

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

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.

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 (9th 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. 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. 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.

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 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. 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 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.

