternatives that were not already analyzed.

*Comment:* One person asserted the draft PEIS only analyzed alternatives driven by an environmental agenda. Some respondents said that alternatives should have been considered that favor specific uses or activities on the forest, such as designating utility corridors, timber harvest, recreation, and resource development.

*Response:* CEQ regulations require agencies to analyze a range of alternatives, not only those that meet particular management philosophies (40 CFR 1502.14). Some of the alternatives the Department considered favored a restoration-only perspective (Alternative J), while others contained varying degrees of focus on multiple uses (such as Alternative K). All of the alternatives analyzed in detail meet the requirements of NFMA and the MUSYA. For a discussion of how the alternatives analyzed specific uses of National Forest System lands (such as designating utility corridors, timber harvest, recreation, and renewable resource development) please see the responses to comments related to multiple uses in this appendix.

*Comment:* Some respondents believe that the draft PEIS fails to include a single action alternative that includes a requirement to maintain viable populations of wildlife species, and so fails to fully consider a reasonable range of alternatives under NEPA.

*Response:* All alternatives analyzed in detail, except Alternative C, contain a requirement to maintain viable populations of species. As disclosed in Chapter 3 of the final PEIS, how each them proposes to do this varies among the alternatives.

*Comment:* Some people requested the Agency explain why its 2008 approach to diversity and viability in the 2008 planning rule is no longer viable, especially in light of statements in the draft PEIS that support the 2008 approach to the issue.

*Response:* The 2008 rule approach to maintaining diversity is similar to Alternatives A and Modified A. It includes provisions for a coarse-filter and fine-filter approach to maintaining biological diversity and focuses on managing habitat (ecological conditions). The 2008 rule (Alternative M) was considered but eliminated from detailed study because it has the same underlying principles and meets the purpose and need in similar manner as Alternatives A and Modified A. Alternative B requires that fish and wildlife habitat shall be managed to maintain viable populations of existing native and desired non-native vertebrate species in the planning area. In order to insure that viable populations will be maintained, habitat must be provided to support, at least, a minimum number of reproductive individuals and that habitat must be well distributed so that those individuals can interact with others in the planning area. Alternative D requires plan components to maintain viable populations of native and desired non-native species. Alternatives A, Modified A and E require plan components to maintain or restore the ecological conditions to support viable populations of species of conservation concern.

### **Comments on specific alternatives**

*Comment: Specific alternatives recommended.* Many people expressed their preference for a certain alternative, or proposed additions to those alternatives those analyzed in the draft PEIS. Many people said they thought the Department should have analyzed a restoration-only alternative. Some respondents recommended the Department include

nationwide standards in the Proposed Rule, or said they support a specific alternative if it included national standards.

*Response:* The Department analyzed five alternatives in detail and considered but eliminated from detailed study eight additional alternatives. The components of alternatives that the public suggested are analyzed in the range of alternatives studied in detail and those dismissed from detailed study.

A restoration alternative was suggested during scoping and considered in the draft PEIS (Alternative J). The alternative was not carried through the detailed analysis because it would require Congressional action to redefine the purpose of the National Forest System and therefore the alternative does not meet the purpose and need to comply with applicable laws. However, none of the alternative rules would preclude a land management plan being developed with plan components that would place a priority on restoration.

Some respondents suggested alternatives that included national standards. All alternatives include national standards for timber harvest as required by NFMA. Alternative D includes national standards for the default width and management of riparian conservation areas. Modified Alternative A requires the use of national best management practices for protecting water quality. Alternative I would result in a highly prescriptive planning rule that set national standards for all aspects of land management plans, including establishing a road density standard for the entire NFS. This alternative would essentially constitute a national land management plan in as much as it would stipulate the substance of all plan components to be included in each land management plan. This alternative was considered but eliminated from detailed study because it does not meet the purpose and need to be responsive to the challenges of climate change and the need for forest restoration and conservation and was not consistent with agency experience in land management planning.

One respondent suggested minor changes to Alternative D to make it more cost effective. The suggested changes would not alter the costs of implementation substantially. With the exception of those minor reductions in cost, the suggested changes would not alter the effects of the alternative enough to warrant consideration as a separate alternative.

*Comment: Efficiency of Alternative C.* Some respondents felt the planning rule should adopt Alternative C as the final rule since Alternative C has the lowest estimated annual cost and allows plans to be completed in a timely and cost effective manner.

*Response:* The PEIS (p. xv) discloses the costs of all alternatives analyzed in detail as well as the qualitative benefits of each. The decisionmaker will consider the efficiency and effectiveness of each alternative in making his decision, but does not consider cost to be the sole criterion for selecting an alternative.

*Comment:* Some respondents commented that the PEIS did not include rationale for not selecting Alternative D as the final rule.

*Response:* The responsible official has the opportunity to select Alternative D. The rationale for selecting a particular alternative will be thoroughly explained in the record

of decision. However, based on the concern (the effects of selecting Alternative D as the final rule are not thoroughly presented) additional analysis was included in Chapter 3, Alternative D, under the Watershed Protection section.

*Comment:* Some respondents commented that the analysis regarding road density in Alternative D was biased and the controversy in the literature regarding road density as an indicator of watershed health was overstated in the draft PEIS. They pointed out that one of the science reviewers agreed with their position.

*Response:* There was disagreement among the independent science reviewers in how adequately the draft environmental impact statement evaluated the use of road density as an indicator of watershed health. All of the science reviewers provided suggestions as to how to strengthen the analysis, but most thought the analysis had accurately captured the most relevant scientific literature. One reviewer criticized the draft PEIS's evaluation of road density on an assertion that "*on average* there is a scientific (and intuitive) relationship between more road building and maintenance linked to more erosion, at least in habitats vulnerable to erosion. Thus this section could more strongly reflect the benefits *on average* for road closings, erosion, and watershed protection."

The Forest Service Planning rule team reviewed all of the reviewers' comments and conducted a more thorough literature review on roads and erosion. This review even more clearly demonstrated the divergence of opinion in the scientific literature regarding road density as a reliable indicator of watershed health. Additional references were added to the PEIS to more adequately display the divergence of scientific opinion on this topic.

### **Comments regarding the Proposed Action in the Draft PEIS**

*Comment: Support and opposition for Alternative A.* Many people had comments about the adequacy or inadequacy of the features of Alternative A as described in the draft PEIS. Some respondents said Alternative A should be modified in order to address the use of science in order to better address climate change by more clearly describing responsive framework. Many respondents suggested Alternative A would be better if it included components from other alternatives, specifically, by including national standards that would protect long term productivity of the land, watershed protection, and habitat. Some respondents described components of alternatives that should be changed and adopted as part of the proposed action.

*Response:* The Department considered these views in developing Modified Alternative A, which is the preferred alternative. Modified Alternative A in the PEIS is a modification of the proposed action as described in the draft PEIS, and was developed in response to public comments to the draft PEIS and the proposed rule. Some of the changes in Modified Alternative A in the PEIS include: the addition of an oversight clause to establish an oversight program administered by the Chief of the Forest Service, in order to assure accountability and consistency of NFS land management planning ; clarification of the role of best available science; clarification that every new forest plan and every revised forest plan must delineate management areas; clarification that all forest plans must identify riparian management zones; clarification of the use of the

coarse-filter and fine-filter approach to maintaining diversity of species; and clarification of the use of monitoring for assessments and for ecological conditions to support the persistence of species. The changes to Alternative A that led to Modified Alternative A are described in Chapter 2 of the final PEIS, in the Modified Alternative A description.

*Comment:* One respondent wanted the PEIS to analyze the differences in effects between the proposed action and the no action alternative, due to the Proposed Action not requiring management areas.

*Response:* The proposed action at 219.7(a)(2)(vi) does require management areas: “Identify the suitability of areas for the appropriate integration of resource management and uses, with respect to the requirements for plan components of §§ 219.8 through 219.11, including identifying lands which are not suitable for timber production (§ 219.11).” Since there was confusion regarding the intent of this requirement, the wording in Modified Alternative A was revised to make clear that each plan will include management areas or geographic areas, and allows for the plan to identify designated or recommended areas as management area or geographic area (219.7(3)(d)). Since both Alternative A and Alternative B require management areas, there is no difference in effects with respect to this issue.

*Comment:* A respondent requested that the draft PEIS analyze the differences in effects between the proposed rule and the 1982 rule due to not requiring project level monitoring under the proposed action. Some respondents were concerned that not requiring monitoring of Management Indicator Species (MIS) at the project level would lead to reduced protections for these particular species.

*Response:* The differences of effects of the monitoring requirements of each alternatives are discussed throughout Chapter 3, including a thorough discussion of MIS monitoring required under Alternative B and focal species monitoring under Alternatives A, Modified A, D and E. Nothing in any of the alternatives precludes monitoring at the site-specific level and broader scaled. Monitoring under Alternatives A, Modified A, B, D, and E would be expected to include implementation and effectiveness (project level) monitoring. Alternative N (the 1982 in its entirety, including those provisions that are specific to projects) was considered but eliminated from detailed analysis because it includes the same provisions for land management planning as Alternative B. A detailed discussion of this is included in Chapter 2 of the PEIS and in Appendix C. A discussion of changes in effects to MIS as a result of not being monitored was not included in the PEIS. While monitoring MIS is required only under Alternative B, there is no way to predict whether these particular species would be selected as MIS in future plans if Alternative B were selected as the final rule. Most recent plans revised under the 1982 planning provisions have not carried forward the MIS of earlier plans. The effects of this alternative can only be determined at the time the selection of the MIS are made. As stated in the final PEIS, species that were identified as MIS species may also be selected as focal species in plans developed or revised under Alternatives A, Modified A, D and E. Again the effects on a particular species as a result of not monitoring it can only be made at the time of the decision to either include or exclude it as a subject for monitoring.

*Comment:* A respondent requested that the PEIS display the differences in effects between the proposed rule and the 1982 rule due to the proposed rule not distinguishing between significant and non-significant amendments.

*Response:* The Forest Service has rarely used the significant amendment process in the 1982 rule. The effect of selecting the No Action alternative would be that amendments would continue to be developed and approved using appropriate NEPA analysis. Amendments that have a significant effect on the environment would require an EIS. This would be the same process required under all alternatives. There is no difference in effects with regard to this issue between Alternatives A, Modified A, D and E.

### **Comments about alternatives eliminated from detailed study**

*Comment: Alternatives eliminated from detailed study.* Many respondents commented on alternatives that should have been studied in detail in the draft PEIS. Some respondents stated they thought the 1982 planning rule in its entirety should have been studied in detail. Many respondents commented that the 2008 planning rule should have been studied in detail. A few respondents said Alternative J (which only allows timber harvest for restoration purposes) should have been studied in detail, since it more closely meets the restoration objective described in the purpose and need. One respondent noted that the USDA Under Secretary for Natural Resources and Environment had committed to using the input from local parties to inform management direction. The respondent wondered why Alternative H (the alternative which would emphasize local community input in a unit's planning process) was dismissed from detailed study. A few people said Alternative K (the alternative which would require plans to give recreation the greatest value among the various multiple uses of NFS lands) should have been studied in detail since recreation is the most frequent use of NFS lands. Some respondents said that one of the alternatives should have specifically analyzed an alternative that addresses areas with special designations. These respondents said that the 2000 rule was the only alternative of those in the range of alternatives that contains this discussion, and therefore the 2000 rule should have been analyzed in detail.

*Response:* Eight alternatives were considered but were ultimately eliminated from detailed analysis because they did not meet the purpose and need for action as described in the draft PEIS and the final PEIS, or the alternative was an incremental alternative and did not warrant detailed analysis. CEQ allows the Department to dismiss with a brief explanation those alternatives that were eliminated from detailed study: "...for alternatives which were eliminated from detailed study, briefly discuss the reasons for their having been eliminated." (CEQ Regulations for Implementing NEPA, 40 CFR §1502.14). See Chapter 2 for more detailed discussion on why each alternative was eliminated from detailed analysis or study.

Based on public comment, two alternatives (Alternative M, which is the 2008 planning rule, and Alternative N, the entirety of the 1982 planning rule) were considered but eliminated from detailed analysis. Alternative M (the 2008 planning rule) was considered but eliminated from detailed study because it has the same underlying principles and meets the purpose and need in similar manner as Alternative A and Modified Alternative A. In addition, because the 2008 rule and Alternative A and Modified A are so similar,

the programmatic environmental effects of the 2008 rule could not be distinguished from those that may occur as result of implementing Alternatives A or Modified Alternative A. For these reasons, the Forest Service did not analyze the 2008 rule as a separate alternative, and considers it to be included within the parameters of Alternatives A and Modified A.

The complete 1982 planning rule (Alternative N) was considered but eliminated from detailed study because it does not constitute an alternative that was not already analyzed.

*Comment:* One commenter wanted the PEIS to include an analysis of the 2005 planning rule.

*Response:* The 2005 planning rule was essentially the same as the 2008 planning rule which was considered and eliminated from detailed analysis. See Chapter 2 of the PEIS for an updated discussion on why some alternatives were eliminated from detailed analysis.

### **Comments about Diversity of Plant and Animal Communities**

*Comment:* The Department received comments to the draft PEIS requesting that the establishment and maintenance of a network of protected areas as a landscape component for maintaining species diversity in the face of climate change be included and analyzed in the final PEIS.

*Response:* The Diversity of Plant and Animal Communities section of the final PEIS evaluates each of the alternatives being analyzed as to their approach(s) to maintaining species diversity and managing habitat conditions within NFS units, and especially as to how each alternative approach relates to incorporating coarse-filter and fine-filter strategies. Alternative D includes the requirements to identify key watersheds that are areas of highest quality habitat for native fish, amphibians, and for species of reptiles, mammals, and birds known to be highly dependent on aquatic habitats and to establish key watersheds across the planning unit in order to establish a network that can serve as anchor points for the protection, maintenance, and restoration of broad scale processes and recovery of broadly distributed species and the plan must include plan components to maintain or restore the structure, function, composition, and connectivity of healthy and resilient terrestrial and aquatic ecosystems and watersheds in the plan area, taking into account:

- (i) Landscape-scale integration of terrestrial and aquatic ecosystems;
- (ii) Potential system drivers, stressors, and disturbance regimes, how they might affect ecosystem and watershed health and resilience, and the ability of those systems on the unit to adapt to change;
- (iii) Spatial connectivity within or between watersheds, including lateral, longitudinal, and drainage network connections between floodplains, wetlands, upslope areas, headwater tributaries, and intact habitat refugia. The effects of this are analyzed in the PEIS.



*Comment:* The Department received comments concerning the failure of the draft PEIS to disclose how extirpation of species other than species of conservation concern would be prevented; how the diversity of plant and animal communities and species diversity would be maintained given constantly changing ecological conditions; and the effects of the alternatives on maintaining native species, other than those that are federally recognized or other identified rare species, within the plan area. Some respondents wanted the draft PEIS to evaluate the interrelated effects on competitive predators (coyotes, Canada lynx, and northern goshawks), their prey and habitat requirements due to the detrimental effects of noise and compacted snow trails.

*Response:* Chapter 3 of the final PEIS evaluates how each of the alternatives affects future plans and planning processes related to managing habitat conditions and maintaining the diversity of plant and animal communities and species diversity within the plan area. The specific biological information necessary to determine site – specific effects to specific species, groups of species or communities cannot be known at this time, and is more appropriately analyzed and disclosed at the plan and project level. See the Context section of Chapter 3 of the PEIS for a thorough discussion of tiered analysis and staged decisionmaking.

*Comment:* The Department received comments on this section of the draft PEIS concerning the efficacy of the coarse-filter approach given its conceptual, untested nature and the uncertainty surrounding its ability to maintain the biological diversity within the plan area.

*Response:* The Affected Environment for this section of the final PEIS discusses the scientific underpinnings of this approach and discloses the current uncertainties related to its use as an approach to maintaining biological diversity across broad landscapes. The final PEIS acknowledges this level of uncertainty, but also provides a body of scientific literature supporting the combined coarse-filter and fine-filter strategy for maintaining biological diversity.

*Comment:* Some respondents expressed a concern that the species diversity section does not clearly consider species as a component of ecosystems, and thereby does not adequately address their importance in the design of a coarse-filter approach to maintaining biological diversity.

*Response:* The Ecological Integrity and Resilience sections of Chapter 3 in the final PEIS have been revised to more fully discuss the importance of species and their collective influences on ecosystem processes. It also expands the discussion of how ecological processes are important in shaping terrestrial and aquatic ecosystems and are primary considerations in designing a properly functioning coarse-filter approach to maintaining biological diversity.

*Comment:* Some respondents believe the draft PEIS misrepresents the proposed rule language in Alternative A with regard to examining the efficacy of the coarse-filter, assessing its insufficiencies, and including additional fine-filter components.

*Response:* The draft PEIS evaluation of Alternative A was based upon both the provisions of the proposed rule and the intent as described in the preamble to the proposed rule. The Department received many comments related to confusion over the relationship between the Ecosystem Diversity requirement and the Species Conservation requirement in the rule language proposed under Alternative A. As a result of these comments the Department has revised § 219.9 in Alternative Modified A to more fully articulate the intent of these provisions. The final PEIS reflects this intent.

*Comment:* Some respondents raised a concern over the description of “habitat” in the draft PEIS and that defaulting to only vegetation community types and their successional stages would result in an inadequate coarse-filter design.

*Response:* The final PEIS recognizes and discloses the uncertainty of defining a species’ habitat strictly in terms of cover-type and successional stage and includes additional discussion of what constitutes habitat for a species.

*Comment:* Some respondents believe that the draft PEIS failed to adequately discuss the concept of connectivity and the importance of maintaining connected habitats that allow plants and animals to move away from habitats that have experienced change and toward habitats that contain the same conditions to which they are adapted and to anadromous fish passage.

*Response:* The final PEIS expands the discussion on the concept of connectivity under Stressors that Alter Landscape Patterns and Habitat Connectivity in the Ecosystem Restoration section of Chapter 3. It also makes the connection back to this discussion under Managing Ecological (Habitat) Conditions portion of the Affected Environment for the Diversity of Plant and Animal Communities section of Chapter 3. Alternatives A, Modified A, D and E include maintaining connectivity as a consideration or as a requirement of plans. Alternatives B and C do not include the concept of connectivity. The effects analysis in Chapter 3 displays differences in effects to species for each of the alternatives.

*Comment:* Some respondents requested that the draft PEIS provide operational definitions for “ecosystem characteristics”.

*Response:* The final PEIS provides examples of ecosystem characteristics under Managing Ecological (Habitat) Conditions portion of the Affected Environment for the Diversity of Plant and Animal Communities section of that Chapter 3.

*Comment:* The Department received comments on the draft PEIS from some who believed the draft PEIS created new planning rule requirements by designating a new category of species, i.e. species of conservation concern and stated that the protection of these species may contradict the protection of endangered or threatened species.

*Response:* The draft PEIS evaluates the programmatic effects to plans and the planning process for the planning rule language proposed under each of the alternatives.

Alternatives A, Modified A, D, and E in the PEIS all require plan components related to species of conservation concern. The final PEIS does not make the contradictory statement noted by the respondents.

*Comment:* Some respondents believed that the draft PEIS did not accurately display the differences between Alternative A and Alternative D in their programmatic effects to species diversity.

*Response:* The final PEIS displays the programmatic effects to plans and the planning process for species diversity among all the alternatives analyzed in detail. The display of these effects was revised for the PEIS, in response to comments from the public that the programmatic effects were not clearly disclosed. Also, the alternative comparison section in Chapter 2 was revised to more clearly compare the alternatives.

*Comment:* Some respondents believe that the draft PEIS fails to disclose the impacts of the Alternative A on wildlife species, particularly those species that will no longer be monitored.

*Response:* The Diversity of Plant and Animal Communities in Chapter 3 of the final PEIS evaluates and displays the programmatic effects to plans and the planning process related species and plant and animal communities.

*Comment:* Some respondents believe that the draft PEIS fails to consider and disclose the adverse impacts of previous NFMA regulations on fish and wildlife habitat and populations.

*Response:* The Affected Environment for Diversity of Plant and Animal Communities in Chapter 3 of the final PEIS discusses the existing conditions for fish and wildlife habitats and populations. The existing condition is the result of all of the activities, policies and conditions that have affected habitat and populations to date. The final PEIS analyzes alternatives to putting a new planning rule in place. Alternative B is the “No Action” alternative and represents 1982 planning rule as it related to development of Forest Plans.

*Comment:* The Department received comments regarding the weakening of the 1982 rule requirements and protections for species diversity, including mandatory population monitoring, in Alternative A; and the draft PEIS’s failure to display these adverse environmental consequences.

*Response:* As evaluated and disclosed in the Diversity of Plant and Animal Communities section of Chapter 3, the overall effects to species diversity under Alternatives A and Modified A do not indicate a weakening of the requirements or protections, including monitoring, for these resources.

*Comment:* Some respondents believe the draft PEIS fails to assess and disclose the proposed elimination of these previously required regional guides and the potential consequences to wide ranging and migratory species that need to be considered and addressed at the regional level.

*Response:* The final PEIS considers an alternative that includes preparation and use of regional guides (Alternative L). Alternative L was dismissed from detailed study because it did not meet the purpose and need for action. See Chapter 2, Alternatives Eliminated from detail Analysis for more information on why the alternative was dismissed from detailed study.

*Comment: Analysis of social and economic impacts.* One respondent stated that the draft PEIS did not adequately disclose the negative economic impacts (adverse impacts) of the proposed rule on communities. Others were concerned that potential for adverse economic impacts will not be addressed during the planning process and that emphasis on ecosystem integrity maintenance and restoration, as well as special status species/diversity, will result in adverse social and economic impacts (which are not addressed in the draft PEIS).

*Response:* The Department recognizes that management decisions frequently involve tradeoffs among competing uses and resource values, implying the potential for both beneficial and adverse economic impacts. The scope of the efficiency and effectiveness analysis in the draft PEIS is limited to the programmatic or Agency procedural activities related to promulgating a rule for the development, revision, and amendment of land management plans for individual units (e.g., national forests, grasslands, prairie) within the National Forest System. Chapter 3 discusses the impacts to social and economic factors that could be expected under each alternative. See the Multiple Uses section and the Efficiency and Effectiveness section in Chapter 3 of the final PEIS for more discussion of these impacts.

*Comment:* Some respondents requested that the draft PEIS analyze the effects of the additional species protections, including effects on other forest resources and Forest Service staffing and budgets.

*Response:* Chapter 3 of the final PEIS evaluates the effectiveness and efficiency of each of the Alternatives and displays the programmatic effects on plans and the planning process of each of the Alternatives on forest and grassland resources. The effects on staffing and budgets of implementing each of the alternatives are discussed under the Efficiency and Effectiveness section of Chapter 3.

*Comment:* One respondent expressed disappointment that the draft PEIS did not include any identification or analysis of the effects of the planning rule on tribal rights and interests.

*Response:* The final PEIS for the planning rule does not address the impacts on specific groups. Rather, it examines the environmental impact of the alternatives being analyzed. A Civil Rights Impact Analysis (CRIA)/ Environmental Justice Analysis (EJ) was completed for the proposed rule. The CRIA/EJ found no adverse or disproportionate impacts of the proposed rule. The analysis found: “No adverse civil rights or EJ impacts are anticipated on a national level for any under-represented population or to other U.S. populations or communities as a result of the adoption of the proposed planning rule. While national-level impacts are not expected to be disproportionate, yet-to-be-identified adverse impacts may be possible on a regional or local planning level. Differences in

national-level effects and regional/local-level effects are the result of uneven distribution of minorities and low-income populations geographically; variations in regional, cultural, or traditional use; and differences in local access to resources. National-forest-level impacts will be further examined at the local level, including NEPA analysis for plan creation, revision, or amendment, and site-specific projects.” The CRIA can be found at [http://www.fs.usda.gov/goto/planningrule\\_cria](http://www.fs.usda.gov/goto/planningrule_cria).

### **Adequacy of analysis of climate change**

*Comment:* Some respondents commented that it is inappropriate to address climate change in the EIS or planning rule, while others commented that it is appropriate, or that it should be addressed even more than it is. Some respondents commented that the alternatives do a poor job of getting to the issue of climate change and that climate change is addressed poorly in the draft PEIS.

*Response:* The site-specific effects of climate change are beyond the scope of a planning rule. The climate change portion of the PEIS has been expanded to include further discussion of climate change and its impacts on ecological integrity and social and economic conditions. The PEIS includes a discussion of the current literature and agency policy related to climate change and an analysis of how each of the alternatives would result in development, amendment, and revision of land management plans that consider climate change in the planning process, include direction related to climate change, require monitoring of the effects of climate change and include an adaptive management strategy for responding to changing conditions. The range of alternatives includes alternatives that are silent on climate change to those that include consideration of climate change in all aspects of planning.

*Comment:* One respondent commented that other sections of the draft PEIS beyond the section on climate change should explicitly include the reality of climate change. The respondent suggested that climate change be discussed in relation to ecosystem restoration and watershed protection.

*Response:* Climate change is discussed in other areas of the PEIS outside of the sections specifically on climate change, including in the sections of Chapter 3 on the Dynamic Nature of Ecosystems, ecosystem restoration, and watershed protection. Additionally, the portion of Chapter 3 on climate change has been expanded to further examine the impacts of climate change on both ecological and social conditions.

*Comment:* Several respondents commented that it is inappropriate that the rule considers only live carbon and that this does not use the best available science. These respondents recommend that the rule consider all the relevant pools of carbon related to forests, including the stores of carbon in live, dead, soil, and wood products.

*Response:* There is still much scientific uncertainty surrounding carbon sequestration and storage, and thus there is limited discussion of the topic in the PEIS. The topic and the uncertainty surrounding it is discussed in Chapter 3 of the PEIS.

*Comment:* One respondent requested more information regarding the Climate Change Scorecard and the use of the Scorecard within the land management planning process in the final rule.

*Response:* The Climate Change Scorecard is being developed through an initiative outside of the planning rule. In addition to a planning rule, management of National Forest System lands happens in other ways. Requirements from these other initiatives, such as the Climate Change Scorecard, would be incorporated into land management planning, as appropriate, under all alternatives. The information gathered and generated during implementation of the scorecard will be used to inform the planning process under all alternatives. Modified Alternative A includes a requirement for a baseline assessment of carbon. This assessment is currently being completed on NFS units as part of the implementation of the Climate Change Scorecard.

*Comment:* One respondent expressed concern that the rule and draft PEIS do not disclose if plans will provide guidance on the disclosure and mitigation requirements for climate change impacts associated with site-specific projects. Another respondent commented that the proposed rule does not provide consistent guidance on how each forest plan will document actual climate change and ecosystem responses. This respondent requested that the rule provide specific, overarching guidance on climate change assessments and that the impacts of this guidance be disclosed in the EIS.

*Response:* As stated in the PEIS, policies for addressing climate change, including mitigation and adaptation, are being developed through other Forest Service efforts. Further guidance regarding climate change mitigation and adaptation on National Forest System lands will be provided as a result of these efforts and will be incorporated into land management planning under all alternatives. The PEIS includes a discussion of the current literature and policy related to climate change and an analysis of how each of the alternatives would result in development, amendment, and revision of land management plans that consider climate change in the planning process, include direction related to climate change, require monitoring of the effects of climate change and include an adaptive management strategy for responding to changing conditions. The range of alternatives includes alternatives that are silent on climate change to those that include consideration of climate change in all aspects of planning.

*Comment:* One respondent commented that none of the alternatives present a viable view of how carbon management will be factored into planning efforts. The respondent asserted that, other than live carbon, carbon pools were ignored. The respondent commented that this approach does not represent the best available science.

*Response:* The issue of carbon management is discussed in the section of the PEIS on uncertainties surrounding climate change. There are many uncertainties surrounding carbon storage and the role of national forests and grasslands; this factor, combined with the programmatic nature and scope of this effects analysis make it difficult to fully assess the impact of the alternatives on carbon management. However, the discussion of the effects of alternatives as they relate to climate change addresses the capability of each alternative to address those uncertainties without moving into speculation in the analysis. Strategies for mitigation and adaptation on national forests and grasslands are being

developed through efforts outside of the planning rule. Some of these strategies and policies are discussed in the climate change section of the PEIS.

*Comment:* Some respondents commented that the draft PEIS did not address and disclose the real threats to national forests and grasslands resulting from climate change and the potential implications for the National Forest System. One respondent remarked that the draft PEIS did not consider and disclose the implications of climate change on the threat and intensity of future wildfires within the National Forest System. This respondent also requested that the PEIS explore and disclose the already occurring and expected impacts of climate change on the recreational users of national forests and grasslands, including consideration of the adverse impacts to ski resorts, cross-country skiing, snowshoeing, cold-water fishing, and other affected recreational uses.

*Response:* The climate change portion of Chapter 3 of the PEIS has been expanded to include further discussion of climate change and its projected impacts on ecological integrity and social and economic conditions. This section includes discussion of the impact of climate change on wildfires and recreation.

*Comment:* One respondent commented that the draft PEIS did not describe, analyze, or compare alternative management scenarios with and without climate change.

*Response:* The PEIS analyzes multiple alternatives. Some of these alternatives include requirements that directly address climate change, while others, such as Alternative B, do not include direct reference to climate change. However, land management planning under alternatives that do not directly reference climate change may still end up addressing climate change as a result of strategies that are developed outside of the planning rule and through other requirements that have an impact on how the resources on a unit are managed. The PEIS analyzes the effects of the alternatives on the development, amendment and revision of land management plans and some effects to resources, expressed as general outcomes over time as plans that are developed amended or revised under each alternative are implemented. The specific effects to resources from climate change are outside the scope of the PEIS.

*Comment:* One respondent commented that the draft PEIS and the proposed rule view climate change only as a driver on forests and grasslands and fail to address the condition of and activities on these lands as a driver that affects climate either favorably or adversely.

*Response:* The specific effects of national forests and grasslands on climate change are outside the scope of the PEIS and cannot be known at this time. The Department acknowledges that activities on national forests and grasslands have the potential to contribute to mitigation of and adaptation to climate change within the National Forest System. The Department also acknowledges that activities on national forests and grasslands have the potential to directly impact climate change, such as prescribed burning which releases carbon dioxide, grazing which releases methane, and timber harvest which affects potential carbon stores. Management of NFS lands is also influenced through other Agency efforts and policies than just a planning rule and some of these efforts, such as the National Roadmap and Performance Scorecard, include

development of strategies for mitigation of and adaptation to climate change. The PEIS analyzes the effects of the alternatives on the development, amendment and revision of land management plans and some effects to resources, expressed as general outcomes over times as plans that are developed amended or revised under each alternative are implemented.

*Comment:* One respondent commented that the draft PEIS and proposed rule fail to address ocean acidification and its effect on the overall carbon balance on the National Forest System.

*Response:* The PEIS analyzes the effects of the alternatives on the development, amendment and revision of land management plans and some effects to resources, expressed as general outcomes over times as plans that are developed amended or revised under each alternative are implemented. Ocean acidification was not deemed a significant issue in the PEIS as the differences in degree of influence on ocean acidification from the land management planning under any of the alternatives would be imperceptible and would not provide a useful comparison for the decisionmaker. The U.S. Global Change Research Program, in its 2009 report, “Global Climate Change Impacts in the United States,” states that as the carbon dioxide concentration in the air increases, more carbon dioxide is absorbed into the world’s oceans, leading to their acidification. The report’s discussion of ocean acidification primarily centers on the impacts to oceans and ocean life, not on the impacts of ocean acidification on the overall carbon balance. While the ability of national forests and grasslands to store carbon may impact the carbon balance, there is still much uncertainty surrounding the role that national forests and grasslands play in carbon management.

### **Comments regarding Inherent Capability of the Land**

*Comment:* The Department received comments requesting clarification of what is meant by “consistent with the inherent capability of the plan area,” which was used frequently in the draft PEIS. Some respondents believed this phrase was included to allow the Agency to avoid its responsibilities for maintaining the diversity of plant and animal communities and the persistence of native species within the plan area. Others believed that it needed further definition or description in the rule so as to provide Agency consistency in its application. In particular, many expressed concerns that there may be circumstances that make the Agency’s ability to meet the requirement for maintaining viable populations of species of conservation concern infeasible.

*Response:* Because of this concern, the discussion of inherent capability of the land has been expanded in the final PEIS. The inherent capability of the land represents the ecological capacity or ecological potential of an area to express a defined range of biophysical conditions within ecosystems. Examples of circumstances where the plan area lacks the inherent capability to maintain viable populations of a species include: where a plan area lacks sufficient land area with the ecological potential to produce sufficient habitat on the unit; or where, due to current or projected changes in climate, it would be impossible for the plan area to produce or maintain the required amount or quality of habitat conditions necessary to sustain the species. Some species-specific examples of such circumstances include:



- Species that are inherently rare because they naturally occur at low numbers and are by nature wide ranging individuals, such as the wolverine. This species naturally occurs at relatively low densities in the northern Rocky Mountains where the number of breeding individuals that may occur on an individual national forest are presumably too small to be considered a viable population.
- Plan areas that lack sufficient land area with the ecological capacity to produce enough habitat to maintain a viable population within the plan area. An example is the Kisatchie National Forest's inability to maintain a viable population of swallow-tailed kite on the Forest due to very limited amounts of land area ecologically capable of producing broad bottomland hardwood and cypress swamp habitats.
- Current and projected changes in climate that affect a national forest or grassland's ability to maintain or even contribute to viable populations of some species. An example is the warming trends of temperatures at higher elevations in the West which are altering the capability of national forests, like the Shoshone National Forest in western Wyoming and the Sierra National Forest in California, to maintain whitebark pine on the landscape and viable populations of species that are highly associated with these forests.
- Water quality conditions in Appalachian Mountain streams that had provided habitat for eastern brook trout in the past but that have been altered through acid deposition, rendering many of them unsuitable for brook trout and compromising the ability of some Appalachian national forests to maintain viable populations of this species.

### **Comments regarding Ecosystem Restoration**

*Comment:* Some respondents believed the draft PEIS did not adequately address human stressors and the difference between pulse and chronic stressors and their effects on ecosystem resilience.

*Response:* The Stressors and their Influence section of Chapter 3 includes addition discussion of stressors and their affects on ecosystem resilience, and the Affected Environment for Ecosystem Restoration introduces the concept of pulse and chronic stressors. The PEIS analyzes the effects that each alternative would have on the process of developing, amending or revising plans and makes some predictions on effects to resources expressed as general outcomes over time for each of the alternatives.

*Comment:* The Department received several comments on the discussion of the historical range of variability in the draft PEIS. While many comments were supportive of using this tool as a way of establishing restoration objectives, others took issue with the concept of going back to ecosystem conditions that once existed, especially under changing climatic conditions. Still others questioned how it would contribute to maintaining plant and animal diversity.

*Response:* A thorough discussion related to the range of natural variation can be found in the Historical Range of Variability (HRV) as a way of understanding the historical nature of ecosystems and their variation under the Dynamic Nature of Ecosystems portion of the Affected Environment in Chapter 3 of the final PEIS.

### **Comments regarding Ecological Integrity and Resilience**

*Comment:* The Department received comments on the draft PEIS discussion of ecological integrity and resilience as qualities or conditions of ecosystems. Some respondents stressed the importance of maintaining biological diversity as a means of enhancing resilience. Others questioned how the Agency would measure progress towards ecological integrity or evaluate resiliency.

*Response:* Based on comments, edits, and additional recommended scientific literature by internal and external scientists on the draft PEIS, the final PEIS includes an expanded discussion of biological diversity and the combined biological activities of many species in influencing ecosystem function and driving ecological processes. The persistence of species within ecosystems is critical to achieving ecological integrity, providing for the diversity of plant and animal communities, and maintaining ecological sustainability. The final PEIS discusses the importance of ecological integrity of ecosystems; and explains that ecosystems with a high degree of ecological integrity have the ability to support and maintain a community of organisms with a species composition, diversity, and functional organization comparable to those of natural habitats within a region. Currently, methods for assessing ecological integrity across the landscape are being used by the National Park Service, and are under development by the Forest Service on NFS lands. Having similar approaches to assessing and evaluating ecological conditions across the broader landscape will facilitate an all-lands approach to ecological sustainability. A discussion of this concept can be found in Chapter 3 of the PEIS under the Ecological Integrity and Resilience portion of the Dynamic Nature of Ecosystems section.

### **Comments regarding Ecosystem Restoration**

*Comment:* The Department received comments related to the Ecosystem Restoration section in Chapter 3 of the draft PEIS, and specifically on the discussion of “restoration” and its implications to managing for ecosystem conditions that existed in the past, especially under changing climatic conditions. Some respondents believed that it would be more important to restore ecosystem resilience, rather than focusing management on recreating historical ecological conditions.

*Response:* The final PEIS utilizes the definition advanced by the Society for Ecological Restoration, which defines ecosystem restoration as “the process of assisting the recovery of an ecosystem that has been degraded, damaged, or destroyed.” Ecological restoration focuses on reestablishing the composition, structure, pattern, and ecological processes necessary to facilitate terrestrial and aquatic ecosystem sustainability, resilience, and health under current and future conditions.

The Dynamic Nature of Ecosystems portion of the Chapter 3 of the PEIS provides a brief scientific overview of the historical range of variability, ecological integrity and

resilience, and ecosystem stressors. These discussions are important to understanding objectives of ecological restoration activities.

The Affected Environment for Ecosystem Restoration in Chapter 3 of the PEIS provides a discussion related to restoration. The analysis of effects describes how each alternative responds to the issue of restoration.

*Comment:* Some respondents were concerned that the draft PEIS only discussed active restoration management strategies, and did not include a discussion of passive approaches to ecosystem restoration. Others did not understand the intent of the use of the word “maintain,” and were concerned that the draft PEIS did not describe the effects of maintaining degraded ecological conditions.

*Response:* The Affected Environment for Ecosystem Restoration in Chapter 3 of the final PEIS has been revised to indicate that restoration objectives may be accomplished through both active and passive management strategies. Alternatives A, Modified Alternative A, C, D, and E all use the phrase “maintain or restore” ecological conditions. In this context, the term “maintain” means to keep in existence or continuance of the desired ecological conditions in terms of their composition, structure, processes, and connectivity. The maintenance of ecological conditions may be accomplished through passive management, where no action or activity is needed; or through active management such as prescribed burning in a fire-adapted ecosystem, where active intervention may be required to maintain desired ecological conditions.

*Comment:* Some respondents offered specific situations, activities, or stressors relevant to restoration that they believed should be described and evaluated in the draft PEIS and addressed in the final planning rule, such as post-fire logging, tree harvesting to control insect outbreaks, road removal to reduce fire ignitions, weed spread, habitat fragmentation, and grazing, as well as increased human demands for multiple uses. Others questioned whether all the “acres” in Table 2 in the Affected Environment for Ecosystem Restoration should be considered “restoration”.

*Response:* The final PEIS evaluates the effects of each alternative on plan development, amendment, and revision, and the planning process. Because each individual NFS unit is expected to have restoration needs unique to that unit, these situations, activities, or stressors are more appropriately evaluated and addressed at the plan and project levels. The discussion related to Table 2 in this section acknowledges that not all the “acres” reported in some of the categories in this table are considered to be “restoration.” The information in this table is meant to indicate a trend in restoration accomplishment activities.

*Comment:* Some respondents stated that the guidance needed to maintain ecosystems once they have been restored should be included in the final planning rule and evaluated in the final PEIS.

*Response:* The Department believes that guidance for maintaining ecosystems once they have been restored would best be provided in individual the forest or grassland plans tailored to the specific plan area. The alternatives analyzed in the PEIS provide varying

frameworks for developing, amending and revising plans and monitoring to determine if there is a need to change the plan.

*Comment:* Some respondents believe that the broad categories of primary stressors provided in the Affected Environment of this section did not provide enough information to evaluate the proposed management alternatives.

*Response:* The brief discussion of some of the primary stressors affecting NFS lands was included in the draft PEIS and in the final PEIS to provide the reader with a basic understanding of what a stressor is, the types of stressors on NFS ecosystems, and the types of conditions that may require restoration activities. The extent and severity of these stressors vary from NFS unit to unit, and are most appropriately identified and addressed in each unit's land management plan.

*Comment:* Some respondents stated that the draft PEIS should have fully described the environmental consequences that could occur if the planning rule fails to require needed restoration actions on the national forests. Others wanted to know how the alternatives are to be evaluated for managing ecological conditions.

*Response:* The alternatives vary as to what extent each of them includes requirements for including restoration and managing for ecological conditions. Alternatives A, Modified A, D and E include requirements related to restoration. Alternatives B and C do not. The effects to plans and the planning process related to restoration and managing for ecological conditions are displayed in Chapter 3 of the final PEIS.

*Comment:* Some respondents wanted a modified alternative that would encourage the identification and prioritization of national forest lands in need of restoration. These lands would be unsuitable for timber production as well as oil and gas development, placing management focus on ecological sustainability while still allowing for small-scale timber harvest and vegetation treatment.

*Response:* Every alternative allows plans to identify lands in need of restoration. An alternative that allows timber harvest only for restoration purposes (Alternative J) was considered but eliminated from detailed analysis because it did not meet the purpose and need. See description of this alternative as well as the rationale for eliminating it from detailed analysis in chapter 2 of the PEIS. All alternatives include suitability provisions as required by NFMA.

### **General comments regarding analysis of efficiency and effectiveness**

*Comment: Predictable costs.* Some respondents felt that foreseeable increased costs for analysis and litigation for 'best available scientific information' are predictable. Other respondents suggested that the PEIS analyze and disclose how monitoring would be accomplished under current budgetary constraints, including a clear distinction between the unit-level monitoring that would be required by the proposed rule versus site-specific project-level monitoring.

*Response:* The costs for each alternative are displayed in the Efficiency and Effectiveness section of the PEIS. A cost benefit analysis is included in Appendix N and the

assumptions used for the cost benefits analysis are included in Appendix M of the PEIS. The agency expects that the cost for collaboration and monitoring under the proposed rule would be higher than the 1982 procedures, but the costs for analysis and resolution of issues would be less than the No Action alternative of using the 1982 procedures for developing, revising, and amending a land management plan. The costs of use and documentation of best available science are included in the analysis. The draft PEIS compares the efficiency and effectiveness of the proposed action and other alternatives. The Department believes the PEIS has adequately explained the cost savings or costs of assessment, collaboration, science support, analysis, monitoring, and resolution for the Proposed Action and No Action alternative. Because the planning rule sets out the planning framework for developing, revising, and amending land management plans, estimating the cost of site-specific project-level monitoring is outside the scope of this PEIS.

*Comment: Cost for Alternative C.* Some respondents felt the estimates of agency costs for Alternative C are incorrect.

*Response:* The Department has updated the cost-benefit analysis in the PEIS. The analysis is summarized in Chapter 3 of the PEIS. The cost benefit analysis includes a detailed description of the costs and the assumptions they were based on. The Department believes that the cost analysis for all alternatives is correct and supportable.

*Comment: Benefits of Alternatives D and E.* Some respondents felt that Alternatives D and E will result in greater net benefits than the non-prescriptive alternatives due to their prescriptive requirements.

*Response:* As explained in the Efficiency and Effectiveness section of Chapter 3 of the final PEIS, increases in planning efficiency may occur for a few units as a result of more prescriptive requirements under Alternatives D and E; however the added cost of reduced flexibility (and increased requirements for units where additional required effort may not improve planning efficiency) under those alternatives is expected to exceed the potential benefits.

*Comment: Analysis of an alternative that would not adopt any planning rule.* Some respondents felt the Department should evaluate the option of not having a planning rule.

*Response:* The option of not having a rule for land management planning was not evaluated because it would be in violation of NFMA, and such an alternative would not meet the purpose and need for action. NFMA requires the promulgation of regulations “under the principles of the Multiple-Use Sustained-Yield Act of 1960, that set out the process for the development and revision of the land management plans, and the guidelines and standards prescribed by [the Act].” (16 U.S.C. 1604(g)).

### **Comments regarding analysis of the effects on mining and mineral development**

*Comment:* A respondent remarked that the Department did not adequately address the effects of the planning rule on jobs in the mining industry. They asserted that a new planning rule will lead to delays in mining exploration and development of mineral resources. The respondent contends the Department should have conducted a more robust

analysis on the impacts that the final rule would have on the costs of mineral development.

*Response:* As noted in the Multiple Uses section of Chapter 3 in the PEIS, the Agency does not manage subsurface minerals but recognizes that exploration and development occurs on NFS lands. The Forest Service recognizes the demand for mineral resources and understands that the renewable resource management mandated by MUSYA must include ongoing and potential future exploration and development of minerals. The planning rule does not impose requirements that would interfere with existing laws or regulations governing mineral exploration and development on federal lands. It is not apparent that any alternative would cause delays or impede mineral exploration and development on NFS units.

### **Comment regarding short-term uses and long-term productivity**

*Comment:* Use of the concepts “short-term uses” and “long-term productivity.” One respondent disagreed with the Department’s conclusion that the proposed action and the alternatives neither authorize nor prohibit short-term uses of NFS lands. The respondent stated that forest plans authorize those actions that they do not expressly prohibit. The respondent also said that short-term uses should not be excluded from NFS lands, and that “short-term uses” needs to be clearly defined.

*Response:* As stated in the proposed rule at section 219.2(b)(2) a plan does not authorize projects or activities or commit the Forest Service to take action. In fact, none of the alternatives authorize activities or projects. However, a plan may constrain the Agency from authorizing or carrying out actions, and projects and activities must be consistent with the plan. The discussion in Chapter 3 of the PEIS explains in detail the staged decisionmaking the Agency uses. An authorization of on-the-ground activities does not occur at the planning rule or the land management planning steps of the staged decisionmaking. Therefore, there are no short-term uses of NFS lands under any alternative.

### **Comments regarding NEPA process and procedure concerns**

*Comment:* A few respondents said that the Department did not follow the requirements of NEPA in preparing the draft PEIS. Some said that the Department did not properly apply the principles of NEPA to the analysis in the draft PEIS. Some people said that the Department should expand the discussion of the relevant case law and the legal standards for a programmatic EIS such as this. Other respondents said the Department should follow CEQ regulations for implementing NEPA.

*Response:* The Department agrees that the EIS should follow the requirements of NEPA and CEQ guidance when preparing the EIS, and believes it has done so here.. Based on public comment, the discussion of staged decisionmaking has been expanded in the PEIS. Also, while respondents criticized the way the Department disclosed the effects of the proposed rule and alternatives, no one offered any other way to do so. See the Context section in Chapter 3 of the PEIS and the response to comment in this appendix that discusses adequacy of effects analysis in the PEIS for additional information on the

Department's rationale for displaying the effects of the alternatives in the way that the PEIS does.

*Comment:* One person asserted that the Department violated NEPA because the notice of intent for the proposed planning rule artificially limited input by asking for comments on eight revision principles.

*Response:* The notice of intent (NOI) requested input on eight specific principles, but did not limit comments to these principles. In addition, the NOI specifically asked reviewers to identify and give input on any principles or issues not mentioned. The NOI went on to say: "we are seeking input on whether we have included a full list of the issues that must be addressed in a new rule and how best to address existing and future issues and challenges." All comments were considered, many of which were on topics beyond those specifically raised in the NOI.

### **Comments specific to the Science Review**

*Comment:* Some respondents were concerned that the science review of the draft PEIS violated the Federal Advisory Committee Act (FACA) because, in their view, the Agency set up an advisory committee but did not follow the FACA requirements. Some respondents claimed that the Agency did not follow the NFMA requirements because they did not set up a committee of scientists. Some respondents were concerned that the science review meetings were not open to the public and that the documents considered and produced by scientists were not available to the public. Some respondents were concerned that the Department did not make the reviews of the committee public when the proposed rule was released for public comment in February.

*Response:* A committee of scientists was not necessary because under NFMA, the Secretary of Agriculture was not required to appoint one for this rulemaking. NFMA required a committee of scientists only for the first planning rule, and further provided that committee was to terminate upon promulgation of the regulations. The Act also states that "the Secretary *may*, from time to time, appoint similar committees when considering revisions of the regulations," 16 U.S.C. 1604(h)(1) (emphasis added).

However to ensure that the analysis in the PEIS was scientifically supported, the Secretary decided to subject the draft PEIS to a formal science review, overseen by an independent and unbiased contractor. The Agency did not set up a science advisory committee and therefore the review was not subject to FACA rules. The scientists that reviewed the draft PEIS acted independently rather than as a committee, and were instructed to answer specific questions about how well the draft PEIS used the best available scientific information to evaluate effects. The reviewers were provided with the draft PEIS at the same time as it was made available to the public. They did not have access to material other than that available to the public. Because the science reviewers acted independently and provided separate reports the science review did not violate the FACA.

Neither the public nor the Department knew the identities of the reviewers, nor was there interaction between Department personnel and the reviewers during the review phase. It

was only after the reviews were completed, during the public comment phase for the draft PEIS, that the Department learned the identities of the reviewers and the substance of their reviews. At that time, the entire unedited reviews, the summary of the reviews, and the identities of the reviewers were made public. The reviews were not available in February because it was only then that the reviewers received the draft PEIS to review. As is apparent from this section of the response to comments document, many people did comment on the science review.

*Comment:* Some respondents were concerned that the scientists reviewed the rule and not the draft PEIS, as appeared evident from their reviews.

*Response:* The basic charge to the science reviewers was to evaluate how well the draft PEIS considered the best available science. The contractor gave each science reviewer three key questions to address, regarding scientific caliber, treatment of uncertainty, and comprehensiveness of the draft PEIS. The reviewers were not asked to review the proposed rule or to comment on the alternatives. However, the text of the proposed planning rule and alternatives was included in the appendices of the draft PEIS that was posted online and made available to the public as well as the science reviewers. Some of the reviewers chose to provide feedback on the proposed rule and alternatives, although they were not asked to comment on those parts.

*Comment:* Some respondents were concerned that the background of the reviewers did not include expertise that they felt was important to include, including mining, timber, or recreation. Some suggested that the reviewers were biased in their reviews.

*Response:* The Department contracted with RESOLVE to administer the science reviews to ensure the independence of the reviews. RESOLVE is a non-partisan organization that serves as a neutral, third party in policy decisionmaking. One of RESOLVE's specialties is helping agencies to incorporate technical and scientific expertise into policy decisions. RESOLVE served as the Review Administrator in this case.

The Agency provided RESOLVE with a draft of the draft PEIS and directed them, under the requirements of the contract, to provide a review of the science used in the proposed rule. The Science Review contract called for the Review Administrator to determine the subject matter topics that were needed for the review and to identify and coordinate experts for those topics to serve as subject matter reviewers. The selection of the reviewers required consideration of not only the subject matter topics, but the expertise, diversity of perspectives, lack of a conflict of interest, and assurance of independence for the reviewers. All of this pre-selection work took lead time so that the draft PEIS could be released to the reviewers at the same time it was released to the public. RESOLVE received an early and rough draft of the draft PEIS in order to provide them the information needed to select the reviewers. That version of the draft PEIS was not shared by the contractor. A later and more refined version of the draft PEIS was released to the public and given to the contractor to provide to the reviewers. The reviewers read and reviewed the same version of the draft PEIS that the public received. The contractor focused on issues that were identified as important to the public during the many public meetings that were held, and as a result, the Review Administrator selected science reviewers with expertise in those issues.



*Comment:* Some respondents commented that the CEQ report from 1982 should not be used because it is too old. Also, some suggested that other references used in the draft PEIS were too old to use.

*Response:* The references to which the comment referred were actually 1981 CEQ guidance documents, not reports. One guidance document is titled "The forty most asked questions concerning the NEPA regulations," (46 FR 18026 (March 23, 1981)). The second is a memorandum from CEQ titled "Memorandum for General Counsels, NEPA Liaisons, and Participants in Scoping". Both are still relevant and useful. Furthermore, scientific literature from decades ago may still be relevant and even considered the best science that is available on some topics. Some classic literature from well known scientists still is used frequently (e.g. Pickett et al. 1978) and was used in the draft PEIS.

*Comment:* Some respondents urged the Agency to make a concerted effort to address the issues raised by the science reviewers. Many respondents pointed to particular aspects of the science review that were in support of their particular opinions.

*Response:* The interdisciplinary team considered all of the comments made by the science reviewers. The concerns raised in the reviews were considered in preparing the final PEIS. The PEIS also acknowledges areas of divergence among scientists, where applicable.

*Comment:* Some respondents were concerned that only the Science Review summary was posted online.

*Response:* The Science Review report included a summary of the science review and the full and unedited reviews of each of the science reviewers. The report was prepared by RESOLVE and was posted on the Forest Service website without any changes or omissions.

## **Comments on the Proposed Planning Rule**

These comments were raised by the public specifically to address concerns related to the proposed planning rule which is Alternative A of the DEIS and the final PEIS. Since the public framed their comments around the proposed rule, that terminology was retained in the comment summary statements. However, the responses are framed around the alternatives in the PEIS. A similar set of comments will also be included in the preamble of the final rule, once it has been selected and at that time, the responses will be specific to the proposed and final rule and any changes made between the two.

The discussion of the alternatives refers to those alternatives analyzed in detail unless otherwise noted.

### ***General Comments***

The Department received the following comments not specifically tied to a particular section of the 2011 proposed planning rule.

### **General Comments on Rulemaking Effort**

*Comment: Use of public forums for rule development and meeting locations.* A respondent was critical of the public forums, as the forum they attended was full of private sector representatives and not members of the public. Another respondent felt there were not enough public meetings held on the East Coast. A respondent felt after scoping, the proposed rule was developed “behind closed doors.” The respondent felt the meetings on the proposed rule were not opportunities to discuss specific rule wording.

*Response:* The public engagement effort before the development of the proposed rule was the most extensive, transparent and participatory process ever used by the Forest Service to develop a proposed planning rule. The Department began by using the Notice of Intent (NOI) to solicit initial public input, rather than going out with an already developed proposal. This decision was made in recognition of the level of public interest in this rule-making effort, and in a desire to build a proposed rule based on public input. The Department received 26,000 comments on the NOI. Following the NOI, the Department hosted a science forum, 4 national roundtables, and 9 regional roundtables which reached 35 locations around the country, using an independent facilitator to run the roundtables and capture public feedback.

The purpose of the public forums before publication of the proposed rule was to openly and transparently discuss possible content of the proposed rule. Participants in the meetings were invited to suggest specific topics and specific wording during the sessions. Materials and summaries from the roundtables were posted online. Many of the roundtables used video teleconferencing or Webcasts to provide for participation by members of the public unable to attend in person. This use of technology also provided opportunities for the public to participate from their local Forest Service office. The Agency also hosted a blog site for people to engage in dialogue and provide feedback, as well as participate remotely in the national roundtables. More than 3,000 members of the public participated in these sessions and provided important feedback that the Agency used in developing the proposed rule.

After the proposed rule was published, the Agency hosted 28 regional public forums and one national public forum to answer questions and help the public understand what was in the proposed rule. These sessions were attended by more than 1,350 people and reached 72 satellite locations across the country. These forums were intended to help the public submit informed comments during the comment period for the proposed rule, but the Agency did not accept public comments directly at the forums because of the need to have a consistent way of accepting and recording comments.

After the public comment period closed, the Agency used the more than 300,000 comments received to inform development of the final PEIS and the alternatives.

*Comment: Proposed rule commenting process.* A respondent felt there was no convenient way for the everyday person to provide comments on the proposed rule.

*Response:* Multiple avenues for the public to submit comments on the proposed rule were provided, including submitting comments electronically via the respondent's choice of two Web sites, or submitting comments using mail or fax. Information on how to submit comments was posted on the Forest Service Web site, distributed at public meetings, and published in the Federal Register notice. Additionally, interested parties could sign up for a listserv that provided updates via email.

*Comment: Lack of responses.* A respondent felt the 26,000 comments received during the comment period for the notice of intent (NOI) to develop a new planning rule meant the Department must undertake further efforts to ensure the public is sufficiently involved in the planning process and further ensure that actions taken as a result of the rule are supported and understood by the public.

*Response:* In addition to the 26,000 comments received in response to the NOI, the Department engaged more than 3,000 people around the country in public forums to receive input between the NOI and the proposed rule, and received more than 300,000 public comments during the 90-day comment period for the proposed rule. Public participation in planning at the unit level is mandated by all alternatives. The Agency is also exploring ways to engage more broadly with the public to implement the rule once it is finalized.

*Comment: Cooperating status for rulemaking.* Some respondents expressed concern that their requests for cooperating agency status were not granted by the Department.

*Response:* The National Environmental Policy Act (NEPA) allows for cooperating agency status for States, local governments, and Tribes with jurisdiction or special expertise for the development of an environmental document. Several States or local governments requested cooperating agency status. However, a national rule requires a broader look beyond an individual State's or local government's expertise. The Agency also took a unique and unprecedented collaborative and open approach in reaching out to the public, governments, and Tribal entities in developing the proposed rule. Therefore, requests for cooperating agency status during development of the planning rule were not granted. The Department recognizes the valuable role of local and State governments and Tribes in the planning process and provided multiple opportunities for their involvement throughout the country during the collaboration efforts for the planning rule, in addition to the formal public comment periods.

*Comment: Oral comments.* Several respondents felt oral comments during the public forums on the proposed rule should have been allowed.

*Response:* When applicable, the Administrative Procedures Act directs that agencies provide an opportunity for written comment, but allows agencies the discretion whether or not to allow oral presentation of data or views. The Forest Service hosted open public forums in Washington, DC, and across the country to answer questions about the proposed rule during the public comment period. The Forest Service held these forums to help the public understand the content of the proposed rule. The Forest Service did not, however, accept written formal public comments at the forums or provide an opportunity to record oral comments, due to the anticipated volume of public comments, to ensure proper documentation and consideration of all comments, and in the interest of efficiency and accuracy in accepting and reviewing comments. All comments on the proposed rule and draft environmental impact statement (DEIS) had to be submitted in writing via mail, fax, or two Websites during the 90-day comment period.

*Comment: Personal comments.* A respondent expressed concern that their scoping comments were not incorporated into the proposed rule.

*Response:* No rule can satisfy the entire spectrum of opinion. However, the agency analyzed six alternatives in detail and considered nine additional alternatives which were dismissed from detailed analysis. These alternatives reflect the range of public comments that were within the scope of the analysis. The Agency seeks to balance different, and often competing, public needs and perspectives on planning into a process that is consistent with law and regulation, practical, workable, based on science, and reflective of overall public and Agency values and input.

*Comment: Incorrect or missing address for submission of comments, phone contact, and Web site utility.* Some respondents expressed confusion on why the Department did not provide an email address for comments to be sent. Others expressed frustration that the contact phone number was published incorrectly in the DEIS, and expressed a desire to submit comments or ask questions by phone. Some wanted a better sitemap on the Forest Service planning Web site to help navigation through the site.

*Response:* Instead of an email address, the Department provided the addresses of two Web sites the public could choose from to submit comments, in addition to mail or fax options. Because of the volume of anticipated comments, the Department concluded that comments submitted via a Web site would be more efficient to manage than an e-mail inbox, and would reduce costs and the risk of human error. In addition, comments are more efficiently and rapidly placed in the record and made available for public inspection when submitted via a Web site rather than email.

After being made aware of the incorrect phone number published in the DEIS, the Department corrected the contact information immediately. The Administrative Procedures Act requires agencies to “give interested persons an opportunity to participate in the rulemaking through submission of written data, views, or arguments with or without opportunity for oral presentation” (5 U.S.C. 553(c)). Due to the anticipated volume of public comments, and in the interest of efficiency and accuracy in accepting and reviewing comments, the Department did not accept comments over the telephone. It

is not standard practice to accept telephone comments. Opportunities to provide comment were amply provided through the respondent's choice of two Web sites, mail or fax.

The planning rule Web site does contain a site map link on the left-hand menu on the main page. The Department appreciates feedback on our Web design and seeks to continuously improve our Web presence.

*Comment: Verification comments received.* Some respondents wanted to verify that their comments on the planning rule were received.

*Response:* Respondents are able to verify that their comments were received by reviewing the public reading room for the planning rule at <http://contentanalysisgroup.com/fsrd/>. To ensure transparency, comments submitted during the comment period were posted to the reading room for public review.

*Comment: List serv.* A respondent felt the Department should use a listserv to keep the public apprised of the status of the planning rule.

*Response:* A planning rule listserv was announced in June 2010, and has been used since then to communicate with the public. Members of the public may request to be added to the planning rule listserv on the planning rule Web site, or directly at <http://www.fs.fed.us/news/pr-listserv-subscribe.html>.

*Comment: Requests for extension of the comment period.* Some respondents requested an extension of the comment period because some members of the public were not able to participate in Agency meetings addressing the proposed rule. Other respondents requested an extension of the comment deadline because of the late release of a scientific review. Some respondents said that the public did not have enough time to comment on the science review before the comment period closed.

*Response:* The Department went to extraordinary lengths to facilitate the ability of the public to understand and comment on the proposed rule and draft environmental impact statement (DEIS). In fact, the Administration identified the proposed rule as a flagship for open government within the U.S. Department of Agriculture. The Department published a notice of intent to propose a new rule and prepare its accompanying environmental impact statement on December 18, 2009, and took public comment on that notice for 60 days. The proposed rule was informed by approximately 26,000 comments to the notice of intent, a science forum, regional and national roundtables held in 35 locations with over 3,000 people in attendance, national and regional Tribal roundtables, 16 Tribal consultation meetings, Forest Service employee feedback, and over 300 comments posted to the planning rule blog. Throughout that process, the Agency shared a clear timeline with the public, including our intent to publish the final rule by the end of 2011.

The Department considered all the public input, science, and the Agency's expertise to develop the proposed rule and DEIS. The proposed rule and notice of availability for the DEIS were published in the Federal Register and included a 90-day comment period ending on May 16, 2011. A 90-day comment period was used because of the importance of the proposed planning rule. This was 30 days more than the Agency's customary comment period for rulemaking and is 45 days more than the review and comment period for draft environmental impact statements required by National Environmental Policy Act

regulations.

The Department reached well beyond its normal practices to provide the public with information to assist in the public comment phase of this rulemaking. During March and April, 2011, after the notices were published in the Federal Register, the Forest Service hosted 29 national and regional public forums to provide stakeholders with information about the proposed rule and respond to questions. The forums were attended by almost 1,350 members of the public and reached 74 locations across the country through video and teleconferencing. The National Forum was held within 3 weeks of the opening of the comment period and a video of the forum and forum materials were posted on the planning rule Web site. The regional forums were also held early in the comment period. While the forums were designed to assist the public in understanding the proposed rule and foster informed comments, it was not necessary for any member of the public to attend a forum to develop and submit comments. The Forest Service ensured that the planning rule Web site contained background information on the proposed rule as well as summaries of the various collaboration and public involvement activities held during the preparation of the proposed rule and DEIS. Also, the DEIS was posted on that Web site, as published in the Federal Register notification. In order to proactively facilitate commenting, the Forest Service provided multiple options for members of the public to submit comments: two Web sites, by hard copy mail, and by facsimile.

In addition, the Department contracted with a neutral third party to arrange an independent review of the DEIS by respected and well known scientists outside of the Forest Service to ensure that the science behind the proposed rule and environmental analysis is current, relevant, accurate, and appropriately applied. In order to ensure the integrity and independence of the review process, the identity of the reviewers and the content of their individual analysis were kept confidential by the third party, until the review was completed. In keeping with our open and transparent process, the Agency committed to make the reviews in their entirety public and did so within 3 business days of receiving them. The Agency posted the reviews on the Internet on April 26, 2011. The summary of the reviews and each independent review can be found on the Internet at <http://www.fs.usda.gov/planningrule>. Neither requesting the review nor sharing the result of the review was legally required. The Forest Service considered and used the information in the science reviews to prepare the final programmatic environmental impact statement, along with public comments.

The Department believes the public had time to review these materials and consider them when commenting on the proposed planning rule and in fact, many respondents did provide comments on the science review. The Department decided not to extend the 90-day comment period because extra time had been provided for comments beyond the customary practices and an unprecedented amount of information and access to the Agency employees to assist the public in understanding that information was provided to the public via Web site and public meetings.

*Comment: Science review and Federal Advisory Committee Act.* Some respondents were concerned that the science review of the DEIS violated the Federal Advisory Committee Act (FACA) because the Agency set up an advisory committee but did not follow the FACA requirements. Some respondents were concerned that the Agency did not follow

the National Forest Management Act (NFMA) requirements in setting up a committee of scientists.

*Response:* The external science review of the DEIS did not violate FACA. FACA applies when a Federal agency establishes, controls, or manages a group that provides the Agency with consensus advice or recommendations. The external science review of the DEIS was conducted by seven non-Federal scientists, who each conducted their own independent evaluation of whether appropriate scientific information, content, and rigor had been considered, analyzed, and synthesized in the DEIS. These scientists did not operate as a group, and they did not provide the Forest Service with consensus advice or recommendations. Accordingly, the external science review was not subject to FACA's requirements.

A committee of scientists was not required for this rulemaking effort under the NFMA. A committee of scientists was required only for the 1979 planning rule, and that committee was to terminate upon promulgation of the regulations. The NFMA states that the Secretary may, from time to time, appoint similar committees when considering revisions of the regulations, but this is not required (16 U.S.C. 1604(h)(1)).

*Comment: Science review and public comment.* Some respondents were concerned that the science review meetings were not open to the public, and that the documents considered and produced by the committee were not available to the public. Some respondents were concerned that the Agency did not make the reviews of the committee public when the proposed rule was published for comment on February 14, 2011.

*Response:* The reviewers did not consider or review any documents that were not available to the public. Neither the public nor the Department knew the identities of the reviewers, nor was there interaction between Department personnel and the reviewers during the review phase. It was only after the reviews were completed, during the public comment period for the proposed rule and DEIS, that the Department learned the identities of the reviewers and the substance of their reviews. Within 3 business days of the Department's receipt of that information, the entire unedited reviews, the summary of the reviews, and the identities of the reviewers were made public. The reviews were not available in February because it was only then that the reviewers received the DEIS to review.

*Comment: Science review and the rule.* Some respondents were concerned that the scientists reviewed the rule and not the DEIS, as appeared evident from their reviews.

*Response:* The charge to the science reviewers was to evaluate how well the draft environmental impact statement (DEIS) considered the best available science. The contractor gave each science reviewer three key questions to address, regarding scientific caliber, treatment of uncertainty, and comprehensiveness of the DEIS. The reviewers were not asked to review the proposed planning rule or provide their preference of the alternatives. However, as one of the alternatives being analyzed, the text of the proposed planning rule (Alternative A), along with the other alternatives analyzed in detail, was included in the appendices of the DEIS that were posted online and made available to the public as well as the science reviewers. Some of the reviewers chose to provide feedback on the proposed rule and alternatives, although they were not asked to comment on those parts.

*Comment: Science reviewers.* Some respondents were concerned that the background of the reviewers did not include expertise that they felt was important to include, including mining, timber, or recreation. Some suggested that the reviewers were biased in their reviews.

*Response:* The Department contracted with RESOLVE to administer the science reviews to ensure the independence of the reviews. RESOLVE is a non-partisan organization that serves as a neutral, third-party in policy decisionmaking. One of RESOLVE's specialties is helping to incorporate technical and scientific expertise into policy decisions. The Agency provided the contractor with a draft of the DEIS and required the contractor to select the reviewers and provide their responses to the Agency.

*Comment: Science review and CEQ documents.* Some respondents commented that the Council of Environmental Quality (CEQ) report from 1982 should not be used because it is too old. Also, some respondents suggested that other references used in the DEIS were too old to use.

*Response:* The references to which the comment referred were 1981 CEQ documents. One was the "Forty Most Asked Questions Concerning CEQ's National Environmental Policy Act Regulations," which was published in the **Federal Register** in 1981 (46 FR 18026; March 23, 1981). The second was an April 30, 1981 memorandum from the Executive Office of the President on scoping. Both are current and still relevant; see the CEQ site on NEPA guidance at <http://ceq.hss.doe.gov/nepa/regs/guidance.html>. Furthermore, scientific literature from decades ago may still be relevant and even considered the best science that is available on some topics. Some classic literature from well known scientists still is used frequently (for example, Pickett et al. 1978) and was used in the DEIS.

*Comment:* Some respondents commented that a concerted effort be made to address the issues raised by the science reviewers.

*Response:* The planning rule team considered and responded to the comments made by the science reviewers. The issues raised in the reviews, along with other feedback received during the public comment period, were used in preparing the final programmatic environmental impact statement (PEIS)..

*Comment:* Some respondents were concerned that only the Science Review summary was posted online.

*Response:* The Science Review report included a summary of the science review and the full and unedited reviews of each of the science reviewers. The report was prepared by RESOLVE and was posted on the Forest Service Web site without any changes or omissions.

### **General Proposed Rule Comments**

*Comment: Degree of compliance or restriction.* Some respondents said the proposed rule should provide more discretion and flexibility to develop a forest plan by reducing the use of "shalls" and "musts." Other respondents felt phrases "take into account" and "consider" should be removed and replaced with more prescriptive terminology as these terms left implementation largely to the discretion of the responsible official.



*Response:* The PEIS analyzed six alternatives in detail and considered but dismissed nine additional alternatives from detailed analysis. Each of the alternatives analyzed in detail, with the exception of Alternative B, meets the purpose and need in a different way. The range of alternatives includes those that include very few requirements (such as Alternative C) to alternatives that are designed to much more prescriptive in nature (such as Alternatives D and E). The Department's goal in creating Alternative A was to create an implementable framework for planning along with a structure and set of requirements for plan components and other plan content that would support the purpose and need for a new rule.

*Comment: Advocacy for a particular outcome or regulatory wording.* Some respondents expressed general support for or opposition to the proposed rule. Among the items respondents supporting the proposed rule listed are the following: the use of larger ecological regions to provide context for forest, grassland and prairie units; cooperation between the Agency and adjacent governmental entities in planning and plan revision processes; public participation opportunities in the decision making process; the approach on ecological sustainability, watershed restoration and protection, and recognition of ecosystem services. Supportive respondents also were in favor of the emphasis on recreational uses and users; the streamlining and simplifying of the planning process the use of active management techniques; the continued emphasis on multiple use purposes including economic impacts and benefits; the use of best available science; and the appropriate use of regulations and management strategies to mitigate climate change effects. Those respondents expressing a general opposition to the proposed rule felt the way it was written and the requirements it contained were vague, complex, unrealistic, and needed clarification. They felt it would invite litigation; would not provide adequate protection for wildlife and resources; or would limit public access, use, rights, and participation. Some felt the proposed rule was inappropriate because they felt it allowed for continued timber, livestock, mining, and special interest groups' use; wasted tax dollars; would harm economic benefits for rural communities; failed to incorporate the multiple use mandate; failed to include sound science in planning and measurable tools for management; failed to incorporate and analyze Tribal interests and activities; allowed too much discretion to the responsible official; failed to give recreational uses a greater priority; or failed to address cumulative effects these regulations would cause. Additionally, they expressed concerns over inclusion of climate change requirements. Some respondents expressed endorsement of comments submitted by other organizations or individuals, or referred to attachments submitted in support of their comments.

*Response:* The Department has reviewed all of these comments and enclosures, and appreciates the degree of public interest in the proposed rule and the alternatives. All substantive comments were considered and where appropriate were used to inform the development of additional alternatives between the draft and final PEIS.

*Comment: Preservation of the national forests for future generations.* Some respondents stated a desire for the rule to mandate stronger standards to ensure wildlife and wildlife habitats are healthy and resilient; for greater forests protections, and better integration of environmental, economic, and/or social sustainability into future plans and future generations. Some wanted inclusion of guidelines for responsible/sustainable recreation,

more restrictions on mining and logging activities, and provisions to limit access to preserve land.

*Response:* The Department agrees that the preservation of our national forests and grasslands is vital to meet the needs of present and future generations. These comments were reviewed and in response the Department created additional alternatives; Modified Alternative A, M, and N. All alternatives are consistent with Multiple Use Sustained Yield Act. The unit plans developed under any selected alternative would provide guidance for future projects and activities.

*Comment: General action to protect national forests and grasslands.* Some respondents expressed the need for the Forest Service to protect and not destroy the national forests. They highlighted the importance of protection for wildlife, diverse ecosystems, riparian areas, priority watersheds, aquatic resources, clean drinking water, endangered species, climate change and air pollution, access for socioeconomic purposes, cultural and traditional resource use, and the natural beauty of the land. They suggested strengthening the wording of the proposed rule for forest protection, compliance, and consistency; inclusion of protection of access to land for recreation; and allowing natural processes occur. They felt an effective planning rule should reflect the aspirations of diverse communities.

*Response:* The alternatives provide differing ways for developing plans for the national forest system. The Department developed Modified Alternative A to address public comments on sustainability, diversity of plant and animal communities, multiple-uses, and timber requirements as well as wording in other sections of the Modified Alternative A to reflect public comments and better ensure the needs of present and future generations.

*Comment: References to individual forests, projects, and individuals.* Some respondents commented on issues important to them, but not related to this rulemaking effort. Examples of such concerns include the use of DDT, Millennium Ecosystem Assessment, personal opinions of political representatives, issues with rental housing, sustainable living, a tornado in southeast Tennessee, a vital wildlife crossing in Montana, Willamette National Forest timber harvest levels, and a suggested wolf/gorilla/elephant/chimpanzee/lion/giraffe sanctuary.

*Response:* These and other similar comments have been determined to be outside the scope of the planning rule, because they discuss aspects unique to specific forests, grasslands, or municipalities. Many of the concerns raised would be more properly addressed in specific forest and grassland plans themselves, or in the subsequent decisions regarding projects and activities on a particular national forest, grassland, prairie, or other administrative unit, or may be outside the scope of NFS planning.

*Comment: Wilderness evaluation procedures.* Several respondents felt “sights and sound” should be removed from Forest Service directives as a criterion for wilderness inventories.

*Response:* Criteria for the evaluation of areas for wilderness recommendations are in Forest Service directives, which will be revised. There are opportunities for public comment when the Forest Service directives are revised. The Department encourages

members of the public to provide comment on issues specific to the directives during their revision.

*Comment: Changes to other Forest Service regulations.* Some respondents commented about which resource uses or activities should be supported or not supported by the Department on NFS lands. They requested requiring, changing, or eliminating regulations for specific activities. These included, but are not limited to, NEPA implementation, grazing, mining, logging, road construction and maintenance, special use permits, hunting, certain recreational activities, trail use conflicts, wildland fire suppression, fuels management, educational opportunities, cultural and historic resources, using NFS lands as mitigation areas for climate change as well as protections for wild horses and burros.

*Response:* The Department agrees the issues raised are important. However, these comments have been determined to be outside the scope of the planning rule. All the alternatives are intended to provide overall direction for how plans are developed, revised, and amended and for required plan components and other plan content. The alternatives found in the final PEIS do not provide regulatory direction for the management of any specific resource, except for the NFMA timber requirements. Agency regulations for specific uses can be found in other sections of 36 CFR part 200, which governs management of the national forests, grasslands, and prairies. For example, part 212 regulates administration of the forest transportations system (roads and trails), part 222 regulates range management, including wild horses and burros, and part 232 regulates the sale and disposal of NFS timber. Additional direction may be found in individual plans or in project or activity decision documents. Those communities, groups, or persons interested in these important issues can influence plan components, plan monitoring programs, or subsequent projects or activities by becoming involved in unit planning efforts throughout the process, and by submitting comments on the Forest Service Directives System during opportunities for public comment.

*Comment: Funding and staffing levels.* Some respondents suggested increased funding and staffing for the enforcement of protection and mitigation standards; the collection of fees from and licensing requirements for users; bonding to ensure restoration activities; sustainable funding for fuel reduction activities; and the retention or creation of specific Agency positions.

*Response:* These comments have been determined to be outside the scope of the planning rule. The U. S. Congress determines Agency funding levels under its budgetary process. Staffing issues are more properly addressed by specific forest and grasslands, or regional and national offices.

*Comment: Transparency and collaboration.* Some respondents wanted the public process of land management planning to be kept clear and transparent. Others commented that in addition to transparency, the specific science being used should be shared. Some respondents were concerned that collaboration would result in too much input from local interests and groups. A respondent stated there is no clear definition of collaboration in the proposed rule. Another respondent felt the public participation requirements would not result in collaboration and the Forest Service staff would still be doing all of the planning work.

*Response:* The Department agrees the public process for land management planning must be clear and transparent. All alternatives require the Agency to consider science when developing, amending, and revising plans. That consideration would be documented in the planning record in all alternatives, even though it might not be explicitly required in the alternative wording. Alternatives A, Modified A, D, and E require documentation of this consideration in assessment reports, plan decisions, and monitoring evaluation reports or in the design of the monitoring program. Alternative B applies the requirement for the use of best available science to the project level. Documentation in a plan decision document provides transparency and an explanation to the public as to how science was used to inform how the responsible official arrived at important decisions. Alternatives A, Modified A, D, and E include additional requirements for the plan decision documentation as compared to Alternatives B and C to increase transparency and explain the rationale for decisionmaking.

All alternatives would require the responsible official to provide opportunities for public participation. Alternative C has minimum requirements. Alternatives A, Modified A, D, and E in §§ 219.4 and 219.16 list the minimum specific points during the planning process when opportunities for public participation would be provided, and include direction to provide opportunities for public engagement and sharing information with the public. To meet these requirements, the alternatives would require responsible officials to consider who may be interested in the plan, those who might be affected by a plan or a change to a plan, and how to encourage various constituents and entities to engage, including those interested at the local, regional, and national levels. Alternative B would require two notifications for plan development and plan revision: 1) the notice of intent for an environmental impact statement (EIS), and 2) the comment period on the proposed plan and EIS. Under any alternative all members of the public would be provided opportunities to participate in the planning process.

Section 219.19 of the Alternatives A, Modified A, C, D, and E include definitions for participation and collaboration. Because the make-up and dynamics of the communities surrounding each planning area differ, and because the level of interest in decisionmaking may vary, all alternatives would provide the responsible official with the flexibility to select the public participation methods that best fit specific planning needs. Alternative E includes several additional and more specific requirements for collaboration beyond those of the other alternatives.

Land management planning for NFS lands falls under Forest Service authority and is a responsibility of the Agency. As such, Agency employees or contractors are responsible for the preparation of the actual planning documents. Consistent with the NEPA, all alternatives require interdisciplinary teams be established for plan development, plan amendment, and plan revision.

Section 219.5(b) of the Alternatives A, Modified A, C, D, and E require that interdisciplinary teams be established to prepare assessments; new plans, plan amendments, plan revisions, and unit monitoring programs. In § 219.4 of Alternatives A, Modified A, D, and E, the public would have multiple opportunities to participate in the process and contribute to the content of those documents. Alternatives B (§ 219.6), and C (§ 219.4) also require the responsible official to involve the public in developing, amending, and revising plans.

*Comment: Tribal activities.* Some respondents felt the rule should support Tribal activities on NFS land because of important Tribal historical, cultural, sacred areas located there; should facilitate the Tribes' exercise of treaty hunting, fishing and gathering rights; and should require partnering with Tribal entities in the planning process.

*Response:* None of the alternatives modify the unique government-to-government relationship between the United States and Indian Tribes. None of the alternatives modify prior existing Tribal rights, including those involving hunting, fishing, gathering, and protecting cultural and spiritual sites. Under all alternatives the Agency would be required to work with federally recognized Indian Tribes, in a government-to-government relationship, as provided in treaties and laws, and consistent with Executive orders when developing, amending, or revising plans. Alternatives A, Modified A, D and E encourage Tribal participation in NFS planning. Under all alternatives Forest Service officials have the responsibility to consult early with Tribal governments and to work cooperatively with them where planning issues affect Tribal interests, whether specifically mentioned in the alternative or not. Nothing in the alternatives should be construed as eliminating public input or Tribal consultation requirements for future projects and activities. Alternatives A, Modified A, D, and E require consideration of cultural and historic resources, ecosystem services including cultural services, areas of Tribal importance, and habitat conditions needed for public uses such as hunting, fishing and subsistence, in addition to input from Tribes and Alaska Native Corporations. Alternative B requires that planning provide an overview of known data relevant to history, ethnography, and prehistory of the are, including known cultural resource sites; identify areas requiring more intensive inventory, provide evaluation and identification of appropriate sites for the National Register of Historic Places, establish measures for the protection of significant cultural resources, identify maintenance needs, and require coordination with the State Historic Preservation Office. In Modified Alternative A the Department modified the wording about trust responsibilities in § 219.4(a)(2) that was designated at § 219.4(a)(5) of Alternative A. Alternative A states: the Department recognizes the Federal Government's trust responsibility for federally recognized Indian Tribes. Modified Alternative A states: the Department recognizes the Federal Government has certain trust responsibilities and a unique legal relationship with federally recognized Indian Tribes. Modified Alternative A more accurately recognizes the relationship between the Federal Government and federally recognized Tribes than Alternative A.

*Comment: Compliance with Federal laws and regulations.* Some respondents raised concerns over compliance with Federal laws governing the management of the national forests. Some examples cited include the National Heritage Preservation Act, the Organic Act, the General Mining Act of 1872, the Wilderness Act, the Endangered Species Act of 1973 (ESA), the Alaska National Interest Lands Conservation Act (ANILCA), and the Tongass Timber Reform Act. Some were concerned with the influence of court decisions on the scope of the rule.

*Response:* All alternatives analyzed in detail require compliance with all laws governing the Forest Service, including the laws identified by respondents and applicable State laws. Alternatives A, Modified A, C, D, and E, in § 219.1, state that plans must comply with all applicable laws and regulations - some, but not all, of which are mentioned as

examples. The Secretary has clear authority to promulgate a planning rule, and all alternatives analyzed in detail are consistent with existing law and policy. The foundation for any exercise of power by the Federal Government is the U.S. Constitution. The Constitutional provision that provides authority for management of public lands is the Property Clause (Article IV, Section 3). The Property Clause states that Congress has the power to dispose of and make all needful rules and regulations respecting land or other property belonging to the United States. Using this authority, Congress entrusted the Secretary of Agriculture with broad powers to protect and administer the National Forest System by passing laws, such as the Organic Administration Act of 1897 (the Organic Act), the Multiple-Use Sustained-Yield Act of 1960 (MUSYA), and the National Forest Management Act of 1976 (NFMA).

The duties that Congress assigned to the Secretary include regulating the occupancy and use of National Forest System lands and preserving the forests from destruction (16 U.S.C. 551). Through the MUSYA, Congress directed the Secretary to administer the National Forest System for multiple-use and sustained-yield of renewable resources without impairment of the productivity of the land (16 U.S.C. 528–531), thus establishing multiple-use as the foundation for management of national forests and grasslands. These multiple use purposes include outdoor recreation, range, timber, watershed, and wildlife and fish. The statute defines “multiple use” broadly, calling for management of the various uses in the combination that will best meet the needs of the American people (16 U.S.C. 531). Under this framework, courts have recognized that the MUSYA does not envision that every acre of National Forest System land be managed for every multiple use, and does envision some lands being used for less than all of the resources. As a consequence, the Agency has wide discretion to weigh and decide the proper uses within any area. (*Wyoming v. USDA*,\_F.3d,\_2011 WL 5022755 (10th Cir. Oct. 21, 2011); (C.A.10 (Wyo.); *Perkins v. Bergland*, 608 F.2d 803, 806-807 (9th Cir. 1979); and *City & Cnty. of Denver v. Bergland*, 695 F.2d 465, 476 (10th Cir. 1982)). In passing the MUSYA, Congress also affirmed the application of sustainability to the broad range of resources the Forest Service manages, and did so without limiting the Agency’s broad discretion in determining the appropriate resource emphasis and mix of uses.

The NFMA reaffirmed multiple-use and sustained-yield as the guiding principles for land management planning of National Forest System lands (16 U.S.C. 1600, 1604). Together with other applicable laws, the NFMA authorizes the Secretary of Agriculture to promulgate regulations governing the administration and management of the National Forest Transportation System (16 U.S.C. 1608) and other such regulations as the Secretary determines necessary and desirable to carry out the provisions of the NFMA (16 U.S.C. 1613). These laws complement the longstanding authority of the Secretary to regulate the occupancy and use of the National Forest System (16 U.S.C. 551). Forest Service regulations governing subsistence management regulations for public lands in Alaska under the ANILCA are found at 36 CFR part 242, and changes to those regulations are outside the scope of a planning rule, regardless of the alternative selected.

Some of the Agency’s past decisions have been challenged in court, leading to judicial decisions interpreting the extent of Forest Service discretion, or judgment, in managing National Forest System lands. Courts have routinely held that the Forest Service has wide discretion in deciding the proper mix of uses within any area of National Forest System

lands. In the words of the Ninth Circuit Court of Appeals, the Agency's authority pursuant to the MUSYA "breathes discretion at every pore." (*Perkins v. Bergland*, 608 F.2d 803, 806 (9<sup>th</sup> Cir. 1979)).

*Comment: Regulatory Flexibility Act (RFA) compliance.* A respondent questioned compliance with the RFA and the rule's capacity to respond to the needs of small governments.

*Response:* The alternatives have been considered in light of the RFA, as amended by the Small Business Regulatory Enforcement Fairness Act of 1986 (5 U.S.C. 601 et seq.), as documented in the "Forest Service Planning – Proposed Rule: Opportunities for Small Entities Report" (09/22/2010). The Department has determined that the rule, regardless of the alternative selected, would not have a significant economic impact on a substantial number of small business entities as defined by the RFA. Therefore, a full regulatory flexibility analysis was not required. The Department recognizes a large number of small businesses use, extract, or otherwise benefit from access to forest resources. The background information provided in the "affected environment" in the "Efficiency and Effectiveness" section of Chapter 3 in the PEIS describes contributions of NFS lands to small rural and wildland dependent communities, including contributions to jobs and income.

None of the alternatives directly impose requirements on small or large entities, nor do they impose requirements or costs on specific types of industries or communities. Rather, the alternatives set out a range of planning processes that are designed to provide opportunities for affected parties to collaborate in planning. These opportunities would increase capacity to consider the needs and desires of small entities and reduce the potential for adverse economic impacts. For example, under Alternatives A, Modified A, D and E, requirements for considering ecosystem sustainability and contributing to social and economic sustainability should facilitate restoration activities and help sustain economic opportunities linked to local or rural communities.

*Comment: Cooperation beyond NFS boundaries.* Some respondents were concerned that the "all lands" approach is not within the Forest Service's authority.

*Response:* The alternatives provide differing frameworks for the development, amendment, or revision of land management plans for national forests, grasslands, prairies, or other administrative units of the NFS. A planning rule, regardless of which alternative is selected, would not provide the Forest Service with authority to make management decisions for lands that are not NFS lands or activities that are not occurring on NFS units. The Department recognizes that conditions, resources and the management of NFS lands can influence, or be influenced by, the ecological, social, and economic conditions and management of non-NFS lands. In recognition of this interaction, Alternatives A, Modified A, D, and E would require the responsible official to look beyond the unit boundary and develop an understanding of management issues on the plan area within the context of the broader landscape, and coordinate with and encourage participation of other relevant land or resource managers. Alternative D would require additional coordination, beyond NFS boundaries, related to maintaining the diversity of plant and animal species. These requirements are found in § 219.4 (public participation), § 219.6 (assessment), § 219.8 (sustainability), § 219.9 (diversity), and § 219.10 (multiple

use) of these alternatives. Alternatives B and C do not explicitly require an all-lands approach.

Specific requirements that were brought up by respondents, such as consultation or coordination with the U.S. Fish and Wildlife Service for species listed under the Endangered Species Act of 1973 or with State Air Quality Boards for air quality management under the Air Quality Act, are addressed elsewhere in Agency regulation and policy. The alternatives do not include or reiterate existing direction provided elsewhere.

*Comment: Public input on subsequent planning directives.* Some respondents felt the development of the planning directives should be open to public comment.

*Response:* It is the intent of the Department that the Agency continue to move forward with the open and collaborative approach taken in developing the proposed rule and the DEIS. The Agency will provide a public comment period for the planning directives.

#### *Efficiency and Effectiveness Comments on the Proposed Rule*

*Comment: Process.* A respondent said there are too many mandates in the rule for the responsible official to follow, thus making the proposed rule burdensome and difficult to implement. Another respondent felt the amount of process requirements and paperwork in the proposed rule would slow down the planning process.

*Response:* The PEIS analyzes a range of alternatives. Alternatives D and E include more prescriptive requirements than the 1982 procedures (Alternative B). Alternatives A, Modified A, and C include fewer procedural requirements than are required by the 1982 planning procedures. The Agency expects that individual plans would take less time and cost less money to complete under the Alternatives A, Modified A, or C. The 1982 planning rule (Alternative B) places a great deal of emphasis on using economic analyses to find the solution to planning problems and challenges. Examples of requirements from the 1982 rule provisions not included in the other alternatives include the following: planning criteria, required benchmark alternatives as part of the analysis of the management situation, the projections of demand using both price and non-price information, alternative criteria including Resources Planning Act Program alternative, present net value analysis, comparison of final plan to maximizing present net value alternative, identification of the management intensity for timber production for each category of land which results in the largest excess of discounted benefits less discounted costs, vegetation management practices chosen for each vegetation type and circumstances, and projections of changes in practices for at least four decades.

The framework of Alternatives A, Modified A, D, or E would facilitate more collaboration with the public. Alternatives A, Modified A, D, and E explicitly discuss administrative changes to plan content other than plan components to help the responsible official adapt to changing conditions, while requiring the responsible official to notify the public of the change.

*Comment: Significance of the rule.* Some respondents felt that the Forest Service fails to address the rule as “significant” under EO 12866;

*Response:* The proposed rule was designated as significant and, therefore subject to the Office of Management and Budget review. The Agency reviewed the proposed rule under



the Department procedures and Executive Order (EO) 12866 issued September 30, 1993, as amended by EO 13563 on Regulatory Planning and Review. The Agency prepared a Cost Benefit Analysis (Jan 25, 2011) report, including the regulatory impact analysis requirements associated with EO 12866 and EO 13563 and OMB circulars. In comparison to the “no action” alternative, which would continue to use the 1982 procedures currently allowed under the transition provisions of the 2000 rule, the proposed rule was not considered an economically significant rule.

*Comment: Cost-benefit analysis.* Some respondents felt that the Forest Service did not account for a sufficient range of costs and benefits, including the costs, benefits, and economic impacts resulting from implementation of revised or new plans.

*Response:* The analysis in the “Efficiency and Effectiveness” section of the DEIS and final PEIS focused primarily on evaluations of programmatic planning efficiency. Implementation of Alternative B (current rule) would continue to cost the Agency an estimated \$104 million annually. Implementation of Alternative A would be \$1.5 million less annually than the current rule (Alternative B). Implementation of Modified Alternative A would be approximately \$6 million less annually than the current rule. Implementation of Alternative C would be \$23.8 million less annually than the current rule. Implementation of Alternative D would be \$11.9 million more annually than the current rule. Implementation of Alternative E would be \$30.3 million more than the current rule.

Additional details about the potential for specific planning costs and cost effectiveness to change under the final rule for each of the alternatives is provided in the final PEIS and Appendix A of the “Cost Benefit Analysis Report (2011) For example. overall planning costs for the Agency under the Modified Alternative A are not projected to be substantially different from the 1982 rule, the projected cost per plan would be expected to be lower than under the 1982 rule, the time it takes to revise a plan is projected to be shorter, and it would be expected that more plans would be revised in a 15-year period. In addition, under Alternatives A and Modified A it is anticipated that units would have greater capacity to maintain the currency, reliability, and legitimacy of plans to meet the objectives of the MUSYA, the NFMA, and the planning rule (§ 219.1(b)/(c)), thereby improving the quality of plans and therefore the efficiency of the planning process.

*Comment: Economic impacts such as minerals.* Some respondents felt that the Forest Service failed to assess economic impacts that reflect renewable and non-renewable resource sectors (for example, minerals) as well as other sector-specific impacts.

*Response:* Economic impacts in terms of numbers of jobs and labor income supported by NFS lands, by program, are provided for 2009 in Appendix M (economic contributions) of the final PEIS, accounting for direct, indirect, and induced effects. Jobs and income for minerals activity have been included in baseline impact analysis, recognizing that minerals management is administered jointly between the Department of the Interior and the Forest Service. Impacts of the alternatives to jobs within specific industry sectors have not been evaluated as these impacts cannot be determined in the absence of on-the-ground project activity at the unit level. Direct and indirect effects on the levels of goods, services, and uses to which NFS lands contribute are the end-results of unit plans or projects and are beyond the scope of the final PEIS analysis.

*Comment: Economic benefits of monitoring and ecosystem services.* Some respondents felt that the Forest Service should identify benefits from comprehensive monitoring and the provision of ecosystem services.

*Response:* The programmatic benefits of planning tasks or requirements such as monitoring are accounted for in the discussion of contributions to overall planning efficiency in the “Efficiency and Effectiveness” section of Chapter 3 of the final PEIS.

As identified by the definition of ecosystem services in § 219.19 of Alternatives A, Modified A, D, and E, benefits from the provision of ecosystem services are from provisioning services (for example, timber, forage, clean water, and so forth), regulating services (for example, water filtration, soil stabilization, carbon storage, and so forth), supporting services (for example, nutrient cycling, pollination and so forth), and cultural services (for example, spiritual, heritage, recreational experience, and so forth).

*Comment: Collaboration costs.* Some respondents felt that the Forest Service did not properly identify that collaboration is not always efficient or cost-effective, may not result in planning efficiency, and that its use should be based on risk assessments.

*Response:* The PEIS analyzes a range of alternatives that include differing requirements for collaboration. The PEIS discloses the expected effects of the collaboration requirements, in the “Transparency and Collaboration,” “Effectiveness and Efficiency,” and “Coordination and Cooperation Beyond NFS Boundaries” sections for all alternatives.

*Comment: Cost of collaboration, diversity, and litigation.* Some respondents felt that the Forest Service omitted costs associated with amendments, litigation, involvement by non-Federal participants, and requirements related to viability and diversity so that these are not accurately reflected or underestimated. Some respondents also felt that the Forest Service projections about planning efficiency and cost effectiveness gains are incorrect, particularly when considering viability requirements, litigation, and use of collaborative processes.

*Response:* The Agency displays the cost assumptions for efficiency analysis in Appendix K – Cost-Benefit Analysis Methodology and Assumptions of the PEIS. None of the alternatives imposes requirements on other government agencies, the public, Tribes, or private businesses: therefore the efficiency analysis did not portray a cost for involvement by non-Federal participants.

The requirements for amendments are simpler than requirements for plan development or revision under all alternatives. For example, assessments are not required under any alternative for plan amendments. Alternative B discusses amendments in §219.10(f), while the other alternatives discuss the requirements for amendments in § 219.13. Amendments allow for plans to be more responsive to changing conditions on the ground than plan revisions.

There are increases in assessment costs (compared to the cost of doing an analysis of the management situation under the 1982 rule procedures) under Alternatives A, Modified A, D and E as compared to Alternatives B and C. This is due to an increased emphasis in these alternatives on characterizing factors such as assessing conditions, trends, and sustainability within a broader ecological and geographic context (landscapes), ecosystem

and species diversity, climate change, as well as other system drivers, risks, threats, and vulnerabilities.

As compared to Alternatives B or C; Alternative A, Modified A, D, or E would adopt a coarse-filter/fine-filter approach for addressing species viability and diversity within plan components. This approach would recognize local land and unit capabilities and limits. The analysis in Chapter 3 of the PEIS displays the feasibility as well as the effectiveness of responding to species and ecosystem diversity, sustainability and recovery needs. Alternative C gives more flexibility than the Alternative B: therefore the cost for assessment is assumed to be lower for Alternative C than under current procedures. Alternative D includes more explicit direction with respect to maintaining species diversity and the cost for assessment is assumed to be higher.

Estimates of the Agency's costs do not account for litigation costs. The costs of litigation are not included in the estimates of annual average Agency costs are displayed in the "Efficiency and Effectiveness" section in Chapter 3 of the final PEIS. The sources of information used to estimate planning costs, including past cost benefit analyses completed for previous planning rules, did not include litigation costs. Much of the litigation related to planning occurs at the project level, and it is difficult to separate out litigation costs for land management planning from other Agency expenses.

*Comment: Efficiency analysis during plan revision.* Some respondents felt it important that shifts in resources in the planning process should not adversely affect or preclude analysis of impacts and effects. They further emphasized that analysis of effects including efficiency analysis are still needed to evaluate plan alternatives. Some respondents felt the rule should outline a planning process that reduces costs of planning and should require that plan alternatives be economically efficient. A respondent suggested that the Agency keep the goal of "maximizing net public benefits" from the 1982 planning procedures because the respondent believes that goal is necessary to insure consideration of economic and environmental aspects of renewable resource management. The respondent suggested the planning rule require evaluation of economic efficiency by a full accounting of all costs and benefits (especially non-market) using dollars and present net value.

*Response:* Alternative B would require present net value analysis including non-market benefits and a comparison of the final plan to maximizing present net value alternative. None of the other alternatives have such explicit analysis requirements. Alternatives A, Modified A, and C would reduce the cost and time needed for development, revision, and amendment of individual plans from 1982 procedures. Assessment requirements for Alternatives D and E are expected to cost more than the 1982 procedures. Modified Alternative A differs from other alternatives because it would include direction that the planning process and plan components and other plan content should be within the Agency's authority and the fiscal capability of the unit (§ 219.1(g)).

All alternatives require the NEPA process for plan revisions and plan amendments. Responsible officials would evaluate potential tradeoffs among alternative plans as they relate to ecological, social, and economic sustainability and environmental effects.

Alternatives A, Modified A, D, and E would support ecological, social, and economic sustainability as the primary goal for management of NFS lands. Except for Alternative

B, none of the alternatives include requirements to demonstrate that plans would maximize net public benefits or require valuation of economic efficiency or require present net value analysis as the 1982 rule did. Except for Alternative B, the alternatives give discretion to responsible officials to decide what analysis is useful to inform the public about the effects of plans, plan amendments, and plan revisions.

*Comment: Diverting of funds from projects.* Some respondents felt that the rule must weigh the resources devoted to planning against the need to provide a foundation for management. In other words, excessive planning costs divert funds away from land management and projects.

*Response:* As discussed in response to the earlier comment on cost-benefit analysis, the alternatives do vary in the cost of planning. No matter the alternative, the Department expects plans would be developed in a more cooperative context with both community and scientific involvement, with the intent to build stakeholder trust.

*Comment: Non-market values.* Some respondents felt that the rule should require the need to determine non-market values to comply with NFMA requirements to consider economic aspects of various systems of renewable resources.

*Response:* The consideration of non-market goods and services are explicit in the NEPA and implicit in the NFMA and the MUSYA. However, these laws do not require the responsible official to determine non-market values or to quantify non-market benefits. Because of the difficult nature of quantifying and valuing non-market goods and services, an alternative that requires this analysis was not included in the PEIS as it would not meet the purpose and need of being implementable on all units and is not consistent with agency expertise. Alternatives A, Modified A, C, D and E require plan components to contribute to ecosystem services, and multiple uses which would include consideration, rather than quantification, of market and non-market benefits.

All alternatives are consistent with the NEPA. Under all alternatives, the responsible official would carry out effects analyses for significant issues when developing or revising plans.

*Comment: Pilot testing.* One respondent noted that the rule should be pilot tested on a sample of units.

*Response:* Once an alternative is selected and approved as the final rule, the Agency intends on phasing in the implementation of the new rule by starting several plan revisions in 2012. This initial phase of implementation would provide opportunities for the Agency to adapt to and refine directives and technical advice for planning under a new rule. Units would be selected for the initial phase of implementation of a new rule that represent a broad spectrum of conditions and are geographically representative.

*Comment: Budget shortfalls.* Some respondents felt that the rule should contain guidance for planning in the event of budget shortfalls.

*Response:* Uncertainties at all levels of decisionmaking, due to changing conditions outside the Agency's control as well as budget allocations, would affect implementation. These uncertainties also influence anticipated outcomes of a rule (see Chapter 3 of the final PEIS, "Staged Decisionmaking and Environmental Analysis"). It is not appropriate to give guidance about what planning activities may be reduced in the event of budget

short-falls in a national planning rule, since budgets, staffing, program emphasis, and planning needs differ among the units. However, Alternatives A, Modified A, D, and E provide direction that the planning process and plan components and other plan content should be within the Agency's authority and the fiscal capability of the unit (§ 219.1(g)).

*Comment: Budget expectations.* Some respondents felt that the rule should require estimates of budget expectations in analysis of efficiency and effectiveness, and plan alternatives.

*Response:* Alternative B requires estimates of budget expectations in analysis of efficiency and effectiveness. Alternatives A, Modified A, D and E recognize potential financial constraints by requiring the responsible official to ensure that the planning process, plan components, and other plan content be within the fiscal capability of the unit (§ 219.1(g)). In the context of developing alternative plan components, Alternatives A, Modified A, C, D, and E state that "Objectives should be based on reasonably foreseeable budgets" (§ 219.7). These five alternatives require consideration of the financial and technical capabilities of the Agency when developing plan monitoring programs (§ 219.12). Under any alternative the effects of plan alternatives such as budgetary effects would be disclosed when meeting the NEPA requirements for each new plan or plan revision and, where appropriate, plan amendment.

*Comment: Secured appropriations.* Some respondents felt that a lack of secured appropriations for planning rendered the rule ineffective. Some respondents felt that future budgets are unlikely to provide full funding for planning.

*Response:* If severe reductions or elimination of funding for land management planning were to occur, it would delay or reduce the Agency's ability to amend and revise plans.

*Comment: Economic analysis for plan revisions.* Some respondents felt that the rule should require the NEPA analysis for the plan to include a fiscal analysis of each alternative's implementation and mitigation costs and require that the cost of inspections, enforcement, and monitoring be included in the plan NEPA analysis. Several respondents felt that the planning rule should include a requirement for explicit disclosure of a variety of costs and benefits of Agency actions to more accurately compare plan alternatives and plan components. Some respondents felt that the planning rule must require the estimates of present net value (PNV) for plan alternatives and projects and include all costs and benefits. Some respondents felt that the planning rule must require that the dollar cost of impacts on non-timber industries be estimated and included in estimates of PNV.

*Response:* Except for Alternative C all of the alternatives require that a new plan or plan revision prepare an environmental impact statement. The NFMA gives considerable discretion to the Agency when considering physical, economic, and other pertinent factors, however such an analysis (quantitative and/or qualitative) may be useful in some cases to satisfy the NEPA objectives (42 USC Sec 4331, 101 and 102(2)) and to demonstrate fulfillment of MUSYA goals (for example, "management of renewable resources \* \* \* to best meet the needs of the American public"). The Forest Service handbook for NEPA (FSH 1909.15, chapter 20, section 23.32) states that if a cost benefit analysis is being considered for a proposed action (for example, proposed plan revision), it must be incorporated by reference or appended to the environmental impact statement as an aid in evaluating the environmental consequences. The Forest Service Handbook

(FSH 1909.15.section 23.32) as well as NEPA regulations (40 CFR 1502.23) state that for purposes of complying with the [NEPA], the weighing of the merits and drawbacks of the various alternatives need not be displayed in a monetary cost-benefit analysis and should not be when there are important qualitative considerations. The Handbook and NEPA regulations also state that an environmental impact statement should at least indicate those considerations, including factors not related to environmental quality, that are likely to be relevant and important to a decision. Those considerations and factors may include a variety of quantified or qualitative descriptions of costs and benefits that are linked to significant issue determinations for a particular forest plan.

*Comments: Collaboration costs.* Many respondents supported public participation opportunities in the decisionmaking process. Some respondents felt collaboration would not be cost effective. Some felt that coordination, as mandated by law, is effective and will save time and expense in planning, implementation, and management. They said increased costs for collaboration are foreseeable. Some respondents felt the assumptions that collaboration would reduce monitoring costs and bring broader support and resolution of issues with their critics were faulty. They felt the final PEIS should explain how collaboration will lead to cost savings and document savings expected from each alternative.

*Response:* The PEIS analyzes the effects of each alternative related to “Transparency and Collaboration”, “Coordination and Cooperation” and “Effectiveness and Efficiency”. The Affected Environment section for each of these issues provides a review of relevant literature to support the assumptions made in the PEIS.

Under the Alternatives A, Modified A, D and E, the analysis projects that the cost for collaboration and engaging the public during the planning process would be higher than that under Alternative B. Under Alternative C the costs for these activities would be lower. However, the PEIS displays some of the benefits of collaboration and the potential to increase overall planning efficiency. It is also expected that increased participation and collaboration throughout the planning process would increase support for eventual plan implementation.

*Comment: Jobs and income.* Some respondents felt that the proposed rule could have a significant effect on jobs, labor income, production, and competition of a particular resource during plan revision and plan amendment.

*Response:* The Department recognizes that plans developed, revised, or amended under any alternative would guide projects that could in turn affect distribution of employment, income, and payments to local governments. Impacts to jobs within specific industry sectors have not been evaluated in detail as these impacts cannot be determined in the absence of on-the-ground project activity at the unit level. Direct effects on the levels of goods, services, and uses to which NFS lands contribute are the end-results of on-the-ground projects or activities.

Under any alternative, the effects of plan proposals as well as proposed projects would continue to be evaluated in accordance with the NEPA; impacts to employment, income, and payments would likewise continue to be evaluated as appropriate to the need to address plan or project-specific significant issues. Except for Alternative B, none of the alternatives prescribe specific processes for assessing and evaluating economic effects.

Such direction, guidance, advice, or approaches for effects analysis in general are found in the Agency directives (for example FSM 1970 and FSH1909.17).

*Comment: Site-specific project costs.* Some respondents felt that the Agency incorrectly assumes that the site-specific project costs are not affected by the proposed rule.

*Response:* The Agency did not assume that the site-specific project costs are not affected. Site-specific project costs are a function of unknown future site-specific plan or project proposals occurring under new, revised, or amended plans under a planning rule; it is therefore, not possible to estimate or characterize changes in project-specific costs at this time. See discussion on the decision framework in Chapter 2 of the PEIS and context of the decision in Chapter 3 of the PEIS.

*Comment: Least burden to society.* Some respondents felt the Forest Service should develop the rule in a way that imposes the least burden on society, businesses, and communities.

*Response:* None of the alternatives directly regulate individuals, individual businesses, or other entities such as local or State governments. Impacts to small entities are addressed in the Regulatory Flexibility Analysis (as summarized in the Regulatory Certifications section of the preamble for the proposed rule).

*Comment: Costs of cumulative regulations.* Some respondents felt the Forest Service should consider the costs of cumulative regulations.

*Response:* The potential effects of the alternatives in combination with other broad Agency actions and strategies (for example roadless rules, strategic plans and other Agency goals, NEPA procedures, management planning direction by other agencies, and collaboration) are presented in the “Cumulative Effects” section of the final PEIS.

*Comment: Costs to States (Federalism).* Some respondents felt the Forest Service incorrectly concludes that the rule will not impose direct compliance costs on States (that is, Federalism).

*Response:* Executive Order 13132 (Federalism) establishes requirements the Federal Government must follow as it develops and carries out policy actions that affect State or local governments. The Department believes that none of the alternatives would impose compliance costs on the States (or local governments) nor would any have substantial direct effects on the States.

### ***Comments on Specific Sections of the Proposed Planning Rule***

The Department received the following comments that were related to a specific section of the 2011 proposed planning rule. These comments are organized by the corresponding section of the proposed planning rule.

#### **Section 219.1 – Purpose and applicability.**

*Comment: Ecosystem services.* Some respondents objected to the use of “ecosystem services” in § 219.1(b) and throughout Alternative A. One respondent felt the term diluted the congressionally honored and sanctioned “multiple use” mission of the national forests.

*Response:* Alternatives B does not include the term ecosystem services. Alternatives A, Modified A, C, D and E include the term ecosystem services. In response to public concern regarding the coupling of the terms ecosystem services and multiple uses in Alternative A, the Agency changed the use of the term in Modified Alternative A. Modified Alternative A states that plans must “provide for ecosystem services and multiple uses” instead of “provide for multiple uses, including ecosystem services” as it was stated in Alternative A. The Department believes the use of ecosystem services in any alternative is consistent with the MUSYA, which recognizes both resources and services. The MUSYA requires the Forest Service is to “administer the renewable surface resources of the national forests for multiple use and sustained yield of the several products and services obtained therefrom.” (16 U.S.C. 529). The Act defines “multiple use” as “the management of all the various renewable surface resources of the national forests so that they are utilized in the combination that will best meet the needs of the American people; making the most judicious use of the land for some or all of these resources or related services” (16 U.S.C. 531(a)). The Department believes MUSYA anticipated changing conditions and needs, and the meaning of “several products and services obtained” from the national forests and grasslands incorporates all values, benefits, products, and services Americans know and expect the NFS to provide. Resources like clean air and water are among the many ecosystem services these lands provide.

*Comment: Objective of planning.* Some respondents felt the MUSYA refers expressly to five tangible objectives for forest management (recreation, range, timber, watershed, wildlife and fish, and wilderness), and does not include intangibles such as “spiritual sustenance.” They felt intangibles should be removed from objectives.

*Response:* The Department believes the mandate under the NFMA and MUSYA is not exclusive to a single resource or use, and that sustained yield applies to all multiple use purposes, including outdoor recreation, range, timber, watershed, wildlife and fish, and wilderness. Development of plans for national forests and grasslands is a complex undertaking, and often there are diverse opinions on the desired conditions and objectives set in these plans. As a result of these comments, the specific term; “spiritual sustenance” is not included in Modified Alternative A.

*Comment: Valid existing rights.* A respondent felt the rule should require plans to expressly state that their provisions cannot affect valid existing rights established by statute or legal instrument.

*Response:* Whether the plan expressly states it or not, a land management plan cannot affect treaty rights or valid existing rights established by statute or legal instruments. For clarity, all of the alternatives except for Alternative B acknowledge this fact in § 219.1.

*Comments: Inclusion of other laws.* Some respondents requested that the list of laws at § 219.1 include *the ANILCA, the Alaska Native Claims Settlement Act, the FLPMA of 1976, the General Mining Law of 1872, the National Heritage Preservation Act, the Tongass Timber Reform Act, amongst others.*

*Response:* All plans and planning decisions must comply with applicable laws and regulations. The list of laws in § 219.1 of all alternatives analyzed in detail, with the exception of Alternative B, is not intended to be a complete list of laws and regulations



requiring Agency compliance. The Agency is obligated to comply with all applicable laws and regulations regardless of whether it is referenced in the text of a planning rule.

*Comment: Use of fiscal capability.* Some respondents felt the MUSYA does not allow the fiscal capability or economic analysis to limit management as discussed in §§ 219.10 and 219.11 of the proposed rule, while others felt these concepts should be applied to all requirements.

*Response:* Congress determines the annual fiscal allocation to the Agency. The Department concludes that responsible officials would constrain the development of management direction within the plan and planning process within a unit's expected fiscal capability. Under Alternatives A, C, D, and E, fiscal capability is discussed in §§ 219.10 and 219.11. Fiscal capability is not discussed in Alternative B. Modified Alternative A, requires at § 219.1(g), that the responsible official shall ensure that the planning process, plan components and other plan content are within Forest Service authority, the inherent capability of the plan area, and the fiscal capability of the unit.

### **Section 219.2 – Levels of planning and responsible official.**

*Comment: Level of responsible official and consistency with regional or national programs.* Some respondents felt a change from regional forester to forest supervisor for the level of responsible official would make the plan more responsive to local situations. Others felt this would result in inconsistencies across unit boundaries, limit collaborators, and reduce the accountability provided by a higher level responsible official. Several respondents felt the discretion given to local responsible officials in Alternative A could lead to individual forest and grassland level plans that are inconsistent with neighboring unit plans and with regional or national programs.

*Response:* Alternative B (the 1982 rule) would keep the regional forester as the responsible official. Under Alternatives A, Modified A, C, D and E the responsible official would be the forest or grassland supervisor. However, § 219.2(b)(3) of these five alternatives provide the option for higher-level officials to act as the responsible official for a plan, plan amendment, or plan revision across a number of plan areas. Regardless of what level they are, the responsible official would develop, amend, or revise plans within the framework set out by the alternative and would be accountable for compliance with the planning regulations and the multitude of relevant laws and policies. Modified Alternative A is unique among the alternatives in that it identifies, in § 219.2(b), the Chief as responsible for leadership in carrying out the NFS land management planning program, establishment of planning direction, and administration of a national oversight process for accountability and consistency.

There are also a number of places in all alternatives that call for coordination with other staff in the Agency, including the appropriate research station director. The Department anticipates that the regional forester and regional office planning and resource specialists will continue to be involved and provide an additional level of oversight, including reviewing draft and final products developed during the planning process and participating in the development of those products. Regional office engagement will help to provide consistency in interpretation and implementation of the planning rule and other Agency planning requirements on units within the region.

The Department anticipates that any planning rule would be implemented in the context of a mosaic of other Agency programs, for example, the Climate Change Roadmap and Scorecard, the Watershed Condition Framework, and the Sustainable Recreation Framework. The climate change roadmap directs national forests and grasslands to develop climate change vulnerability assessments and identifies monitoring strategies. Elements in the scorecard help the Agency to determine whether assessments and monitoring are being developed in a way that would help inform decisionmaking at the unit level. More details about the climate change roadmap and scorecard are available online at <http://www.fs.fed.us/climatechange/advisor/>.

The national watershed condition framework (WCF) approach uses an annual outcome-based performance system to measure progress toward improving watershed condition on NFS lands. The WCF improves the way the Forest Service approaches watershed restoration by targeting the implementation of integrated suites of activities in those watersheds that have been identified as priorities for restoration. A short description of the framework is discussed in Chapter 3 of the final PEIS under watershed protection and a Forest Service publication is available at [http://www.fs.fed.us/publications/watershed/Watershed\\_Condition\\_Framework.pdf](http://www.fs.fed.us/publications/watershed/Watershed_Condition_Framework.pdf). The June, 2010 sustainable recreation framework establishes a focus to restore and adapt recreation settings. See further details at [http://www.agnewbeck.com/friends/outdoorsitka/pdf/Framework\\_Final\\_062510.pdf](http://www.agnewbeck.com/friends/outdoorsitka/pdf/Framework_Final_062510.pdf). The effects of implementing a planning rule in the context of other agency policy and regulation are discussed in the Affected Environment section for each issue in Chapter 3.

*Comment: Scale of planning.* Some respondents expressed different opinions about the scale of planning. Some suggested larger or smaller scales than the proposed administrative unit level. One respondent felt the rule should consider a level of planning by resource. Some respondents felt the rule should require use of the U.S. Geologic Survey 5th field hydrologic unit as the minimum size needed to conduct ecological coarse-filter assessments.

*Response:* Alternatives L and N include regional scale planning. These alternatives were considered but dismissed from detailed analysis because they did not meet the purpose and need. See Chapter 2 of the PEIS for further discussion on these alternatives. After several years of developing and using regional guides, the Agency found that they added an additional and time-consuming layer of planning that often delayed progress of unit planning. Regional plans also tended to remain static and did not change as new information or science became available.

Alternative D would require watershed-scale assessments to refine default conservation area boundaries and to identify key watersheds for highest quality fish habitat.

Alternatives A, Modified A, C, or E would allow planning at the most appropriate scale to address issues and resource concerns specific to that unit. Modified Alternative A specifically includes the identification of priority watersheds in § 219.7. Alternatives A, Modified A, C, D, and E in §219.7 would require the use of management or geographic areas for a smaller scale geographic context and identification of management requirements that may be needed at the smaller scale. Planning at the resource level would not comply with the NFMA requirements for interdisciplinary approach to achieve

integration of all resources to achieve integrated consideration of physical, biological, economic, and other sciences to develop one integrated plan so this was not included in an alternative.

*Comment: Relationship of plan decisions to project-level plans and decisions.* Several respondents felt the relationship between plan decisions and subsequent project-level decisions was unclear. A respondent felt the rule should explicitly state a programmatic decision is being made for the planning unit.

*Response:* Alternative B includes provisions that specifically, or have been interpreted to, apply to both the plan and the project level (219.19). Alternatives F, I, J and N include project level provisions; each of these alternatives were considered but dismissed from detailed analysis. Section 219.15 of the Alternative A, Modified A, and C, D, and E require that projects be consistent with plans. Under all alternatives, unit plans may establish constraints on projects and identify possible activities; however, plans do not authorize activities or projects. Forest Service NEPA procedures must be followed when developing, revising, or amending plans. In addition, the Forest Service NEPA procedures must be followed for proposed site-specific projects or activities developed under the requirements of the unit plan.

*Comment: Repeating of laws and regulations.* Several respondents felt proposed § 219.2(b)(2) should clearly state plans “may reference, but should not repeat” laws, regulations, and so forth.

*Response:* No alternative prohibits referencing laws, regulations, or Forest Service directives if the responsible official feels that doing so would add clarity.

### **Section 219.3 – Role of science in planning.**

*Comment: Best science.* A respondent felt the term “best science” used in the proposed rule is value laden and implies judgment that cited science is potentially superior to other science on the topic. This respondent felt using the term would put responsible officials in the position of choosing once scientist over another. Additionally, the concern was expressed that the lack of a clear definition of “best science” in the rule could allow a responsible official to use poorly constructed or subjective information to inform planning decisions. Still other respondents felt the proposed rule was unclear on who should determine what the best science is.

*Response:* Under all alternatives the Agency will consider science in their decisionmaking. Alternative B and C would require the interdisciplinary team to integrate knowledge of the physical, biological, economic, and social sciences, and the environmental design arts in the planning process. Alternative B requires that best available science inform project level decision making. Under Alternatives A, D or E the responsible official would take into account the best available scientific information throughout the planning process. Under Modified Alternative A, the responsible official would use the best available scientific information to inform the planning process, including the assessment, the planning process, plan components, and other plan content, including the monitoring program.

Under all alternatives, whether the alternative wording explicitly says so or not, the Department expects the responsible official to determine what information is the most

accurate, reliable, and relevant with regard to the issues being considered. It is important to note that the Agency is already required to incorporate science into decisionmaking. The Agency has a longstanding practice of considering relevant factors and explaining the bases for its decisions.

To respond to concerns about the level of documentation required in Alternative A, Modified Alternative A eliminates paragraphs (a), (b), and (c) of § 219.3 of Alternative A and replaces them with the requirement that the responsible official document how the best available scientific information was used to inform the assessment, the plan decision, and the monitoring program. The corollary requirement in section 219.14(a)(4) of Modified Alternative A would require that the plan decision document how the best available scientific information was used to inform planning, plan components, and other plan content, including the monitoring program. Based on concerns about the level of documentation requirements, Modified Alternative A requires the responsible official to document how the best available scientific information was used to inform the design of the monitoring program, rather than in every monitoring report as was required in Alternative A. In addition, Modified Alternative A requires the responsible official to document the basis for the determination, and explain how the information was applied to the issues considered.

Under any alternative, the Forest Service Directives System would contain further detail on how to document the best available scientific information, including identifying the sources of data such as peer reviewed articles, scientific assessments, or other scientific information. In addition, the Forest Service Directives System would contain further detail on the Forest Services' information quality guidelines. Direction about science reviews may be found in Forest Service Handbook 1909.12—Land Management Planning, Chapter 40—Science and Sustainability.

All alternatives are consistent with USDA policy that requires agencies to meet science quality standards when developing and reviewing scientific research information and disseminating it to the public. Also, under any alternative the agency would be required to be consistent with the recent Executive Order 13563 (2011) that states “when scientific or technological information is considered in policy decisions, the information should be subject to well-established scientific processes, including peer review where appropriate.” Under all alternatives the responsible officials would rely upon the USDA Office of the Chief Information Officer guidance to determine when the Office of Management and Budget (OMB) Information Quality Bulletin on Peer Review applies. USDA guidelines are found at [http://www.ocio.usda.gov/qi\\_guide/index.html](http://www.ocio.usda.gov/qi_guide/index.html).

*Comment: Weight of scientific information.* Some respondents felt the proposed rule allowed science to be weighed more heavily than other relevant information. Some respondents felt the proposed rule allows decisions to be made based on politics or special interests rather than science. Some respondents felt the proposed rule requirement for the best available science to be taken into account was not a strong enough, and suggested the rule require decisions to conform to the best science. Other respondents felt the proposed rule made use of science mandatory rather than discretionary.

*Response:* The role of science is to provide information to form a basis for decisionmaking, but scientific information, in and of itself, does not determine decisions,

and may lead a responsible official to a range of possible options. There also may be competing scientific perspectives and uncertainty in the science.

Under any alternative, the responsible official would not have the discretion to arbitrarily discard or disregard best available scientific information in making a decision.

*Comment: Funding for best available science.* Some respondents felt the requirements to use the best available scientific information were going to be too financially burdensome. Other respondents suggest the term should be removed from the rule as it would only create delays and legal challenges.

*Response:* The Agency is already required to incorporate science into decisionmaking. The Agency has a longstanding practice of considering relevant factors and explaining the basis for its decisions.

All alternatives meet the judicial review standard for decisions that are not “arbitrary and capricious”. The requirements for science under any alternative are also separate from those of NEPA (40 CFR 1502.22(b)), which require the responsible official to seek out missing or incomplete scientific information needed for an environmental impact statement, unless the costs of doing so are prohibitive. None of alternatives change that requirement. However, the requirements in section 219.3 of the Alternatives A, Modified A, D, and E apply throughout the planning process, and would be focused on ensuring the responsible official considers the best scientific information that is already available. Alternative B requires that the best available science inform the amendment and implementation of plans. Thus, while an assessment report or monitoring evaluation report may identify gaps or inconsistencies in data or scientific knowledge, none of the alternatives impose the affirmative duty that the CEQ regulation applies to EISs. That is, to engage in new studies or develop new information, or to document that the costs of seeking new information are prohibitive.

*Comment: Transparency of science used.* Some respondents felt an addition of a requirement for the disclosure of what science was being used would enhance transparency.

*Response:* Alternative B or C has no explicit requirement for disclosure of what science was considered, but responsible officials would likely disclose this information. Alternatives A, D, and E would require documentation of the consideration of science in every assessment report, plan decision document, and monitoring evaluation report. Modified Alternative A would require the responsible official to document how the best available scientific information was used to inform the assessment, plan decision, and design of the monitoring program. Modified Alternative A would require documentation that would identify what information was determined to be the best available scientific information, explain the basis for that determination, and explain how the information was applied to the issues considered.

*Comment: Risk, uncertainty, and the precautionary principle.* A respondent stated the words “risk” and “uncertainty” found throughout the preamble and DEIS are missing from the rule itself. The respondent felt the rule should include wording about risks and uncertainties and require techniques for assisting responsible officials in evaluating risks and uncertainties. Some respondents felt the rule should adopt the “precautionary

principle” in planning on the NFS to account for uncertainty. One respondent also felt the wording “lack of full scientific certainty shall not be used as a reason for postponing a cost-effective measure to prevent environmental degradation” should be added.

*Response:* The science of risk management is rapidly evolving. To require specific techniques or methodologies would risk codifying approaches that may soon be outdated. Under any alternative the responsible official would inform the public about the risks and uncertainties in the environmental impact statements or environmental assessments for plans, plan revisions, and plan amendments.

Adaptive management is discussed under the Climate Change section of Chapter 3 of the PEIS. Under Alternatives A, Modified A, D, and E the assessment report would document information needs and the best available scientific information that would be used to inform the planning process.

*Comment: Climate change and climate science.* Some respondents felt the rule should require use of climate change science in decisionmaking. Others felt the rule should address and implement regulations for mitigation of climate change while others felt the rule should not address climate change.

*Response:* Alternative B does not discuss climate change. Alternative C would require the responsible official to consider climate when developing plan components for integrated resource management (§ 219.10).

Alternatives A, Modified A, D, and E would require the responsible official to address climate change in the assessment, when developing plan components for ecological sustainability, when developing plan components for multiple uses, and when developing questions and indicators for monitoring. Alternatives A, Modified A, D, and E include an adaptive land management planning process informed by both an assessment and the best available scientific information. In addition to these requirements, Alternative D would require the assessment to include climate change vulnerability and the effects of climate change. Modified Alternative A would require responsible officials, during the assessment, to identify and evaluate information on climate change and other stressors relevant to the plan area, along with a baseline assessment of carbon stocks, as a part of the assessment phase. An alternative using NFS lands as mitigation areas for climate change was not considered as this would be considered a change of mission for the Forest Service and is outside of the scope of the planning rule. Maintaining or restoring healthy, functioning forest and grassland ecosystems provides some mitigation for climate change and these actions are within the authority of the Agency. The alternatives analyzed in detail include varying approaches for developing, revising and amending plans that maintain and restore ecosystems. Under any alternative, because of the requirements of the Forest Service Climate Change Roadmap and Scorecard, the Forest Service land management planning will address climate change.

#### **Section 219.4 – Requirements for public participation.**

*Comment: Specific requirements for public engagement.* Some respondents felt that the rule should allow responsible officials to have the discretion to determine public outreach methods, while others felt the rule should contain specific method and process requirements for public engagement because vague requirements could result in courts

second-guessing whether the public participation was sufficient. Others felt the public participation opportunities held during planning need to be flexible and accommodate the people living and working in the area. Others requested specific recreation clubs and organizations be added to proposed § 219.4(a)(2). A respondent felt the responsible official should be required to identify other non-traditional means of engagement and to identify in advance the participation of specific populations in each area with historical and traditional connections to the land, including forestry workers, their associations, and specific communities who retain or wish retain historic connections to the land. Some respondents felt individuals and organizations engaged in forest planning should be limited to either economic stakeholders or those with an existing interest in forest management as the Forest Service cannot make individuals or groups with no interest or economic stake in national forests participate in forest planning, regardless of the effort the Agency puts into targeted scoping.

*Response:* The alternatives include a range of requirements for public engagement and collaboration. Public participation in planning at the unit level is mandated by all alternatives and by the NEPA. Alternative C has minimum requirements. Alternatives A, Modified A, D, and E in §§ 219.4 and 219.16 list the minimum specific points during the planning process when opportunities for public participation would be provided, and includes direction to provide opportunities for public engagement and share information with the public. None of the alternatives require participation from any specific group. The alternatives allow flexibility in the methods of offering opportunities for engagement, recognizing that the best way to engage would vary at different times and in different places, though Alternative E includes more specific process requirements for public participation and collaboration than other alternatives. Alternative D includes requirements for working with other land managers in providing for species viability. Under any alternative, the responsible official has the discretion to determine the scope, timing, and methods for participation opportunities necessary to address local, regional, and national needs.

*Comment: Clarification on collaborative process.* Some respondents felt the rule should clarify when a collaborative process would or would not be “feasible and appropriate.” A respondent felt the rule should ensure public participation occurs when forest plans are revised and amended. Some respondents felt their local Forest Service office is already collaborating with the public and that the proposed rule would discourage the unit from continuing with methods already working locally.

*Response:* All alternatives require the responsible official to engage a diverse array of people and communities throughout the planning process. All alternatives would provide participation opportunities throughout all stages of the land management planning process, including during plan revision and amendment. See response to comment above.

The CEQ publication *Collaboration in NEPA – A Handbook for NEPA Practitioners* at: [http://ceq.hss.doe.gov/ntf/Collaboration\\_in\\_NEPA\\_Oct\\_2007.pdf](http://ceq.hss.doe.gov/ntf/Collaboration_in_NEPA_Oct_2007.pdf) describes a spectrum of engagement, including the categories of inform, consult, involve, and collaborate. Each of these categories is associated with a set of tools, from traditional activities such as notice and comment on the inform end of the spectrum, to consensus building, or a Federal advisory committee on the collaborative end of the spectrum. Under every alternative the planning process would involve traditional scoping and public comment;

in addition, the responsible official would determine the combination of additional public participation strategies that would best engage a diverse set of people and communities in the planning process.

All the alternatives give the flexibility to support the use of already working processes, including existing collaborative processes. Alternatives A, Modified A, D, and E use the wording “feasible and appropriate” to give the responsible official the flexibility needed to develop effective participation opportunities, including using existing opportunities for collaboration.

*Comment: Time and cost of public involvement.* Some respondents felt the proposed public participation requirements are cumbersome and unrealistic in regards to time and cost and the ability for individuals to fully participate. Others felt the public participation requirements would not result in a more efficient planning process.

*Response:* See response to comments above. All alternatives are, at a minimum, consistent with the NEPA. Alternative E includes additional requirements for public engagement and collaboration beyond those of other alternatives. Alternatives B and C include fewer requirements than other alternatives. Modified Alternative A would require that the planning process be within the authority of the Forest Service and the fiscal capability of the unit. The effects of these requirements are displayed under the public engagement and collaboration, efficiency and effectiveness, and coordination beyond NFS boundaries sections of Chapter 3. *Comment: Undocumented knowledge.* A respondent felt the planning process should take into account other forms of knowledge besides written documentation, and this knowledge should be shared with all interests and individuals throughout the planning process.

*Response:* Alternatives A, Modified A, D, and E require the responsible official to provide opportunities for the public to provide information during the assessment phase, which would help the responsible official to capture other forms of knowledge, and to reflect that information in the assessment report that would be available to the public. All alternatives require the responsible official to encourage public participation. In addition, § 219.4 Alternatives A, Modified A, D, and E would require the responsible official to request information about native knowledge, land ethics, cultural issues, and sacred and culturally significant sites.

*Comment: Participation requirements accountability.* Some respondents felt the rule should contain measures ensuring the responsible officials meet the public participation requirements.

*Response:* Under any alternative, the Washington Office and the regional offices provide oversight, to ensure responsible officials carry out their duties. However, based on public comment, Modified Alternative A would explicitly require the Chief to administer a national oversight process for accountability and consistency of NFS land management planning. In addition, the planning procedures established in the Forest Service Directives System would provide further guidance and clarification for how the public participation requirements of the planning rule would be implemented.

*Comment: Decisionmaking authority.* Some respondents felt the rule must disclose that the Forest Service retains full decisionmaking authority.



*Response:* The Forest Service retains full decisionmaking authority in all alternatives. While § 219.4 of Alternatives A, Modified A, C, D, and E would commit the Agency to public participation requirements and encourages collaboration, by law the Forest Service must retain final decisionmaking authority and responsibility throughout the planning process. Alternatives A, Modified A, C, D, and E, the text explains that “The Forest Service retains decisionmaking authority and responsibility for all decisions throughout the process.”

*Comment: Specific requirements for youth, low-income, and minority populations.* Some respondents supported requirements to engage youth, low-income and minority populations, and advocated including additional requirements. One respondent felt that references to youth, low-income, and minority populations should be removed. A respondent felt the rule should integrate elements related to equitable recreation access for youth, low-income, and minority populations into the assessment, planning, and monitoring elements of the rule.

*Response:* Many people discussed the need for the Forest Service to make a stronger effort to engage groups and communities that traditionally have been underrepresented in land management planning. Alternatives A, Modified A, D, and E require responsible officials to encourage the participation of youth, low-income populations, and minority populations in the planning process and in the requirements to be proactive and use contemporary tools to reach out to the public and consider the accessibility of the process to interested groups and individuals. In addition, §§ 219.8 and 10 of Modified Alternative A require the responsible official to take into account opportunities to connect people with nature when developing plan components to contribute to social and economic sustainability and for multiple uses, including recreation. Specific issues regarding recreation access on a unit would be addressed at the local level during the planning process under any alternative.

*Comment: Predominance of local or national input.* Some respondents felt the proposed § 219.4 did not place enough emphasis on input from the local community, while others felt the proposed collaboration process would result in too much input from local interests and groups. Other respondents felt the public participation process needs to be all-inclusive, including at the local, State, and national levels and should be directed at the general public and not focus on participation from specific segments of the population. Other respondents felt the proposed rule only provides participation opportunities for State and local governments. A respondent felt comments or recommendations by a local Board of Supervisors should be given equal consideration as to those comments received from State and Federal agencies.

*Response:* Under all alternatives, the responsible officials would have a duty for outreach to other government agencies to participate in planning for NFS lands, including State fish and wildlife agencies, State foresters, and other relevant State agencies, local governments including counties, and other Federal agencies. Under all alternatives, all members of the public would be provided opportunities to participate in the planning process. Responsible officials would encourage participation by interested individuals and entities, including those interested at the local, regional, and national levels in all alternatives.

*Comment: Coordination with State and local governments.* Some respondents felt the proposed rule downplayed requirements to coordinate with State and local governments and that public participation is elevated over coordination. Other respondents felt State wildlife agencies should specifically be coordinated with when designing and implementing plans, on-the-ground management activities, monitoring, and survey design. Some respondents felt the rule should use the wording from § 219.7 of the 1982 planning rule regarding coordination with State and local governments. Others felt wording from Alternative D of the DEIS should be included. Some respondents felt forest plans should be written in partnership with the States in which the national forest or grassland is located. A respondent supported the review of county planning and land use policies and documentation of the review in the draft EIS as stated in proposed §219.4(b)(3). Several respondents noted the 1982 planning rule at § 219.7(b) requires county governments to be given direct notice of forest plan revisions and oppose the proposed elimination of the requirement in the proposed rule. A respondent stated input from local governments is required by NFMA's mandate for coordination with local agencies that acknowledges the contributions and responsibilities unique to local agencies, including planning responsibilities for the private lands that fall under the "all lands" umbrella.

*Response:* Many of the coordination requirements of the 1982 planning rule have been carried forward into § 219.4(b)(1) and (2) of Alternatives A, Modified A, D, and E; and under these alternatives § 219.4(b)(3) clarifies requirements for coordination efforts. Alternative C does not discuss coordination. There are additional coordination requirements in Alternative D related to the species viability requirements.

Under all alternatives, the responsible official's would have a duty to encourage participation by other Federal agencies, Tribes, States, counties, and local governments, including State fish and wildlife agencies, State foresters and other relevant State agencies. Modified Alternative A specifically mentions State fish and wildlife agencies and State foresters. Alternatives A, Modified A, D, and E also would require the responsible official to encourage federally recognized Tribes, States, counties, and other local governments to seek cooperating agency status in the NEPA process for planning, where appropriate, and makes clear that the responsible official may participate in their planning efforts.

Under § 219.4(b) of Alternatives A, Modified A, D, and E, the responsible official would coordinate planning efforts with the equivalent and related planning efforts of federally recognized Indian Tribes, Alaska Native Corporations, other Federal agencies, and State and local governments. Based on public concern, Modified Alternative A does not include the phrase, "to the extent practicable and appropriate," None of the alternatives require the Agency's planning efforts to tier to, or match the timing of other public planning efforts.

The requirement for coordination from the 1982 rule to identify and consider other information is found in § 219.6 of Alternatives A, Modified A, D, and E. NFMA requirements for coordination are not explicitly included in the wording of Alternative C, under this alternative more explicit requirements would be in the directives. Section 219.6 of Alternatives A, Modified A, D, and E would require consideration of relevant information in assessments of other governmental or non-governmental assessments,

plans, monitoring evaluation reports, and studies. Alternatives A, Modified A, D, and E would require the responsible official to coordinate to the extent practicable with other Federal, State, Tribal, and private land managers having management authority over lands relevant to a population of species of conservation concern (§ 219.9(b)).

Alternatives A, Modified A, D, and E §§ 219.4, 219.6, 219.7, and 219.12 would require coordination with other levels and deputy areas within the Agency as well as the public, appropriate Federal agencies, States, local governments, and other entities throughout the planning process. Alternatives A, Modified A, D, and E would not adopt the requirement of the 1982 rule to meet with a designated State official and representatives of Federal agencies and local governments to reflect that people can collaborate together without a face-to-face conference.

*Comment: Commitments to and consistency with local plans.* Some respondents felt the rule needs a stronger commitment to local government plans, including statewide forest assessments and resource strategies. Some respondents felt proposed § 219.4(b)(3) wording “nor will the responsible official conform management to meet non-Forest Service objectives or policies” should be removed because it may contradict with the purpose of coordinating with local government. Others felt the primary goal of coordination should be achieving consistency between Federal and local plans within the legal mandates applicable to all entities. Some respondents felt the analysis must document there is no superior alternative to a proposed plan or action as required by NEPA.

*Response:* When revising plans or developing new plans, under § 219.4(b) Alternatives A, Modified A, D, and E the responsible official would review the existing planning and land use policies of State and local governments, other Federal agencies, and federally recognized Tribes and Alaska Native Corporations, where relevant to the plan area, and document the results of the review in the draft EIS. Under these alternatives, §219.4(b) would require that the responsible official’s review to consider a number of things, including opportunities for the unit plan to contribute to joint objectives and opportunities to resolve or reduce conflicts where they exist. The review would consider the objectives of federally recognized Indian Tribes, and other Federal, State, and local governments, as expressed in their plans and policies, and would assess the compatibility and interrelated impacts of these plans and policies. In addition, responsible officials in the assessment phase would be required to identify and consider relevant existing information, which may include relevant neighboring land management plans and local knowledge. However, under any alternative, plans are not required to be consistent with State forest assessments or strategies or plans of State and local governments. The Forest Service would develop its own assessment and plans related to the conditions of the specific planning unit and make decisions based on Federal laws and considerations that may be broader than the State or local plans. Requiring land management plans to be consistent with local government plans would not allow the flexibility needed to address the diverse management needs on NFS lands and could hamper the Agency’s ability to address regional and national interests on Federal lands so this approach was not included in an alternative. Under any alternative, in the event of conflict with Agency planning objectives, consideration of alternatives for resolution within the context of achieving NFS goals or objectives for the unit would be explored. None of the alternatives repeat legal requirements found in public law, such as NEPA and NFMA.

*Comment: Cooperating agencies for unit plan development.* A respondent felt the rule should identify State, Tribal, and local governments as cooperating agencies. Other respondents asked why a Tribe would request cooperating agency status and what the benefit would be. Another respondent felt the role of State and local governments is compromised, because the propose rule allows a responsible official to decide when cooperating agency status would be allowed. A respondent noted the Forest Service should be willing to share information and not impose cost-prohibitive barriers to such information, and the proposed rule does not allow cooperating agency status for State and local governments, because the process folds them into the public at large.

*Response:* Under Alternatives A, Modified A, D, and E the responsible official would encourage federally recognized Tribes, States, counties, and other local governments to seek cooperating agency status where appropriate. No alternative precludes any eligible party from seeking cooperating agency status. Alternatives A, Modified A, D, and E would provide direction to Forest Service responsible officials to encourage such engagement where appropriate. Cooperating agency status under the NEPA is determined under 40 CFR § 1501.6. No planning rule may change that process. For federally recognizes Tribes, cooperating agency status does not replace or supersede the trust responsibilities and requirements for consultation.

*Comment: Tribal consultation.* Some respondents felt that Alaska Native Corporations should not be given the same status as federally recognized Indian Tribes, while another respondent felt that the final rule should recognize and provide for consultation with affected Alaska Native Corporations and Tribal organizations. Several Tribes and Alaska Native Corporations are concerned about keeping information confidential to protect sites from vandalism.

*Response:* Alternatives A, Modified A, D, and E acknowledge the Federal Government's unique obligations and responsibilities to Indian Tribes and Alaska Native Corporations in the planning process. The statute, 25 U.S.C. 450 note, requires that Federal agencies consult with Alaska Native Corporations on the same basis as Indian Tribes under Executive Order 13175. All alternatives require consultation and participation opportunities for Alaska Native Corporations, the Department engages in a government-to-government relationship only with federally recognized Indian Tribes, consistent with Executive Order 13175. Under any alternative, responsible officials would protect confidentiality regarding information given by Tribes in the planning process and may enter into agreements to do so.

*Comment: Coordination with Tribal land management programs.* Some respondents felt the responsible official should actively engage in coordination with Tribal land management programs and that the proposed rule weakens requirements to coordinate planning with Tribes. One respondent requested that the Tribal coordination provisions from the Federal Land Policy and Management Act of 1976 (43 USC 1712(b)) be included in the final rule.

*Response:* The responsible official would coordinate with Tribal land management programs under any alternative. Alternatives A, Modified A, D, and E provide participation, consultation, and coordination opportunities for Tribes during the land management planning process, under § 219.4. This section also states that the responsible

official shall coordinate land management planning with the equivalent and related planning efforts of federally recognized Indian Tribes and Alaska Native Corporations. A citation for 43 USC 1712(b) has been added to Modified Alternative A at § 219.4(b)(2). Under any alternative, participation in a collaborative process would be voluntary and would supplement, not replace consultation.

*Comment: Government-to-government relationship.* One respondent felt the proposed rule does not go far enough in identifying the unique government-to-government relationship between Tribes and the Forest Service.

*Response:* The Department recognizes the unique government-to-government relationship that the Federal Government has with Tribes, and has engaged Tribes throughout the rulemaking process. All alternatives include requirements for engaging Tribes during the land management planning process. Alternatives A, C, D, and E at § 219.4 state that the responsible official shall honor the government-to-government relationship between federally recognized Indian Tribes and the Federal Government, in accordance with Executive Order 13175. Additionally, § 219.4 of these alternatives require that the responsible official provide opportunities for participation and consultation for federally recognized Indian Tribes and Alaska Native Corporations. Modified Alternative A states that the Department recognizes the Federal Government has certain trust responsibilities and a unique legal relationship with federally recognized Indian Tribes.

### **Section 219.5 – Planning framework.**

*Comment: Planning framework.* Some respondents felt more clarity was needed on the three phases of the framework (assessment, development, and monitoring). Further clarity was sought on how the phases are interrelated.

*Response:* This section (§ 219.5) of Alternatives A, Modified A, C, D, and E was included to provide clarity with regard to each phase of the framework and how they are interrelated. Detailed requirements and relationships for each phase are provided in other sections of these alternatives. In response to these comments, Modified Alternative A includes a description of what occurs during each phase provided in this section. Sections 219.6, 219.7 and 219.12 of Modified Alternative A make clear that information from each phase should be used to inform each of the other phases. Under Alternatives A, Modified A, C, D, and E monitoring evaluation reports would be developed in the monitoring phase as required in § 219.12(d) to inform adaptive management. However, Modified Alternative A, explicitly says the purpose is to inform adaptive management. Section 219.7 of Alternatives A, Modified A, C, D, and E would require the responsible official to review relevant information from the assessment to identify a preliminary need for change and to inform the development of plan components and other plan content, including the monitoring program.

*Comment: Resource exclusion.* Some respondents felt the proposed rule allows too much discretion to the responsible official to exclude resources or uses of interest under the three phases of the planning framework.

*Response:* Under all alternatives, there are numerous opportunities throughout the process for the public to identify resources and uses that are of interest to them, along with

information about those resources or uses relevant to the plan area. If a resource or use is identified as of interest, it would be considered during of the planning process. Under Alternatives A, Modified A, C, D, and E the responsible official would be required to identify resources present in the plan area and consider them when developing plan components for §§ 219.8 through 219.11, including for ecological sustainability, diversity, and multiple use (§ 219.7(c)(2)).

*Comment: Composition of planning interdisciplinary teams.* Several respondents felt the rule should specify the composition of the interdisciplinary teams required under proposed § 219.5(b).

*Response:* Under any alternative, the responsible official has the discretion to determine the disciplines, or areas of expertise, to be represented on the Agency interdisciplinary team for preparation of assessments; new plans, plan amendments, or plan revisions; and plan monitoring programs. Because planning efforts are based on an identified need for change, it would not be appropriate to require the same disciplines to be represented on every interdisciplinary team so this requirement was not included in any of the alternatives.

### **Section 219.6 – Assessment.**

*Comment: Assessment process.* Some respondents felt the proposed assessment process should be removed from the rule as it is an added and potentially costly step to the planning process. They felt it would be more efficient and effective if assessments used to justify an amendment or plan revision were combined into one document for the proposed amendment or revision. They also felt the rule should provide more guidance and parameters for the decisionmaking occurring along with assessment reports. Other respondents felt the proposed rule requirements were vague on the nature of assessments and more standards or guidelines for determining proper time frames, content, and need for assessment is necessary. Others were concerned that the assessments should be more comprehensive, that too much discretion was given to the responsible official to determine what to include in the assessment, and the responsible official should be required to use, not just consider, the information.

*Response:* Assessments for plan revision are required by Alternatives A, Modified A, D, and E. Assessments are not required under Alternative C. Alternative B requires Analysis of the Management Situation. Based on public comment the requirements for assessment in Modified Alternative A were modified from those of Alternative A.

Modified Alternative A would require information about a specific list of topics in § 219.6(b) to be identified and evaluated in the assessment. The inclusion of this list in Modified Alternative A (as opposed to the broader direction included in the Alternatives A, D and E) is intended to make the process both more efficient, and more clearly focused on the specific information needed to inform the development of plan components and other plan content as required by other sections of the alternative.

In Modified Alternative A the requirement of the proposed rule to determine a “need to change” during the assessment phase of planning has been removed to clarify that the assessment is not a decisionmaking process and does not require a NEPA document to be prepared. Modified Alternative A (§ 219.7) clarify that the responsible official would

review material gathered during the assessment to identify a preliminary need to change the existing plan and to inform the development of the plan components and other plan content. Under any alternative, the information from an assessment may be used and referenced in the planning process, including environmental documentation under NEPA. However, the assessment report is not a decision document under any alternative.

Under Alternatives A, Modified A, C, D, and E the responsible official would be required to provide public participation opportunities to all interested parties during the assessment process, and would provide notice of such opportunities, as well as of the availability of the assessment report. Under these alternatives, the public would have a formal opportunity to comment on information derived from the assessment later in the NEPA process of the plan development, amendment, or revision.

Under Alternatives A, Modified A, D and E Alternatives A, Modified A, D, and E the responsible official would have the flexibility to determine when an assessment before plan amendment is needed, along with the scope, scale, process, and content for plan amendments, in order to keep the amendment process flexible. Under these alternatives amendments could be broad or they could be narrow and focused only on a subset, or even on a single topic. Alternatives B and C do not require an assessment for an amendment, except for significant amendments under Alternative B.

*Comment: Use of existing information.* Some respondents felt the rule should clarify that the responsible official need only consider existing information during the assessment phase. The concern raised was that if a responsible official had to develop new information such as new scientific studies to fill gaps in the existing science, the planning process would be further delayed. Others expressed that limiting the assessment to rapid evaluation of existing information may result in lack of input from the public or actually be of little use when the Forest Service has very little information.

*Response:* The Department intended that assessments under Alternative A to focus on rapidly gathering and evaluating existing information (see preamble to the proposed rule). In response to public comment, Modified Alternative A clarifies that assessments rapidly evaluate existing information § 219.5 and lists 15 topics identified in § 219.6(b) that the assessment must contain. The intent under Alternatives A and Modified A, is for the responsible official to develop, in the assessment phase, a clear understanding of what is known about the plan area, in the context of the broader landscape, in order to provide a context for decision-making required during the planning phase.

*Comment: Additional assessment considerations.* Some respondents noted reasonably foreseeable conditions, stressors, and opportunities (for example forecasts for continued urbanization and ecological changes resulting from climate change) need to be considered when measuring present conditions, stressors, and opportunities. The respondents implied this information should be calculated and considered during the assessment phase of land management planning. Still others indicated there should be requirements for water quality, minerals, historic, social, economic, and other resources. Others mentioned the responsible official should be required to accept material submitted by universities, and should consider best available science.

*Response:* Section 219.6(b)(2) of Alternatives A, D, and E indirectly address the topics identified by these comments. The list in § 219.6 (b) of Modified Alternative A explicitly

includes the topics identified in these comments. The list of required content included in Modified Alternative A represents a focused set of topics relevant to the development of plan components and other plan content that would be required in other sections of Modified Alternative A. Modified Alternative A would require that the best available scientific information be used to inform all phases of the planning process. Under any alternative, documents submitted by universities would be accepted by the Agency and considered as part of the assessment.

*Comment: Annual regional evaluations.* Some respondents indicated the proposed assessment process needs to provide for regular over-arching investigations of potential need to change issues above the individual forest level. Some suggested the final rule should provide for annual evaluations by each Forest Service region for developing information affecting broader-scale factors and how the information may indicate a need to initiate forest plan revisions or amendments.

*Response:* Regional level planning was considered but dismissed from detailed analysis under Alternatives L and N because it did not meet the purpose and need for efficient and effective planning. See Chapter 2 of the PEIS for further discussion of why these alternatives were dismissed from detailed study. Under the Alternatives A, Modified A, D, or E the three-part planning cycle of assessments, planning, and monitoring would provide a framework to identify changing conditions and respond with adaptive management. Broader-scale monitoring would help to identify and track changing conditions beyond the individual forest level. Alternatives A, Modified A, D and E require consideration of information from the both the broader and plan scales of monitoring. Under these alternatives, information would be described in the biennial plan monitoring report for each unit if applicable to plan area.

*Comment: Assessments versus monitoring.* Some respondents remarked that the rule needs to state the Agency cannot rely on one-time assessments in lieu of monitoring data.

*Response:* The Department did not intend for assessments to replace monitoring. All alternatives require monitoring and some form of assessment. Alternatives A, Modified A, B, D, or E would require monitoring and biennial monitoring reports.

*Comment: Assessments and performance.* Some respondents pointed out that the rule should link the assessment process with the Agency's integrated management reviews to assess performance in implementation of plan priorities.

*Response:* While management reviews can be a tool to assess plan progress toward meeting the intended results, none of the alternatives would require management review be linked with the assessment process. Management reviews are part of the management process for all mission areas, and are broader in scope, looking at many issues. The alternatives are limited in scope to the planning process to develop, amend, or revise plans.

*Comment: Notification of scientists.* Some respondents stated the proposed rule's requirement to encourage and notify scientists to participate in the process was unwieldy.

*Response:* Alternatives A, D and E require the responsible official to encourage and notify scientists to participate in the process. However, these detailed notification requirements are not included in Modified Alternative A to make the process more efficient and clear. However, Modified Alternative A would require that the responsible official coordinate



with Forest Service Research and Development, identify and evaluate information from relevant scientific studies and reports, provide participation opportunities to the public, and use best available scientific information to inform the planning process. Alternatives B and C do not require engagement of scientists.

*Comment: Public comment and participation on assessment reports.* Some respondents felt the rule should provide the public with the opportunity to review, comment, and provide additional information during the assessment phase. Other respondents felt the proposed rule was not clear as to what role the public would play in determining the scope of the assessment. The desire was also expressed for the opportunity to appeal the development or use of the assessment report.

*Response:* Alternatives A, Modified A, D and E would require the responsible official to provide opportunities for the public to participate in and provide information for the assessment process. Under these alternatives for a plan amendment assessment, the need for and scope of the assessment would be determined by the responsible official based on the circumstances. Under any alternative, the assessment is an informational document, not a decision document; therefore, a formal comment period would not be required. Opportunities for formal comment and objection are provided in each alternative for plan decisions.

*Comment: Distinctive roles and contributions.* Some respondents felt the requirement for assessments to identify “distinctive roles and contributions of the unit within the broader landscape” should be retained; while others felt it should be removed.

*Response:* Alternatives A, D and E include this requirement for the assessment. Modified Alternative A removes this requirement from the assessment. Alternatives A, Modified A, D and E would retain the requirement to identify distinctive roles and contributions of the unit within the broader landscape” under other plan content in § 219.7. Alternatives B and C would not include this explicit requirement.

*Comment: Assessments and plan components.* A respondent suggested assessments should include development of plan components to meet the substantive requirements of other rule provisions such as water quality standards.

*Response:* Assessments do not develop plan components, but only gather and evaluate existing information that can be used later in the development of plan components.

*Comment: Information gaps or uncertainties.* Some respondents declared the rule should require a component in the assessment identifying information gaps or uncertainties.

*Response:* To respond to these comments, Modified Alternative A would require the assessment to document in the report information needs related to the list of topics in paragraph (b) as part of the assessment report (§ 219.6(a)(3)). Adding a requirement for the responsible official to document all information gaps or uncertainties in any alternative would become burdensome and is inconsistent with the rapid evaluation of existing information as intended for assessments under Alternatives A, Modified A, D and E.

*Comment: Cumulative effects disclosure.* Some respondents stated proposed § 219.6(b)(3) should specifically address the need to document cumulative effects to the condition of lands, water, and watersheds.

*Response:* No alternative would add a cumulative effects requirement to the assessment. An assessment would identify and evaluate information on conditions and trends related to the land management plan. This would include influences beyond the plan area and influences created by the conditions and trends in the plan area. Cumulative effects analysis is part of the NEPA process and is disclosed in the environmental documentation for planning or project or activity decisionmaking.

**Section 219.7 – New plan development or plan revision.**

*Comment: Alternate plans.* A respondent said wording contained in the 1982 rule at § 219.12(f)(5) requiring the Agency to develop alternatives to address public concerns should be restored.

*Response:* Alternatives A, Modified A, B, D and E would require preparation of an EIS as part of the plan revision process. Alternative C requires analysis of effects consistent with the NEPA. The NEPA requires development of a range of reasonable alternatives in the EIS. Therefore, a duplicative requirement in a rule is not necessary.

*Comment: Requests for revision.* A respondent said there should be a process for others to request plan revisions. The responsible official would retain the option of determining whether such a request would warrant starting the assessment process.

*Response:* The public may request a plan revision at any time.

*Comment: Combining multiple national forests under one plan.* Some respondents felt a multi-forest plan would need separate tailored requirements for the different ecosystems, landscapes, landforms, forest types, habitats, and stream types that exist in each of the national forests affected.

*Response:* All the alternatives allow the responsible official the discretion to determine the appropriateness of developing a multi-forest plan, or a separate plan for each designated unit. Plan components would be designed as appropriate for those units to meet the requirements of the alternative, whether for a single or a multi-forest plan.

*Comment: Environmental Policy Act compliance and plan development, amendment, or revision (NEPA).* Some respondents felt plans should be as simple and programmatic as possible and that the preparation of an EIS for a new plan or plan revision is not appropriate. NEPA compliance should occur only at the project level. One respondent wanted a clear commitment for preparation of an EIS for forest plan revisions. Another respondent said categorical exclusions should be used for minor amendments, environmental assessments for more significant amendments, and EISs should be reserved for major scheduled plan revisions. A respondent said responsible officials should not be allowed to combine NEPA and planning associated public notifications (§ 219.16). A respondent said to please consider and discuss an efficient amendment process in the proposed rule. Another respondent proposed § 219.7(e)(1)(iv) be rewritten to clarify any aspect of any planning document are proposals subject to NEPA.

*Response:* All alternatives except Alternative C would require the preparation of an EIS for plan revisions and new plans. Alternative C requires that development and revision of plans be consistent with Forest Service NEPA procedures. All alternatives would require that plan amendments be consistent with Forest Service NEPA procedures, which require an EIS, an EA, or a CE, depending on the scope and scale of the amendment. Projects

and activities will continue to be conducted under Forest Service NEPA procedures. The Department believes the NEPA analysis requirements are appropriate to inform the public and help responsible officials make decisions based on the environmental consequences. In Alternatives A, Modified A, C, D, and E requirements for public participation are described in § 219.4 and notifications in § 219.16. Alternatives A, Modified A, C, D and E allow combining notifications where appropriate to allow for an efficient amendment process while continuing requiring public notice.

The NEPA regulations at 40 CFR §1508.23 define a proposal as that which, “exists at that stage in the development of an action when an agency subject to the Act has a goal and is actively preparing to make a decision on one or more alternative means of accomplishing that goal and the effects can be meaningfully evaluated.” Not all aspects of planning and planning documentation fall under this definition, and the Department considers classifying every aspect of every planning document as a “proposal” subject to NEPA would be an unnecessary and burdensome requirement on the Agency.

*Comment: Additional coordination requirements.* Some respondents suggested additional coordination requirements for noxious weed management, reduction of the threat of wildland fire, assessment of existing aircraft landing sites, and guidelines to ensure project coordination across forest and grassland boundaries where discrepancies between individual unit plans may occur.

*Response:* The Department agrees the issues raised are important. Alternatives A, Modified A, D and E would emphasize an all lands approach precisely to address issues like these. This emphasis is in each phase of planning: in the assessment phase, responsible officials are directed to identify and evaluate relevant information in the context of the broader landscape; in § 219.8, the four alternatives require that the responsible official consider management and resources across the landscape; and in § 219.4 the responsible official is directed to consider joint objectives across jurisdictions. In these four alternatives §219.12 provides a framework for coordination and broader-scale monitoring. Alternative B requires coordination with other public planning efforts. More specific guidance with regard to particular resources is properly found in the plans themselves, or in the subsequent decisions regarding projects and activities on a particular national forest, grassland, prairie, or other comparable administrative unit.

*Comment: Scope of the responsible official’s discretion.* Some respondents raised concerns over the responsible official’s discretion to determine conditions on a unit have changed significantly so a plan must be revised, because the proposed rule fails to define significant and does not include an opportunity for public involvement in this determination. Other respondents felt use of the terms “consider” and “appropriate,” as in proposed § 219.7(c)(2)(ii) are vague, too discretionary, and could mean the official would look at conditions and trends, but then fail to address them, leading to a poor assessment and planning.

*Response:* The PEIS analyzes a range of alternatives from those which would be very prescriptive such as Alternative E and I to those that provide for very broad planning frameworks, such as Alternative C and G. A primary goal of the Department is to create a framework in which new information is identified and used to support adaptive

management. Placing overly prescriptive requirements in § 219.7 could inhibit the responsible official's ability to adaptively manage within the planning rule framework.

*Plan components*

*Comment: Plan component wording, standards, and guidelines.* A respondent remarked that it was unclear if plans must simply contain plan components to meet the requirement of the rule or whether the Agency is making a binding commitment including standards, which are much more binding than desired conditions or guidelines.

*Response:* Alternatives A, Modified A, C, D, and E identify what plan components are, and would require that every plan contain desired conditions, objectives, standards, guidelines, and suitability. Because some respondents were concerned that the wording of Alternative A could be interpreted to require only one of each kind of plan component in every plan, changes have been made throughout the Modified Alternative A to clarify that the Department expects a set of plan components, including standards or guidelines, to be developed to meet the requirements in the other sections.

*Comment: Desired Future Condition plan component.* A respondent felt desired future condition should be included as a plan component, as it is more than the sum total of the individual desired conditions for each of the important ecological, social, and economic resources on the forest and causes individual desired conditions to occur somewhat in sync.

*Response:* Alternative B requires that plans include a description of the desired future condition of the forest or grassland (219.11). All alternatives except B and C would identify the forest or grassland's distinctive roles and contributions within the broader landscape and the desired conditions for specific social, economic, and ecological characteristics of the plan area. The Department believes those requirements, combined with the requirements for public participation and integrated resource management, would result in plans that reflect an overall vision for the future desired condition of the plan area as a whole.

*Comment: Desired conditions.* Some respondents stated defining a desired condition as specific social, economic, and/or ecological conditions may continue ecologically unsustainable social and economic practices leading to unsustainable outcomes. A respondent commented that States are responsible for setting fish and wildlife population objectives and the wording must be changed to prevent the Agency from taking on the role of the States. Other respondents wanted more direction on how the responsible official determines desired conditions.

*Response:* Desired conditions identify an overall vision for the unit. Desired conditions are a way to identify a shared vision for a plan area. In some instances, desired conditions may only be achievable in the long-term. At times, the desired conditions may be the same as existing conditions. Desired conditions may be stated in terms of a range of conditions. Other plan components would provide the strategy and guidance needed to achieve that vision. Plans under Alternatives A, Modified A, C, D, and E would meet the requirements of §§ 219.8 through 219.11, including to provide for ecological sustainability; and projects and activities would be consistent with desired conditions as

described in § 219.15. Under all alternatives the Forest Service Directives System would describe how desired conditions should be written and developed.

States do have responsibilities for managing fish and wildlife, but the alternatives would require plans to include plan components for ecological conditions (habitat and other conditions) to maintain the diversity of fish and wildlife species, as required by NFMA. Responsible officials would coordinate with Federal, State, and local governments and agencies on other public planning efforts under all alternatives.

*Comment: Procedures for analysis.* Some respondents suggested that the final rule should include specific procedures for analysis. These include specific economic indicators for the economic analysis part of the planning process, the model paradigm for social and economic resources important to rural communities, and means of weighing relative values of multiple uses.

*Response:* Alternative B does include specific analysis requirements including present net value analysis. Such guidance is not included in the other alternatives analyzed in detail. Analysis methods and technical procedures are constantly changing; a planning rule could quickly become outdated if specific methods were mandated. Additional guidance with regard to social and economic resource analysis is found in the Forest Service Directives System.

*Comment: Objectives.* Several respondents supported clear, measurable, and specific objectives to enhance transparency and accountability. Several respondents felt basing objectives on reasonable foreseeable budgets unduly constrains planning analysis. Another respondent thought a desired condition without objectives is completely meaningless.

*Response:* Alternatives A, Modified A, C, D, and E use objectives to support measureable progress toward a desired condition. Objectives would lead to the development of a program of work to achieve the desired condition by describing the focus of management in the plan area. Objectives would be based on achieving and monitoring progress toward desired conditions, and would be stated in measurable terms with specific time frames. Objectives based on budgets and other assumptions help set realistic expectations for achievement of plan objectives over the life of the plan and assist in building public trust in the Agency being able to make progress towards achieving desired conditions and objectives.

*Comment: Goals.* Several respondents felt goals should be mandatory because broad general goal statements describe how the desired future conditions will be achieved and create the overall framework for the other plan components. Others felt they should be optional. Another respondent suggested inclusion of a goal to connect youth, minority, and urban populations to the national forest or grassland to better assure required plan components incorporate and reflect the needs of diverse populations.

*Response:* Alternative B requires multiple use goals and objectives. In Alternatives A, Modified A, C, D, and E goals are optional which allows the responsible officials to determine whether or not they are a useful plan component in addressing the local situation. Alternatives A, Modified A, D and E would require the responsible official to encourage participation of youth, low-income populations, and minority populations

throughout the planning process and to contribute to social and economic sustainability when developing plan components. Modified Alternative A would require the responsible official to consider opportunities to connect people with nature.

*Comment: Suitability for uses other than timber.* Some respondents felt the rule should require suitability determinations for multiple uses. In addition to suitability for timber use as required under NFMA, a respondent felt suitability of lands for livestock grazing, fire suppression, energy developments, mineral leasing, and off highway vehicles should be required to meet the Act. Another respondent felt economics should be a part of the analysis and land suitability determinations. A respondent felt identification of lands where specific uses are not allowed is de facto regulation of those uses, and proposed § 219.2 (b)(2) wording "a plan does not regulate uses by the public" appears inconsistent with NFMA direction regarding the identification of lands as suitable for resource management activities, such as timber harvest. In addition, this wording may be inconsistent with proposed § 219.7(d)(1)(v) wording that a "plan may also identify lands within the plan area as not suitable for uses that are not compatible with desired conditions for those lands."

*Response:* Determining the suitability of a specific land area for a particular use or activity is usually based upon the desired condition for that area and the inherent capability of the land to support the use or activity. NFMA does not impose a requirement to make suitability determinations for all multiple uses. The NFMA requires that plans "determine...the availability of lands and their suitability for resource management" (16 U.S.C. 1604(e)(2)).

Alternatives A, Modified A, C, D, and E do not require determinations in every plan for specific uses other than timber. Alternative B requires a determination of suitability for timber and grazing. Alternatives A, Modified A, C, D, and E state that the suitability of an area need not be identified for every use or activity. Under these alternatives, the responsible official would determine when to identify suitability for various uses and activities as part of the set of plan components needed to meet the requirements of §§ 219.8-11.

In response to public comment, Modified Alternative A at paragraph (e)(1)(v) makes clear that plans would include identification of specific lands as suitable or not suitable for various multiple uses and activities, and adds clarifying wording stating that suitability identifications may be made after consideration of historic uses and of issues that have arisen in the planning process.

Under any alternative, the identification of suitability is not de facto regulation of those uses. However, responsible officials may, and often do, develop closure orders to help achieve desired conditions. If a responsible official were to develop a closure order, that closure order is a regulation of uses and would prohibit public use and occupancy. Such prohibitions are made under Title 36, Code of Federal Regulations, Part 261—Prohibitions, Subpart B—Prohibitions in Areas Designated by Order. Issuance of a closure order may be made contemporaneously with the approval of a plan, plan amendment, or plan revision.

*Comment: Suitability for mineral materials.* Several respondents felt the determination of the suitability of lands for energy developments, leasing and extraction, mineral

exploration, or mineral leasing must be required. Other respondents felt the rule should not imply the Agency has regulatory or administrative authority to determine which portions of NFS lands are suitable for mineral exploration and development as such a determination would be a de facto withdrawal not in accordance with existing laws.

*Response:* Responsible officials should not make suitability determinations for any resource such as minerals where another entity has authority over the disposal or leasing. Congress has given the Secretary of the Interior authorities over the disposal of locatable minerals (gold, silver, lead, and so forth) and leasable minerals (oil, gas, coal, geothermal, among others). The Secretary of Agriculture has authority over saleable minerals (sand, gravel, pumice, among others). A planning rule or a plan developed under a planning rule cannot make a de facto withdrawal. Withdrawals occur only by act of Congress or by the Secretary through a process under 43 CFR 2300. The Forest Service minerals regulation at 36 CFR 228.4(d) govern how the Agency makes decisions about the availability of lands for oil and gas leasing, and those decisions are not suitability determinations. Decisions about availability of lands for oil and gas leasing under 36 CFR 228.4(d), have been made for most national forests and grasslands. Decisions about the availability of lands for oil and gas leasing under 36 CFR 228.4(d) are not plan components; however, availability decisions may be made at the same time as plan development, plan amendment, or plan revision; but that is not required.

*Comment: Application of guidelines.* One respondent noted the preamble for the proposed rule stated that guidelines are requirements, but felt guidelines should be optional. Another respondent felt the proposed rule eliminates the distinction between plan guidelines and standards making guidelines legally enforceable standards with which all projects must comply. If the rule makes guidelines enforceable in the same way as standards, it eliminates the Department's policy that guidelines are discretionary to provide management flexibility. One respondent advocated making guidelines binding, because if they are discretionary, why include them.

*Response:* Alternatives A, Modified A, C, D, and E retain the proposed rule's distinction between standards and guidelines. Consistency with a standard would be determined by strict adherence to its specific terms, while consistency with a guideline would be determined by satisfying its protective aim. This more flexible approach allows for variation from a guideline's terms as circumstances warrant, without lessening protections.

The intent is that guidelines included in plans pursuant to these alternatives must be written clearly and without ambiguity, so the protective purpose is apparent and a project or activity consistency with a guideline could be easily determined.

*Comment: Use of standards and guidelines to promote action.* A respondent suggested standards and guidelines should be used to promote or mandate certain management actions, like managing suitable timberlands towards the desired future condition or reducing fuels around wildland-urban interface areas.

*Response:* The Department expects that the set of plan components developed in response to one or more requirements in any alternative would facilitate management to move the unit towards one or more desired conditions. Under any alternative standards and

guidelines set out design criteria which are applied to projects and activities, but do not, by themselves; result in specific management actions taking place.

*Comment: Mandatory standards.* Some respondents stated the final rule must include measurable standards for specific resources such as climate change, species viability, sustainable recreation, valid existing rights, or watershed management, in order to implement the intent of the rule and to ensure consistency. Others were opposed to the use of standards and guidelines.

*Response:* Alternative I would result in a very prescriptive planning rule that would include national standards for all aspects of land management plans. This alternative was considered but dismissed from detailed analysis because it did not meet the purpose and need for a responsive, efficient and effective planning rule. For further discussion of this alternative, see Chapter 2 of the PEIS. Alternatives A, Modified A, C, D, and E includes specific requirements for plan components in §§ 219.8 through 11. However, these alternatives do not include specific national standards for each of the resources or uses mentioned in the comment, recognizing that there may be significant differences in circumstances across the National Forest System that make specific national standards unworkable or not reflective of the best available scientific information for a given plan area. All alternatives include the specific requirements for timber harvest mandated by the NFMA.

*Comment: Management areas and special areas.* Some respondents indicated management areas and prescriptions should be required plan components and identification of areas with remarkable qualities for special designation should be required as part of the planning process.

*Response:* The intent of § 219.7(d) of the Alternative A, D and E is to require management areas or geographic areas. Based on these concerns raised, Modified Alternative A more explicitly states that each plan would include management areas or geographic areas, would allow for the plan to identify designated or recommended areas as management areas or geographic areas, and would allow the responsible official to identify or recommend new designated areas.

*Comment: Roadless area management.* Some respondents noted that direction should be added to identify, evaluate, and protect inventoried roadless areas, and a requirement to remove these areas from lands suitable for timber production. Some respondents suggested inclusion of “unroaded areas,” as defined in § 219.36 of the 2000 planning rule, in evaluation of lands that may be suitable for potential wilderness and protocols for such evaluation be included in the rule.

*Response:* Agency management direction for inventoried roadless areas is found at 36 CFR 294 – Special Areas, and plans developed pursuant to any alternative must comply with all applicable laws and regulations (§ 219.1(f)). The wording of § 219.7(c)(2) under Alternative B requires that forest planning shall provide direction for the management of designated wilderness and primitive areas in accordance with the provisions of CFR part 293 (219.18). Alternatives A, Modified A, D, and E would require that areas that may be suitable for inclusion in the National Wilderness System be identified as part of the planning process, along with any recommendations for wilderness designation. Inventories would be conducted following direction in Forest Service Handbook 1909.12



- Land Management Planning Handbook, Chapter 70 Wilderness evaluation, which also includes criteria for evaluation. Inventories may include “unroaded areas.” Chapter 70 is part of the Forest Service Directives System which would be revised under any alternative. The public is encouraged to participate in the upcoming public comment period for those directives.

*Comment: Potential wilderness area evaluation and management.* Some respondents found the term “potential wilderness area” confusing or inadequate, and the wilderness evaluation process unclear or in conflict with congressional action.

*Response:* Many State wilderness acts require the Forest Service to review the wilderness option when the plans are revised. The Utah Wilderness Act of 1984 is one example. The intent of Alternative A at § 219.7 is that the Agency would identify and evaluate lands that may be suitable for inclusion in the National Wilderness Preservation System and determine whether to recommend them for wilderness designation. Modified Alternative A does not use the term “potential wilderness areas”.

*Comment: Time limit on Congressional action.* A respondent suggested the rule should include a 10-year time limit for Wild and Scenic River or Wilderness recommendations to be acted upon by Congress or the Agency’s recommendation is withdrawn.

*Response:* The Constitution does not grant the U. S. Department of Agriculture authority to set time limits on Congressional action. No alternative would require responsible officials to withdraw any such recommendations.

#### *Other plan content*

*Comment: Forest vegetation management practices.* Some respondents requested clarification of proposed rule at § 219.7(f)(1)(iv) phrase “proportion of probable methods of forest vegetation management practices expected” as it is unclear what type of management practices must be undertaken to successfully satisfy this requirement.

*Response:* Section 16 U.S.C. 1604(f)(2) of the NFMA requires plans to “be embodied in appropriate written material, \* \* \* reflecting proposed and possible actions, including the planned timber sale program and the proportion of probable methods of timber harvest within the unit necessary to fulfill the plan.” Alternatives A, Modified A, C, D, and E do not use the exact words of the NFMA. Therefore, under these alternatives and Forest Service Directives System, the Department expects plans would display the expected acres of timber harvest by the categories, such as: regeneration cutting (even- or two-aged), uneven-aged management, intermediate harvest, commercial thinning, salvage/sanitation, other harvest cutting, reforestation, and timber stand improvement in an appendix. Examples of such exhibits are displayed in Forest Service Handbook 1909.12, Land Management Planning, Chapter 60, Forest Vegetation Resource Planning is available at [http://www.fs.fed.us/im/directives/fsh/1909.12/1909.12\\_60.doc](http://www.fs.fed.us/im/directives/fsh/1909.12/1909.12_60.doc). The list of proposed and possible actions would also include recreation and wildlife projects. These alternatives would allow the list to be updated through an administrative change (§ 219.13(c)).

*Comment: Distinctive roles and contributions.* Some respondents said there is no legal requirement for identification of a forest or grassland’s distinctive roles and contributions, and the requirement will bias and polarize the planning process in favor of

some uses, products, and services and against others. Other respondents felt the unit's distinctive roles should be plan components requiring a plan amendment to change, or the wording strengthened to require assessment of underrepresented ecosystems and successional classes across the broader landscape.

*Response:* Alternatives A, Modified A, D and E require the identification of distinctive roles and contributions. Alternatives B and C do not. Under the public participation process of Alternatives A, Modified A, D, or E, the Department believes the development of the distinctive roles and contributions, while not required by NFMA, would be a unifying concept helping define the vision for the plan area within the broader landscape.

*Comment: Additional plan components and content.* Some respondents suggested additional required plan components like partnership opportunities, coordination activities, monitoring program, or specific maps.

*Response:* Alternatives A, Modified A, C, D, and E require plan components that provide direction for meeting the requirements of §§ 219.8-11. Under these alternatives, projects and activities must be consistent with plan components (§ 219.15), and an amendment or revision would be required to change plan components. Plan components are usually reserved for ecological, social, or economic aspects of the environment, but the responsible official has discretion in developing plan components to meet the requirements of the alternative.

Under Alternatives A, Modified A, C, D and E monitoring programs would be included as other required content in the plan, but not as a required plan component. These five alternatives would allow the responsible official to add other plan content for unit issues and conditions. Other plan content can be other information that may be useful to Forest Service employees when designing projects and activities under the plan components. The other content in the plan (§ 219.7) differs from plan components in that an amendment or revision would not be required for changes to be made to reflect new information or changed conditions. Monitoring would not be included as a plan component in these alternatives, so the monitoring program can be refined and updated without a plan amendment in response to new information or changing conditions. Listing of specific methods for partnership opportunities or coordination activities as part of the plan is optional content for a plan.

*Comment: Priority Watersheds.* Some respondents asked what process is used to identify priority watersheds and why priority watersheds are not a plan component. Some respondents noted the proposed rule requirement to identify priority watersheds for maintenance and restoration did not include specific criteria for selecting watersheds and did not prescribe what activities or prohibitions would occur in priority watersheds.

*Response:* Under Alternatives A, Modified A, D and E, §219.7 would require identification of priority watersheds for restoration. Setting priorities can help ensure that investments provide the greatest possible benefits, however, priority areas for potential restoration activities could change quickly due to events such as wildfire, hurricanes, drought, or the presence of invasive species. Therefore under these alternatives, this requirement is included as other required content thus allowing an administrative change (§ 219.13) to be used to quickly respond to changes in priority. Any changes would require notification under these alternatives.

The Department intends to use the Watershed Condition Framework (WCF), [http://www.fs.fed.us/publications/watershed/Watershed\\_Condition\\_Framework.pdf](http://www.fs.fed.us/publications/watershed/Watershed_Condition_Framework.pdf) for identifying priority watersheds, developing watershed action plans and implementing projects to maintain or restore conditions in priority watersheds. However, the WCF is a relatively new tool that will be adapted as lessons are learned from its use, as new information becomes available, or as conditions change on the ground. Therefore, because the criteria for selecting watersheds may change in the future, it is not appropriate to codify such criteria in a rule. The Department expects that implementation of any of these alternatives and the WCF would be mutually supportive.

**Section 219.8 – Sustainability.**

*Comment: Maintain, protect, or restore.* Some respondents did not understand why in some sections of the proposed rule (such as § 219.9) the phrase "maintain or restore" was used and in other sections (such as § 219.8) the phrase "maintain, protect, or restore" was used. They questioned whether the two phrases were intended to mean different things or provide different levels of protection.

*Response:* The use of the two different phrases in the proposed rule was unintended. There was no intent to impart differing levels of protection or different requirements by the use of the two phrases. After review of the proposed rule and the preamble, it is apparent that the two phrases are used interchangeably and often inconsistently. The Department believes that "protection" is inherent in maintaining resources that are in good condition and restoring those that are degraded, damaged, or destroyed. The Department did not intend to imply that plan components would not protect resources where the word "protect" was not part of the phrase. Maintenance and restoration may include active or passive management and would require different levels of investment based on the difference between the desired and existing conditions of the system. In response to these comments, Modified Alternative A consistently uses the phrase maintain and restore.

*Comment: Best management practices and specificity for water sustainability.* Some respondents felt the requirements for maintaining and restoring watersheds, sources of drinking water, and riparian areas of the proposed rule lacked the specificity necessary to consistently implement the rule. A respondent said the rule should reemphasize a commitment to maintaining water quality standards—through the limitation of uses incompatible with clean water, management for restoration of water quality, and the mandatory use of best management practices. One respondent suggested that plans may list best management practices that a project is required to adopt. Other respondents said the final planning rule should also require monitoring for water quality standard compliance and implementation and effectiveness of best management practices.

*Response:* The intent of the Department for Alternative A was that plans would be consistently developed to maintain and restore watersheds, aquatic ecosystems, water quality, water resources including drinking water resources, and riparian areas. The requirements of Alternative A and Modified Alternative A of § 219.8 and other sections reflect the intent as stated in the preamble of the proposed rule to place a strong emphasis on water resources and develop a framework that would support watersheds, aquatic ecosystems, and water resources throughout the National Forest System. None of the

alternatives would explicitly require monitoring of implementation and effectiveness of best management practices. However, Alternatives A, Modified A, D and E would require monitoring of select watershed and ecosystem conditions, as well as progress toward meeting the plan's desired conditions and objectives.

Under all alternatives, the Forest Service anticipates establishing requirements for national best management practices for water quality in the Forest Service Directives System. The updated directives will be subject to review and comment by the public. Many regions of the Forest Service have memoranda of understanding with States to use State Best Management Practices (BMPs). The Department anticipates that nothing in the Forest Service directives, or in plans, would preclude the use of State BMPs where they exist.

Modified Alternative A is unique in that wording was added to § 219.8 to clarify and add detail to the requirements for plan components for watersheds, aquatic ecosystems, water quality, water resources including drinking water resources, and riparian areas. Modified Alternative A would require that the Chief of the Forest Service to establish requirements for national BMPs for water quality in the Forest Service Directives System, and that the responsible official include plan components to ensure implementation of those requirements.

*Comment: Riparian area management zone size.* Some respondents felt the rule should include a minimum default width for riparian areas ranging from 100 feet to 300 feet or to the width of the 100 or 200-year flood plain. Without specific requirements, respondents felt there would be inconsistent implementation of the rule. Others preferred the riparian area default width vary depending on ecological or geomorphic characteristics approach used in the proposed rule.

*Response:* The scientific literature states riparian areas widths are highly variable and may range from a few feet to hundreds of feet. Alternative C would not require default widths for riparian areas. Alternative B would require special attention to land and vegetation for approximately 100 feet from the edges of all perennial streams, lakes, and other bodies of water.

Alternative D would require establishment of Riparian Conservation Areas based on the best available science. Under Alternative D, until these riparian conservation areas are established, the minimum standard buffer for riparian conservation areas would be no less than 100 feet on each side of the stream at bank-full flow, unless the stream has an intermittently or potentially shifting channel course, in which case the default buffer would start from the edge of the 200-year channel migration zone.

Alternatives A and E would require a default width for riparian areas around all lakes, perennial or intermittent streams, and open water wetlands and would require the responsible official to consider the best available scientific information (§ 219.3) when establishing the width of default widths. Plan components to maintain or restore the riparian areas would apply within that zone, or within a site-specific delineation of the riparian area.

In response to concerns raised by the public, Modified Alternative A at § 219.8(a)(3) require special attention to land and vegetation for approximately 100 feet from the edges

of all perennial streams and lakes. Modified Alternative A would also require the responsible official to use the best available scientific information (§ 219.3) to inform the establishment of the width of riparian management zones around all lakes, perennial and intermittent streams, and open water wetlands. Similar to the proposed rule, plan components to maintain or restore the ecological integrity of riparian areas would apply within that zone, or within a site-specific delineation of the riparian area.

*Comment: Management activities in riparian areas.* Some respondents felt the riparian area guidance in the proposed rule represented a weakening of protection from the 1982 rule and wanted to see stronger national standards. They felt some management activities, like grazing and off-highway vehicle (OHV) use, should be prohibited or limited in riparian areas as they can be harmful to riparian area health. Others felt management activities in riparian areas should be left to only restoration efforts. Some respondents felt the riparian management requirements in the proposed rule were vague or too open to interpretation. Others felt the proposed rule may preclude active management within riparian areas.

*Response:* No alternative would directly prohibit or limit management activities like grazing or OHV use. Alternative D would require standards and guidelines such that management activities are primarily for restoration. Alternative C does not address riparian areas. Alternative B would require special attention to land and vegetation for approximately 100 feet from the edges of all perennial streams, lakes and other bodies of water. Alternative B would require that no management practices causing detrimental changes in water temperature or chemical composition, blockages of water courses, or deposits of sediment would be permitted within these areas which seriously and adversely affect water conditions or fish habitat. Alternatives A, Modified A and E would require the plan to include plan components to maintain or restore riparian areas.

Modified Alternative A requires the responsible official to give special attention to land and vegetation for approximately 100 feet from the edges of all perennial streams and lakes and would require that plan components must ensure that no management practices causing detrimental changes in water temperature or chemical composition, blockages of water courses, or deposits of sediment that seriously and adversely affect water conditions or fish habitat shall be permitted within the riparian management zones or the site-specifically delineated riparian areas. These requirements are in addition to the Modified Alternative A requirement that plans would include plan components, including standards or guidelines, to maintain or restore the ecological integrity of riparian areas in the plan area, including plan components to maintain or restore structure, function, and composition. In addition, under this alternative the responsible official would also take into account water temperature and chemical composition, blockages of water courses, deposits of sediment, aquatic and terrestrial habitats, ecological connectivity, restoration needs, and floodplain values and risk of flood loss when developing these plan components.

*Comment: Sustainability and multiple use.* Some respondents felt the proposed rule did not adequately recognize the importance of the multiple use mandate because the proposed rule at § 219.8 omitted any reference to multiple use.

*Response:* The Department reviewed all alternatives and believes that all alternatives are consistent with the MUSYA. In addition, Alternatives A, Modified A, D and E explicitly recognize multiple uses in § 219.8(b), with additional direction provided in § 219.10 with regard to management for multiple uses.

*Comment: Maintain ecological conditions.* Some respondents felt the proposed requirements to maintain or restore ecological conditions in §§ 219.8 and 219.9 would allow for the Agency to develop plan components maintaining current degraded ecological conditions.

*Response:* The intent of Alternatives A, Modified A, C, D, and E is for plan components to maintain desired conditions, and restore conditions where they are degraded. However, the Department recognizes in some instances it may be impracticable or impossible to restore all degraded, damaged, or destroyed systems that may be present in a plan area because of cost, unacceptable tradeoffs between other resource and restoration needs, or where restoration is outside the capability of the land or Forest Service authority. There are also degraded areas on NFS lands where the tools or methods are not currently available to effectively restore them to desired conditions. The Department recognizes, at times, management activities maintaining existing conditions in the short-term; even where they are not the desired conditions, is critical to preventing further degradation and for successful restoration towards desired conditions over the long-term as funding or technology become available. For example, the primary management emphasis in some areas may be controlling the spread of invasive species rather than focusing on restoring those areas at this time.

#### *Ecological Integrity*

*Comment: Integration of terrestrial and aquatic ecosystems.* Some respondents felt the proposed rule was unclear in the requirement that the responsible official take into account the integration of terrestrial and aquatic ecosystems in the plan area when creating plan components to maintain or restore the health and resilience of terrestrial and aquatic ecosystems and watersheds in the plan area.

*Response:* The intent of Alternative A (as stated in the preamble of the proposed rule) was to ensure responsible officials understand the terrestrial and aquatic ecosystems in the plan area and how they interact, as well as the role and contribution of their units and the context for management within the broader landscape.

Based on public comment, Modified Alternative A uses the word “interdependence” rather than “integration” to better reflect the Department’s intent. Also, to clarify intent, Modified Alternative A would require the responsible official to consider contributions of the unit to ecological conditions within the broader landscape influenced by the plan area, conditions in the broader landscape that may influence the sustainability of resources and ecosystems, and opportunities for landscape scale restoration.

*Comment: Invasive species.* Some respondents felt the rule should have more explicit requirements on how invasive species management would be included in plans.

*Response:* It is clear that the introduction of invasive species to national forest and grassland ecosystems has had, and is continuing to have, profound effects on the ecological integrity of these ecosystems. The requirements of Alternatives A, Modified

A, D and E address invasive species in § 219.6, where information about stressors such as invasive species must be identified and evaluated, and in §§ 219.8 and 10. Under these alternatives, plan components are required to maintain or restore structure, function, composition, and connectivity under §§ 219.8, taking into account stressors including invasive species, and the ability of the ecosystems on the unit to adapt. Plan components for multiple uses must also consider stressors, including invasive species.

*Social and economic sustainability*

*Comment: Relationship between ecological, social and economic sustainability.* Some respondents felt ecological sustainability should be prioritized over social and economic sustainability. Others felt NFS lands should be managed primarily for multiple uses that contribute to economic and social sustainability. Some respondents felt the proposed rule incorrectly prioritizes plan components by use of “maintain or restore” elements of ecological sustainability over the use of the term “to contribute” for social and economic sustainability. Some respondents expressed differing opinions about the relative importance of ecological, social, and economic sustainability in relation to multiple uses. A respondent felt social and economic sustainability should not be included in the rule, while another felt ecological sustainability should not be included. Some felt social and economic sustainability should be a priority, and others that ecological sustainability should be a priority. Some respondents felt social, environmental, and economic considerations are not competing values but interdependent and all play a role in management. Some respondents disagreed with the concept the Agency has more control over ecological sustainability than social and economic sustainability. Some respondents felt the proposed rule definition of sustainability was not clear.

*Response:* The MUSYA requires “harmonious and coordinated management of the various resources, each with the other, without impairment of the productivity of the land, with consideration being given to the relative values of the various resources, and not necessarily the combination of uses that will give the greatest dollar return or greatest unit output.”

Under Alternatives A, Modified A, C, D, and E, ecological, social, and economic systems are recognized as interdependent, without one being a priority over another. These alternatives require the consideration of ecological, social, and economic factors in all phases of the planning process. However, these alternatives recognize that the Agency generally has greater influence over ecological sustainability on NFS lands than over broader social or economic sustainability, although it cannot *guarantee* sustainability for any of three. The Department recognizes that management of NFS lands can influence social and economic conditions relevant to a planning area, but cannot ensure social and economic sustainability because many factors are outside of the control and authority of the responsible official. For that reason, these alternatives would require that the plan components contribute to social and economic sustainability, and provide for ecological sustainability, within Forest Service authority and the inherent capability of the plan area. Alternative B does not address the relationship between ecological, social and economic sustainability.

Ecological sustainability would help provide people and communities with a range of social, economic, and ecological benefits now and in the future. In addition, plan

components would provide directly for a range of multiple uses to contribute to social and economic sustainability.

*Comment: Connecting people to nature.* Some respondents felt the rule should contain wording to encourage a sense of value for public lands necessary in maintaining these lands for enjoyment by future generations. In an increasingly urbanized society, they felt access to NFS lands is necessary for people to visit, learn, recreate, and generate their livelihood.

*Response:* Alternatives A, Modified A, D and E would recognize as part of the objective or purpose of the alternative in § 219.1(c) that NFS lands provide people with a range of benefits for the present and into the future, including opportunities for recreational, spiritual, educational, and cultural benefits. Modified Alternative A at § 219.8(b)(6) would require the responsible official take into account opportunities to connect people with nature.

*Comment: Cultural sustainability.* Some respondents felt the rule should include management of cultural resources as a separate aspect of sustainability. A respondent felt the proposed rule at § 219.8(b)(4) should be expanded to include “cultural landscapes.”

*Response:* No alternative creates a separate aspect of sustainability, but they all address cultural resources and uses. Alternatives A, Modified A, C, D, and E in § 219.1(c) recognize that NFS lands provide people and communities with a wide array of benefits, including cultural sustenance or cultural benefits. Alternatives A, Modified A, C, D, and E also include recognition of, and requirements for, “ecosystem services,” which include “cultural heritage values.” Alternatives A, Modified A, D, and E in §219.4 would require opportunities for public and Tribal participation and coordination throughout the planning process; and would require that the responsible official request “information about native knowledge, land ethics, cultural issues, and sacred and culturally significant sites” during consultation and opportunities for Tribal participation. Alternatives A, Modified A, D, and E in § 219.8(b) would recognize cultural aspects of sustainability by requiring cultural and historic resources and uses be taken into account when designing plan components to guide contributions to social and economic sustainability. Alternatives A, Modified A, D, and E in §219.10(b)(1) require “plan components...for a new plan or plan revision would provide for protection of cultural and historic resources,” and “management of areas of Tribal importance.” In addition, Alternatives A, Modified A, D and E require that plan content include descriptions of a unit’s roles and contributions within the broader landscape under § 219.7, which may include cultural resources.

Modified Alternative A’s definition for social sustainability recognizes the “relationships, traditions, culture, and activities that connect people to the land and to one another, and support vibrant communities.” Modified Alternative A § 219.6(b) would require the assessment to include identification and evaluation of information about cultural conditions and cultural and historic resources and uses.

*Comment: Local economies, communities, and groups.* Some respondents felt the rule should require coordination with or participation of local communities. Some respondents felt the rule should recognize that how units are managed can greatly influence local communities and economies. Some respondents felt the rule should include maintaining “vibrant communities.” Some respondents felt the proposed rule preamble discussion



about the Agency's relative influence over ecological as compared with social and economic sustainability was incorrect, as the Agency has more influence or impact on local communities than the preamble implied. A respondent felt the rule should consider all communities, not just local. A respondent felt the proposed rule inappropriately allows the Agency to dictate social and economic sustainability of local communities.

*Response:* Nothing in any alternative would dictate the social or economic sustainability of local communities – to the contrary, Alternatives A, Modified A, C, D, and E recognize that plans cannot dictate social or economic sustainability. These alternatives in §219.8 require that plans would include plan components to contribute to economic and social sustainability and in § 219.10 would require plans to provide for multiple uses. Under Alternatives A, Modified A, D and E § 219.4 would require the responsible official to engage local communities, as well as those interested at the regional and national levels, as well as to coordinate with other public planning efforts, including State and local governments, and Tribes.

Alternative H would require that responsible officials give greater consideration to the comments from individuals or groups in communities within or adjacent to NFS lands than to comments originating from outside these communities. This alternative was considered but dismissed from detailed analysis because it did not meet the purpose and need for being consistent with MUSYA and other legal obligations. For more detailed description of why this alternative was dismissed from detailed analysis, see Chapter 2 of the PEIS.

*Comment: Specific processes for assessing social and economic sustainability.* Some respondents felt the final rule should include specific processes for assessing social and economic sustainability, such as analyzing the role of forest receipts (Federal revenues that are shared with states and counties), on local economies. A respondent felt the proposed rule required less involvement by social and economic experts than by other types of experts or scientists.

*Response:* Alternative B does not explicitly discuss social and economic sustainability. Alternatives A, Modified A, C, D, and E provide a framework for plan development, amendment, and revision with flexibility to accommodate the continuously evolving range of social and economic conditions across the Forest Service administrative units. These alternatives do not prescribe a specific process for assessing and evaluating social and economic sustainability, nor do they include descriptions of area boundaries for social and economic impact analysis. Such direction, guidance, or advice, is more appropriate in the Forest Service directives. The public will be given an opportunity to review and comment on any Forest Service Manual or Forest Service Handbook revision associated with land management planning. Social, economic, and ecologic experts are all welcome to participate in the planning process. None of the alternatives discriminate or give more weight to one group or kind of expert over another.

### **Section 219.9 – Diversity of plant and animal communities.**

*Comment: Relationship between ecosystem diversity and species conservation.* Some respondents felt the proposed rule was confusing in its description of the relationship between the ecosystem diversity requirement in proposed § 219.9(a) and the species conservation requirement in § 219.9(b). They felt the complementary coarse-filter and

fine-filter strategy described in the preamble and DEIS was not clearly expressed in the proposed rule wording. Additionally, they felt it was unclear on how these two requirements would maintain the diversity of plant and animal communities and the persistence of native species within the plan area.

*Response:* The intent of this section of Alternatives A, Modified A, C, D, and E is to fulfill the diversity requirement of the NFMA, which directs the Forest Service to “provide for diversity of plant and animal communities based on the suitability and capability of the specific land area in order to meet multiple-use objectives, and within the multiple-use objectives of a land management plan adopted pursuant to this section, provide, where appropriate, to the degree practicable, for steps to be taken to preserve the diversity of tree species similar to that existing in the region controlled by the plan” (16 USC 1604(g)(3)(B)).

The intent of Alternatives A, Modified A, D, and E would be to adopt a complementary ecosystem and species-specific approach to provide for the diversity of plant and animal communities and the long-term persistence of native species in the plan area. Known as a coarse-filter/fine-filter approach, this is a well-developed concept in the scientific literature and has broad support from the scientific community and many members of the public. The premise behind the coarse-filter approach is that native species evolved and adapted within the limits established by natural landforms, vegetation, and disturbance patterns prior to extensive human alteration. Maintaining or restoring ecological conditions similar to those under which native species have evolved is intended to provide the best assurance against losses of biological diversity and maintains habitats for the vast majority of species in an area, subject to factors outside of the Agency’s control, such as climate change.

These ecological conditions should be sufficient to sustain viable populations of native plant and animal species considered to be common or secure within the plan area. These coarse-filter requirements are also expected to support the persistence of many species currently considered imperiled or vulnerable across their ranges or within the plan area.

For example, by maintaining or restoring the composition, structure, processes, and ecological connectivity of longleaf pine forests, national forests in the Southeast provide the ecological conditions that contribute to the recovery of the red-cockaded woodpecker (an endangered species) and conservation of the gopher tortoise (a threatened species), in addition to supporting common species that depend on the longleaf pine ecosystem.

Maintaining or restoring shortgrass prairies on national grasslands in the Great Plains contributes to the conservation of black-tailed prairie dogs (regional forester sensitive species (RFSS)), mountain plovers (proposed threatened), and burrowing owls (RFSS), in addition to supporting common species that depend on the shortgrass prairie ecosystem. Similarly, maintaining or restoring watershed, riparian, and aquatic conditions in the national forests in the Northeast contributes to the conservation of the eastern brook trout (RFSS), in addition to supporting common species that depend on functioning riparian areas and aquatic ecosystems in the area.

Alternatives A, Modified A, D, and E would further require additional, species-specific plan components, as a “fine-filter,” to provide for additional specific habitat needs or other ecological conditions of certain categories of species, when the responsible official

determines those needs are not met through the coarse-filter. In Alternatives A, Modified A, D and E the responsible official determines that compliance with the coarse-filter approach is insufficient to provide the ecological conditions necessary to contribute to the recovery of federally listed threatened and endangered species, conserve species that are proposed or candidates to Federal listing, or maintain within the plan area a viable population of a species of conservation concern, then additional species-specific plan components that would do so are required.

This provides the fine-filter complement to the coarse-filter approach. For example, while coarse-filter requirements to restore longleaf pine ecosystems may provide most of the necessary ecological conditions for the endangered red-cockaded woodpecker, additional fine-filter species-specific plan components may also be needed, for example, a plan standard to protect all known red-cockaded woodpecker cavity trees during prescribed burning activities. Examples for other species might include requiring proper size and placement of culverts to allow for aquatic organism passage on all streams capable of supporting eastern brook trout, or requiring closure devices on all cave and mine entrances to prevent the spread of white-nose syndrome to bat populations in the plan area.

Unlike Alternative B, Alternatives A, Modified A, D and E explicitly acknowledge that there are limits to Agency authority and the inherent capability of the land, and provides direction for circumstances in which factors outside the control of the Agency prevent the Agency from maintaining ecological conditions for a viable population of species of conservation concern within the plan area. In such cases, Alternatives A, Modified A, and E require that the Agency provide plan components to maintain or restore ecological conditions within the plan area for that species to contribute to a viable population across its range. Additionally, the responsible official would be required to reach out beyond NFS boundaries to land managers who have authority where the species exists or may exist, to coordinate management for the benefit of a species across its range. Alternative D requires, in these cases, that the Secretary must provide notice to the public, allow for public comment of at least 60 days and provide for the viability of that population to the maximum extent practicable and to ensure that any activity does not increase the likelihood of extirpation from the planning area.

Examples of factors outside the control of the Agency could include: a species needing an area larger than the unit to maintain a viable population; non-NFS land management impacts to species that spend significant parts of their lifecycle off NFS lands; activities outside the plan area (for example, increasing fragmentation of habitat or non- and point source pollution often impact species and their habitats, both on and off NFS lands); failure of a species to occupy suitable habitat; and climate change and related stressors, which could impact many species and may make it impossible to maintain current ecological conditions. Other stressors, such as invasive species, insects, disease, catastrophic wildfire, floods, droughts, and changes in precipitation, among others, may also affect species and habitat in ways that the Agency cannot completely control or mitigate.

1. In response to public comments, the Department clarified the wording and made additions to § 219.9 in Modified Alternative A to carry out the intent as described in the preamble to the proposed

rule. In addition in § 219.19 of Modified Alternative A, the Department defines native species as “an organism that was historically or is present in a particular ecosystem as a result of natural migratory or evolutionary processes; and not as a result of an accidental or deliberate introduction into that ecosystem. An organism’s presence and evolution (adaptation) in an area are determined by climate, soil and other biotic and abiotic factors.” Under Modified Alternative A by defining native species as a species that “was historically or is present in a particular ecosystem,” the Department is not suggesting that historically native species no longer present need to be reintroduced.

*Comment: Threatened, and endangered species.* Some respondents felt the Department should consult with the U.S. Fish and Wildlife Service and the National Marine Fisheries Service on potential effects to threatened and endangered species as a result of the proposed planning rule. Others felt recovery plans are not legally enforceable documents; therefore, they are not mandatory for Federal agency adoption.

*Response:* Beginning in 2009 and continuing through the development of this planning rule and its accompanying PEIS, representatives from the U.S. Fish and Wildlife Service and the National Marine Fisheries Service met regularly with the Forest Service to discuss ESA issues related to the proposed rule. The three agencies worked together to identify the relevant issues and appropriate level of analysis associated with the proposed rule and environmental analysis, and have consulted on the biological assessment. The Agency requested consultation with these regulatory agencies in July 2011. Additionally, the Agency requested conferencing on the potential effects of the proposed rule on all species proposed for Federal listing that currently occur on NFS lands and those that are candidates for Federal listing occurring on or are suspected to occur on NFS lands.

NFS lands are a major contributor to threatened and endangered species recovery plans and actions, maintaining habitat for such species as red-cockaded woodpecker, Canada lynx, bull trout, steelhead, and many other listed species. As part of the Forest Service mission, the actions needed to recover T&E species and maintain or restore critical habitats are a high priority. Under the ESA, the Forest Service is to carry out “programs and activities for the conservation of endangered species and threatened species” (16 USC 1536(a)(1)) and “insure that any action authorized, funded or carried out by [it] is not likely to jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of [designated critical habitat]” (16 USC 1635(a)(2)).

The Forest Service frequently collaborates with the U.S. Fish and Wildlife Service (USFWS) and the National Oceanic and Atmospheric Administration (NOAA) in the development and implementation of recovery plans for many species. The Forest Service will continue to work with USFWS, NOAA, States, and other partners to conserve and recover federally listed plant and animal species. In addition, the Agency will continue to evaluate effects of proposed management actions to T&E species or designated critical habitat. Consultation with the appropriate regulatory agency(s) will also occur at the plan development, amendment, or revision stage and again at the project stage, if they may

affect any federally listed species or designated critical habitat. Additional guidance would be forthcoming on procedures for conducting ESA § 7(a)(1) conservation reviews of plans in the Forest Service directives.

*Comment: Candidate and proposed species.* Many respondents supported the proposed rule requirement to conserve species that are candidates for Federal listing. Other respondents questioned why the proposed rule requires candidate species conservation as these species have not received Federal protection under ESA, and this may lead to more petitions for species listings being filed in the future and further limit the management options of the Agency.

*Response:* Under the ESA, candidate and proposed species do not receive the special legal protections afforded to threatened and endangered species. However, Alternatives A, Modified A, D and E would require plan components for those plant and animal species that are proposed or candidates for Federal listing that occur on NFS lands, in order to assist in their recovery such that a Federal listing is no longer required. Alternative B requires that habitat conditions be maintained to ensure viable populations of native and non-native desired vertebrate species, regardless of their status under ESA. Alternative C requires that plans must include plan components to provide for the diversity of plant and animal communities in the region controlled by the plan. The Department added definitions for “candidate species,” and “proposed species,” and “conserve” to § 219.19 of Modified Alternative A to clarify the definitions of these terms and to avoid misunderstanding.

*Comment: Authority for viability.* Some respondents felt the proposed rule’s concept of species viability may be outside the Agency’s authority to implement; they take the position that managing for species diversity and viability is the responsibility of State agencies, the National Marine Fisheries Service, and the U.S. Fish and Wildlife Service.

*Response:* The requirement, to “provide for diversity of plant and animal communities” as set forth under § 1604(g)(3)(B) of the NFMA, does not specifically reference the diversity or viability of particular species. It is a statutory requirement that there be a planning rule that provides for diversity. However, it is within the Department’s authority to determine policy and regulation to carry out the diversity provisions of NFMA. The PEIS sets forth a range of alternatives to meet the diversity requirements, some of which require maintaining viable populations of species and some which do not. The provisions in Alternative A, Modified A, and E are focused on providing the ecological conditions necessary to support the diversity and persistence of native plant and animal species.

*Comment: Species of Conservation Concern (SCC) and Viability.* Some respondents felt the rule should include the following wording from the 1982 rule regarding viability “fish and wildlife habitat shall be managed to maintain viable populations of existing native and desired non-native vertebrate species in the planning area.” Some felt this standard should be extended to plants and invertebrates as well as vertebrates, and not only to SCC. Some respondents felt the proposed rule weakens current protections for plant and animal species therefore, the rule needs inclusion of clear, strong requirements focused on protecting and maintaining all native species within a plan area. On the other hand several respondents felt the proposed requirement to maintain viability of SCC is too expensive and cumbersome to implement. They felt this requirement is unattainable and

procedurally impossible to demonstrate. Some respondents were opposed to the proposed rule's requirement extending population viability to all native species as it could lead to the possibility of maintaining viable populations of invertebrates, fungi, microorganisms, and other lower life forms, which these respondents suggest is inappropriate and beyond the Agency's authority.

*Response:* Alternative B requires that habitat shall be managed to maintain viable populations of native and desired non-native vertebrate species in the planning area. There may be hundreds of vertebrate species on a particular plan area. For some vertebrate species there may be little scientific information about their life requirements and habitat relationships, even though they may be considered common and secure within habitats provided on a NFS unit. For other vertebrate species, the requirement to maintain viable populations in the planning area may be unattainable, for reasons outside of the Agency's control.

Alternatives A, Modified A, D and E adopt a complementary ecosystem and species-specific approach and a focus on species-specific management attention on those species that are vulnerable. Ecosystem (coarse-filter) plan components are expected to provide the necessary ecological conditions for species that are common, with viable populations in the plan area and no reason for concern about their ability to persist in the plan area over the long term. For species that are known to be imperiled (threatened, endangered, proposed and candidate species), Alternatives A, Modified A, D, and E would require coarse-filter, and where necessary, fine-filter plan components to provide ecological conditions that contribute to recovery or conservation of the species, recognizing that there is likely not a viable population of such species in the plan area at the time of plan approval.

Alternatives A, Modified A, and E recognizes that there is a third category of species: species that are vulnerable within the plan area, but not federally recognized for purposes of the ESA. These are species, for which the best available scientific information indicates a substantial concern about the species' capability to persist in the plan area over the long term. The Department called this category "species of conservation concern." Under Modified Alternative A, these species must also be known to occur in the plan area. For this category of species, these alternatives would require coarse-filter, and where necessary, fine-filter plan components to provide ecological conditions to maintain a viable population of such species within the plan area, where it is within Forest Service authority and the inherent capability of the land to do so. If providing the ecological conditions to maintain a viable population within the plan area is beyond Forest Service authority or the inherent capability of the land, then these alternatives would require coarse-filter, and where necessary, fine-filter plan components to provide ecological conditions to contribute to maintaining a viable population of the species within its range, coordinating to the extent practicable with other land managers that have authority over lands relevant to that population. For example, if a unit is incapable of providing a sufficient amount of the ecological conditions necessary to maintain a viable population of a species of conservation concern within the plan area, then the responsible official must include plan components that provide the ecological conditions in the plan area necessary to contribute to a viable population of that species in the broader landscape, working in coordination with other relevant land managers.

Alternative D requires that plan areas be managed to provide viable populations of native and desired non-native species and includes allowances for circumstances in which extrinsic conditions make maintaining viable populations within the plan area impossible. Alternative D includes requirements for coordination with other NFS units and other agencies for maintaining viable populations of species.

The Department has the authority to include requirements for species other than vertebrate species under the NFMA and the MUSYA. Non-vertebrate species can be federally recognized as threatened or endangered. In addition, the Agency has developed and maintained a list of regional forester sensitive species (RFSS) for over two decades. The RFSS list can include any native plant or animal species. RFSS are those plant and animal species identified by a regional forester for which population viability is a concern, as evidenced by: (a) significant current or predicted downward trends in population numbers or density. (b) significant current or predicted downward trends in habitat capability that would reduce a species' existing distribution. RFSS are similar to SCS. The conservation and management of many RFSS has been a part of many land management plans and projects and activities for decades. The projected costs of carrying out the alternatives are found in the final PEIS.

*Comment: Identification and definition of species of conservation concern.* Some respondents felt the proposed rule was unclear on who the responsible official for identifying SCC was, what criteria would be used to identify SCC; and whether or not that criteria should be established in the planning rule. Some respondents offered suggested criteria for identifying SCC. Several respondents expressed concern the proposed rule provides too much discretion to the responsible official in deciding which species will receive protection.

*Response:* Alternatives A, Modified A, and E include requirements for SCC. In Alternatives A and E the responsible official would normally be the forest supervisor. In Modified Alternative A the regional forester would identify the SCC in coordination with the responsible official.

Modified Alternative A adopts a different definition of SCC than Alternatives A and E. Alternatives A and E define SCC as species other than federally listed threatened or endangered species or candidate species, for which there is evidence demonstrating significant concern about its capability to persist over the long-term in the plan area. Under Modified Alternative A, a SCC is defined as a species, other than federally recognized threatened, endangered, proposed, or candidate species, that is known to occur in the plan area and for which the regional forester has determined the best available scientific information indicates substantial concern about the species' capability to persist over the long-term in the plan area.

*Comment: Circumstances not within Forest Service authority, consistent with the inherent capability of the plan area.* Some respondents felt the rule needs to clarify what is meant by “within Forest Service authority, and consistent with the inherent capability of the plan area,” to provide consistency in their application and intent. Others felt use of these terms allowed the Agency to avoid responsibilities for maintaining the diversity of plant and animal communities and the persistence of native species within the plan area. Still others felt the rule should describe the types of circumstances that make the

Agency's ability to meet the requirement for maintaining viable populations of species of conservation concern infeasible or impractical. Some respondents said the rule should provide more discretion and flexibility.

*Response:* The acknowledgment of limits to Agency authority and the inherent capability of the land in Alternative A, Modified A, and E do not allow the Agency to avoid responsibility for maintaining the diversity of plant and animal communities and the persistence of native species within the plan area. These limits exist whether they are acknowledged in an alternative or not. The intent of these alternatives is to acknowledge that there are some circumstances outside of Agency control.

The "inherent capability of the land" is defined in § 219.19 of Modified Alternative A as "the ecological capacity or ecological potential of an area characterized by the interrelationship between the physical components of an area, its climatic regime, and the natural disturbances." Examples of circumstances where the plan area may lack the inherent capability to maintain a viable population of a species within the plan area include where a plan area is not large enough to produce sufficient habitat on the unit or where, due to current or projected changes in climate, it would be impossible for the plan area to produce or maintain the required amount or quality of habitat conditions necessary to sustain the species.

There may also be circumstances where the plan area has the inherent capability over time to provide for certain ecological conditions, but cannot produce such ecological conditions within the lifetime of the plan: for example, where a species needs old growth or late successional habitat where there is none (for example, where bark beetle has killed all of the late successional stands in a plan area). The plan would include plan components to move the plan area towards providing that habitat in the future, but would not have the capability to produce it instantly.

Examples of circumstances not within the authority of the Agency include land use patterns on private lands within or adjacent to NFS units that fragment and reduce habitat for a species whose range extends well beyond the plan area; habitat loss or degradation along important migration routes or wintering grounds for a species who spends some of its life history on other lands or in other countries; or the influence of disease or invasive species.

*Comment: Diversity of tree and other plant species.* Some respondents felt the proposed rule was not protective enough of the diversity of tree and other plant species. Others felt the rule should have specific requirements for old growth and large, intact blocks of forest; leaving more snags and dead wood; reforestation guidelines that include diverse tree mixtures; and use of herbicides.

*Response:* The Department based the requirements of § 219.9(c) in Alternatives A, Modified A, D, and E on the NFMA wording.

Section 219.8(a)(2) of Alternatives A, Modified A, D and E require plan components to maintain or restore terrestrial elements and rare aquatic and terrestrial plant and animal communities which may include old growth

Modified Alternative A would require plan components to provide for key characteristics associated with terrestrial and aquatic ecosystem types and rare aquatic and terrestrial



plant and animal communities, which may include old growth stands, meadows, snags, or other characteristics.

Alternative I would result in a very prescriptive planning rule that would include national standards for all aspects of land management plans. This alternative was considered but dismissed from detailed analysis because it did not meet the purpose and need for a responsive, efficient and effective planning rule. For further discussion of this alternative, see Chapter 2 of the PEIS.

*Comment: Additional species comments.* Some respondents felt the rule should include direction on species assessments, developing the coarse-filter, and disclosing specific environmental effects.

*Response:* A planning rule is intended to provide overall planning direction applicable throughout the entire National Forest System. Alternative D does include requirements for species viability assessments. Alternative E includes more specific requirements for assessments than all other alternatives. Alternative F (the 200) planning rule) includes requirements for viability assessments and extensive requirements for scientific participation and oversight. Alternative F was considered but dismissed from detailed analysis because it did not meet the purpose and need for a responsive, efficient, and effective planning rule. For further discussion of this alternative, see Chapter 2 of the PEIS.

The approach of Alternative A and Modified A is that this level and specificity of guidance is more appropriately found in the Forest Service Directives System and/or in the plans themselves or in the subsequent decisions regarding projects and activities on a particular NFS unit.

*Comment: “survey and manage.”* Several respondents requested the planning rule require “survey and manage” procedures currently employed in the Pacific Northwest under the Northwest Forest Plan. Several respondents said one foreseeable outcome of the proposed rule could be court ordered service-wide requirements for “survey and manage” as they believe is currently mandated in the Northwest Forest Plan. One respondent believes by expanding the requirements for viability beyond vertebrates the Forest Service will be forced to use “survey and manage” procedures of the Northwest Forest Plan on a nationwide basis.

*Response:* No alternative would require “survey and manage” procedures similar to those in the Northwest Forest Plan. “Survey and manage” is a Northwest Forest Plan program where, before ground disturbing projects can be approved, the Forest Service must inventory late successional and old structure stands for nearly 400 species including fungi, lichens, bryophytes, mollusks, and several vascular plants, arthropods and vertebrates. Modified Alternative A clarifies that species of conservation concern must be known to occur in the plan area.

The intent of Alternatives A, Modified A, and E is to require land management plans to include plan components designed to maintain or restore ecological conditions that provide for long-term persistence for all native species known to occur on NFS lands. These alternatives provide this through a three-fold treatment of all native species, within the Forest Service authority and the inherent capability of the plan area. First, the long-

term persistence of species that are common, secure, or apparently secure is presumed to be supported by coarse-filter conditions provided by plan components in § 219.9(a). Second, species that are federally recognized species under ESA (threatened, endangered, proposed, and candidate species) may not have viable populations on NFS lands and whose recovery, in most cases, cannot be achieved on a single NFS plan area. The intent of Alternatives, A, Modified A, and E is that the responsible official would develop coarse-filter plan components and fine-filter plan components, where necessary, to contribute to the recovery of listed species and conserve proposed and candidate species in § 219.9(b). Third, 219.9(b) would require the responsible official to develop coarse-filter plan components and fine-filter plan components, where necessary, that are designed to provide the desired ecological conditions necessary to maintain viable populations of species of conservation concern within the plan area. Species of conservation concern are those plant and animal species whose long-term persistence within the plan area is of known conservation concern. Species for which the best available scientific information does not indicate a substantial concern about their capability to persist are presumed to be supported by ecological conditions provided by the coarse-filter plan components in § 219.9(a). Where little or no information about a species' status is available, the responsible official is not obligated to acquire new information or conduct surveys or inventories under this final rule.

#### **Section 219.10 – Multiple Use.**

*Comment: Inclusion of MUSYA, multiple use.* Some respondents felt proposed § 219.10 does not specifically reference MUSYA. Other respondents felt that administering the NFS lands for multiple uses should not be included in the final rule. Some respondents requested the rule include specific uses.

*Response:* The MUSYA has guided NFS management since it was enacted in 1960, and will continue to do so, regardless of whether it is specifically referenced in this section, or any other section, of any alternative. The original purposes for which national forests may be established and administered were identified in the Organic Administration Act: “to improve and protect the forest within the boundaries, or for the purpose of securing favorable conditions of water flows, and to furnish a continuous supply of timber for the use and necessities of citizens of the United States.” (Act of June 4, 1897 (16 U.S.C. 475)).

The MUSYA expanded on those original purposes and states that the Forest Service is to “administer the renewable surface resources of the national forests for multiple use and sustained yield of the several products and services obtained there from.” (16 U.S.C. 529). The Act defines “multiple use” as “The management of all the various renewable surface resources of the national forests so that they are utilized in the combination that will best meet the needs of the American people; making the most judicious use of the land for some or all of these resources or related services \* \* \*.” (16 U.S.C. 531(a)).

The Department acknowledges and applies the MUSYA throughout the all alternatives analyzed in detail. Alternatives A, Modified A, C, D, and E, § 219.1(b), state that the Forest Service manages the NFS to sustain the multiple uses of its renewable resources in perpetuity while maintaining the long term health and productivity of the land. The rest of the sections in subpart A of these alternatives give additional direction on how to do

that. The assessment phase and public participation would help the responsible official determine the range of ecosystem services and multiple uses provided by the unit. Modified Alternative A § 219.10 would require plan components to provide for ecosystem services and multiple uses, using an integrated approach to resource management. Under Alternatives A, Modified A, D, and E plan components would be informed by the assessment, public input, and the best available scientific information, as well as monitoring.

Alternatives H, J, and K, which emphasize or limit particular multiple uses were considered and dismissed from detailed analysis because, in part, they did not meet the purpose and need for being consistent with the MUSYA. See Chapter 2 of the PEIS for further discussion of these alternatives.

*Comment: Ecosystem services and methods for assessing multiple use.* Some respondents felt the proposed rule improperly expands the MUSYA's specified multiple use purposes to include ecosystem services, which the proposed rule defines as educational, aesthetic, spiritual, and cultural heritage values. Some respondents felt ecosystem services should be determined by research.

*Response:* Alternatives A, Modified A, C, D, and E discuss ecosystem services. The Department believes that providing for ecosystem services is consistent with the MUSYA, which directs the Agency to “administer the renewable surface resources of the national forests for multiple use and sustained yield of the several products and services obtained therefrom” (16 U.S.C. 529). MUSYA anticipated and provided for “periodic adjustment in use to conform to changing needs and conditions.” (16 U.S.C 531). Ecosystem services may be a relatively new term, but the Department believes it is entirely within the scope of the Act to acknowledge that the “several products and services obtained” from national forests and grasslands incorporates the full range of values, resources, uses and benefits that these lands provide. Therefore alternatives that included requirements for ecosystem services were determined to meet the purpose and need.

In Modified Alternative A, the phrase “multiple uses, including ecosystem services” has been changed throughout the alternative to “ecosystem services and multiple uses.”

*Comment: Relations of ecosystem services to other multiple uses.* Some respondents felt proposed § 219.10 gave ecosystem services higher priority than other multiple uses.

*Response:* No alternative analyzed in detail prioritizes ecosystem services above multiple uses. Alternatives A, Modified A, C, D, and E would provide an integrated resource management approach, where interdependent elements of sustainability are considered as a whole, instead of as separate resources or uses. Under any alternative, the mix of plan components included in each plan would reflect local conditions in the broader landscape, the best available scientific information, and public input.

*Comment: Procedures for economic analysis.* Some respondents felt the rule should include specific economic indicators for the economic analysis, the model paradigm for social and economic resources, and means of weighing relative values of multiple uses. Some respondents suggested the rule should include specific procedures for analysis of

ecosystem services. Several respondents suggested the rule include specific methods for assessing multiple uses.

*Response:* Alternative I would result in a very prescriptive planning rule that would include national standards for all aspects of land management plans. This alternative was considered but dismissed from detailed analysis because it did not meet the purpose and need for a responsive, efficient and effective planning rule. For further discussion of this alternative, see Chapter 2 of the PEIS.

Alternatives A, Modified A, C, D, and E do not include this type of guidance. Instead they adopt the approach that this level of specificity is more appropriate in the Agency's directives, because methods, models, and indicators will alter over time. In addition, economic information and models represent one kind of best available scientific information that the responsible official must use to inform the planning process and plan components. Alternative B requires an analysis of management situation including economic indicators such as monetary benchmarks which estimate the present net value of those resources having a as established market or assigned value (219.12).

*Comment: Identification of those providing multiple use information.* Some respondents felt the rule should specify who should be included to provide information about multiple uses.

*Response:* All alternatives analyzed in detail require that the responsible official provide opportunities for public participation. Alternatives A, Modified A, C, D, and E require the responsible official to provide opportunities for public participation in all phases of the planning process. Alternatives A, Modified A, D, and E § 219.3 would require the identification of the best available scientific information; and § 219.6 would require identifying and evaluating existing information relevant to the plan area, including with regard to multiple uses. Monitoring would also provide information about multiple uses. Communities, groups, or individuals interested in these issues can provide input on plan components for multiple uses by becoming engaged in the public participation process.

*Comment: Specific objectives and prohibitions.* Several respondents felt the final rule should establish specific objectives for resources and prohibitions of uses. Several respondents requested that the rule include specific uses. Some respondents were for and others against a rule requirement for specific ecosystem services. Some respondents felt the rule provides the responsible official with too much discretion over multiple uses and instead should prioritize multiple uses or require inclusion of specific multiple uses. Some respondents felt it was unclear if multiple uses listed in proposed § 219.10 would have priority over those not listed.

*Response:* All alternatives recognize that conditions on each plan area would vary. Alternatives A, Modified A, C, D, and E focus on providing a framework for sustainability and integrated resource management and requiring associated plan components. These alternatives would include direction for the responsible official to identify, evaluate, and consider all relevant resources when developing plan components for ecosystem services and multiple uses. Under all alternatives, objectives for resources and constraints on uses would be established by the responsible official in the plans themselves, or in the subsequent decisions regarding projects and activities. Agency regulations at 36 CFR part 261 establish certain national prohibitions. None of the

alternatives analyzed in detail would prioritize multiple uses, rather, they require the responsible official to provide plan components for integrated resource management, based on the resources and uses relevant to the plan area. Alternatives H, J, and K, which emphasize or limit particular multiple uses were considered and dismissed from detailed analysis because, in part, they did not meet the purpose and need for being consistent with the MUSYA. See Chapter 2 of the PEIS for further discussion of these alternatives.

*Comment: Mineral exploration and development.* Some respondents felt that the Forest Service should establish specific, detailed requirements to address mining of mineral resources on NFS lands while some respondents felt the Forest Service fails to address delays and impediments to mineral exploration and development caused by the failure of the rule to address minerals consistent with applicable statutes.

*Response:* No alternative would impose requirements that would create inconsistencies with existing laws or regulations governing mineral exploration and development on Federal lands. Plans developed under any alternative must comply with all applicable laws and regulations. It is not expected that any alternative would cause delays or impede mineral exploration and development on NFS units. Section 219.10(a) of Alternatives A, Modified A, D, and E specifically recognize mineral resources and direct the responsible official to consider mineral resources when developing plan components for integrated resource management for multiple use and sustained yield under the MUSYA. In addition, § 219.8 of Alternatives A, Modified A, D, and E would require the responsible official take into account multiple uses that contribute to the local, regional or national economies.

Alternative B requires that mineral exploration and development in the planning area be considered in the management of renewable resources and includes a requirement that such things as active mines, outstanding or reserved rights, the probable occurrence of various minerals and potential for future mineral development be considered (§219.22).

*Comment: Relationship of livestock grazing with ecological sustainability and other uses.* Some respondents felt range resource activities should not be supported in the rule, while others felt they should be supported. Some respondents felt the rule should include more specific direction for livestock grazing.

*Response:* The MUSYA specifically provides that range is one of the multiple uses for which the national forests are managed. The intent of Alternatives A, Modified A, D and E would be to set the stage for a planning process that is responsive to the multiple use desires and needs of present and future generations of Americans.. Alternative D does preclude grazing on NFS units, but would likely exclude it from most riparian areas.

*Comment: Game species.* Some respondents felt the rule should include requirements for species that are hunted, fished, or trapped, including recognition of their social and economical importance to sportsman, photographers, and other enthusiasts who enjoy viewing all wildlife. Several Indian Tribes and State game and fish departments said that certain species play a special role in contributing to social, cultural, and economic sustainability, and that plans should consider habitat for those species beyond what is required to provide diversity.

*Response:* The Agency recognizes the important role of NFS lands in providing the habitat for these species. Alternatives A, Modified A, and E would require plan components designed to meet the ecosystem integrity and ecosystem diversity requirements of § 219.9, along with additional components where needed if the species is in the categories listed in § 219.9(b), would provide the habitat and other ecological conditions necessary to support these species. Sections 219.6, 219.8 and 219.12 of Modified Alternative A recognize the importance of outdoor recreation opportunities and uses, including hunting and fishing. Section 219.10 of Alternatives A, D, and E would require consideration of habitat conditions for wildlife, fish, and plants commonly enjoyed and used by the public for hunting, fishing, trapping, gathering, observing, and subsistence. This provision is not intended to require that units maintain ecological conditions that meet all population goals of State agencies, however. Modified alternative A would add a provision that such consideration is to be done in collaboration with federally recognized Tribes, Alaska Native Corporations, other Federal agencies, and State and local governments.

*Comment: Recreational priority and opportunities.* Several respondents felt recreation and its relationship with ecological sustainability deserves greater importance in the rule, including discussion of specific recreational opportunities under a separate section. Other respondents felt more specific requirements for recreational activities and opportunities should be included in the rule. Some respondents felt it was inappropriate to include recreational facilities with transportation and utility corridors as examples of infrastructure.

*Response:* All alternatives recognize the importance of recreation, both for its contributions to economic and social sustainability, and as an important use connecting people to the land. The high value placed on recreation has been a common theme throughout the public participation process leading to developing the alternatives. Americans make over 170 million visits to national forests and grasslands each year. These visits provide an important contribution to the economic vitality of rural communities as spending by recreation visitors in areas surrounding national forests amounts to nearly 13 billion dollars annually. Recreation is also a critical part of social sustainability, connecting people to nature, providing for outdoor activities that promote long-term physical and mental health, enhancing the American public's understanding of their natural and cultural environments, and catalyzing their participation and stewardship of the natural world.

Alternatives A, Modified A, C, D, and E would provide direction for sustainable recreation throughout the planning process. Under these alternatives the term “sustainable recreation” is used to recognize that planning should identify, evaluate, and provide a set of recreational settings, opportunities and access for a range of uses, recognizing the need for that set to be sustainable over time. Ecosystem services include “cultural services” such as recreational experiences, and social sustainability recognizes the activities and traditions that connect people to the land. These five alternatives recognize and state in § 219.10 or § 219.19 that recreational opportunities include non-motorized, motorized, developed, and dispersed recreation on land, water, and in the air. Examples include activities such as hiking, biking, hunting, fishing, horseback riding, skiing, off-highway vehicle use, camping, picnicking, bird and other wildlife watching, canoeing, kayaking,

geocaching, and many more. Alternative B includes several planning requirements for providing for a broad spectrum of forest and rangeland related outdoor recreation opportunities §219.21. Alternative K would require that NFS lands be managed primarily for recreation. This alternative was considered but dismissed from detailed analysis as it did not meet the purpose and need for being consistent with the MUSYA.

Section 219.10 of Alternatives A, Modified A, D, and E would require plan components to provide for multiple uses including outdoor recreation. Under Modified Alternative A, the responsible official would consider aesthetic values, ecosystem services, recreation, and habitat conditions specifically for species used and enjoyed by the public for recreational opportunities such as hunting, fishing, and wildlife observation. Responsible officials would also consider management of infrastructure, including recreational facilities. Alternatives A, Modified A, D, and E would require that plan revisions and new plans include plan components to provide for sustainable recreation; including recreation settings, opportunities, access; and scenic character. Section 219.12 of Alternatives A, Modified A, D, and E would require monitoring for visitor use and progress toward meeting recreational objectives.

*Comment: Objectives, standards and guidelines for sustainable recreation.* Several respondents felt the rule should require the plan to identify objectives, standards, and guidelines for sustainable recreation. A respondent felt the rule should use the term “must” instead of “should” with respect to identifying recreational settings, and desired conditions for scenic landscape character. Some respondents felt the proposed rule provision that the plan should identify desired conditions for “scenic landscape character” was too narrow; others felt it expanded Agency authorities beyond legal mandates.

*Response:* No alternative identifies specific objectives, standards, or guidelines for sustainable recreation. Specific direction or guidance for specific uses would be included in the Forest Service Directives System, the plans themselves, and/or in the subsequent decisions regarding projects and activities. The requirement in § 219.10(b)(1)(i) of the proposed rule is changed in Modified Alternative A; where the proposed rule provided that the plan “should identify recreational settings and desired conditions for scenic landscape character,” Modified Alternative A would require that a new plan or plan revision must include plan components, including standards or guidelines, to provide for sustainable recreation; including recreation settings, opportunities, and access; and scenic character. In Modified Alternative A the term “landscape character” in § 219.19 of Alternative A has been replaced with “scenic character” to clarify what resource is being considered. Alternative B includes several planning requirements for providing for a broad spectrum of forest and rangeland related outdoor recreation opportunities §219.21. Alternative I would result in a very prescriptive planning rule that would include national standards for all aspects of land management plans. This alternative was considered but dismissed from detailed analysis because it did not meet the purpose and need for a responsive, efficient and effective planning rule. For further discussion of this alternative, see Chapter 2 of the PEIS.

*Comment: Use of land allocations.* Some respondents felt the rule should require land allocations to allow the Agency to establish a recreation zoning system.

*Response:* The intent of section 219.7(d) of Alternatives A, Modified A, C, D, and E is to require management areas or geographic areas in every plan. Under any alternative a plan could include management areas based on recreation settings and opportunities

*Comment: Preservation easement.* A respondent expressed concern that the Agency is considering putting grazing allotments under a “preservation easement.”

*Response:* “Preservation easements” were not are not included in any alternative. All alternatives analyzed in detail are consistent with the NFMA and the MUSYA.

*Comment: Protection of cultural and historic resources.* Several respondents felt the proposed rule would allow responsible officials to damage or destroy cultural and historic resources if done for the purpose of achieving other resources objectives. Some respondents felt specific direction for management of cultural and historic resources and uses should be added to the rule. Some respondents suggested that §219.10(b)(1)(ii) include protection of the “uses” and “cultural landscapes.” Other respondents felt the rule should establish priorities between cultural and historic resources and other resource objectives.

*Response:* All alternatives would provide direction for cultural and historic resources throughout the planning process. Under Alternatives A, Modified A, D, and E the assessment phase would require identifying and evaluating information about cultural and historic resources and uses and areas of Tribal importance, in addition to ecosystem services, which include “cultural services.” Under Alternatives A, Modified A, D, and E § 219.8 also would require the responsible official to take cultural and historic resources in the plan area into account when developing plan components to contribute to economic sustainability and social sustainability.

Section 219.10 (b) of Alternatives A, Modified A, C, D, and E requires that plan components would provide for the protection of cultural and historic resources. The use of the word “protect” is to ensure that the responsible official takes into account the effect a plan may have on cultural and historic values and provide for these resources, within the context of managing for multiple use purposes. It does not create a preservation mandate, but where actions might impair the resources or use, the Department expects that responsible official would seek to avoid or minimize potential harm by following established procedures for cultural and historic resource management. No alternative removes or changes Agency obligations to meet the National Historic Preservation Act and other laws and Executive orders for the protection of these resources.

Section 219.10 (b) of Modified Alternative A would require that the responsible official consider cultural and heritage resources, habitat conditions for species used and enjoyed by the public, and opportunities to connect people with nature, when developing plan components for integrated resource management to provide for ecosystem services and multiple uses, which include cultural and historic resources and uses.

Alternative B includes several specific requirements for the identification, protection, interpretation and management of significant cultural resources on NFS lands including providing for evaluation and identification of appropriate sites (§ 219.24).

*Comment: Non-Tribal indigenous rights.* Several respondents stated the final rule should address the management of areas of importance for non-Tribal indigenous entities with



pre-existing cultural and natural resources access, maintenance and use rights based on historical and documented claims to lands now managed by the Forest Service.

*Response:* All alternatives analyzed in detail would result in plans consistent with Section 219.1 of Alternatives A, Modified A, C, D, and E which states that the planning rule “does not affect treaty rights or valid existing rights established by statute or legal instruments.” Section 219.4(a) of Alternatives A, Modified A, D, and E would require the responsible official to provide opportunities for public participation, during which non-Tribal indigenous entities can inform the responsible official of areas of importance to them. Section 219.6(a)(1) of Modified Alternative A would require the responsible official to identify and consider, “relevant information, including local knowledge,” and to identify areas of Tribal importance, as well as cultural and historic resources and uses. Section 219.10 of Alternatives A, Modified A, D, and E would require plan components to provide for management of areas of Tribal importance. Under any alternative specific issues of access and use would be addressed at the levels of unit planning or project or activity planning.

*Comment: Spiritual sustenance.* Some respondents felt the rule should not provide for spiritual sustenance, because there is no legal mandate for doing it. A respondent stated that the First Amendment prohibits “making of any law respecting an establishment of religion.”

*Response:* Alternatives A, C, D, and E recognize in § 219.1(c) and in the definition of “ecosystem services” that spiritual sustenance is one of the benefits people derive from the NFS. Based on public concern regarding the use of this phrase, Modified Alternative A replaces the phrase spiritual sustenance with spiritual benefits. Managing NFS lands and resources such that they provide opportunities for spiritual benefits does not establish a religion, and no preference is given to one religion over another.

*Comment: Management of wilderness areas and areas recommended for wilderness designation.* Some respondents felt the rule should ensure wilderness protection is not extended to recommended wilderness areas so de facto wilderness areas are not created by the Agency. Some respondents felt the rule should address activities affecting designated wilderness areas or with the potential to degrade areas recommended for wilderness and reduce their potential for designation. One respondent stated the rule should include wilderness management direction parallel to the Wilderness Act wording. Another respondent felt the rule should provide wilderness management flexibility to respond to changing conditions.

*Response:* Wilderness areas provide important places for recreation, solitude, and renewal; are refuges for species; and can attract tourism that benefits rural economies. Section 219.1 of Alternatives A, Modified A, C, D, and E state plans must comply with all applicable laws and regulations, including the Wilderness Act. This requirement, in addition to related requirements in §§ 219.7 and 219.10, reflect the Agency’s responsibilities under the Wilderness Act and are consistent with the recognition in the MUSYA that wilderness is a valid multiple use purpose.

The protection of designated wilderness areas is a requirement of law. Management of areas recommended for wilderness designation to protect and maintain the characteristics that provide the basis for their suitability for designation is lawful and within the

Agency's authority. In fact, many State wilderness acts require that any areas recommended for wilderness designation are to be managed for the purpose of protecting the area's suitability for wilderness. The Utah Wilderness Act of 1984 is one example.

The Department believes the requirements of all alternatives for wilderness would meet the Agency's intent to ensure that the types and levels of use allowed in recommended wilderness would maintain wilderness character and would not preclude future designation as wilderness. Specific direction regarding incompatible uses in recommended wilderness areas would be found in the Forest Service Directives System and in plans themselves.

In Modified Alternative A, the Department changed the wording of § 219.10(b)(iv) from "protection of wilderness areas as well as the protection of recommended wilderness areas to protect the ecologic and social values and character for which they might be added to the National Wilderness System," in Alternative A to "protection of congressionally designated wilderness areas as well as management of areas recommended for wilderness designation to protect and maintain the ecological and social characteristics that provide the basis for their suitability for wilderness designation."

*Comment: Responsible official discretion to recommend areas for wilderness designation.* Some respondents felt the proposed rule provides the responsible official with too much discretion about evaluations for, determinations of, and management of areas recommended for wilderness designation.

*Response:* It was the Department's intent that all alternatives would require the identification and evaluation of areas that may be suitable for inclusion in the National Wilderness Preservation System. Under all alternatives public input during the opportunities for public participation would help the responsible official determine whether to recommend any such areas for wilderness designation. State wilderness acts, typically require the Forest Service to review the wilderness option of areas during plan revision. The Utah Wilderness Act of 1984 is one example. The responsible official's recommendation in a plan is not the President's recommendation to Congress. So, the recommendation is not necessarily what is recommended to Congress. The Agency's process for identifying and evaluating areas for recommendation is established in the Forest Service Directives System in the Forest Service Handbook 1909.12, which would be revised and made available for public comment. Specific direction and requirements for management of wilderness areas are also included in the Forest Service Directives System, and are in the process of being revised and put out for public comment.

*Comment: Wilderness designation.* Several respondents felt that the Agency should increase wilderness areas, while others felt that the Agency should reduce wilderness areas.

*Response:* Only Congress has the authority to designate wilderness areas or change the boundaries of designated wilderness areas, under the Wilderness Act of 1964. Wilderness areas provide a number of benefits, and the MUSYA recognizes wilderness as a valid multiple use purpose. Under all alternatives, the responsible official would determine whether or not to recommend any new areas for designation as part of the planning process.

*Comment: Wild and scenic river protection.* Some respondents supported protection of rivers not designated as a wild and scenic river, while others did not. One respondent commented that proposed § 219.10(b)(1)(v) provides protection for only eligible rivers.

*Response:* The Wild and Scenic Rivers Act requires “every wild, scenic, or recreational river in its free-flowing condition, or upon restoration to this condition, shall be considered eligible for inclusion in the national wild and scenic river system.” To be eligible for inclusion, a river must be free-flowing and, with its adjacent land area, possess one or more “outstandingly remarkable” values. The determination of eligibility is an assessment that does not require a decision or approval document, although the results of this inventory need to be documented as a part of the plan document or plan set of documents.

Once a river is determined to be eligible, a suitability study gives the basis for determining which rivers to recommend to Congress as potential additions to the National Wild and Scenic Rivers System (National System). Therefore, under any alternative it would be appropriate and consistent with the Act for the Agency to protect rivers determined to be suitable until Congress decides on designation and those eligible until the Agency determines if the rivers are suitable for the values for which they may be included in the national wild and scenic river system. Modified Alternative A includes suitable rivers in § 219.10(b)(1)(v).

*Comment: Special designations.* Some respondents felt the rule should provide for special designations including a comprehensive list of designated or recommended special areas. Several respondents felt the rule should include specific procedures for identifying areas for special designation. A respondent felt the rule should provide the responsible official the opportunity to designate special areas.

*Response:* The Agency manages many kinds of designated areas in addition to wilderness areas and wild and scenic rivers, including experimental forests, national heritage areas, national monuments, national recreational areas, national scenic trails, research natural areas, and scenic byways. Under any alternative, designated areas may be established in the land management planning process if responsible officials have the delegated authority to do so; or designated areas may be established by a separate process by statute or by an administrative process in accord with NEPA requirements and other applicable laws. Specific guidance on designation procedures is more appropriate for the Agency’s directives, and is not found in any alternative. Section 219.10(b) of Alternatives A, Modified A, C, D, and E require plan components to provide for the “appropriate management of other designated or recommended special areas in the plan area, including research natural areas.”

Under Modified Alternative A the definition of designated areas in § 219.19 clarifies that designated areas may be established in the land management planning process. Under Modified Alternative A, section 219.7(c)(2) states that responsible officials may designate an area if they have the delegated authority to do so.

### **Section 219.11 – Timber requirements based on the NFMA.**

*Comment: Timber harvest for other purposes.* Some respondents felt the proposed rule at § 219.11(b)(2) was either too discretionary or too restrictive in meeting NFMA’s

allowance for salvage sales on unsuitable lands. Some respondents felt the proposed rule should prohibit timber harvesting on unsuitable lands or ensure timber salvage sales on unsuitable lands be solely for non-commercial purposes.

*Response:* Today, timber harvest is often used to achieve ecological conditions and other multiple use benefits for purposes other than timber production. Consistent with NFMA's requirements, § 219.11(c) of Alternative A allows timber harvest for salvage, sanitation or public health or safety in areas not suitable for timber production. Timber harvest for other purposes under any alternative may use commercial timber sales as a tool to accomplish the desired work. Under Alternatives A, Modified A, D, and E timber harvest must be consistent with desired conditions (§ 219.15).

Modified Alternative A clarifies at § 219.11(c) that a plan may include plan components to allow for timber harvest for purposes other than timber production as a tool to assist in achieving or maintaining one or more applicable desired conditions or objectives of the plan to protect other multiple-use values. In Modified Alternative A the Department clarifies at § 219.11(d) that no harvest for the purpose of timber production may occur on lands not suitable for timber production and at § 219.11(d) also requires that plan components would ensure no timber harvest may occur on lands where timber harvest would cause irreversible damage to soil, slope, or other watershed conditions.

Alternative J would allow timber harvest only for restoration purposes. This alternative was considered but dismissed from detailed analysis because it did not meet the purpose and need for being consistent with the MUSYA. For further discussion of this alternative, see Chapter 2 of the PEIS.

*Comment: Responsible official discretion in determining timber harvest on unsuitable lands.* Some respondents felt the proposed rule allows the responsible official too much discretion in allowing or permitting timber harvesting on unsuitable lands.

*Response:* All alternatives would identify factors to be considered by the responsible official, consistent with the NFMA, as well as, specific limitations that require plan components for timber harvest, and consistency with other applicable plan components. Section 219.3 of Alternatives A, Modified A, C, D, and E would require the responsible official to consider the best available scientific information. These five alternatives also allow those interested communities, groups, or persons to engage in the public participation process for the development of plan components and monitoring programs and for the subsequent development of proposed projects and activities under the plan. Individual proposed projects for timber harvesting would undergo additional opportunities for public involvement during the project's NEPA process.

*Comment: Suitability of lands with a primary conservation focus.* A respondent felt the rule should state that timber production is not suitable on lands managed with a primary conservation or restoration focus, including inventoried roadless areas, old-growth forests, priority and municipal watersheds, and riparian areas.

*Response:* All alternatives provide overall direction for how plans are developed, revised, and amended. Section 219.11(a)(1)(iii) of Alternatives A, Modified A, C, D, and E would require that where timber production would not be compatible with desired conditions and objectives established by the plan, including those established in accordance with the requirements for suitability (§ 219.8), diversity (§ 219.9), and multiple use (§ 219.10), the

responsible official shall identify such lands as not suitable for timber production. Alternative B requires that lands be identified as tentatively suitable (rather than suitable) for timber production if “based upon a consideration of multiple use objectives for the alternative, the land is proposed for resource uses that preclude timber production, such as wilderness” (219.14). Additional guidance regarding suitability of lands would be found in the plans themselves, or in the subsequent decisions regarding projects and activities on a particular national forest, grassland, prairie, or other comparable administrative unit. All alternatives would also allow those interested communities, groups, or persons to engage in the public participation process for the development of plans. Public participation would also be used during the subsequent development of proposed projects and activities under the plan, during which concerns regarding suitability of lands may be raised.

*Comment: Cost and revenues of timber harvesting.* Some respondents felt the rule should require full and explicit disclosure of costs and benefits of timber harvesting in order for the public to more accurately compare plan alternatives and plan components. They felt timber harvesting should only be allowed where direct revenues will exceed all direct costs, and lands not cost-efficient should be designated unsuitable. Some felt the Government should not subsidize the logging industry or compete against private timber forest owners.

*Response:* The costs and benefits of each alternative under any alternative would be disclosed under the NEPA process at the time of plan development, revision or, if appropriate, amendment. The Department recognizes that the cost of timber harvest is a major concern. Alternative B requires an analysis of management situation including benchmark analysis to define, among several other items, monetary benchmarks and a schedule of outputs and costs which will maximize present net value (§219.12). Alternatives A, Modified A, C, D, and E would require plan components for restoration which would likely result in projects to achieve multiple benefits. Selling timber and managing vegetation is a key tool for restoration and providing wildlife habitat (cover types and age classes), creating diversity in the visual appearance of the landscape, improving the overall ecological integrity, producing timber products, providing jobs, and providing additional recreational opportunities by increasing forest access.

Under Alternatives A, Modified A, C, D, and E to be suitable for timber production, timber production must be compatible with the achievement of the desired conditions and objectives established by the plan. The desired conditions include those to meet requirements for plan development or revision (§ 219.7); social, economic, and ecological sustainability (§ 219.8); plant and animal diversity (§ 219.9); multiple use (§ 219.10); and timber (§ 219.11). The responsible official would establish management areas with different desired conditions based on providing social, economic, and ecological sustainability.

*Comment: Review of lands suitable for timber production.* A respondent felt lands suitable and unsuitable for timber production should be reviewed every 10 years to ensure these designations are still appropriate. A respondent said the proposed rule has incorrectly expanded and interpreted the base requirements of the NFMA by: 1) falsely stating that the NFMA would require the identification of lands suitable for timber production (the respondent said that NFMA only requires identification of land not suited

for timber production); 2) stating that all lands not identified as not suitable are therefore suitable.

*Response:* The NFMA requires a review of lands designated not suitable every 10 years, and all alternatives analyzed in detail follow this mandate. All of these alternatives require identification of land not suited for timber production and impose specific factors to be considered. The purpose of identifying unsuitable lands for timber production is to identify the land base upon which timber production harvest levels are subsequently calculated (lands suitable for timber production). None of the alternatives would create any default suitability. The Department believes the assumption behind this comment is that all lands except those determined to be not suitable will be harvested. That is not the Agency's expectation. The identification of lands suitable for timber production is not a final decision compelling or approving projects and activities. A final determination of suitability is made through project and activity decisionmaking.

However, to avoid confusion, Modified Alternative A removes the provision saying that "all lands not identified in the plan as not suitable for timber production are suited for timber production".

*Comment: Aesthetic resources.* A respondent felt "aesthetic resources" should be removed from the proposed rule at § 219.11(d)(2) because timber harvesting can create less appealing aesthetics but can be an integral part of sustaining high quality wildlife habitat.

*Response:* Alternatives A, Modified A, C, D, and E retain the wording of the proposed rule at § 219.11(d) ensuring timber harvesting is consistent with protection of aesthetic resources, because the wording matches the NFMA at 16 U.S.C. 1604(g)(3)(F)(v). However, the Department recognizes that selling timber and managing vegetation are important tools for providing wildlife habitat (cover types and age classes), creating diversity in the visual appearance of the landscape, and improving the overall forest health.

*Comment: Allowable sale quantity.* A respondent felt the planning rule should include a requirement for allowable sale quantity as in the 1982 rule.

*Response:* All Alternatives include timber requirements based on the NFMA. The term "allowable sale quantity" (ASQ) is a term of art of the 1982 rule (Alternative A). The term ASQ is used in the NFMA in discussions about departure (16 U.S.C. 1611). However, there is no direction that the term must be used in the implementing regulations required by the NFMA (16 U.S.C. 1604). Because the term has caused confusion about whether ASQ is a target or an upper limit under the 1982 rule procedures, the Agency wants to avoid this confusion under Alternatives A, Modified A, C, D, and E. Under these alternatives plans would have an upper limit for timber harvest for the quantity of timber sold as required in § 219.11(d). The Department believes the requirements in §§ 219.7 and 219.11(d) of these alternatives, requiring determination of the long-term sustained-yield capacity (the quantity of timber that may be sold from the national forest) and the planned timber sale program, would be consistent with NFMA.

*Comment: Changing plan harvest levels relationship with plan amendments.* A respondent felt changing the timber harvesting level specified in the unit plan should be

done through a revision or amendment of the unit plan because timber harvesting is an important objective.

*Response:* Any change to plan components related to timber harvesting level would require a plan amendment under all alternatives. Such plan components may include objectives for annual timber harvest or standards limiting the amount of timber harvested in the first decade. However, changing the tables or graphs of associated timber information in other plan content (§ 219.7) may be done with an administrative change under all alternatives except Alternative B.

*Comment: Levels of timber harvest.* A respondent felt the rule should require forest plans to identify three timber production levels. Those three levels were: (1) the long-term sustained-yield capacity, which is the theoretical maximum sustainable level in perpetuity; (2) the timber harvest level associated with achieving the desired future conditions contemplated in the plan; and (3) the probable timber harvest level given anticipated budgets and other priorities.

*Response:* Alternatives A, Modified A, C, D, and E §§ 219.7 and 219.11(d) would require determination of the long-term sustained-yield capacity (the quantity of timber that may be sold from the national forest) and require determination of the planned timber sale program. A requirement for the timber harvest level associated with achieving the desired future conditions is not included in any alternative because the NFMA does not require such a calculation and it would be a highly speculative harvest level that would not likely be realistic. Alternative B requires a benchmark analysis which projects different levels of timber harvest based on minimum and maximum levels of production, monetary, with or without even-aged harvest, and others (§219.12).

*Comment: Timber harvest unit size limits.* Some respondents felt the proposed rule standards for maximum size limits for areas to be cut in one regeneration harvest operation should be determined by local conditions, individual forest plans objectives, based on science, and mimic historic forest disturbance regimes.

*Response:* These limits on the maximum opening sizes for all alternatives were established in the 1979 planning rule and have been in use under the 1982 rule. In 1979, the committee of scientists recommended the maximum size for openings created by timber cutting be set by regional plans or regional silvicultural guides, not be set as a national standard. However, the Department decided in 1979 to set maximum size of harvest cut openings (40-, 60-, or 100-acre maximums depending on geographic location) with exceptions provided for through regional plans where larger openings will produce more desirable combinations of benefits. In Alternatives A, Modified A, C, D, and E, the Department continues these standards with the exceptions provided through the responsible official. The procedure for varying these limits is an established process that has worked effectively, providing a limit on opening size and public involvement with higher level approval for exceeding the limits. The Department believes that including a procedure for varying from these limits may be particularly justifiable in the future for ecological restoration, species recovery, improvement of vegetation diversity, mitigation of wildland fire risk, or other reasons. For example, some rare species are adapted to large patch sizes with similar habitat attributes for critical parts of their life cycle.

*Comment: Limiting the quantity of timber removed annually.* Some respondents felt the proposed rule was unclear on direction for limiting the quantity of timber removed annually in perpetuity on a sustained-yield basis as it simply repeats NFMA wording.

*Response:* Under all alternatives, the Department would require the Chief to set forth procedures for planning in the Forest Service Directives System to further explain the methods for determining the limit of the quantity of timber removed annually in perpetuity on a sustained-yield basis for an individual unit plan (§ 219.11(d)).

*Comment: Use of culmination of mean annual increment.* A respondent felt the proposed use of culmination of mean annual increment (CMAI) of growth to limit regeneration harvests of even-aged stands will not address issues of poor forest health, and the likelihood of uncharacteristic insect, disease, and fire. Another respondent felt CMAI should also be used where timber is cut in non-even-aged stands.

*Response:* The Department does not agree that the national policy of CMAI as required by 16 U.S.C. 1604(m) has caused problems with issues of forest health and the likelihood of uncharacteristic insect, disease, and fire. The national policy gives the Agency authority for exceptions from this standard for recreation, wildlife habitat, and other purposes. The NFMA requires that standards shall not preclude the use of sound silvicultural practices, such as thinning or other stand improvement measures. CMAI does not apply to uneven-aged stands as these stands are multi-aged; therefore, Alternatives A, Modified A, B, C, D, and E would limit the use of CMAI to regeneration harvests of even-aged stands.

### **Section 219.12 – Monitoring.**

*Comment: Scope of monitoring.* Some respondents felt the proposed rule was unclear as to the extent of topics, including ones for desired conditions, responsible officials could consider when choosing the scope and scale of plan monitoring. A respondent felt the rule should require the scope of the monitoring question be as complete as possible even if the scope of the final monitoring program can not address all the questions.

*Response:* Because the information needs most critical for informed and adaptive management will vary by unit, Alternatives A, Modified A, D, and E would explicitly allow the responsible official the discretion to set the scope and scale of the plan monitoring program, subject to the minimum requirements in paragraph (a)(5) of those alternative. Section 219.12 directs that questions and indicators should be based on one or more desired conditions, objectives, or other plan component(s), but makes clear that not every plan component needs to have a corresponding monitoring question. Furthermore, the questions and indicators would be designed to inform the management of resources on the plan area, including by testing assumptions, tracking changes, and measuring management effectiveness and progress towards achieving or maintaining the plan's desired conditions or objectives. This direction would allow the responsible official to develop the most strategic, effective and useful monitoring program for the plan area, based on the plan components in the plan and informed by best available scientific information and public input. This direction also recognizes possible limits to the technical or financial capabilities of the Agency: not all parts of a plan, or every acre, can be monitored each year – and it may not be a strategic investment to do so.



Alternatives A, Modified A, D, and E would have a set of monitoring questions and associated indicators that would be part of every plan monitoring program. Under any alternative the responsible official could always consider additional factors and add questions and indicators.

*Comment: Accountability and public oversight for monitoring:* Some respondents felt the rule should provide sufficient opportunity for public enforcement of monitoring quality and for public input on the Agency's use of monitoring information affecting project decisions. Several respondents felt the proposed rule did not establish accountability for monitoring and suggested the rule either require review by the Chief or specify the consequences of not conducting monitoring. Another suggested that the monitoring effort be periodically reviewed objectively by disinterested parties. Some respondents felt to improve accountability findings from monitoring program reports, the reports should be decisions subject to review.

*Response:* The Department cannot grant enforcement authorities to the public. Those authorities can only be granted by Congress. However, the public participation and reporting requirements of Alternatives A, Modified A, D, and E would hold officials accountable for sharing monitoring information and data with the public. These data would be open to public scrutiny, criticism, and objective review. The public would be able to evaluate and provide input on the Agency's use of the monitoring information to inform future decisions during opportunities for public participation and comment for those decisions, including future plan amendments, plan revisions, projects, and activities.

Under Alternatives A, Modified A, D, and E increased accountability is intended through requirements for officials to develop plan monitoring programs, with questions and indicators, broader-scale monitoring strategies, and prepare biennial monitoring reports. All these requirements allow for public involvement and review. The Agency already follows Departmental standards under the Information Quality Act (Section 515 of Public Law 106-554) policies for the objectivity of information used to inform significant decisions. In addition, the responsible official is subject to performance review and accountability for fulfilling requirements of a planning rule and policies of the Agency. The Forest Service is required to report monitoring information consistent with the USDA Strategic Plan. (<http://www.ocfo.usda.gov/usdasp/sp2010/sp2010.pdf>).

Monitoring reports (like assessment reports) would report information and would be used to inform decisions, but are not decision documents because they do not compel an action or make a decision on an action; therefore, subjecting monitoring specifications to objection or appeal procedures is not necessary under any alternative.

*Comment: Monitoring requirements.* A respondent felt the rule should include monitoring requirements for scientific grounding, thoughtful design, and sufficient funding, regularly scheduled, and analysis of cumulative impacts.

*Response:* Alternatives A, Modified A, D, and E require that the best available scientific information to be taken into account to inform the monitoring program. The public would have opportunities to provide input into the design of the monitoring program and to review the monitoring data. Under any alternative, the monitoring information can be used in a number of ways, including analyzing cumulative effects.

Alternatives A, Modified A, D, and E would include direction to take financial and technical capabilities of the Agency into account in designing the monitoring program.

*Comment: Monitoring and consistency of methods.* Some respondents felt the rule should include national monitoring standards to enable consistency across units so each national forest and grassland could be compared to others. Some respondents felt units could not develop monitoring programs efficiently in the absence of regional or national standards or guidance. Some respondents felt units will need additional guidance to enable them to design and conduct monitoring because the necessary resources and expertise is not often available on each unit. A respondent felt clarification was needed for how broader-scale monitoring could be associated with assessments by the plan unit in the absence of regional guidelines. A respondent felt specific terminology should be used regarding monitoring types: range and distribution monitoring, status and change monitoring, and cause and effect monitoring. Some respondents felt the rule should require technical details like methods for data collection, sampling methods, specific measurements to sample, statistically sound set of monitoring guidelines, reference conditions or baseline data, cause-effect designs for monitoring, or possible contaminants to water quality, or that schedules of work be required in monitoring programs and documented in plans.

*Response:* The Department and Agency recognize the importance of having a system of monitoring that allows for some monitoring information to be collected, used, and compared across planning units and for that reason included direction in Alternatives A, Modified A, D and E for the plan monitoring program to be coordinated and integrated with broader scale monitoring strategies. This is intended to ensure that monitoring is complementary and efficient, gathered at the appropriate scales, coordinated with Research and Development, State and Private Forestry, and others. Alternatives A, Modified A, D, and E include requirements for a core set of monitoring questions and indicators in all plans, and the requirement for biennial monitoring evaluation reports. To support increased effectiveness in monitoring, the Agency is currently reviewing its inventory and monitoring system.

However, Alternatives A, Modified A, D and E would not include national monitoring standards for consistency because there is no fully tested national approach available at this time. The kinds of things to be monitored are varied, monitoring techniques and protocols evolve and improve over time, and different techniques may be more or less appropriate depending on the information needs most critical to inform adaptive management on the unit. In addition, monitoring techniques may vary by partner, impacting opportunities to coordinate monitoring across landscapes and among neighboring land managers.

Alternatives A, Modified A, D, and E state that a range of monitoring techniques may be used to carry out the required monitoring: different questions and indicators would require the use of different, and evolving, techniques or methodologies. The responsible officials would use the best available scientific information to inform those choices. Monitoring protocols and methods would be coordinated with the regional forester and Forest Service State and Private Forestry and Research and Development. Alternative E does include several more requirements for monitoring and evaluation than other alternatives, however it does not include specific techniques or data analysis methods for the same reasons stated above.

*Comment: Monitoring triggers.* Some respondents thought that the monitoring program should include triggers or thresholds for action,

*Response:* Alternative E would require signal points which are to be used by the responsible official to determine the need to take action. Alternative D would require that monitoring include critical values for ecological conditions and focal species that trigger reviews of planning and management decisions. Alternatives A, Modified A, and D did not include triggers or thresholds. Establishing triggers can be complex and time consuming. These alternatives would not preclude the inclusion of triggers where they can be developed and where they are informed by the best available scientific information.

*Comment: Use of non-agency data.* Some respondents felt the Agency is reluctant to accept monitoring data about environmental conditions from a third party, like livestock permittees, and that the proposed rule funding requirements would further reduce funding available for monitoring. These conditions would cause the Agency to unfairly restrict some special uses, like grazing. Other respondents felt the rule should clearly provide opportunities for the responsible official to use information and assistance from non-agency organizations and individuals to contribute to monitoring programs. Other respondents felt non-agency data must meet Agency data standards. Still others felt the rule should allow the public opportunity to assist in gathering and submitting data.

*Response:* None of the alternatives preclude the use of third party monitoring and NFS routinely use data from external sources. Under Alternatives A, Modified A, D, and E § 219.12(c) would direct the responsible official to take into account existing NFS and non-NFS inventory, monitoring and research programs, and to take into account opportunities to design and carry out multi-party monitoring. Many current monitoring programs and assessments rely on secondary data from a variety of sources, including from governmental and non-governmental sources.

*Comment: Collection of data beyond unit boundaries.* Some respondents felt the proposed rule inappropriately makes the responsible officials undertake broader-scaled monitoring analyses, monitoring of significant areas not federally owned, and to collect data beyond unit boundaries.

*Response:* No alternative would impose a requirement for responsible officials or regional foresters to monitor non-NFS lands. However, Alternatives A, Modified A, D, and E would direct the regional forester to develop a broader-scale monitoring strategy, in coordination with others, and would encourage identifying opportunities for multi-party monitoring. These alternatives would encourage responsible officials to coordinate monitoring across units. Under any alternative the Agency would continue efforts to use data from other agencies and sources where appropriate.

*Comment: Use of the Forest Inventory and Analysis system (FIA).* A respondent suggests the rule should use the FIA system to monitor the health of forests and changes related to climate change.

*Response:* Many Agency units actively use FIA information as an integral part of their planning and monitoring programs. Alternatives A, Modified A, D and E would direct the responsible official to take into account existing national and regional inventory,

monitoring, and research programs, including from Forest Service State and Private Forestry and Research and Development which includes FIA data.

*Comment: Scientist involvement in plan and broader-scale monitoring design.* A respondent felt the proposed rule sets too high a standard of ensuring scientists are involved in plan and broader-scale monitoring design. Another respondent felt the proposed rule did not specify in detail how the external scientific community would be involved.

*Response:* Under any alternative the external science community may be involved in variety of ways, for example, through public participation opportunities or the use of external scientific reports.

In response to this concern, the requirement under § 219.12(c)(4) of the proposed rule for scientists to be involved in the design and evaluation of unit and broader-scale monitoring is not included in Modified Alternative A.

*Comment: Changes to specific subjects to be addressed in monitoring programs.* A respondent suggested the responsible official discretion would be improved by deleting proposed wording "related to climate change and other stressors" and "carbon stored in vegetation." Others felt requirements to monitor accomplishment of plan objectives and progress towards achieving plan "desired conditions" should be added. Some respondents felt the proposed rule's monitoring requirements for specific resource areas unduly limited responsible official discretion in determining what questions and indicators to include in the unit monitoring program. Some respondents felt specific subjects should be required in all plan monitoring programs including: grazing impacts, off-road vehicle use, species populations, vegetation, ecological conditions, social and economic sustainability, effects of long-term uses, noise pollution, water quality, recreational use satisfaction, and public safety, among others. Some respondents felt the proposed rule would limit monitoring programs to consider only one monitoring question or indicator.

*Response:* Alternatives A, Modified A, and D require the responsible official to develop a plan monitoring program that describes, at a minimum, one or more questions and associated indicators on eight specific topics. These alternatives would not limit the questions and indicators in any given plan. Under these alternatives the responsible official would have the authority to determine whether additional monitoring elements are warranted or necessary to inform management decisions if they are within the fiscal capability of the unit to implement. Because most resource management concerns vary by forests or grasslands, Alternatives A, Modified A, and D would allow the responsible official discretion to set priorities for monitoring where it is most needed so long as the minimum requirements are met. Alternative E includes several more requirements for monitoring and evaluation beyond those of Alternatives A, Modified A, and D. Alternative C requires that a monitoring plan be established but does not include requirements for specific elements. Alternative B includes monitoring requirements for Management Indicator Species. Alternative D includes population surveys of focal species for determining progress in meeting species diversity objectives in addition to the requirements included in Alternative A.

The Agency's Climate Change Scorecard requires a baseline assessment of carbon stocks. Modified Alternative A would add requirement in the assessment phase (§

219.6(b)) to identify and evaluate existing information for a baseline assessment of carbon stocks and would remove the monitoring requirement for carbon stored in above ground vegetation. Modified Alternative A would include a requirement for the plan monitoring program to monitor progress toward meeting the plan's desired conditions and objectives in § 219.12(a)(5).

*Comment: Ecological Conditions and Focal Species* (§ 219.9). Some respondents felt the required monitoring questions and indicators of § 219.12(a) of the proposed rule did not adequately address fish and wildlife populations or gage progress towards meeting the requirements of § 219.9 of the proposed rule.

*Response:* In response to these comments, § 219.12 in Modified Alternative A links the monitoring elements to the ecological conditions required by §§ 219.8 and 219.9, added the requirement in paragraph (a)(5)(iv) to monitor ecological conditions associated with the species requirements in § 219.9, and modified two definitions. Also based on public comment, Modified Alternative A clarifies the intended role of focal species in assessing the effectiveness of the plan in maintaining the diversity of plant and animal communities in the plan area.

*Comment: Questions about focal species.* Respondents asked questions about focal species. (1) What are they? (2) What do they represent? (3) What criteria will be used to select them? (4) How many will there be for a particular plan area? (5) How will they be monitored?

*Response:* (1) Alternative B and C do not include requirements for monitoring focal species. The inclusion of the focal species (§ 219.19) in the monitoring section of Alternatives A, Modified A, D, and E is based on concepts from the March 15, 1999, Committee of Scientists report, which recommended focal species as an approach to monitor and assess species viability. The term “focal species” is defined in these alternatives as: A small subset of species whose status permits inference to the integrity of the larger ecological system to which it belongs and provides meaningful information regarding the effectiveness of the plan in maintaining or restoring the ecological conditions to maintain the diversity of plant and animal communities in the plan area. Focal species would typically be selected on the basis of their functional role in ecosystems.

(2) Under Alternatives A and Modified A the requirement for monitoring questions that address the status of focal species is linked to the requirement of § 219.9 of these alternatives to provide for ecosystem integrity and diversity. Focal species monitoring would be used as means of understanding whether a specific ecological condition or set of conditions is present and functioning in the plan area. Focal species monitoring would not be intended to provide information about the persistence of any individual species, nor would they confer a separate conservation requirement for these species simply based on them being selected as focal species. (3) The Committee of Scientists report said focal species may be indicator species, keystone species, ecological engineers, umbrella species, link species, or species of concern. Agency directives would provide guidance for considering the selection of a focal species from these or other categories. Criteria for selection of focal species under these alternatives may include: the number and extent of relevant ecosystems in the plan area; the primary threats or stressors to those ecosystems,

especially those related to predominant management activities on the plan area; the sensitivity of the species to changing conditions or their utility in confirming the existence of desired ecological conditions; the broad monitoring questions to be answered; factors that may limit viability of species; and others. This would not preclude the use of an invasive species as a focal species, whose presence is a major stressor to an ecosystem.

(4) Alternatives A, Modified A, D, and E would not require the responsible official to select a specific number or numeric range of focal species. The number would vary from unit to unit. The definition of focal species would require a small subset of species. The responsible official would have the discretion to choose the number of focal species that he or she determines would be useful and reasonable in providing the information necessary to make informed management decisions. It is not expected that a focal species be selected for every element of ecological conditions under any alternative that requires focal species monitoring.

(5) Alternatives A, Modified A, D, and E do not specify how to monitor the status of focal species, though Alternative D requires population surveys of focal species using such methods as presence /absence modeling, traditional count-based methods and genetic monitoring.

Monitoring methods may include measures of abundance, distribution, reproduction, presence/absence, area occupied, survival rates, or others.

Alternatives A, Modified A, D, and E would not require monitoring species population trends. Species population trend monitoring is costly and time intensive, and may not provide conclusive or relevant information. Therefore, although population trend monitoring may be used where feasible and appropriate, these alternatives would explicitly provide discretion to the responsible official to choose the most appropriate methods for monitoring, using the best available scientific information to inform the monitoring program.

Under these alternatives, some focal species may be monitored at scales beyond the plan area boundary, while others may be more appropriately monitored and assessed at the plan area scale.

*Comment: Focal species vs. management indicator species.* Many respondents expressed concern or confusion over the role of focal species monitoring in meeting the requirements of § 219.9; and how focal species would be used differently from management indicator species (MIS) as required under the 1982 planning rule.

*Response:* Alternative B requires monitoring of population trends of “management indicator species,” or MIS. The theory of MIS has been largely discredited since the 1982 rule. Monitoring the population trend of one species to form conclusions regarding the status and trends of other species is unsupported in current science. Focal species are not intended to provide information about the persistence of any individual species.

In addition, population trends for most species are extremely difficult to determine within the 15-year life of a plan, as it may take decades to establish accurate trend data, and data may be needed for a broader area than an individual national forest or grassland. Nor is

this data the most useful to inform management for the purposes of meeting the diversity requirements of any alternative.

The provisions under § 219.9 of Alternatives A, Modified A, D, and E are focused on maintaining or restoring the ecological conditions necessary to maintain the diversity of plant and animal communities and support the persistence of native species in the plan area. Because of the problems with MIS as stated above, and because the concept of monitoring focal species, as described by the Committee of Scientists report of March 15, 1999, is used to assess the integrity of ecological systems, these alternatives would incorporate the concept of focal species for monitoring the ecological conditions. Focal species are not intended to be a proxy for other species. Instead, they are species whose presence, numbers, or status are useful indicators that are intended to provide insight into the integrity of the larger ecological system, the effects of management on those ecological conditions, and the effectiveness of the § 219.9 provisions. Alternative D includes a slightly different definition for focal species than Alternatives A and Modified A, but includes essentially the same concepts.

*Comment: Selection and monitoring of focal species.* Respondents felt the rule should require 3 items for selection and monitoring of focal species: (1) the best available scientific information; (2) engagement of research, state fish and wildlife agencies, and others; and (3) be done at a broader spatial scale than one plan area.

*Response:* Alternatives A, Modified A, D, and E would require (1) all aspects of planning to use the best available scientific information to be taken into account and/or used to inform the planning process, plan components, and other plan content, including the monitoring program (§§ 219.3); (2) coordination with research, and consideration of opportunities to design and carry out monitoring with a variety of partners including state agencies (§§219.12 (a)(1), (b)(2), and (c)(3)); (3) broader-scale monitoring strategies be developed in addition to the plan monitoring program, to address questions that are best answered at a broader scale than one plan area.(§ 219.12(b)), which may include monitoring for one or more focal species.

*Comment: Monitoring of at risk species.* Some respondents felt the rule should require monitoring of populations of federally listed threatened and endangered species, species that are candidates for Federal listing, and species of conservation concern.

*Response:* Modified Alternative would require monitoring questions and associated indicators to monitor the status of a select set of the ecological conditions required under § 219.9 to contribute to the recovery of federally listed threatened and endangered species; conserve proposed and candidate species; and maintain a viable population of each species of conservation concern within the plan area (§ 219.12 (a)(5)(iv)). Under Modified Alternative A, it would be expected that monitoring a select set of the ecological conditions required by these species would give the responsible official information about the effectiveness of the coarse and fine-filter plan components included to meet the requirements of at risk species. The intent of the term “a select set” is to focus the monitoring on a few important ecological conditions that may be monitored in an efficient way.

*Comment: Monitoring of habitat conditions.* Respondents felt that monitoring habitat conditions only, specifically related to vegetation composition and structure, will not

adequately address the reasons why species may or may not occupy those habitats; and that there may be other stressors unrelated to habitat that make suitable habitat conditions unsuitable for occupation by a particular species.

*Response:* The definition of ecological conditions in Alternatives A, Modified A, D, and E recognizes that the ecological conditions necessary to maintain the diversity of plant and animal communities and support the persistence of native species goes beyond the traditional understanding of habitat as being primarily based upon vegetation composition and structure. Examples of ecological conditions include the abundance and distribution of aquatic and terrestrial habitats, connectivity, roads and other structural developments, human uses, and invasive species.

*Comment: Distinctive roles and contributions.* A respondent felt “distinctive roles and contributions” wording in proposed § 219.12(a)(5)(vii) is inappropriate and should be stricken from the monitoring section.

*Response:* Alternatives A, D, and E would require monitoring questions and indicators for distinctive roles and contributions. In response to public comment, Modified Alternative A does not have that requirement and, would instead, focus monitoring requirements on addressing the progress toward meeting the desired conditions and objectives in the plan, including for providing multiple use opportunities.

*Comment: Management systems in NFMA.* Some respondents felt the proposed rule misinterprets the NFMA reference to management systems by not repeating the word “each” and by overly restricting the types of management systems.

*Response:* Management system is a term of art of the NFMA (16 U.S.C. 1604(g)(3)(C)). The term management system must be understood in the context of the NFMA which was developed to give guidance to the Agency in how to manage timber. The Department understands the intent of Congress was that research and evaluation would be done on a sample basis. The Forest Service Research and Development staff began the long-term soil productivity program in 1989 to examine the long term consequences of soil disturbance on fundamental forest productivity through a network of designed experiments. (Powers, R.F. 2006. Long-Term Soil Productivity: genesis of the concept and principles behind the program. Can. J. For. Res. 36:519–528.)

For clarification, Modified Alternative A would add the word “each” to the monitoring requirement for management systems. Modified Alternative A also includes a definition of management system as a timber management system such as even-aged management or uneven-aged management.

*Comment: Monitoring effects of management procedures.* A respondent felt the 1982 provisions for requiring documentation of the measured prescriptions and effects of management procedures (practices) are superior to the monitoring requirements of the proposed rule. They felt the proposed provisions would fail to ensure that actions do not jeopardize biodiversity.

*Response:* The monitoring requirements of the 1982 rule are analyzed under Alternative B. Alternatives A, Modified A, and D would require monitoring questions and indicators to monitor eight topics including the status of ecological conditions. Ecological conditions include vegetation composition and structure, abundance and distribution of



aquatic and terrestrial habitats, connectivity, roads and other structural developments, human uses, and invasive species. Alternative C requires that plans include monitoring plans, but does not specify which monitoring questions to include. Alternative D requires monitoring of the status and trends of ecological conditions within the planning area, including critical values for ecological conditions and focal species that trigger reviews of planning and management decisions to achieve compliance, Alternative D also requires population surveys of focal species. These requirements are in addition to the requirements of Alternative A. Alternative E requires significantly more monitoring elements related to ecological conditions and species diversity. The effects of these differing approaches to monitoring are displayed in Chapter 3 of the PEIS.

*Comment: Conservation education:* A respondent felt monitoring should include conservation education.

*Response:* Conservation education can be a valuable outcome from collaborative planning and reaching out to engage others in design of monitoring programs. Alternative E would require plan components for conservation education. But, no alternative would include conservation education as part of monitoring requirements. All alternatives would give discretion to the responsible officials to consider the extent and methods chosen to address conservation education.

*Comment: Financial feasibility of monitoring.* Some respondents felt the proposed rule was obligating the Agency to undertake unaffordable or unachievable monitoring work, in particular broad-scale monitoring extending beyond the boundaries of NFS lands. Some felt this may cause the Agency to increase fees to cover costs or that broad-scale monitoring would become a precondition before issuing special use permits.

*Response:* Under all alternatives, responsible officials would exercise discretion to develop technically and financially feasible monitoring programs. Although monitoring information would be used by responsible officials to inform the need to change plan components, including standards or guidelines, Alternatives A, Modified A, D and E specifically make clear in § 219.12(a)(7) that monitoring would not be a prerequisite for carrying out a project or activity such as the renewal of special use permits. However, under these alternatives monitoring information could indicate to the responsible official a need to change plan components such as standards or guidelines that could affect project or special use requirements.

*Comment: Financial feasibility of monitoring economic and social structures of communities.* A respondent felt the financial feasibility of monitoring under the proposed rule was unattainable and additional discussion was needed on how economics and social structures of local communities will be monitored.

*Response:* Alternatives A, Modified A, D and E would require certain subjects be addressed with one or more questions and associated indicators as the basis for plan monitoring. Under any alternative the NEPA compliance in support of proposed plans and projects would disclose the economics and social effects to local communities. No alternative would require monitoring of the economic and social structures of local communities. The Department believes that all of the alternatives analyzed in detail are viable alternatives and could be implemented.

*Comment: Feasibility of climate change monitoring.* Some respondents felt the requirement for plan monitoring programs to include one question and indicator associated with measurable changes on the unit related to climate change and other stressors would be neither affordable nor achievable.

*Response:* Alternatives A, Modified A, D, and E include requirements for questions and indicators associated with measurable changes on the unit related to climate change. Alternatives B and C do not include this requirement. The Agency is already conducting monitoring for climate change and other stressors such as insects, diseases, invasive species, wildfire, and more. In addition, the Agency is implementing the Climate Change Roadmap and Scorecard, which includes monitoring the effects of climate change. Alternatives A, Modified A, D, or E in § 219.12 would allow the responsible official to use and build on other data and programs, encourages coordination with others and multi-party monitoring, and recognize that some monitoring questions may best be answered at a scale broader than on plan area.

*Comment: Project monitoring.* Some respondents felt project monitoring requirements should be included in the rule. Citing Department of Army regulations, a respondent felt the rule should require project monitoring funding be allocated before project implementation. Some respondents felt proposed § 219.12(a)(7) meant project monitoring would not occur.

*Response:* The Department agrees project monitoring is important and is a valuable means of understanding the effects of projects and can provide information useful to adapt future project plans to improve resource protection and restoration. Modified Alternative A clarifies (219.12(a)(7)) that project and activity monitoring may be part of the plan monitoring program, and that plan monitoring may inform the development of specific projects and activities. The Department anticipates that under any alternative that project and activity monitoring would be used as part of the plan monitoring program, but the responsible official would have the discretion to strategically select which projects and the questions related to those projects that would best inform the monitoring program. and test assumptions, track changing conditions, or evaluate management effectiveness. None of the alternatives would preclude project-specific monitoring requirements developed as part of project or activity decisions. The discussion of funding of project monitoring is outside the scope of a planning rule.

*Comment: Risks from lack of monitoring or monitoring information.* Some respondents felt the lack of monitoring, or information not available through monitoring, could delay management actions or foreclose activities and projects because of uncertainties. A respondent felt the rule should clearly state monitoring goals are not preconditions to approve, continue, or renew special use permits or provide for public uses, or State fish and wildlife management activities.

*Response:* Although monitoring information may be used by responsible officials to inform the need to change the plan, monitoring is not a precondition of conducting projects or carrying out management actions under any alternative with the potential exception of Alternative B. Under any alternative except B, none of the requirements of monitoring for the plan monitoring program apply to individual projects or activities,

though the courts have, at times, interpreted the requirements to monitor MIS under § 219.19 of Alternative B to apply at the project level.

*Comment: Monitoring and extractive actions.* A respondent felt the rule should require all extractive actions to cease on a unit until timely monitoring has been completed.

*Response:* Under any alternative, planning rule requirements and plans developed under those requirements would not dictate any on-the-ground decisions impacting the environment. Plans amended or revised under Alternatives A, Modified A, C, D, and E would include standards or guidelines, with which projects and activities must be consistent as required by § 219.15. The risks of effects associated with extractive actions are analyzed and disclosed in project-level NEPA compliance; and are not within the scope of any alternative.

*Comment: Monitoring and assessment data.* A respondent felt the rule should specifically state new and accurate data is important to the success of monitoring and assessment, and use of new and accurate data is required.

*Response:* Under Alternatives A, Modified A, D, and E the responsible official would use the best available scientific information to inform the development of the monitoring program. However, no alternative adds the requirement suggested by the respondent as some monitoring questions or indicators may be adequately addressed with existing data. Under these alternatives, accuracy in data is met through data protocols and quality control standards covered in other Agency guidance outside the planning regulations.

*Comment: Feedback needed from monitoring to planning and management actions.* Some respondents felt the proposed rule lacks feedback between monitoring and changes to plan components. Some respondents felt the rule should include accountability measures and explicitly include “adaptive management” requirements rather than just describing a framework for planning consistent with principles of “adaptive management.”

*Response:* In response to this concern, Modified Alternative A would require that the monitoring evaluation report be used to inform adaptive management of the plan area (§ 219.12(d)(2)), and that the responsible official review relevant information from both the assessment and monitoring to inform the development of plan components and other plan content (§ 219.7(c)(2)(i)). Modified Alternative A would require that monitoring program be designed to inform management (§ 219.12(a) and would require the Chief to administer a national oversight process for accountability and consistency to review NFS land management planning in the context of this framework (§ 219.2(b)(5)).

*Comment: Biennial evaluations.* Some respondents felt the proposed biennial evaluations requirement would be too costly, time consuming and complex. Others felt the rule should require an annual evaluation. Others thought the biennial evaluation time is too short because of long-term aspects, such as climate change, require long periods of time before meaningful evaluations can be conducted. Still others felt the rule should require a public comment period on the biennial evaluation. One respondent felt the rule should not allow the responsible official to publish monitoring evaluation reports without approval at a higher level. Some respondents felt the proposed requirement for biennial reporting would not meet NFMA’s requirement for continuous monitoring.

*Response:* Alternatives A, Modified A, D, and E would require that the responsible official conduct a biennial evaluation of the monitoring information and issue a written report of the evaluation and make it available to the public. Under these four alternatives, the biennial monitoring evaluation does not need to evaluate all questions or indicators on a biennial basis but would focus on new data and results that provide new information for adaptive management. Under these four alternatives, the responsible official may postpone the monitoring evaluation for 1 year after providing notice to the public in the case of exigencies such as a natural disaster or catastrophic fire. Section 219.4 of Alternatives A, Modified A, D and E require the responsible official to provide opportunities for the public to participate in reviewing the results of monitoring information. Public notice of the availability of the monitoring evaluation report would be required, and would be posted online. Under Alternatives A, Modified A, D, and E § 219.5(a)(3) states that for this framework “monitoring is continuous.” Under these alternatives, the biennial monitoring evaluation report would not halt ongoing monitoring; it would simply report new information from that monitoring.

Alternative B does not specify the timing of an evaluation and monitoring report. Alternative E would require that the Chief of the Forest Service establish standards for requires periodic review of monitoring programs and strategies,

*Comment: Evaluation reports and changes to plan components based on information from petition(s).* A respondent suggested the biennial evaluation report incorporate science contained in environmental analyses (EAs) and the plan be updated to incorporate information from petition(s).

*Response:* Under all alternatives, the responsible official would evaluate information gathered through the plan monitoring program. Information generated from objections, appeals, petitions, or environmental analyses may or may not be pertinent. Under all alternatives the responsible official also has the discretion to determine when new information may warrant a change to the plan or to the monitoring program.

*Comment: Required actions in response to monitoring.* Some respondents felt monitoring results might be of no consequence if there are no requirements in the rule to take specific actions to response to monitoring results. These changes should not wait for another planning cycle. Others felt the rule should include criteria as to when a need to change the plan is indicated by monitoring. A respondent suggested unit monitoring incorporate efforts to focus on non-native invasive species not present but can reasonably be foreseen as posing a risk to eventually enter the plan area. Another respondent felt proposed § 219.12(a)(7) would result in monitoring programs not dealing with watershed degradation associated with projects or activities, such as grazing, and the rule should focus on watersheds in poor condition, degraded riparian and upland habitats, substantial and permanent losses in soil productivity, and streams. A respondent felt the requirement to monitor “the status of select watershed conditions” was vague and could lead to the collection of disparate types of information across planning units and could create local conflicts over the requirement’s interpretation. A respondent felt more explanation was necessary in the rule on why topics were not included in requirements under §219.12(a)(5). A respondent felt the rule should require the monitoring program to substantiate why certain portions of the plan do not warrant monitoring. A respondent

suggested the rule specify a framework for reporting on forest conditions such as the Montreal Protocol.

*Response:* Alternative E requires that monitoring thresholds be established and Alternative D requires that critical values be established for ecological conditions and focal species that trigger reviews of planning and management decisions. Alternatives A, Modified A, D, and E would require that the monitoring evaluation report indicate whether a change to the plan, management activities, the monitoring program, or a new assessment may be warranted based on the new information. Based on public comment, Modified Alternative A at § 219.12(a)(5) more closely links the monitoring requirements to the assessment topics and to the substantive requirements in §§219.7 through 219.11. The intention behind the alternatives is that each alternative would require core monitoring on each unit and recognizing that there would be a wide and diverse array of monitoring needs across each system, including with regard to what specific questions and indicators may be most relevant for the topics in paragraph (a)(5) of the alternative. The Forest Service has conducted tests with forests to develop plan-level questions and indicators based on the Montreal Protocol and it has developed a standard set of themes for organizing monitoring information based on the Montreal Protocol (LUCID report 2004). The FIA program inventories and reports on changing conditions across all forested lands and provides information that reflects many Montreal Process indicators.

*Comment: Adjusting plans without adequate monitoring information.* A respondent felt the proposed rule's emphasis on making rapid changes may cause the responsible official to make changes to plan components without the benefit of monitoring over an appropriate period of time, as some monitoring questions and indicators cannot be adequately evaluated annually. A respondent felt the proposed rule's support of rapid adjustment of management through monitoring could lead to mistakes when causal factors are not understood. Another respondent felt the adaptive management approach was too vague and the rule needed wording to endorse a precautionary approach when the responsible official has only limited data available for a decision about a significant change in resource management.

*Response:* The Department agrees numerous monitoring questions and indicators could take many years of monitoring data collection before the information can be credibly evaluated. The use of the monitoring information is one factor in deciding when and how to change a plan. Under any alternative, a amendment or revision conducted as a result of new information from monitoring would be in accordance with the NEPA and the requirements of the alternative. More rapid, narrow amendments could help plans stay current and relevant, while recognizing that more information would be available over time. Since responsible officials already have discretion to consider precautionary measures during the NEPA analysis for plans and projects when risks to resources are uncertain, this approach was not included in a separate alternative.

*Comment: Administrative change applied to monitoring program.* A respondent felt modifying monitoring programs with an administrative change would pose a risk of not conducting good monitoring because changes could be done too easily.

*Response:* Under Alternatives A, Modified A, C, D, and E substantive changes to the monitoring program via an administrative change can only be made after public notice

and consideration of public comment. Monitoring design and specification of details about measurement quality objectives, techniques, and frequency are subject to changing scientific knowledge. These alternatives would allow monitoring programs to be changed in a timely way to respond to evolving science and to maintain scientific credibility. Additionally, monitoring programs do not rely exclusively on protocols authored by the Agency. For example, other agencies such as Environmental Protection Agency, US Geological Survey, and National Park Service possess expertise and have already incurred substantial expense developing, reviewing, and testing protocols: it will be important, especially for multi-party monitoring, to be able to evaluate and incorporate these protocols when appropriate in the plan monitoring program as new partnerships are formed.

### **Section 219.13 – Plan amendment and administrative changes.**

*Comment: Appropriate NEPA for plan amendments.* Some respondents felt plans should be as simple and programmatic as possible and NEPA compliance should occur only at the project level. Another respondent said categorical exclusions should be used for minor amendments, environmental assessments for more significant amendments. Some respondents felt any action requiring an amendment should be considered a significant action, therefore requiring development of an environmental impact statement (EIS) to disclose the anticipated effects of the amendment. A respondent felt it was unclear as to when an EIS was done for an amendment and when it was done for a plan revision. Other respondents felt use of categorical exclusions was inappropriate for a plan amendment as any changes to the plan should be subject to careful environmental review, scrutiny and analysis.

*Response:* Under Alternatives A, Modified A, B, D, and E would require an EIS for a plan revision or for development of a new plan. Alternative C allows for development and revision consistent with Forest Service NEPA procedures. Alternatives A, Modified A, C, D, and E require the responsible official to follow NEPA procedures for amendments and choose the appropriate level of analysis: EIS, environmental assessment (EA), or categorical exclusion (CE), based on the scale and scope of the amendment.

*Comment: Amendment verses administrative change.* Some respondents felt the proposed rule was confusing on when an amendment and when an administrative change was to be used.

*Response:* Plan components refer to the plan's desired conditions, objectives, standards, guidelines, suitability of areas, or goals described in § 219.7 of Alternatives A, Modified A, C, D, and E. An amendment would be required if a change, other than correction of a clerical error or a change needed to conform to new statutory or regulatory requirements, needs to be applied to any of these six plan components.

Administrative changes are made to correct clerical errors to plan components, to alter content in the plan other than the plan components, or to achieve conformance of the plan to new statutory or regulatory requirements. A clerical error is an error of the presentation of material in the plan such as phrasing, grammar, typographic errors, or minor errors in data or mapping that were appropriately evaluated in the development of the plan, plan revision, or plan amendment. An administrative change could not otherwise be used to change plan components or the location in the plan area where plan components apply,

except to conform the plan to new statutory or regulatory requirements. Changes that could be made through an administrative change may also be made as part of a plan amendment or revision as well.

*Comment: Thirty-day comment period on environmental assessments (EAs).* Some respondents felt more than 30 days was needed for public review of a large and complicated plan amendment supported by an EA. They proposed a three tiered public response period: 90 days for proposals requiring an EIS, 60 days for those requiring an EA, and 30 days for all others.

*Response:* Agency practice shows 30 days is reasonable when an EA is prepared. For plan development, revision, or amendment requiring an EIS, the comment period is at least 90 days.

*Comment: Project specific plan amendments.* Some respondents expressed concern with the use of project specific plan amendments because they felt that they do not get sufficient analysis, review, public input, and may not use the best available science. A respondent felt these amendments should only be allowed for unforeseen events or special circumstances. Another respondent felt the supporting NEPA documentation should include a ‘no amendment’ alternative which accomplishes the proposed action without amending the plan.

*Response:* Under any alternative, project-specific amendments are short-lived with the project, and localized to the project area. Project-specific amendments allow appropriate projects to continue without unnecessary delay for a broader plan amendment process. Project specific amendments provide a way to deal with exceptions. An exception is similar to a variance to a county zoning ordinance. If the amendment changed plan components that would apply to future projects, the exception would not be applicable. Section 219.16(b) of Alternatives A, Modified A, C, D, and E require use of the Agency’s notification requirements used for project planning at 36 CFR parts 215 or 218 for project-specific of amendment.

*Comment: Amending plans under existing regulations.* A respondent felt the rule should allow for the option of amending existing plans under the existing planning regulations.

*Response:* Section 219.17(b)(2) Alternatives A, Modified A C, D, and E, would allow amendments to existing plans to be initiated for a period of 3 years under the provisions of the prior planning regulation.

#### *Administrative Changes*

*Comment: Administrative changes.* Some respondents felt allowing wilderness area boundaries to be changed with administrative changes was inappropriate. Some respondents felt changes to monitoring programs should not be done administratively as these changes should be transparent and have public accountability.

*Response:* Wilderness area boundaries may only be changed by an act of Congress, therefore a change to the wilderness area boundaries identified in the plan would only be made to keep the plan consistent with current law, with no discretion available to the responsible official or to the public. When there is no agency discretion, an administrative change to the plan is appropriate.

The technical aspects of monitoring may need adjustment due to new information or advances in scientific methods, or a change may be needed to reflect a new monitoring partnership or for other reasons. Under Alternatives A, Modified A, D, and E the responsible official would involve the public in the development of the plan monitoring program and post notice of changes to the monitoring program online. If the change to the monitoring program is substantive, the public would be given an opportunity to comment. These requirements are intended to keep the public engaged and informed of the monitoring program, while allowing the program to build on new information and stay current.

**Section 219.14 – Decision document and planning records.**

*Comment: Content of decision document.* Some respondents felt these proposed requirements should be reduced to what is required by the NEPA. Others felt a discussion on multiple use and timber requirements per the NFMA, and use of best available scientific information should be included.

*Response:* The Council on Environmental Quality NEPA regulations at 40 CFR 1505.5 requires a record of decision to identify and discuss all factors and essential considerations of national policy which were balanced by the Agency in making its decision and state how those considerations entered into its decision. Under any alternative, the plan only provides the management direction approved by the decision, while the decision document provides the rationale for the decision; therefore, the factors used in decisionmaking are most appropriate for the discussion in the decision document. Under Alternatives A, Modified A, C, D, and E the requirements of this section are intended to help increase transparency and public understanding of the responsible official's decisions.

Based on public concern, Modified Alternative A includes additional requirements for the multiple use requirements of § 219.10 and the timber requirements of § 219.11 be included. Section 219.14(a)(4) of Modified Alternative A would also require the decision document to document how the best available scientific information was used to inform the planning process, the plan components, and other plan content.

*Comment: Availability of planning documents on the Internet.* Some respondents supported the proposed requirement to make available online assessment reports; plan decision documents; proposed plans, plan revisions, or plan amendments; public notices and environmental documents associated with a plan; the monitoring program and monitoring evaluation reports. Some respondents felt the plan should also include all documents supporting analytical conclusions made and alternatives considered throughout the planning process source data, including GIS data, the monitoring program, and any plan revision. Some respondents made specific requests about when and how documents are made available online.

*Response:* Section 219.14(b)(1) of Alternatives A, Modified A, C, D and E would require online availability of documents including assessments, the monitoring evaluation report, the current plan and proposed plan changes or decision documents, and any public notices or environmental documents associated with the plan. Documents that require formal notifications would be posted when formal notice is made. Alternative B does not



include a requirement for documents to be posted online, however it is common and accepted practice to do so.

Making all data and information used in the planning process available online would be very time-consuming and expensive. However, to ensure all planning records are available for those who may be interested. All alternatives would require the responsible official to make all documents available at the office where the plan, plan revision, or amendment was developed. No alternative would prohibit the responsible official from using other means of making documents available.

*Comment: Availability of documents.* Some respondents stated the final EIS supporting a plan should be made available no later than the start of objection process.

*Response:* Under Alternatives A, Modified A, C, D, and E the Department would require the objection process to begin after the NEPA documents are final and made available. Section 219.52(c) of these alternatives lists the required items that the public notice would contain in notifying the public of the beginning of the objection process including a draft plan decision document.

### **Section 219.15 – Project and activity consistency with the plan.**

*Comment: Consistency requirement.* Some respondents felt the proposed rule was too vague and unclear about project or activity consistency with the plan. They felt the rule needs specific criteria for determining if a project or activity is consistent with the plan, and achieving consistency may not be feasible unless guidelines are made mandatory.

*Response:* Alternatives B and C would not provide specific criteria to evaluate consistency of projects or activities with the plan. Under previous planning rules, the Forest Service policy was that consistency could only be determined with respect to standards and guidelines, or just standards, because an individual project alone could almost never achieve objectives and desired conditions. See the 1991 Advanced Notice of Proposed Rulemaking 56 FR 6508, 6519-6520 (Feb 15, 1991) and the 1995 Proposed Rule, at 60 FR 18886, 18902, 18909 (April 13, 1995).

The Department continues to believe that the consistency requirement cannot be interpreted to require achievement of the desired conditions or objectives of a plan by any single project or activity, but providing direction for consistency to move the plan area toward desired conditions and objectives, or to not preclude the eventual achievement of desired conditions or objectives, as well as direction for consistency with the other plan components is possible

Alternatives A, Modified A, C, D, and E would require that every project and activity authorized after the approval of a plan, plan revision or plan amendment must be consistent with the plan as provided in paragraph (d) of section 219.15. Paragraph (d) would specify criteria to evaluate consistency, and would require that project approval documents describe how the project or activity is consistent.

### **Section 219.16 – Public notifications.**

*Comment: When appropriate.* Some respondents felt proposed rule § 219.16 (a)(2) wording "when appropriate" should be removed in reference to public notification of plan amendments.

*Response:* In response to public comment, Modified Alternative A does not include the wording “when appropriate” in relation to plan amendments.

*Comment: Notification.* Some respondents felt the words "deems appropriate" in paragraph (c)(5) should be removed, and requested clarification of what contemporary tools would be used. Some respondents requested direct notification, or notification of changes to a specific use. A respondent felt Federal Register notice should be mandatory for all plan amendments and any other notification such as administrative changes. Some respondents suggested changes to the proposed notification process to better inform those individuals and groups who would be most affected and interested in these activities. Some respondents felt that use of a newspaper of record is not effective since newspaper subscriptions are declining across the country.

*Response:* Section 219.16 of Alternatives A, Modified A, C, D, and E would require, at a minimum, that all public notifications would be posted online and the responsible official should use contemporary tools to provide notice to the public. Alternative B does not include this requirement. The wording “deems appropriate” in paragraph (c) for the notices not listed in paragraph (a) allows the responsible official the flexibility to determine the notification method that best meets the needs of interested individuals, groups, and communities.

Additionally, in Alternatives A, Modified A, C, D, and E, there are requirements outlined in section (c) for posting notices in the Federal Register and applicable newspaper(s) of record for the notices required in paragraph (a).

Persons desiring notification of changes to a specific use on a national forest or grassland should contact that office. A requirement for direct notification has not been added to any of the alternatives. The Department believes that such a requirement would be unworkable, and that the forms of public notice required by this section under the alternatives, including the requirement that all notices be posted online, would enable informed and active public engagement.

#### **Section 219.17 – Effective dates and transition.**

*Comment: Timing of compliance.* Some respondents felt the rule’s transition provisions should state the Agency will operate under existing plans until all legal challenges to a new plan or plan revision are resolved to avoid disruption of existing contracts. Some respondents felt the rule should establish a time limit beyond which any action which is being performed under a previous regulation must be brought into compliance with this part, and the responsible official should not have discretion to apply prior planning regulation in completing a plan development, plan amendment, and plan revisions initiated before the effective date of this part. A respondent felt newly started plan amendments should follow the new planning direction without exception. Another respondent felt the rule should allow the option of amending existing plans under either the existing planning regulations or the new planning rule requirements until the current plan is revised under the new rule.

*Response:* If a new planning rule takes effect, new plans and plan revisions would conform to the planning requirements in subpart A. Under Alternatives A, Modified A, C, D, and E there would be a 3-year transition window during which amendments may be

initiated and completed using the current procedures may conform to the new rule. Under these alternatives after 3 years, all new plan amendments would conform to the new rule. This transition period for new amendments would give the responsible official the option to facilitate rapid amendments when needed to plans developed under previous rules for a limited time, until full familiarity with the new rule develops. No transition period would be provided for new plans or plan revisions.

Under Alternatives A, Modified A, C, D, and E plan decisions would not be approved until the Agency has resolved any objections filed under subpart B. Delaying of the effective date until after the objections are resolved should adequately avoid disruptions. Many legal challenges to plans go on for years: it would not be workable to wait to implement until after all legal challenges are resolved.

Many of the ongoing plan development, amendment, and revision efforts have taken many years and it would be expensive in terms of both time and costs to start again and require them to follow the new procedures, in addition to delaying needed improvements to outdated plans. It would also be unfair to the public who have invested time in these efforts. Under Alternatives A, Modified A, C, D, and E the responsible official would have the discretion to conform to the requirements of the alternative after providing notice to the public if appropriate and feasible for that effort.

*Comment: Climate change requirements for 1982 revisions.* A respondent felt the rule's transition provisions should require forests currently planning revisions under the 1982 planning rule to consider climate change impacts and actions to address climate change and to reduce stressors to provide for greater habitat resiliency.

*Response:* The Department decided not to include this requirement in the transition provisions of any alternative. However, all NFS units are working to implement the climate change roadmap released in 2009, and are using the climate change scorecard, which requires consideration of climate change impacts, vulnerability, and adaptability, as well as monitoring and other requirements. The Department decided that the Roadmap and Scorecard implementation is the most appropriate method for working to address climate change in plan revisions currently being conducted under the 1982 rule.

*Comment: Conflicts between rules.* A respondent felt the proposed rule's transition section is confusing because there will be situations where the old rule can be in conflict with the new rule, therefore, the final rule should include guidance to handle those conflicting situations. Another respondent also felt the entire section needs more clarity.

*Response:* The transition provision is important to provide a smooth change to the new rule, and is workable. In response to these concerns, Modified Alternative A clarifies the wording in this section.

*Comment: Planning schedule for revisions.* A respondent felt the rule should establish some schedule by which overdue plans, or ones due within the next year or two, will be revised as currently 68 plans of 127 plans are past due for revision.

*Response:* The Agency does not have the resources to revise all 68 plans that need revision within the next few years. The Agency posts the Chief's schedule for plan revision online at <http://www.fs.fed.us/emc/nfma/index.htm>.

*Comment: Compliance with regulatory scheme.* A respondent felt the Forest Service should eliminate the proposed rule § 219.2(c) (none of the requirements of the final rule applies to projects) and § 219.17(c) (projects completed under existing forest plans need only be consistent with the plan and not the 1982 rule). They believe the provisions are inconsistent with case law. They cite several judicial decisions. Another respondent felt § 219.17(c) of the proposed rule allows plans to be revised free of any obligation to demonstrate compliance with the regulatory scheme under which it was developed.

*Response:* The Department believes the Ninth Circuit and Tenth Circuits Court of Appeals have confirmed the Agency's position that the 1982 rule was superseded by the 2000 Rule, and no longer applied. See, *Land Council v. McNair*, 537 F. 3d 981, 989 n. 5 (9th Cir. 2008); *Forest Guardians v. U.S. Forest Service*, 641 F. 3d. 423 (10th Cir. 2011). Under Alternatives A, Modified A, C, D, and E this provision would be intended to provide clarity so that all NFS units understand they are subject to the appropriate rule for plan development, plan amendment, and plan revision, while still requiring NFS units to follow the plan provisions of their current plans. Under these alternatives responsible officials, who continue plan development, revisions or amendments initiated prior to the effective date of the selected alternative using the procedures of the 1982 rule, or who amend plans using the transition provisions of the new planning rule, would comply with the 1982 rule procedures in developing those plans, plan revisions or amendments.

*Comment: Delay of project-specific plan amendments.* Some respondents felt the rule should require a 30-day delay for the effective date of all project-specific plan amendments, as plan amendments are significant actions and no amendment may apply only to a single concurrent project.

*Response:* Not all plan amendments are significant actions as defined under the NEPA. All alternatives except for Alternative B would provide for site-specific project amendments, in keeping with the Department's intent that the amendment process be efficient and used more frequently.

### **Section 219.18 – Severability.**

*Comment: Invalidation of entire rule.* A respondent felt if any part of the proposed rule is judged invalid by a court the rule should state the entire rule is invalid.

*Response:* The Department retained the provision in all action alternatives because rulemaking is an extensive Departmental and public undertaking, and the entire rule should not be dismissed if a court finds only a portion of a rule is inappropriate.

### **Section 219.19 – Definitions.**

*Comment: Definitions for various terms.* Some respondents felt more detailed definitions or explanations about specific terms should be included in the rule, including: access, aesthetic value, air quality, capability, clerical error, concurrence, coordination, cultural images, cultural sustenance, decision document, documented need, ecological integrity, educational, evaluation, extent practicable, feedbacks, fiscal capability of the unit, grasslands, identify, Indian, interested parties, irreversible damage, landscape character, no reasonable assurance, opportunity, partners, reasonably foreseeable budgets, renewable energy projects, renewable resources, scenic attractiveness, scenic integrity, small-scale reasonably foreseeable risks, spatial mosaic, spiritual, substantial and

permanent impairment, sustainable management of infrastructure, transportation and utility corridors, valid existing rights, and watershed conditions. Requests for inclusion of definitions. Some respondents felt additional definitions should be included in the rule, including: airstrip, alternate disputes resolution methods, animal welfare, appropriately interpreted and applied, biodiversity, biological integration, completeness or wholeness, cost effectiveness, cost efficiency, default width, ecological unit, ecologically sustainable, economic efficiency, efficiency, environmental justice, healthy and resilient ecosystem, incidental recreation, Indian land, internal trailheads, materially altered, measureable progress, national historic trails, net public benefits, non-Tribal indigenous entity, primitive road, reasonable basis, recreational values, roadless area, scenic landscape character, science-based understanding, silviculture, soundscape, substantive way, sustainable multiple uses, and timely manner.

*Response:* Some of the requested definitions were included in Modified Alternative A, where including a definition would provide additional meaning or clarity for the requirements in other sections, or where the term is an uncommon term or used with a specific meaning. Other requested definitions were not included, either where the term was not included in the alternatives, or terms were used in their ordinary meaning.

*Comment: Definition of assessment.* A respondent felt the definition of assessment should be revised to allow for the development of new information if and when it is necessary for a successful assessment.

*Response:* Under Alternatives A and Modified A, the need for new information may be identified in the assessment report, but development of new information would not be required or intended during the assessment process. The Department has clarified the definition of an assessment in Modified Alternative A to be clear that an assessment is to focus on and rapidly evaluate existing information to provide an informed basis and context for initiating a change to a plan or plan development.

*Comment: Definition of collaboration processes.* A respondent felt the Agency should define collaborative process. A respondent requested the Agency add the concept of feedback to collaboration definition.

*Response:* Under Alternatives A, Modified A, D and E, the term collaborative process is identical to the term collaboration. The concept of feedback is indirectly included in the definition.

*Comment: Definitions for congressionally designated areas and administratively designated areas.* A respondent felt separating of congressionally designated and administratively designated areas through the definition would help in clarifying their differences, including a definition for national scenic and historic trail.

*Response:* Under Alternatives A, Modified A, C, D and E the definition encompasses both congressionally and administratively designated areas, and provides examples of areas that are designated by each process. National scenic trails are referenced as one of the examples of a designated area, but a separate definition was not added to any alternative. Alternatives A, Modified A, C, D and E, provide direction for wilderness and wild and scenic rivers in § 219.10(b) separately from other designated or recommended areas because their associated legislation contains specific requirements for the Secretary

of Agriculture. Alternatives A, Modified A, C, D and E, in § 219.10(b) provides for management of other designated or recommended areas, which would include areas such as congressionally designated national historic trails. Based on public comment, the definition of designated areas in Modified Alternative A was clarified.

*Comment: Definition of connectivity.* Some respondents felt the definition should remove the word "separate" so that it includes connectivity both within and between national forests at multiple scales, reflecting the disparate needs of different species with different capacities for mobility. A respondent said the term is not appropriate because it might trigger counterproductive litigation.

*Response:* Connectivity is an important part of the concept of ecological integrity. Based on public concern, the definition of connectivity in Modified Alternative A takes into account various scales and encompasses the biophysical aspects of the ecological functions that should be connected. The word "separate" is not part of the definition in Modified Alternative A.

*Comment: Definition of conservation.* Respondents felt the proposed rule definition fails to include elements of resource use and wise use, or should not include preservation or should not include management.

*Response:* The Department has not made any changes in response to this comment because the definition is consistent with the use of the term in the alternatives. However, Modified Alternative A includes species in the list of resources conserved so that conservation is defined as the protection, preservation, management, or restoration of natural environments, ecological communities, and species.

*Comment: Definition of disturbance.* A respondent felt the definition of disturbance should go beyond biological resources and extend to cultural, historic, recreational, and aesthetic resources as well.

2. *Response:* In any alternative, the concept of disturbance is limited to any disruption of an ecosystem, watershed, plant and animal community, or species population. Such disturbance may result in impacts to cultural, historic, recreation, aesthetic, or other resources or uses.

*Comment: Definition of diversity.* A respondent felt the rule needs a definition of "diversity." One respondent requested a definition of biodiversity.

*Response:* The Department does not believe the term diversity needs to be defined separately from ecosystem diversity or plant and animal diversity. The Department retains a definition of the term ecosystem diversity where it is used within an alternative. When the term diversity is used alone, the definition of diversity is the common use of the term and therefore does not need to be defined.

*Comment: Definition of ecosystem services.* Some respondents felt specific aspects of ecosystem services should be included in the definition. Other respondents felt the proposed definition is too limiting to "direct human utility." A respondent felt the proposed rule definition mixes services with uses and resources, making the term "ecosystem services" confusing.

*Response:* The Department did not modify any alternatives in response to this comment. The term “direct human utility” is not part of the definition in the proposed rule. The definition is consistent with the MUSYA mandate to “administer the renewable surface resources of the national forests for multiple use and sustained yield of the several products and services obtained therefrom” (16 U.S.C. 529), and allows for changing conditions and needs.

*Comment: Definition of focal species.* A respondent felt the definition of focal species is too narrow: it should not be limited to a small number because of fiscal capability.

*Response:* Under Alternatives A, Modified A, D, and E the Department decided to retain the concept of a small number so that the responsible official has discretion to choose the number of focal species that he or she determines would be useful and reasonable in providing the information necessary to make informed management decisions. The Department does not expect a focal species be selected for every element of ecological conditions. The definition of focal species was changed in Modified Alternative A based on public comment to clarify the intended role of focal species in assessing the effectiveness of the plan in maintaining the diversity of plant and animal communities in the plan area, as required in § 219.9 of the proposed rule.

*Comment: Definition of integrated resource management.* Several respondents felt the phrase “integrated resource management” needed to be defined.

*Response:* Based on this comment, Modified Alternative A includes a definition for integrated resources management in § 219.19.

*Comment: Definition of landscape.* A respondent felt landscapes should not be defined as being irrespective of ownership.

*Response:* The Department recognizes and respects ownership boundaries. The definition would apply to a perspective for assessment purposes for resources and influences that may extend beyond the NFS boundary. The Department does not think removing the landscape term the alternatives would be beneficial because conditions and trends across the broader area may influence, or be influenced by projects or activities on NFS lands under any alternative. Plan components would apply only on NFS lands, but the responsible official would be informed by an understanding of the broader landscape when developing plan components.

*Comment: Definition of local and indigenous knowledge.* Some respondents felt the rule should provide a definition for local and indigenous knowledge, and this knowledge should not be considered on the same level as scientifically- or historically-based information.

*Response:* Section 219.19 of the Alternatives A, Modified A, C, D and E would provide a definition for native knowledge. These alternatives would require the best available scientific information to be taken into account or used to inform decisions. Alternatives B and C do not require the consideration of native knowledge.

*Comment: Definition of monitoring.* A respondent felt the definition of monitoring should be revised to capture the concept of measuring the response of resources to land management over time. Another respondent felt the definition should include the

concepts of inventory, continuity, desired conditions, public participation, and open and transparent process.

*Response:* Modified Alternative A would revise the proposed rule definition to remove the words “over time and space” so that the definition is broad enough to incorporate the concept of measuring the response of resources to land management over time, or at a single instant, at a broad geographic scale, or at a specific location, depending on the objective for an individual monitoring question or indicator. Under Alternatives A, Modified A, D, and E the framework is based on the concept that the set of monitoring questions and indicators that make up the monitoring program would be used to inform adaptive management on the unit over time. The framework provided by these alternatives would require an open and transparent process, public participation, and desired conditions. Section 219.5(a)(3) of these alternatives state that monitoring is continuous.

*Comment: Multiple use definition.* Some respondents requested specific inclusions and exclusions from the definition of “multiple use. Other respondents requested more detailed definitions or explanations about specific terms associated with § 219.10 Multiple use, such as access, aesthetic value, small-scale renewable energy projects and transportation and utility corridors.

*Response:* The definition does not reference specific uses or services. The definition was defined by Congress at 16 U.S.C. 531. The type of direction requested by the respondents is more appropriate as part of the specific requirements of a plan, as part of plans, or as part of projects or activities carried out under the plans.

Other terms used in alternatives are defined where necessary; see the first response to comments in this section for additional discussion.

*Comment: Definition of participation.* A respondent felt that the definition of participation should be defined as engagement in activities.

*Response:* The Department did not change the definition for participation because the Department cannot require engagement; but it can offer participation opportunities.

*Comment: Definition of productivity.* A respondent felt the current definition of "productivity" should be amended to include economic productivity.

3. *Response:* The use of the term productivity in the alternatives does not include economic productivity; therefore, definition is not changed in any alternative.

*Comment: Definition of restoration.* Several respondents felt the definition should not include the concept of going back to ecosystem conditions that once existed, especially under changing climatic conditions. Still others felt that the definition should be clearer and more in line with definitions found in the scientific literature.

*Response:* Modified Alternative A adopts the definition for restoration advanced by the Society for Ecological Restoration, and adds that ecological restoration focuses on reestablishing the composition, structure, pattern, and ecological processes necessary to facilitate terrestrial and aquatic ecosystem sustainability, resilience, and health under current and future conditions. Chapter 3 of the Final programmatic environmental impact



statement (PEIS) discusses the relevance of evaluating the range of natural variation in the “Historical Range of Variability (HRV) as a Way of Understanding the Historical Nature of Ecosystems and Their Variation” under the “Dynamic Nature of Ecosystems” portion of the Affected Environment discussion.

*Comment: Definition of riparian area vs. riparian management zones.* Some respondents felt the use of the terms “riparian areas” and “riparian management zones” between the preamble and the proposed rule were inconsistent. Some felt the proposed definition of riparian areas was outdated and did not reflect current science and understanding of riparian areas function and management.

*Response:* Based on these concerns, Modified Alternative A includes definitions for both of these terms in § 219.19. Riparian areas are ecologically defined areas of transition between terrestrial and aquatic systems and have unique characteristics, values, and functions within the landscape. Riparian management zones are portions of watersheds areas where riparian-dependent resources receive primary emphasis. Riparian management zones may be wider or narrower than the actual riparian area.

4. *Comment: Definition of risk.* A respondent felt the definition of "risk" should refer to "probability" and "magnitude."
5. *Response:* The Department has not changed the definition of risk because “probability and magnitude” are equivalent to “likelihood and severity” in definition, which is “a combination of the likelihood that a negative outcome will occur and the severity of the subsequent negative consequences.”

*Comment: Definition of social science.* A respondent felt the final rule should define social science.

*Response:* No alternative defines social science. Alternatives A, Modified A, C, D and E use the term ‘social sustainability’ while the term “social science” is not used.

6. *Comment: Definition of stressor.* A respondent felt the Agency should define the term stressor.
7. *Response:* The Department defines the term stressor in modified alternative A as a factor that may directly or indirectly degrade or impair ecosystem composition, structure, or ecological process in a manner that may impair its ecological integrity, such as invasive species, loss of connectivity, or the disruption of a natural disturbance regime.

*Comment: Definition of sustainable recreation.* A respondent felt the term was defined vaguely and should be deleted from the rule. A respondent felt ecosystem services and sustainable recreation are equivalent concepts but defined differently so that it is confusing. A respondent felt the definition should include the predictability of opportunities, programs, and facilities over time. A respondent said the definition should include ecologically sustainable, economically sustainable, fiscally sustainable, socially sustainable, and be focused on outcomes. A respondent objected to the inclusion of the

undefined term “social sustainability” in the definition of sustainable recreation, because it might be an opportunity to remove hunting and fishing from the NFS.

*Response:* The term sustainable recreation is defined in Alternatives A, D, and E. as “the set of recreational opportunities, uses and access that, individually and combined, are ecologically, economically, and socially sustainable, allowing the responsible official to offer recreation opportunities now and into the future.” The definition in Modified Alternative A is: “the set of recreation settings and opportunities on the National Forest System that is ecologically, economically, and socially sustainable for present and future generations.” In addition, Modified Alternative A define the terms economic sustainability and social sustainability as part of the definition of sustainability. The socially sustainable part of sustainable recreation (when considered within the boundaries of the NFS) deals largely with addressing conflicts between uses.

The Department’s use of the term social sustainability is intended to give the opposite direction as the respondent’s concern, leading to support for hunting and fishing opportunities because hunting and fishing are important to sustain traditions and connect people to the land and to one another.

*Comment: Definition of viable population.* Some respondents felt the rule should replace “sufficient distribution to be resilient and adaptable” in the proposed definition and incorporate the phrase “well-distributed in habitats throughout the plan area” and “high likelihood” over a specified time period (50 years) into the definition of viable population.

*Response:* The Department agrees that a species being widely distributed across the landscape and throughout their geographic range has a positive relationship on its local abundance and increases the likelihood of its persistence. The ability of the Agency to quantify that a population of an individual species is “well” distributed is problematic and difficult to substantiate. The ecosystem diversity requirement of § 219.9 in Alternatives A, Modified A, D and E would require plan components to be designed so that a diversity of habitat conditions be found throughout the plan area, and for connectivity as an element of ecological integrity. This would be expected to allow for a distribution of individuals or local populations to occupy suitable habitat conditions across the plan area and minimize the potential for a single local population decline to cause an extirpation from the plan area.

In Alternative D the definition includes the concept of high likelihood of persistence. Alternatives A, Modified A, C, and E would do not specifically incorporate “high likelihood” into the definition of viable population because it is difficult to interpret and measure consistently and because estimating the probabilities of maintaining a viable population of a particular species of conservation concern over a certain period time would vary from species to species and from unit to unit, depending on existing conditions and potential existing and future threats and stressors, especially those related to climate change, that may affect species differently on different NFS units.

## **Subpart B—Pre-decisional Administrative Review Process**

### **Section 219.50 – Purpose and scope.**

*Comment: Objection process over appeals process.* Some respondents expressed support for the objection process while some respondents want the objection process removed and replaced with the appeals process, or want to see both processes used.

*Response:* Alternative B includes an appeal process. Alternatives A, Modified A, C, D, and E include an objections process. A pre-decisional objection would be more consistent with the collaborative nature of these alternatives and encourages interested parties to bring specific concerns forward earlier in the planning process, allowing the Forest Service a chance to consider and respond to potential problems in a plan or decision before it is approved and implemented. A pre-decisional objections could lead to a more timely and efficient planning process, reducing waste of taxpayer and agency time and dollars spent implementing projects under plans subsequently found to be flawed.

With a pre-decisional objection process, the responsible official, the reviewing official, interested parties, and the objector would have the opportunity to seek reasonable solutions to conflicting views of plan components before a responsible official approves a plan, plan amendment, or plan revision. The objection process would allow discretion for joint problem solving to resolve issues. The Department believes that having both a pre-decisional objection process and a post decision appeals process would be redundant and inefficient. However, both are available under Alternative B.

**Section 219.51 – Plans, plan amendments, or plan revisions not subject to objection.**

*Comment: Secretary decisions subject to administrative review.* Some respondents felt decisions promulgated by the Secretary or the Under Secretary for Natural Resources and Environment affecting the Forest Service should be subject to administrative review.

*Response:* The Secretary has a long-established authority to make decisions affecting the Forest Service, and those decisions have never been subject to appeal under any of the Forest Service’s administrative appeal systems. Congress has charged the Secretary with the responsibility to protect, manage, and administer the national forests. The Secretary has delegated some of this responsibility to the Under Secretary for Natural Resources and Environment or the Forest Service. The Department’s general regulations make it clear that the Secretary and Under Secretary retain authority to make decisions on matters that have been delegated to the Forest Service. The Department does not require administrative review of such decisions as part of any of the alternatives. The Agency anticipates that plans, plan amendments, or plan revisions proposed by the Secretary or Under Secretary will be rare occurrences.

**Section 219.52 – Giving notice of a plan, plan amendment, or plan revision subject to objection before approval.**

*Comment: Notice of a plan, plan amendment, or plan revision subject to objection.* Some respondents felt “making available” the public notice for the beginning of the objection period for a plan, plan amendment, or plan revision was not adequate notification.

*Response:* Section 219.16(a)(3) of Alternatives A, Modified A, C, D and E would require formal notification of the beginning of the objection period by posting the information online, and via the Federal Register and/or the newspaper of record as set forth in § 219.16(c). The term “making available” is used to allow the responsible official the

flexibility to use other tools at his or her disposal for notification, for example, sending an email to a list of interested parties or issuing a news release, in addition to the formal notifications identified in § 219.16.

*Comment: Specific date for the start of the objection process.* Some respondents felt there is a need for a specific publication date for the beginning of the objection period.

*Response:* The Department believes the matter is best addressed by having the objection filing deadline begin the day after publication of the public notice as outlined in § 219.56(b)(2) of Alternatives A, Modified A, C, D and E. Although the Agency can request newspapers publish notices on a certain date, a publication date is not guaranteed. When publication occurs on a different date than estimated, the result could lead to confusion. By not publishing a (potentially different) starting date, the Department believes the potential for confusion is reduced or eliminated and leaves all parties with the same information.

*Comment: Need to guess and predict decision.* Some respondents stated that the objection process forces the public to guess and predict what the actual decision will be.

*Response:* Section 219.52(c) of Alternatives A, Modified A, C, D and E, list the required items that the public notice would contain in notifying the public of the beginning of the objection process including a draft plan decision document. If no objections are filed, this would be the decision. The objection process allows objectors and interested parties to meet with the reviewing officer to try to resolve issues raised in an objection before finalizing a plan decision. This process is consistent with the participatory approach used in these alternatives.

### **Section 219.53 – Who may file an objection.**

*Comment: Substantive formal comment.* Some respondents requested the rule define “substantive formal comment.”

*Response:* The proposed rule included a definition for “formal comments” consistent with Agency appeal regulations 36 CFR 215 for “substantive comment.” Modified alternative A now includes a definition of “substantive formal comments” at § 219.62.

*Comment: Who may file an objection?* Some respondents felt limiting the opportunity for filing an objection to those who have participated in providing substantive formal comments was the correct approach. Other respondents felt anyone should be able to file an objection.

*Response:* The Alternatives A, Modified A, C, D and E would require the responsible official to engage the public early and throughout the planning process in an open and transparent way, providing opportunities for meaningful public participation to inform all stages of planning. The requirement for limiting the opportunity for filing an objection to those who have provided substantive formal comments during at least one public participation opportunity would encourage public engagement and help ensure the Agency has the opportunity to hear and respond to potential problems as early as possible in the process so that new substantive problems are not identified at the end of the planning process when they could have been previously addressed.

The Department believes that limiting the opportunity for filing an objection to those who have participated in providing substantive formal comments would increase the efficiency of the planning process and the effectiveness of plans by encouraging early and meaningful public participation. Engaging the public early and often results in better identification of issues and concerns and allows the Agency to respond earlier in the process and in a way that is transparent to all members of the public.

*Comment: Substantive comment submittal requirement.* Some respondents felt the proposed rule requirement for participation by a formal comment submittal in order to file an objection is an undue burden on the public because organizations and individuals with limited resources cannot be expected to participate in all public involvement opportunities. Others felt it places an unreasonable limitation on the ability of citizens to participate in the objection process. Still others disagree with the basic concept of not submitting formal comments equates to not having an opportunity to object.

*Response:* Because all the alternatives require significant investment in providing opportunities for public participation, the Department believes it is important to honor that process and ensure that issues arise as early in the process as possible, when they can best be addressed. The Department does not believe it would be too high a burden for a potential objector to first engage in and provide formal substantive comments during at least one of the numerous opportunities for public participation during the planning process for a plan, plan amendment, or plan revision. Subpart B of Alternatives A, Modified A, C, D and E would not require participation in every one of those opportunities. This requirement is intended to assist in the timely involvement of the public. The objection process would be expected to resolve many conflicts by encouraging resolution before a plan, plan amendment, or plan revision is approved.

*Comment: Objection eligibility.* Some respondents felt the objection process forces the public to submit comments on everything in order to preserve their right to object based on submitted comments. A number of respondents stated objections should be permitted on issues raised by any party at any time.

*Response:* Under Alternatives A, Modified A, C, D and E the planning process would be intended to engage interested individuals and organizations in an ongoing dialogue beginning with initiation of the planning process and continuing through the objection process resulting in substantive issues and concerns being identified and brought forward through a collaborative process. Alternatives A, Modified A, C, D and E retain the requirements in this section to make sure that issues are identified as early as possible, by the parties interested in those issues. At the same time, in these alternatives, it is recognized that there may be issues that arise after the opportunities for public comment, and parties who have participated earlier would be allowed to object on those issues.

*Comment: Objections by other Federal agencies and Federal employees.* A respondent stated that objections from other Federal agencies should be allowed. Another respondent stated that a Federal employee should be allowed to file an objection and should be allowed to include and discuss non-public information in their objection.

*Response:* The objection process is an administrative review opportunity for non-Federal individuals and organizations. Agencies have other avenues for working together to resolve concerns, including consultations required by various environmental protection

laws. It would be expected that Federal agencies would work cooperatively during the planning process.

Under Alternatives A, Modified A, C, D, and E Federal employees who meet eligibility requirements of § 219.53(a) and choose to file an objection may do so, but not in an official capacity. They must not be on official duty or use Government property or equipment in the preparation or filing of an objection, nor may they include information only available to them in their official capacity as Federal employees. Other avenues are available within the planning process for Federal employees to contribute information exempt from the Freedom of Information Act requirements.

### **Section 219.54 – Filing an objection.**

*Comment: Proposed prohibition on incorporation by reference.* Some respondents felt the proposed prohibition on incorporation by reference is unduly burdensome. Some felt the wording on what references are required to be included in an objection were unclear.

*Response:* Section 219.54(b) of the Alternatives A, Modified A, C, D and E, retain the requirement. The Department believes the requirements would be clear, and would help the reviewing officer understand the objection and review it in a timely way. These documents include Federal laws and regulations, Forest Service Directives System documents, land management plans, and other published documents, documents referenced by the Forest Service in the planning documentation related to the proposal subject to objection, and formal comments previously provided to the Forest Service by the objector during the proposed plan, plan amendment, or plan revision comment period. All documents not identified in the list in § 219.54(b) of Alternatives A, Modified A, C, D and E, or Web links to those documents, must be included with the objection.

*Comment: Internet submission of objections.* Some respondents felt the rule should allow filing of objections via Internet communication.

*Response:* An e-mail submittal to the appropriate email address would be an acceptable form of filing an objection.

*Comment: Remedy inclusion requirement.* Some respondents felt requiring inclusion of a potential remedy presents an obstacle for participation in the objection process.

*Response:* The objection process sets the stage for dialogue on how a proposed plan, plan amendment, or plan revision could be improved. The objection, including suggesting about how the proposed plan may be improved, can be concise, but should provide a basis for dialogue to resolve concerns. The reviewing officer should be able to use the objection to engage with the objector and other interested parties during the objection period to determine an appropriate course of action.

*Comment: Thirty-day comment period.* Some respondents felt the 30-day time limit for filing an objection is too short.

*Response:* Based on these concerns, Modified Alternative A would change the objection time period to 60 days for a new plan, a plan revision, or a plan amendment for which a draft EIS is prepared, and 45 days for amendments for which a draft EIS is not prepared in response to this comment.

### **Section 219.55 – Objections set aside from review.**

Comments on this section were answered in section 219.53.

**Section 219.56 – Objection time periods and process.**

*Comment: Interested person's timeframe.* Some respondents felt the proposed interested person's timeframe of 10 days is insufficient and would limit interested parties ability to fully participate in the objection process.

*Response:* Alternatives A, Modified A, C, D and E would retain the 10-day timeframe requirement. Persons who have been participating throughout the process should already be familiar with the issues and the process, and should be able to file a request to participate within this timeframe. Granting a longer timeframe for filing a request to participate in an objection would impact the reviewing officer's ability to schedule meetings to discuss issues raised in the objection with the objector and interested parties, thereby delaying resolution of an objection and impacting the reviewing officer's ability to respond to all objections within the timeframe provided by § 219.57.

**Section 219.57 – Resolution of objections.**

*Comment:* Some respondents felt that not requiring a point by point written response to objections is contrary to the objective of resolving issues before decisions are made.

*Response:* It is the intent of the Agency that all issues raised through objection would be responded to, although the responses may not necessarily address each issue individually. Consolidating objection issues and answering with a single response may be appropriate for objection issues of a similar or related nature. Consolidated responses would allow similar issues to be examined and reported on efficiently.

**Section 219.58 – Timing of a plan, plan amendment, or plan revision decision.**

*Comment:* A respondent felt that the 5-day business period following the objection period should be increased to 10 days.

*Response:* The Department did not modify any alternative in response to this comment. The Department determined that the 5 business day delay/buffer is an adequate time period for any objections that may have been timely filed to clear any delivery options and be received by the reviewing officer for consideration.

**Section 219.59 – Use of other administrative review processes.**

*Comment: Public burden.* Some respondents expressed concern about the unreasonable and unfair burden placed on the public for site-specific plan amendments by having to respond to two processes, the NEPA appeal of project level activity and the planning NFMA objection process for planning decision.

*Response:* The Department recognizes there may be limited circumstances when a plan amendment decision is made at the same time a project or activity decision is made and the plan amendment applies to all future projects. Alternatives A, Modified A, C, D, and E the objection process would apply to the plan amendment decision, and the review process of 36 CFR part 215 or 218 applies to the project or activity decision (§ 219.59(b)). In these circumstances, while the NEPA analysis may be combined, the responsible official is making two decisions: a project or activity decision and a plan amendment that applies to all future projects or activities, The concern the public has

with a project may lead to which process the public uses, project review under 36 CFR part 215 or 218 or plan amendment review under 36 CFR 219, and in some cases, the public may choose to use both processes.

The Department would require the public be notified during the NEPA process that the objection process would be used. The Agency's NEPA requirements serve to assure ample opportunities for notification of the public of the use of the objection process as well as the beginning of the objection process.

**Section 219.60 – Secretary's authority.**

None of the comments received from the public were coded to § 219.60.

**Section 219.61 – Information collection requirements.**

None of the comments received from the public were coded to § 219.61.

**Section 219.62 – Definitions.**

*Comment: Substantive formal Comment:* Some respondents requested the rule define "substantive formal Comment."

*Response:* The proposed rule included a definition for "formal comments." The Department's intent is that substantive formal comment be defined as it is defined in Agency appeal regulations 36 CFR 215 for "substantive comment." Modified Alternative A includes a definition of "substantive formal comments" at § 219.62.





## Appendix P – Comments to the Draft PEIS and Proposed Rule from Federal, State, and Local Agencies, Elected Officials, and Tribes

This appendix consists of over 1,200 pages of letters from Federal, State, and Local Agencies, Elected Officials, and Tribes submitted during the public comment period for the Draft PEIS and Proposed Rule. Due to the length of this document, the letters have been made available online on the Planning Rule website at <http://www.fs.usda.gov/planningrule>. Hard copies of this appendix may also be obtained by sending a written request to the Director, Ecosystem Management Coordination Staff, Forest Service, USDA, Mail Stop 1104, 1400 Independence Avenue SW, Washington, DC 20250-1104.

