United States Department of the Interior

BUREAU OF INDIAN AFFAIRS
Pacific Regional Office
2800 Cottage Way
Sacramento, California 95825

IN REPLY REFER TO:

APR 20 2012

Dear U.S. Forest Service Line Officer:

On April 9, 2012, a federal register notice regarding the National Forest System Land Management Planning Regulations (36 C.F.R. Part 219) provided that these regulations will be effective May 9, 2012. On March 28, 2012, the Intertribal Timber Council (ITC) made the enclosed testimony to the House Subcommittee for the Interior Environment, and Related Agencies. One of the primary emphasis items discussed in ITC's testimony was the need to establish "anchor forests" which involves healthy forest management partnerships across jurisdictional boundaries. The Pacific Regional Office feels that the U.S. Forest Service (USFS) regulation referenced below in conjunction with other existing laws, regulation, policies, and agreements promote the anchor forest concept. The BIA in California and the USFS have a shared Indian Trust obligation to develop sound cross jurisdictional planning efforts. The BIA and Indian beneficiaries in California would like to partner with the USFS to improve the quality of life of Indian people, promote Indian economic development and protect and improve Indian assets under our respective jurisdictional authorities.

One of the new USFS regulations (36 C.F.R. § 219.4(a)2) provides:

> *For plan development or revision, the responsible official* ***shall*** *review the planning and land use policies of federally recognized Indian Tribes (**43 U.S.C. § 1712(b)**)*

43 U.S.C. §1712(b) provides:

> *Coordination of plans for National Forest System lands with Indian land use planning and management program for purposes of development and revision. In the development and revision of land use plans, the Secretary of Agriculture* ***shall*** *coordinate land use plans for lands in the National Forest System with the land use planning and management programs of and for Indian tribes by, among other things, considering the policies of approved tribal land resource management programs.*

The Bureau of Indian Affairs is the primary federal government agency with fiduciary responsibilities to Indian people and their assets. As a result; laws, regulations, policies have been promulgated requiring the BIA to approve Indian land use management plans to protect and improve Indian lands (25 U.S.C. § 3109 (5 and 15)). Congress has provided our Agency specialized mechanisms that can add value to USFS plans and projects while promoting Indian Self Determination. Working together we can provide more effective *federal* government consultation to Tribes and Tribal Organizations (EO 13175).

Other planning laws have been passed that reinforce Department of Interior Agencies and Department of Agriculture Agencies cross jurisdictional planning and project implementation capabilities such as the Sustained-Yield Forest Management Act (16 U.S.C. §§ 583 et. seq.) that promotes joint landscape planning with Indian beneficial owners:

> *To promote sustained-yield forest management in order thereby,(a). to stabilize communities, forest industries, employment, and taxable forest wealth; (b) to assure a continuous and ample supply of forest products; and (c) to secure the benefits of forests in regulation of water supply and stream flow, prevention of soil erosion,* ***amelioration of climate****, and preservation of wildlife.*

The Forest Landscape Restoration Act (16 U.S.C. §§ 7301-7304) further encouraged this joint landscape planning coordination which required the participation of BIA Regional Directors on behalf of Indian beneficial owners to develop: "...science-based ecosystem restoration of priority forest landscapes ... ". This Act has provided significant funding allocations that our Office is required to work with the USFS on to ensure that Indian Trust and Restricted beneficial owners gain access to these funds. Due to the land composition requirements of the Act and the distribution of California Indian land holdings, we feel that it is prudent that we act as your partner in all requests for funds in compliance with the law. We are requesting your assistance in acquiring these funds on behalf of Indian beneficial land owners and to benefit lands under your jurisdictional authority.

Our agencies approve land management plans that stop at our agencies' jurisdictional boundaries. Our lack of planning coordination has necessitated laws such as the Tribal Forest Protection Act of 2004 (25 U.S.C. § 3115a). The original Tribal Forest Protection Act (16 U.S.C. § 594) was enacted in 1922 and required the Bureau of Indian Affairs to ensure that the Indian lands were protected. Our agencies must not be blinded by these glaring jurisdictional landscape management issues. Only through our planning coordination can these laws effectively protect Indian assets and provide Indian beneficiaries the maximum benefit of protection projects associated with these laws.

Indian people have performed ecosystem management on California lands from time immemorial. Our agencies must do a better job in coordinating our efforts to insure that we utilize existing laws, regulations, policies and agreements to provide the maximum benefit to Indian beneficiaries. We would benefit greatly from the involvement of Indian people in the management of the resources which are so important to them. President Obama, in his memorandum on Tribal Consultation, acknowledged that:

> *"History has shown that failure to include the voices of tribal officials in formulating policy affecting their communities has all too often led to undesirable and, at times, devastating and tragic results."*

Tribal officials have never supported our practice of planning on jurisdictional boundary lines. Rather, Indian people have cultural and spiritual ties to lands under both of our agencies' jurisdictional authorities. Utilizing these newly issued regulations to assist us in reemphasizing the need to manage resources on a landscape scale in a way that benefits Indian beneficiaries is important to us. The BIA in California believes in ITC's concept of anchor forests and landscape scale management. We look forward to assisting you in any way that we can in meeting our shared Indian Trust obligation to Indian people and their assets.

If you have any questions, please call Gerald Jones, Assistant Regional Forester, at (916) 978-6076, or Ron Recker, Acting Chief, Regional Division of Natural Resources, at (916) 978-6065.

Sincerely,

/S/ Amy L. Dutschke

Regional Director

Enclosure

cc: BIA Superintendents, California (with enclosure)
Tribal Leaders, California Tribes (with enclosure)
Tribal Leaders, California Intertribal Organizations (with enclosure)

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DEPARTMENT OF AGRICULTURE

Forest Service

36 CFR Part 219

RIN 0596–AD02

National Forest System Land Management Planning

AGENCY: Forest Service, USDA.

ACTION: Final rule and record of decision.

SUMMARY: The U.S. Department of Agriculture is adopting a new National Forest System land management planning rule (planning rule). The new planning rule guides the development, amendment, and revision of land management plans for all units of the National Forest System (NFS), consisting of 155 national forests, 20 grasslands, and 1 prairie.

This planning rule sets forth process and content requirements to guide the development, amendment, and revision of land management plans to maintain and restore NFS land and water ecosystems while providing for ecosystem services and multiple uses. The planning rule is designed to ensure that plans provide for the sustainability of ecosystems and resources; meet the need for forest restoration and conservation, watershed protection, and species diversity and conservation; and assist the Agency in providing a sustainable flow of benefits, services, and uses of NFS lands that provide jobs and contribute to the economic and social sustainability of communities.

DATES: *Effective Date:* This rule is effective May 9, 2012.

ADDRESSES: For more information, including a copy of the final PEIS, refer to the World Wide Web/Internet at: *http://www.fs.usda.gov/planningrule.* More information may be obtained on written request from the Director, Ecosystem Management Coordination Staff, Forest Service, USDA Mail Stop 1104, 1400 Independence Avenue SW., Washington, DC 20250–1104.

FOR FURTHER INFORMATION CONTACT: Ecosystem Management Coordination staff's Assistant Director for Planning Ric Rine at (202) 205–1022 or Planning Specialist Regis Terney at (202) 205–0895.

SUPPLEMENTARY INFORMATION:

Decision

This document records the decision that the U.S. Department of Agriculture (USDA) reached in determining the alternative that best meets the purpose and need for a new planning rule. The USDA based this decision on the analyses presented in the *Final Programmatic Environmental Impact Statement, National Forest System Land Management Planning* (USDA, Forest Service, 2011) (PEIS). The PEIS was prepared in accordance with the National Environmental Policy Act of 1969 (NEPA).

For the reasons set out in the discussion that follows, the Department hereby promulgates a regulation establishing a National Forest System land management planning rule as described in Modified Alternative A of the *National Forest System Land Management Planning Rule Final Programmatic Environmental Impact Statement* (USDA Forest Service, 2011) with clarifications, and the supporting record. The planning rule describes the process the Forest Service will use for development, amendment, and revision of national forest and grassland plans. It also sets out requirements for the structure of those plans and includes requirements for their content.

This planning rule replaces the final 2000 land management planning rule (2000 rule) as reinstated in the Code of Federal Regulations on December 18, 2009 (74 FR 67062).

Outline

The following outline shows the contents of the preamble which states the basis and purpose of the rule, includes responses to comments received on the proposed rule, and serves as the record of decision for this rulemaking.

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Introduction and Background

The mission of the Forest Service is to sustain the health, diversity, and productivity of the Nation's forests and grasslands to meet the needs of present and future generations. Responsible officials for each national forest, grassland, and prairie will follow the direction of the planning rule to develop, amend, or revise their land management plans.

The new planning rule provides a process for planning that is adaptive and science-based, engages the public, and is designed to be efficient, effective, and within the Agency's ability to implement. It meets the requirements under the National Forest Management Act (NFMA), the Multiple-Use Sustained-Yield Act (MUSYA), and the Endangered Species Act, as well as all other legal requirements. It was also developed to ensure that plans are consistent with and complement existing, related Agency policies that guide management of resources on the National Forest System (NFS), such as the Climate Change Scorecard, the Watershed Condition Framework, and the Sustainable Recreation Framework.

The planning rule framework includes three phases: Assessment, plan development/amendment/revision, and monitoring. The framework supports an integrated approach to the management of resources and uses, incorporates the landscape-scale context for management, and will help the Agency to adapt to changing conditions and improve management based on new information and monitoring. It is intended to provide the flexibility to respond to the various social, economic, and ecologic needs across a very diverse system, while including a consistent set of process and content requirements for NFS land management plans. The Department anticipates that the Agency will use the framework to keep plans current and respond to changing conditions and new information over time.

The planning rule requires the use of best available scientific information to inform planning and plan decisions. It also emphasizes providing meaningful opportunities for public participation early and throughout the planning process, increases the transparency of decision-making, and provides a platform for the Agency to work with the public and across boundaries with other land managers to identify and share information and inform planning.

The final planning rule reflects key themes expressed by members of the public, as well as experience gained through the Agency's 30-year history

with land management planning. It is intended to create a more efficient and effective planning process and provide an adaptive framework for planning.

This final planning rule requires that land management plans provide for ecological sustainability and contribute to social and economic sustainability, using public input and the best available scientific information to inform plan decisions. The rule contains a strong emphasis on protecting and enhancing water resources, restoring land and water ecosystems, and providing ecological conditions to support the diversity of plant and animal communities, while providing for ecosystem services and multiple uses.

The 1982 planning rule procedures have guided the development, amendment, and revision of all existing Forest Service land management plans. However, since 1982 much has changed in our understanding of land management planning. The body of science that informs land management planning in areas such as conservation biology and ecology has advanced considerably, along with our understanding of the values and benefits of NFS lands, and the challenges and stressors that may impact them.

Because planning under the procedures of the 1982 rule is often time consuming and cumbersome, it has been a challenge for responsible officials to keep plans current. Instead of amending plans as conditions on the ground change, responsible officials often wait and make changes all at once during the required revision process. The result can be a drawn-out, difficult, and costly revision process. Much of the planning under the 1982 rule procedures focused on writing plans that would mitigate negative environmental impacts. The protective measures in the 1982 rule were important, but the focus of land management has changed since then and the Agency needs plans that do more than mitigate harm. The Agency needs a planning process that leads to plans that contribute to ecological, social, and economic sustainability to protect resources on the unit and maintain the flow of goods and services from NFS lands on the unit over time.

The NFMA requires the Agency to develop a planning rule ''under the principles of the Multiple-Use Sustained-Yield Act of 1960, that set[s] out the process for the development and revision of the land management plans, and the guidelines and standards'' (16 U.S.C. 1604(g)). The Forest Service fulfills this requirement by codifying a planning rule at Title 36, Code of Federal Regulations, part 219 (36 CFR part 219), which sets requirements for land management planning and content of plans.

In 1979, the Department issued the first regulations to comply with this statutory requirement. The 1979 regulations were superseded by the 1982 planning rule, which has formed the basis for all existing Forest Service land management plans.

In 1989, the Agency initiated a comprehensive Critique of Land Management Planning, which identified a number of adjustments that were needed to the 1982 planning rule. The Critique found that the 1982 planning rule process was complex, costly, lengthy, and cumbersome for the public to provide input. The recommendations in the Critique and the Agency's own experiences with planning led to the Agency issuing an advance notice of proposed rulemaking for a new planning rule in 1991 and proposing a new, revised rule initially in 1995 and again in 1999.

The Department worked with a committee of scientists to develop a final rule, which was issued in 2000. The 2000 revision of the planning rule described a new agenda for NFS planning; made sustainability the foundation for NFS planning and management; required the consideration of the best available scientific information during the planning and implementation process; and set forth requirements for implementation, monitoring, evaluation, amendment, and revision of land management plans. However, a review in the spring of 2001 found that the 2000 rule was costly, complex, and procedurally burdensome. The results of the review led the Department to issue a new planning rule in 2005 and a revised version again in 2008; however, the U.S. District Court for Northern District of California invalidated each of those rules on procedural grounds (*Citizens for Better Forestry* v. *USDA,* 481 F. Supp.2d 1059 (N.D. Cal. 2007) (2005 rule); *Citizens for Better Forestry* v. *USDA,* 632 F. Supp.2d 968 (N.D. Cal. 2009) (2008 rule)).

This final rule replaces the 2000 rule. Because the 2000 rule was the last promulgated planning rule to take effect and not be set aside by a court, the 2000 rule is the rule currently in effect. While the 2000 planning rule replaced the 1982 rule in the Code of Federal Regulations, the transition section of the 2000 rule allowed units to use the 1982 planning rule procedures for plan amendments and revisions until a new planning rule was issued. After the 2008 rule was invalidated, on December 18, 2009, the Department reinstated the 2000 rule in the Code of Federal Regulations and made technical amendments to update transition provisions as an interim measure to be in effect until a new planning rule was issued (74 FR 67062).

The instability created by these past planning rule efforts has caused delays in planning and confused the public. At the same time, the vastly different context for management and improved understanding of science and sustainability that have evolved over the past three decades have created a need for an updated planning rule that will help the Agency respond to new challenges in meeting management objectives for NFS lands.

This final rule is intended to ensure that plans respond to the requirements of land management that the Agency faces today, including the need to provide sustainable benefits, services, and uses, including recreation; the need for forest restoration and conservation, watershed protection, and wildlife conservation; and the need for sound resource management under changing conditions. The new rule sets forth a process that is adaptive, science-based, collaborative, and within the Agency's capability to carry out on all NFS units. Finally, the new rule is designed to make planning more efficient and effective.

Purpose and Need for the New Rule

The NFMA requires regulations consistent with 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 the Act prescribes (16 U.S.C. 1604(g)). The Forest Service's experience, evolving scientific understanding of approaches to land management, changing social demands, and new challenges such as changing climate have made clear the need for a revised rule to more effectively fulfill NFMA's mandate.

On August 14, 2009, Agriculture Secretary Tom Vilsack outlined his vision for the future of our nation's forests, setting forth a direction for conservation, management, and restoration of NFS lands. Secretary Vilsack stated that: ''It is time for a change in the way we view and manage America's forestlands with an eye towards the future. This will require a new approach that engages the American people and stakeholders in conserving and restoring both our National Forests and our privately-owned forests.'' The Secretary emphasized that the Forest Service planning process provides an important means for integrating forest restoration,

climate resilience, watershed protection, wildlife conservation, opportunities to contribute to vibrant local economies, and the collaboration necessary to manage our national forests. ''Our best opportunity to accomplish this is in the developing of a new forest planning rule for our national forests.''

The NFS currently consists of 127 land management plans, 68 of which are past due for revision. Most plans were developed between 1983 and 1993 and should have been revised between 1998 and 2008, based on NFMA direction to revise plans at least once every 15 years. The efforts to produce a new planning rule over the past decade have contributed to the delay in plan revisions. With clarity and stability in planning regulations, land management planning can regain momentum and units will be able to complete revisions more efficiently.

As explained in the Introduction and Background section of this document, the present planning rule is the 2000 planning rule. Under the transition provisions of that rule, the Agency can choose to use either the procedures of the 2000 rule or the planning procedures of the 1982 rule to develop, amend, or revise land management plans. Based on the concerns about implementing the 2000 rule procedures, the Forest Service has been relying upon the 2000 rule's transition provision to develop, amend, and revise land management plans under the 1982 procedures until a new planning rule is in place.

The Forest Service and the Department conclude that the procedures of neither the 2000 rule nor the 1982 rule meet the needs of the Agency today or fulfill the Secretary's vision. Moreover, the Department and the Forest Service have determined that the 2000 rule is beyond the Agency's capability to implement. Even though the Agency has had the option to use the procedures in the 2000 rule, no line officer has chosen to use the 2000 rule to revise or amend a land management plan because the 2000 rule is too costly, complex, and procedurally burdensome. At the same time, the 1982 rule procedures are not current with regard to science, knowledge of the environment, practices for planning and adaptive management, or social values, and are also too complex, costly, lengthy, and cumbersome.

The purpose of, and the need for, a new planning rule is to provide the direction for National Forests and Grasslands to develop, amend, and revise land management plans that will enable land managers to consistently and efficiently respond to social, economic, and ecological conditions.

The Secretary of Agriculture is vested with broad authority to make rules ''to regulate occupancy and use and to preserve [the forests] from destruction'' (16 U.S.C. 551). The MUSYA authorizes and directs that the national forests be managed under the principles of multiple use and to produce sustained yield of products and services. NFMA directs the Secretary to promulgate regulations for the development and revision of land management plans and prescribes a number of provisions that the regulations shall include, but not be limited to (16 U.S.C. 1600(g)). Based on the principles of the MUSYA, the requirements of NFMA, the Secretary's direction and nearly three decades of land management planning experience, the Department and the Forest Service find that a planning rule must address the following eight purposes and needs:

1. Emphasize restoration of natural resources to make our NFS lands more resilient to climate change, protect water resources, and improve forest health.

2. Contribute to ecological, social, and economic sustainability by ensuring that all plans will be responsive and can adapt to issues such as the challenges of climate change; the need for forest restoration and conservation, watershed protection, and species conservation; and the sustainable use of public lands to support vibrant communities.

3. Be consistent with NFMA and MUSYA.

4. Be consistent with Federal policy on the use of scientific information and the Agency's expertise and experience gained in over thirty years of land management planning.

5. Provide for a transparent, collaborative process that allows effective public participation.

6. Ensure planning takes place in the context of the larger landscape by taking an ''all-lands approach.''

7. Be within the Agency's capability to implement on all NFS units; be clear; provide an efficient framework for planning; and be able to be implemented within the financial capacity of the Agency.

8. Be effective by requiring a consistent approach to ensure that all plans address the issues outlined by the Secretary and yet allow for land management plans to be developed and implemented to address social, economic, and ecological needs across the diverse and highly variable systems of the National Forest System.

Public Involvement

Public Involvement in the Development of the Proposed Rule and Draft Environmental Impact Statement (DEIS)

The Department and the Agency engaged in an extensive public outreach and participation process unprecedented for the development of a planning rule. A Notice of Intent (NOI) to prepare a new planning rule and an accompanying draft environmental impact statement (DEIS) was published in the **Federal Register** on December 18, 2009 (74 FR 67165). The NOI solicited public comments on the proposal until February 16, 2010. The notice presented a series of substantive and procedural principles to guide development of a new planning rule. Under each principle, the notice posed several questions to stimulate thoughts and encourage responses. The Forest Service received over 26,000 comments in response to the notice.

The Agency held a science forum on March 29 and 30, 2010, in Washington, DC to ground development of a new planning rule in science and to foster a collaborative dialogue with the scientific community. Panels made up of 21 scientists drawn from academia, research organizations, non-government organizations, industry, and the Federal Government presented the latest science on topics relevant to the development of a new rule for developing land management plans. The format was designed to encourage scientists and practitioners to share the current state of knowledge in key areas and to encourage open dialogue with interested stakeholders.

The Forest Service convened a series of four national roundtables held in Washington, DC during the course of developing the proposed planning rule. The intent was to have a national-level dialogue around the concepts for development of the Forest Service proposed planning rule, to get public input prior to developing the proposed rule. The Forest Service also held 33 regional roundtables during April and May 2010 in the following States: Alaska, Arizona, California, Colorado, Georgia, Idaho, Illinois, Montana, Nevada, New Mexico, Oregon, South Dakota, Utah, and Wyoming.

Additionally, the Forest Service Webcast many of the national and regional roundtables, posted materials and summaries of the roundtables online, and hosted a blog to further encourage participation. In all, more than 3,000 members of the public participated in these opportunities to provide their input.

Public Involvement in the Development of the Final Rule and Final Programmatic Environmental Impact Statement (PEIS)

The Department and the Agency used the input provided by the public in response to the NOI and during the roundtables to inform the development of the proposed rule and DEIS. The proposed planning rule and draft programmatic environmental impact statement (PEIS) were published for comment on February 14, 2011 (76 FR 8480). The comment period ran for 90 days through May 16, 2011. The Department received nearly 300,000 comments during the comment period.

Early in the comment period, the Agency held a series of public meetings that provided opportunities for interested persons to ask questions about the proposed rule. The intent of the meetings was to explain the proposed rule and provide information to the public as they developed their comments on the proposed rule. Between March 10, 2011, and April 7, 2001, the Agency held 1 national and 28 regional forums, which reached 72 satellite locations across the country. The national meeting was held in Washington, DC. Regional and satellite meetings were held in the following States: Alabama, Alaska, Arizona, Arkansas, California, Colorado, Florida, Georgia, Idaho, Illinois, Indiana, Kentucky, Michigan, Minnesota, Mississippi, Missouri, Montana, Nevada, New Hampshire, New Mexico, New York, North Carolina, Ohio, Oregon, Pennsylvania, Puerto Rico, South Carolina, South Dakota, Tennessee, Texas, Utah, Vermont, Virginia, Washington, West Virginia, Wisconsin and Wyoming.

Tribal Involvement

To ensure Tribes and Alaska Native Corporations were heard in a way that gave recognition to their special and unique relationship with the Federal Government, the Agency provided opportunities for participation and consultation throughout the process.

To get input early in the process, the Agency hosted two national Tribal roundtables conducted via conference call in May and August, 2010. Additionally, six Tribal roundtables were held in California, Arizona, and New Mexico. Tribes and Alaska Native Corporations also participated in many of the national and regional roundtables prior to development of the proposed rule.

On September 23, 2010, the Deputy Chief for the National Forest System sent a letter inviting 564 federally recognized Tribes and 29 Alaska Native Corporations to begin government-to-government consultation on the proposed planning rule. The Agency held 16 consultation meetings across the country with designated Tribal officials in November and December, 2010, prior to the publication of the proposed rule in February, 2011. Tribal consultation continued following the release of the proposed rule, with additional opportunities for Tribal consultation provided in 2011.

During the public comment period on the proposed rule the Forest Service held a Tribal teleconference to discuss with Tribes how their previous comments were addressed in the proposed rule. Sixteen Tribes participated in the discussion and had the opportunity to have their questions answered by members of the rule writing team, the Ecosystem Management Coordination Director, and the Associate Chief of the Forest Service. Additionally consultation with Tribes continued at the local level.

Summaries of public involvement may be viewed at *http://www.fs.usda.gov/planningrule.*

Issues Identified in the Programmatic Environmental Impact Statement (PEIS)

Based on public comments, an interdisciplinary team identified a list of issues to analyze:

- Ecosystem Restoration.
- Watershed Protection.
- Diversity of Plant and Animal Communities.
- Climate Change.
- Multiple Uses.
- Efficiency and Effectiveness.
- Transparency and Collaboration.
- Coordination and Cooperation beyond NFS Boundaries.

The PEIS analyzes six fully developed alternatives (A, Modified A, and B through E), and considered nine additional alternatives that were eliminated from detailed study (40 CFR 1502.14(a)). The six fully developed alternatives, with the exception of Alternative B (No Action), meet all aspects of the purpose and need to varying degrees and are described below. The additional alternatives (Alternatives F through N) were considered but eliminated from detailed study because they did not meet some of the aspects of the purpose and need. Chapter 2 of the PEIS provides a more complete discussion of the disposition of these alternatives.

Summary of Alternatives Considered by the Agency

The following summaries describe each alternative. A comparison of the alternatives is available in Chapter 2 of the PEIS.

Alternative A (Proposed Action and Proposed Planning Rule)

Alternative A uses an adaptive framework. The framework consists of a three-part learning and planning framework to assess conditions and stressors; develop, amend, or revise land management plans based on the need for change; and monitor to test assumptions, detect changes, and evaluate whether progress is being made toward desired outcomes.

Alternative A would make the supervisor of the national forest, grassland, prairie, or other comparable administrative unit the responsible official for approving new plans, plan amendments, and plan revisions.

This alternative would require the responsible official to take science into account in the planning process and would require documentation as to how science was considered.

This alternative would require the responsible official to provide opportunities for public participation throughout all stages of the planning process, and includes requirements for outreach, Tribal consultation, and coordination with other planning efforts. This alternative would require responsible officials to provide formal public notification at various points in the process and to post all notifications online. This alternative requires the responsible official to encourage participation by youth, low-income, and minority populations. Alternative A would explicitly require the responsible official to provide the opportunity to undertake consultation with federally recognized Indian Tribes and Alaska Native Corporations and require the responsible official to encourage participation by interested or affected federally recognized Indian Tribes and Alaska Native Corporations. As part of Tribal participation and consultation, the responsible official would invite Tribes to share native knowledge during the planning process. Alternative A would require that the responsible official coordinate planning with the equivalent and related planning efforts of other Federal agencies, State and local governments, and Indian Tribes.

Alternative A would require assessments to identify and evaluate information needed to understand and assess existing and potential future conditions on NFS lands in the context of the broader landscape. These assessments would include a review of relevant information from other governmental or non-governmental assessments, plans, reports, and studies.

Alternative A would require plans to include five plan components—desired conditions, objectives, standards, guidelines, and suitability of areas for resource management. Plans could also include goals as option plan components. Alternative A includes direction for other content required in the plan, including the monitoring program.

Alternative A would require plan components to provide for the maintenance or restoration of the structure, function, composition, and connectivity of healthy and resilient aquatic ecosystems and watersheds in the plan area. In addition, Alternative A would include plan components to guide the unit's contribution to social and economic sustainability.

Under Alternative A, plan components for ecological sustainability would be required to take into account air quality, landscape-scale integration of ecosystems, system drivers and stressors including climate change, and opportunities to restore fire adapted ecosystems. Plan components would also be designed to maintain, protect and restore various ecosystem elements including soil, water, and riparian areas.

Alternative A would require plan components for the conservation of all native aquatic and terrestrial species with the aim of providing the ecological conditions to contribute to the recovery of federally listed threatened and endangered species, conserve candidate species, and maintain viable populations of species of conservation concern. Alternative A would also require monitoring of select ecological and watershed conditions and focal species to assess progress towards meeting diversity and ecological sustainability requirements.

Alternative A would require that plans provide for multiple uses and ecosystem services, considering a full range of resources, uses, and benefits relevant to the unit, as well as stressors, and other important factors.

Alternative A would require plan components for sustainable recreation, considering opportunities and access for a range of uses. Recreational opportunities could include non-motorized, motorized, developed, and dispersed recreation on land, water, and air. In addition, plans should identify recreational settings and desired conditions for scenic landscape character.

Alternative A includes requirements for plan components for timber, consistent with the requirements of NFMA.

Alternative A provides an efficient process for amendments, required for any substantive change to plan components, and for administrative changes to make corrections or changes to parts of the plan other than the plan components.

Alternative A requires plan-level and broader-scale monitoring, to inform adaptive management.

Alternative A would require an environmental impact statement for new plans and plan revisions. Plan amendments would require either an environmental impact statement or an environmental assessment, or could be categorically excluded from documentation, based on the significance of effects pursuant to Agency NEPA procedures.

Alternative A would require that the decision document for the plan include the rationale for approval, an explanation of how the plan components meet the requirements for sustainability and diversity, best available scientific information documentation, and direction for project application.

Alternative A requires that projects and activities must be consistent with the plan components, and provides direction for determining consistency. It also requires that other resource plans that apply to the plan area be consistent with the plan components.

The responsible official initiating a plan revision or development of a new plan before Alternative A went into effect would have the option to complete the plan revision or development of the new plan under the prior rule or conform to the requirements of the final rule after providing notice to the public. All plan revisions or new plans initiated after the effective date of the final rule would have to conform to the new planning requirements.

Alternative A includes a severability provision, stating if parts of Alternative A are separately found invalid in litigation, individual provisions of the rule could be severed and the other parts of the rule could continue to be implemented.

Alternative A provides a pre-decisional administrative review (objection) process for proposed plans, plan amendments, and plan revisions. The objection process is based on the objection regulations for certain proposed hazardous fuel reduction projects, found at 36 CFR part 218, and is intended to foster continued collaboration in the administrative review process.

The complete text of Alternative A is provided in Appendix A of the PEIS.

Reason for non-selection: Alternative A meets the purpose and need and responds to the significant issues displayed in the PEIS in a manner very similar to Modified Alternative A. The Department received a large number of public comments on Alternative A including suggestions about how to change Alternative A, improve clarity, and better align the text of the alternative with the Department's intent as described in the preamble for the proposed rule. The Department developed Modified Alternative A after considering public comments. Modified Alternative A is described below. Alternative A was not selected because the Agency developed Modified Alternative A in response to public comment. For this reason, Alternative A was not selected as the final rule.

Modified Alternative A (Final Rule)

Modified Alternative A, with clarifications, was selected as the final rule, (see the Decision and Rationale section of this document).

Modified Alternative A includes the same concepts and underlying principles as Alternative A, and retains much of the same content. However, a number of changes to the rule text and organization have been made, based on public comment on the proposed rule (Alternative A) and the DEIS. The Forest Service considered the available option of replacing the text of Alternative A with the text of Modified Alternative A in the PEIS. However, because Modified Alternative A looks different than Alternative A, the Agency included it as a new alternative for transparency and for the ease of the reviewer in comparing the proposed rule with the final preferred alternative.

Modified Alternative A uses an adaptive framework for planning. The framework consists of a three-part learning and planning framework to assess information relevant to the plan area, develop, amend, or revise land management plans based on the need for change, and monitor to test assumptions, detect changes, and evaluate whether progress is being made toward desired outcomes.

Modified Alternative A would make the supervisor of the national forest, grassland, prairie, or other comparable administrative unit the responsible official for approving new plans, plan amendments, and plan revisions. The Chief would be required to establish a national oversight process for consistency and accountability.

Modified Alternative A would require the responsible official to use the best available scientific information to inform the planning process, plan components, and other plan content including the monitoring program, and

includes requirements for documentation of how the best available scientific information was used to inform the plan decision.

Modified Alternative A would require the responsible official to provide opportunities for public participation throughout all stages of the planning process, and includes requirements for outreach, Tribal consultation, and coordination with other planning efforts. Modified Alternative A requires the responsible official to encourage participation by youth, low-income, and minority populations. Modified Alternative A would explicitly require the responsible official to provide the opportunity to undertake consultation with federally recognized Indian Tribes and Alaska Native Corporations and require the responsible official to encourage participation by interested or affected federally recognized Indian Tribes and Alaska Native Corporations. As part of Tribal participation and consultation, the responsible official would invite Tribes to share native knowledge during the planning process. Modified Alternative A would require that the responsible official coordinate planning with the equivalent and related planning efforts of other Federal agencies, State and local governments, and Indian Tribes.

Modified Alternative A would require assessments to rapidly identify and evaluate existing information relevant to the plan area to understand and assess existing and potential future conditions on NFS lands in the context of the broader landscape, focused on a set of topics that relate to the requirements for plan components and other plan content. These assessments would include a review of relevant information from other governmental or non-governmental assessments, plans, reports, and studies.

Modified Alternative A would require plans to include five plan components—desired conditions, objectives, standards, guidelines, and suitability of areas for resource management. Plans could also include goals as option plan components. Modified Alternative A includes direction for other content required in the plan, including the monitoring program.

Modified Alternative A would require plan components to provide for the maintenance or restoration of the ecological integrity of terrestrial and aquatic ecosystems and watersheds in the plan area. In addition, Modified Alternative A would include plan components to guide the unit's contribution to social and economic sustainability.

Under Modified Alternative A, plan components for ecological integrity would be required to take into account the interdependence of ecosystems, impacts from and to the broader landscape, system drivers and stressors including climate change, and opportunities to restore fire adapted ecosystems and for landscape scale restoration. Plan components would be also be required to maintain or restore air, soil and water resources, and to maintain or restore the ecological integrity of riparian areas.

Modified Alternative A would require that plans use a complementary ecosystem and species-specific approach to provide for the diversity of plant and animal communities and maintain the persistence of native species in the plan area. Ecosystem plan components would be required for ecosystem integrity and diversity, along with additional, species-specific plan components where necessary to provide the ecological conditions to contribute to the recovery of federally listed threatened and endangered species, conserve proposed and candidate species, and maintain viable populations of species of conservation concern. Modified Alternative A would also require monitoring of select ecological and watershed conditions and focal species to assess progress towards meeting diversity and ecological sustainability requirements.

Modified Alternative A would require that plans provide for ecosystem services and multiple uses, considering a full range of resources, uses, and benefits relevant to the unit, as well as stressors and other important factors.

Modified Alternative A would require plan components for sustainable recreation, including recreation settings, opportunities, access; and scenic character. Recreational opportunities could include non-motorized, motorized, developed, and dispersed recreation on land, water, and air.

Modified Alternative A includes requirements for plan components for timber management, consistent with the requirements of NFMA.

Modified Alternative A provides an efficient process for amendments, required for any substantive change to plan components, and for administrative changes to make corrections or changes to parts of the plan other than the plan components.

Modified Alternative A requires plan-level and broader-scale monitoring to inform adaptive management.

Modified Alternative A would require an environmental impact statement for new plans and plan revisions. Plan amendments would require either an environmental impact statement or an environmental assessment, or could be categorically excluded from documentation, based on the significance of effects pursuant to Agency NEPA procedures.

Modified Alternative A would require that the decision document for the plan include the rationale for approval; an explanation of how the plan components meet the requirements for sustainability, diversity, multiple use and timber; best available scientific information documentation; and direction for project application.

Modified Alternative A requires that projects and activities must be consistent with the plan components, and provides direction for determining consistency. It also requires that other resource plans that apply to the plan area be consistent with the plan components.

Modified Alternative A would require responsible officials to provide formal public notification at various points in the process and to post all notifications online.

The responsible official initiating a plan revision or development of a new plan before Modified Alternative A went into effect would have the option to complete the plan revision or development of the new plan under the prior rule or conform to the requirements of the final rule after providing notice to the public. All plan revisions or new plans initiated after the effective date of the final rule would have to conform to the new planning requirements.

Modified Alternative A includes a severability provision, stating if parts of Alternative A are separately found invalid in litigation, individual provisions of the rule could be severed and the other parts of the rule could continue to be implemented.

Modified Alternative A provides a pre-decisional administrative review (objection) process for proposed plans, plan amendments, and plan revisions. The objection process is based on the objection regulations for certain proposed hazardous fuel reduction projects, found at 36 CFR part 218, and is intended to foster continued collaboration in the administrative review process.

As is clear from this summary, Modified Alternative A includes the same concepts and underlying principles as Alternative A, and retains much of the same content. However, a number of changes to the rule text and organization were made based on public comment on the proposed rule (Alternative A) and the DEIS.

Many people commented that the proposed rule lacked clarity and was ambiguous in places. Others felt that the intent stated in the preamble of the proposed rule was at times not reflected in the actual text of the proposed rule itself. They were concerned that this ambiguity would lead to inconsistent implementation of the rule and that the intent as expressed in the preamble would not be realized. Modified Alternative A rewords the text in a number of places to improve clarity and better reflect the Department's intent as stated in the preamble to the proposed rule.

There are also a number of changes to the process and content requirements of Alternative A, to address certain concerns raised by the public, reduce process, and make other modifications in response to public comments. A complete description of these changes is provided in the Response to Comments section of this document.

A detailed analysis was conducted to determine if there were any difference in programmatic effects between Alternative A and Modified Alternative A. Because Modified Alternative A was developed to reflect the intent of Alternative A, there were very few differences in programmatic effects between the two alternatives. The few differences in programmatic effects between Alternative A and Modified Alternative A were to plan content and the planning process (requirements for assessments, documentation, notification, plan components) or to the costs of implementation. Any differences in effects to resources cannot be determined at this programmatic level. However, the Department concludes the added clarity in Modified Alternative A will lead to more consistent implementation of the rule.

The full text of Modified Alternative A can be found in Appendix I of the PEIS and is set out as the final rule below. A detailed description of changes to Alternative A that led to Modified Alternative A can be found in the Response to Comments section of this document and in Appendix O of the PEIS. An analysis of the effects of Modified Alternative A has been included in Chapter 3 of the PEIS.

Alternative B (No Action)

The ''No Action'' alternative, as stated by the Council on Environmental Quality, ''may be thought of in terms of continuing with the present course of action until that action is changed'' (Council on Environmental Quality, Forty Most Asked Questions Concerning CEQ's National Environmental Policy Act Regulations, 46 FR 18026, 18027 (March 23, 1981)). The ''No Action'' alternative is the 2000 planning rule, which, since the 2008 rule was set aside by court order, is the current rule (see 74 FR 67059 (December 18, 2009)). If the Department chooses to take no action, the 2000 rule would remain in effect. However, the ''present course of action'' under the 2000 rule is not to use the 2000 rule in its entirety but to use its transition provisions at 36 CFR 219.35, which allow use of the 1982 rule procedures to develop, amend, and revise land management plans until a new planning rule is in place. Since identifying a set of issues with the 2000 rule provisions, as explained in the PEIS at Chapter 1 and in the discussion section of Alternative F, the Forest Service has been relying upon the 2000 rule's transition wording at § 219.35 to use the 1982 rule procedures to develop, amend, and revise land management plans.

The 1982 rule, as amended, is in Appendix B of the PEIS. However, only the provisions of that rule applicable to the development, amendment, and revision of land management plans are available for use pursuant to 36 CFR 219.35 of the current (2000) rule. The 1982 rule procedures require integration of natural resource planning for national forests and grasslands, by including requirements for integrated management of timber, range, fish and wildlife, water, wilderness, and recreation resources, with resource protection activities such as fire management, and the use of other resources such as minerals.

An appeal process has been used throughout the life of the 1982 planning rule. Under § 219.35 of the current (2000) rule, responsible officials have the option of using either a post-decisional appeal process or a pre-decisional objection process for challenging plan approval decisions.

The 1982 rule procedures require regional foresters to be the responsible official for approval of new plans and plan revisions.

Alternative B would continue to require an environmental impact statement for new plans and plan revisions. Documentation for plan amendments would continue to be determined by the significance of effects pursuant to Agency NEPA procedures and could, therefore, range from categorical exclusions to environmental impact statements.

Rule text for this alternative is provided in Appendices B, C, and D of the PEIS, which contain planning provisions, transition provisions, and administrative review provisions respectively.

Reason for non-selection: Alternative B is the no action alternative. The 1982 rule procedures are not current with regard to science, knowledge of the environment, practices for planning and adaptive management, or social values, and are unduly complex, costly, lengthy, and cumbersome. For those reasons, the Agency has actively been trying to promulgate a new planning rule to replace the 1982 planning procedures for over a decade (see Introduction and Background section above).

Many plans recently revised under the 1982 planning procedures reflect elements of the purpose and need such as emphasizing restoration, addressing climate change, using a coarse-filter/fine-filter approach for maintaining species diversity, and using a collaborative approach to planning. However, the 1982 planning procedures do not require consideration of these and other important elements in planning that reflect current science, Agency expertise, and best practices in planning. This has resulted in inconsistent incorporation of the elements of the purpose and need in plans.

Alternative B reflects an approach to land management planning that focused on producing outputs (for example, board feet of timber, recreation visitor days, and animal months of grazing) and mitigating the effects of management activities on other resources. The Agency recognizes and supports the importance, value, and legal responsibility of providing for multiple use purposes. Timber, grazing, recreation, and other multiple uses supported on NFS lands provide jobs and income to local communities, and products used by all Americans. However, land management planning today focuses on managing toward desired conditions, or outcomes, rather than focusing simply on outputs.

Outcome-based planning shifts the focus from how to get something done to why it is done. In contemporary planning, outputs are services that are generated as projects and activities are carried out that lead to desired outcomes on the ground. Outcome based planning is well supported by the Agency's experience in land management planning. This approach to planning is also well supported by other land and urban planning agencies at all scales—from urban planning for small cities to international level planning efforts. It is also extensively used in the fields of education, health care, economics, and others. Outcome based planning can and does occur under

Alternative B. However, this approach is not required under this alternative.

Alternative B does not meet several elements of the purpose and need. Alternative B does not:

• Emphasize restoration of natural resources to make our NFS lands more resilient to climate change, protect water resources, and improve forest health.

• Ensure all plans will be responsive to issues such as the challenges of climate change; the need for forest restoration and conservation, and watershed protection.

• Be consistent with Federal policy on the use of scientific information and the Agency's expertise and experience gained in more than 30 years of land management planning.

• Ensure planning takes place in the context of the larger landscape by taking an ''all-lands approach.''

Alternative B has also proven costly to implement. The 1982 planning procedures require complex analysis processes, such as benchmark analysis, resulting in plan revisions that have, on average, taken 5 to 7 years to complete. In 1989, the Forest Service, with the assistance of the Conservation Foundation, conducted a comprehensive review of the planning process and published the results in a summary report, ''Synthesis of the Critique of Land Management Planning'' (*http://www.fs.usda.gov/Internet/FSE_DOCUMENTS/stelprdb5127602.pdf*). The Critique found that the planning process of the 1982 rule was very complex, had significant costs, took too long, and was too cumbersome.

Finally, Alternative B includes planning procedures that do not reflect current science or result in unrealistic or unattainable expectations because of circumstances outside of the Agency's control, particularly for maintaining the diversity of plant and animal species. The 1982 rule at 36 CFR 219.19 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. For planning purposes, a viable population shall be regarded as one which has the estimated numbers and distribution of reproductive individuals to insure its continued existence is well distributed in the planning area. In order to insure that viable populations will be maintained, habitat must be provided to support, at least, a minimum number of reproductive individuals and that habitat must be well distributed so that those individuals can interact with others in the planning area. These requirements do not recognize that there are limitations on the Agency's authority and the inherent capability of the land. In addition, these requirements do not reflect the most current science. For example:

(1) At times, circumstances that are not within the *authority* of the Agency limit the Agency's ability to manage fish and wildlife habitat to insure the maintenance of a viable population of a species within the plan area, such as:

• Forest clearing in South America—South American forests provide important wintering areas for many Neotropical birds that nest in North America. The clearing of these forests for agricultural purposes poses a serious threat to the long-term viability of the Cerulean warbler and the ability of national forests in the southern Appalachian Mountains to maintain populations of this species.

• Hydropower facilities in the Pacific Northwest and off-shore fishing harvest practices—These facilities and practices are primary downstream threats to Chinook salmon populations whose spawning beds may occur on stream reaches within national forests in the Intermountain West, thus affecting the ability of national forests within this salmon's range to maintain viable populations of this species on their respective units.

• Land use patterns on private lands within and adjacent to NFS units, such as the continuing agricultural uses and urbanization that is occurring east of the Rocky Mountains—habitat fragmentation as a result of these changes reduces available habitat and further isolates existing swift fox populations. This affects the ability of national grasslands in eastern Colorado to maintain viable populations of this species.

(2) At times, it may be beyond the Agency's authority to manage habitat to insure the maintenance of a viable population of a species within the plan area, given that the Agency must comply with all applicable laws and regulations. An example would be when efforts to maintain the habitat conditions necessary for a viable population of one species would jeopardize an endangered or threatened species, in violation of the Agency's statutory obligations under the ESA. Another example would be when maintaining the habitat conditions necessary for a viable population of one species would consume the resources available to a unit to the point of precluding other activities from occurring on the unit that are necessary to comply with independent statutory or regulatory requirements.

(3) Examples of circumstances that are not consistent with the *inherent capability* of the plan area that limit the Agency's ability to manage fish and wildlife habitat to insure the maintenance of a viable population of a species within the plan area include:

• Where a species is inherently rare because its members occur at low numbers and are wide ranging individuals. For such a species the number of breeding individuals that may occur on an individual national forest may be too small to be considered a viable population. The wolverine of the northern Rocky Mountains is such a species.

• 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.

• Water quality conditions in Appalachian Mountain streams that provide habitat for eastern brook trout have been altered through acid deposition, due to past and current acid rain, rendering many of them unsuitable for brook trout and compromising the ability of some Appalachian national forests to maintain viable populations of this species.

(4) Sometimes a combination of a lack of authority and the inherent capability of the land limit the Agency's ability to manage fish and wildlife habitat to ''*insure* [a vertebrate species'] continued existence is well distributed in the planning area,'' for example, a federally listed threatened or endangered species may face a combination of stressors such that a population may no longer be viable and whose recovery, in most cases, cannot be achieved within the boundaries of a single unit.

(5) An example of an approach included in the 1982 requirements that is no longer supported by the best available scientific information is the concept of management indicator species (MIS). The 1982 rule is largely reliant on the ability of selected MIS and their associated habitat conditions to adequately represent all other vertebrates in the plan area for assessing vertebrate species viability. Even though the process of assessing and selecting MIS has evolved, the ability of a species or species group, on its own, to adequately represent all associated species that rely on similar habitat conditions is now largely unsupported in the scientific literature.

For these reasons Alternative B was not selected as the final rule.

Alternative C

Alternative C was developed to meet the minimum requirements of NFMA, with additional provisions narrowly designed to meet the purpose and need for this rule-making effort.

Provisions to meet the purpose and need, but not otherwise required by NFMA, were included in this alternative to ensure that plans would be responsive to the challenges of climate change, the need for forest restoration, and to ensure the sustainable use of NFS lands to support vibrant communities. The full text of Alternative C is displayed in Appendix E of the PEIS. Specifically, the multiple uses provision in this alternative at § 219.10 requires plan components to include guidance to identify and consider climate change, forest restoration and conservation, and social and economic elements of sustainability to support vibrant rural communities. Provisions were also added to ensure that plans would be developed in a collaborative manner. The public participation provision in this alternative at § 219.4 requires the responsible official to use a collaborative and participatory approach to land management planning. The same provisions for pre-decisional objections found in Alternative A are also included in this alternative.

Unlike the other alternatives considered in detail, this alternative would not explicitly require preparation of an environmental impact statement for development of a new plan or for a plan revision. Instead, this alternative would rely on Agency NEPA implementing procedures at 36 CFR part 220 to determine the level of environmental analysis and documentation. Similar to other alternatives considered in detail, documentation for plan amendments would be determined by the significance of effects pursuant to Agency NEPA procedures and could, therefore, range from categorical exclusions to environmental impact statements.

Reason for non-selection: Alternative C imposes the fewest specific requirements for the planning process and plan content of all alternatives analyzed in detail. This alternative reflects the opposite end of the spectrum from Alternative E (the most prescriptive of the alternatives). Under Alternative C the process of plan development, amendment, and revision would be largely guided by the Forest Service Directives System. The result of having few requirements in a rule is greater uncertainty as to what the effects on plan content and the planning process would be and as a result, greater uncertainty as to potential effects to resources over time.

Under Alternative C, the Agency would expect a range of results: The range might vary from an expedited planning process producing very streamlined plans on some units to a planning process and plans that are similar to those plans that have been recently revised using the 1982 planning procedures on other units. There would be no certainty with regard to the inclusion of any plan components beyond the minimum required by this Alternative, and a potential lack of consistency across the National Forest System.

A similar approach of developing a streamlined planning rule and relying on the Forest Service directives for details of implementation was used for the 2008 planning rule. The uncertainty of this approach generated a great deal of distrust by many members of the public who felt the full intent of management direction related to planning should be reflected in the rule.

Alternative C does not expressly include an adaptive management framework. The Department concludes that the adaptive management framework of assessing, revising, amending, and monitoring provides a scientifically supported foundation for addressing uncertainty, understanding changes in conditions that are either the result of management actions or others factors, and keeping plans current and relevant.

This is the least costly of all of the alternatives and that is an important consideration. However, there are other alternatives that would reduce the current costs of planning, have broader based public support, and that, in the Department's view, provide for a more appropriate balance between prescriptive and non-prescriptive approaches to planning.

Even though Agency costs are lower under Alternative C compared to other alternatives, the Department is uncertain whether plans will be developed, amended, or revised to the high standards of excellence the Department expects. All units would comply with the requirements of this alternative. However, there is higher uncertainty associated with selecting an alternative with few requirements as the final rule. The level of uncertainty results in a higher risk that the level of compliance with such important elements as monitoring, public participation, species conservation, or watershed protection may not lead to plans that meet the Department's full objectives.

For these reasons, Alternative C was not selected as the final rule.

Alternative D

The full text of Alternative D is displayed in Appendix F of the PEIS. This alternative consists of Alternative A with additional and substitute direction focused on coordination requirements at § 219.4, assessment requirements at § 219.6, sustainability requirements at § 219.8, species requirements at § 219.9, monitoring requirements at § 219.12, and some additional and alternative definitions at § 219.19.

This alternative was designed to evaluate additional protections for watersheds and an alternative approach to addressing the diversity of plant and animal communities. These approaches were addressed together because they both involve requirements for substantive plan content for resource protection, as opposed to other issues that are concerned with procedural requirements.

Unlike Alternative A, this alternative requires establishment of riparian conservation areas and key watersheds, prescribes a 100-foot width for riparian conservation areas, and places the highest restoration priority on road removal in watersheds. Watershed assessments would be required to provide information for defining riparian conservation area boundaries and developing watershed monitoring programs. The alternative would require the identification of key watersheds to serve as anchor points for the protection, maintenance, and restoration of habitat for species dependent on aquatic habitat. It would also require plans to provide spatial connectivity among aquatic and upland habitats.

This alternative would take a somewhat different approach than Alternative A for maintaining viable populations within the plan area. It would require an assessment prior to plan development or revision that identifies: current and historic ecological conditions and trends, including the effects of global climate change; ecological conditions required to support viable populations of native species and desired non-native species within the planning area; and current expected future viability of focal species within the planning area. It would also require that the unit monitoring program establish critical values for ecological conditions and focal species that trigger reviews of planning and management decisions to achieve compliance with the provision for

maintaining viable populations within the plan area.

See Appendix F of the PEIS for Alternative D text in a side-by-side comparison with Alternative A.

Reason for non-selection: Alternative D meets the purpose and need in a manner similar to Alternative A. Alternative D includes additional requirements for watershed and species protection and collaboration that provide among the highest levels of watershed and species conservation of all alternatives. However, Alternative D has the second highest planning and monitoring costs of all alternatives, and there are several requirements of Alternative D that would be difficult to implement or not appropriate across all NFS units.

This alternative capitalizes on approaches for watershed management that have been demonstrated to be effective in some areas of the country—largely the Pacific Northwest. However, a single, prescriptive approach may not be effective for improving watershed conditions across the highly diverse watersheds of the NFS.

For example, it is unlikely that the requirements of this Alternative that all plans establish watershed networks that can serve as anchor points for the protection, maintenance, and restoration of broad-scale processes and recovery of broadly distributed species and to maintain spatial connectivity within or between watersheds would be an effective management strategy for improving watershed conditions on certain units, for example, where the percentage of NFS land ownership in a given watershed is very low. Such requirements also may not be the most effective means of maintaining or restoring watershed health on these or other units, and attempting to meet this requirement may preclude other more effective management options.

Alternative D includes a national standard for a minimum 100 foot default width for riparian conservation areas. Based on the analysis in the PEIS, a national standard setting a minimum default width applicable to all types of waterbodies and in all geomorphic settings is not consistent with the preponderance of scientific literature which largely argues for scalable widths, widths tailored to geomorphic settings or an adaptable approach matched to resource characteristics. The national standard does provide certainty or assurance that all riparian areas of 100 feet or less would be fully incorporated within the riparian conservation area, even where narrower widths would be more appropriate based on geomorphic features, conditions, or type of water bodies. However, to expand the default width beyond 100 feet will require a ''burden of proof'' during the planning process that some units may not be willing or able to accomplish, which could lead to the width being under inclusive for riparian areas in the plan area.

Alternative D requires standards to restore sediment regimes to within a natural range of variability. While an understanding of the natural range of variability in sediment regime could provide important context for sediment reduction activities, standards to restore sediment regimes to a natural range of variability might be impractical as they require information on historical flow regimes that might not be applicable to future conditions. Historical ranges of variation as standards or guidelines for restoration may be inappropriate in the face of changing hydrologic conditions brought about by climate change. The added requirements are likely not appropriate for all NFS units, will be data intensive, and might constrain or delay other management actions that could address known sediment problems.

This alternative requires that road removal or remediation in riparian conservation areas and key watersheds be considered a top restoration priority. Setting one primary national restoration priority for all units does not take into account the high variability of conditions and stressors across NFS lands. Also, it does not take into account changing conditions. While road remediation in riparian areas will likely be the highest priority in some places or at some times, it might not be for all units and across the entire life of a plan. For example, it might be more important to shift restoration focus to control a new occurrence of invasive species before it becomes pervasive in a watershed, or to reduce hazardous fuels to reduce the risk of negative effects to soil and water of uncharacteristic or extreme wildfire events.

Finally, Alternative D requires that, with limited exceptions, only management activities for restoration would be allowed in riparian areas. The Department understands the importance and supports the protection of healthy functioning riparian areas for water quality, water quantity, and aquatic and terrestrial habitat. The Department also understands the potential negative effects that management activities or uses such as dispersed or developed recreation, grazing, and water level management can have on riparian areas. However, the Department concludes that decisions regarding management activities in riparian areas are better made at the individual plan and project levels where the effects to the resources, to the users, and to communities can be better determined within the context of overall watershed restoration and the maintenance and restoration of the ecological integrity of riparian areas in the plan area.

None of the individual elements of Alternative D is inconsistent with the final planning rule and they could be incorporated at the plan level into plan direction where they are determined to be applicable and effective for those units. In fact, many current plans already incorporate elements of this alternative. However, requiring incorporation of all elements of Alternative D does not provide enough flexibility for effective and efficient resource management on all units of the NFS.

For these reasons Alternative D was not selected as the final rule.

Alternative E

The full text of Alternative E is displayed in Appendix G of the PEIS. This alternative consists of the proposed rule (Alternative A) with additional and substitute direction focused on prescriptive requirements for public notification at § 219.4, assessment requirements at § 219.6, and monitoring requirements at § 219.12.

This alternative prescribes an extensive list of monitoring and assessment questions and requires plan monitoring programs to identify signals for action for each question and its associated indicator.

This alternative specifies performance accountability for line officers' management of unit monitoring and adds responsibility for the Chief to conduct periodic evaluations of unit monitoring programs and the regional monitoring strategies.

Alternative E adds more prescriptive requirements for public participation in the planning process. To help connect people to the outdoors, this alternative also includes requirements for plans to provide for conservation education and volunteer programs.

See Appendix G of the PEIS for Alternative E text in a side-by-side comparison with Alternative A.

Reason for non-selection: Alternative E requires more evaluation of ecological conditions and possible scenarios during assessment for plan revisions and more monitoring of specific conditions and responses to restoration. The use of signal points could potentially make land managers more aware and responsive when monitoring results are outside of expected levels. However, the difficulty of establishing

statistically and temporally significant signal points related to restoration, especially where there is insufficient data and where conditions are changing, will increase the complexity of planning. The prescriptive nature of the monitoring requirements could increase the ability to aggregate and compare data between units or at higher scales but could also result in the costly collection of data that is not necessarily relevant to the management of particular individual units or ecological conditions.

Requirements to identify possible scenarios in assessments would have short-term cost increases with possible long-term gains in efficiency. Additional requirements regarding coordination in the assessment and monitoring process would increase initial costs, but consistent coordination might also result in more cost-effective long-term planning efforts to meet viability objectives. However, while additional requirements for standardized collaboration methods might work well for some units, other units might find that some required steps are not relevant to their local public involvement needs. Based on the analysis in the PEIS, collaboration strategies tailored to a unit's particular needs are often more effective than very prescriptive approaches to collaboration.

The PEIS points out potential benefits of more prescriptive requirements for assessment, monitoring, and collaboration. But, the PEIS also points out the drawbacks, particularly in trying to efficiently apply a ''one-size-fits-all'' approach to such things as monitoring or collaboration across highly diverse resources conditions and communities associated with NFS Units. This Alternative also has the highest implementation costs of all alternatives. The Department does not believe that the potential gains in effectiveness warrant the increased costs.

None of the individual elements of Alternative E are inconsistent with the final planning rule and any of them can be incorporated into plan direction where they are determined to be applicable and effective for those units. However, requiring incorporation of all elements of Alternative E does not provide enough flexibility for effective and efficient resource management on all units of the NFS. For these reasons Alternative E was not selected as the final rule.

The Environmentally Preferred Alternative

Under the Council on Environmental Quality's (CEQ) NEPA regulation, the Department is required to identify the environmentally preferred alternative (40 CFR 1505.2(b)). This is interpreted to mean the alternative that will promote the national environmental policy as expressed in NEPA's section 101 and that would cause the least damage to the biological and physical components of the environment. The environmentally preferred alternative best protects, preserves, and enhances historic, cultural, and natural resources (Council on Environmental Quality, Forty Most Asked Questions Concerning CEQ's National Environmental Policy Act Regulations (46 FR 18026, 18028 (March 23, 1981)).

The two alternatives that best meet these criteria are Alternative D (if it could be fully implemented) and Modified Alternative A. Alternative D provides the highest level of resource protection, particularly for water and riparian resources. Some requirements of this alternative would be difficult to implement across the entire NFS, add increased cost and complexity to the planning process for little benefit, and may not always represent the best approach for the resource. The additional funds spent on the planning process would not be available for other management activities including restoration and habitat improvement.

Modified Alternative A also provides high levels of resource protection and can be effectively implemented across all units. It does not preclude incorporation of elements of Alternative D into plans where they are most suited to meet resource conditions.

The approval of a planning rule to guide development, revision, and amendment of land management plans is a broad policy decision. Accordingly, impacts described in the PEIS reflect issues concerning effects over a broad geographic and time horizon. The depth and detail of impact analysis is necessarily broad and general because a planning rule is two steps removed from site-specific projects and activities. Quantitative, site-specific effects can only be predicted with any certainty when site-specific actions are proposed.

Decision and Rationale

Decision

Modified Alternative A, with clarifications, is selected as the final planning rule. A few clarifications were made to better represent the Department's intent, and do not substantively change Modified Alternative A. They include:

(1) Changes made to § 219.7(e)(1)(iv) and § 219.15(d)(3) to clarify that compliance with both standards and guidelines is mandatory, with standards requiring strict adherence to their terms, while guidelines allow for flexibility so long as the purpose for the guideline is achieved.

(2) Changes made to § 219.9(b)(1) to clarify that the responsible official must determine whether the plan components of paragraph (a) provide the necessary ecological conditions, or whether additional, species-specific plan components must be included in the plan.

(3) Changes made to the definition of designated areas in § 219.19 to clarify that the examples of designated areas included in Modified Alternative A were not intended to be exclusive.

(4) Changes throughout Subpart B to clarify that organizations, States and Tribes are among the entities that may object, pursuant to the other requirements in Subpart B.

This decision is based on the *Programmatic Environmental Impact Statement—National Forest System Land Management Planning,* USDA Forest Service, 2011, and its supporting record. This decision is not subject to Forest Service appeal regulations.

Nearly 300,000 comments were received on the DEIS and the proposed rule. The Agency also consulted with Indian Tribes, the US Fish and Wildlife Service and the National Marine Fisheries Service. The Department has reviewed and considered these comments, the results of the consultations, and worked with Agency managers in concluding that the proposed rule would be improved by clarifying the proposed wording and incorporating the changes reflected in Modified Alternative A into the final rule.

This decision does not authorize any projects or activities. The planning rule describes the process the Forest Service will use for development, amendment, and revision of land management plans for national forests and grasslands, and includes requirements for the structure and content of those plans. Any commitment of resources takes place only after (1) a land management plan is approved under the provisions of the final rule (including the completion of the appropriate NEPA process), and (2) the Forest Service proposes projects or activities, analyzes their effects in the appropriate NEPA process, determines consistency with the applicable land management plan, and authorizes the final projects or activities.

Sometimes projects or activities may be authorized at the same time and in the same decision document when approving a plan, plan amendment, or plan revision. One example might be opening or closing trails to the use of

off-highway vehicles. In these cases, the part of the decision associated with the project or activity would represent a commitment of resources.

Rationale for the Decision

The following paragraphs outline the rationale for the decision, including how Modified Alternative A meets the purpose and need and addresses the significant issues described in the final PEIS.

The Department determined Modified Alternative A best meets the purpose and need for a new planning rule. Modified Alternative A provides a process for planning that is adaptive and science-based, engages the public, and is designed to be efficient, effective, and within the Agency's ability to implement. It is designed to ensure that plans provide for the sustainability of ecosystems and resources; meet the need for forest restoration and conservation, watershed protection, and species diversity and conservation; and assist the Agency in providing a sustainable flow of benefits, services, and uses of NFS lands that contribute to the economic and social sustainability of communities.

The paragraphs below describe how Modified Alternative A meets the purpose and need for a new planning rule. Many of the requirements described for each element can be found in one or more of the alternatives analyzed in the PEIS. However, the Department concludes that the combination of requirements provided in Modified Alternative A provide the best approach for developing, amending, and revising plans. Modified Alternative A is clearer than Alternative A, better reflects the Department's intent as described in the preamble for the proposed rule, and reflects public comments and suggestions for improving the proposed rule. Unlike Alternative B, it meets the purpose and need for a new planning rule. It is also more implementable and less costly than Alternatives D and E, and allows greater flexibility to develop plans that best meet the ecological, social, and economic needs of units across the very diverse National Forest System. The Department concludes that the combination of provisions in Modified Alternative A best meets the purpose and need for a new planning rule and provides assurance that the Department's objectives will be met.

For those reasons, Modified Alternative A provides the best balance among the alternatives to meet the purpose and need for a new planning rule.

Response to Purpose and Need

All of the alternatives analyzed in detail, with the exception of Alternative B, meet the purpose and need to varying degrees. No single alternative can maximize all of the elements of the purpose and need. The Department finds that Modified Alternative A provides the best planning framework for meeting the various elements of the purpose and need by creating a rule that:

1. Emphasizes restoration of natural resources to make NFS lands more resilient to climate change, protect water resources, and improve forest health. The Department concludes that Modified Alternative A will result in plans that are adaptive and therefore more likely to remain relevant and implementable, including by providing an adaptive framework that will help responsible officials to respond to changing conditions and new information.

2. Contributes to ecological, social, and economic sustainability by ensuring that all plans will be responsive to issues such as the challenges of climate change; the need for forest restoration and conservation, watershed protection, and species conservation; and the sustainable use of public lands to support vibrant communities.

3. Is consistent with NFMA and MUSYA. The Department intends that the requirements of Modified Alternative A will be integrated into the development or revision of a plan in a manner that provides for the long-term ecological sustainability of the plan area while sustaining ecosystem services and providing for multiple uses.

4. Is consistent with Federal policy on the use of scientific information and the Agency's expertise and experience gained in more than 30 years of land management planning. Responsible officials will use the best available scientific information to inform the plan components and the monitoring program. The Department concludes that Modified Alternative A requires a planning process that is science-based and additionally recognizes the value of local knowledge, the Agency experience, knowledge, and information of other land managers, and indigenous knowledge.

5. Provides for a transparent, collaborative process that allows effective public participation. Modified Alternative A includes requirements to engage the public, Tribes, other government agencies, and groups and communities that have been at times under-represented in planning, such as youth and minorities, throughout the planning process. The Department concludes that the collaborative approach required by Modified Alternative A will result in improved relationships and plans that better meet the needs of diverse communities, which in turn will translate into more successful projects and activities developed under the plans.

6. Ensures planning takes place in the context of the larger landscape by taking an ''all-lands approach.'' Modified Alternative A uses an ''all-lands approach'' to consider conditions beyond the plan area and how they might influences resources within the plan area as well as how actions on the NFS might affect resources and communities outside of the plan area. It also requires that responsible officials coordinate with entities with equivalent and related planning efforts.

7. Is within the Agency's capability to implement on all NFS units. It is clear and provides an efficient framework for planning, and is able to be implemented within the financial capacity of the Agency.

The Department concludes that Modified Alternative A provides an appropriate balance between the flexibility needed to address issues unique to the plan area and the need for consistent requirements and a consistent approach. Modified Alternative A reduces planning costs and the time needed for a plan revision from current levels.

Response to the Issue of Ecosystem Restoration

As many respondents correctly noted, not all NFS lands are in need of restoration and, in fact, NFS lands often provide among the highest quality habitat and the cleanest water of all lands in the country. The final rule provides for the maintenance of those lands. There is also widespread consensus that some NFS lands are degraded or are at risk of becoming degraded. From large scale pine beetle outbreaks in the Intermountain West to watersheds across NFS lands with poorly sited or maintained roads that cause sedimentation or block the movement of fish and aquatic organisms, there are many restoration needs on NFS lands. Modified Alternative A addresses the need for ecosystem maintenance and restoration.

Modified Alternative A incorporates the concept of ecological integrity. This concept is defined in the scientific literature as a means of evaluating ecological conditions in terms of their sustainability. The concept of ecological integrity is also used by the U.S. Department of the Interior's National

Park Service and Bureau of Land Management. Aligning approaches across the broader landscape will facilitate an all-lands approach to ecological sustainability.

Under Modified Alternative A, information relevant for ecosystem maintenance and restoration will be identified and evaluated during the assessment phase. Plan components are required for the maintenance and restoration of the ecological integrity of riparian areas and air, soil, and water resources. Responsible officials will consider opportunities to restore fire adapted ecosystems and for landscape scale restoration. The monitoring program will track ecological and watershed conditions and measure progress towards meeting desired conditions and objectives.

Modified Alternative A captures many of the concepts of ''best practices'' in restoration that are already occurring on NFS lands. Examples of such best practice efforts include the Collaborative Forest Landscape Restoration Program established under section 4003(a) of Title IV of the Omnibus Public Land Management Act of 2009, (*http://www.fs.fed.us/restoration/CFLR/index.shtml*), which promotes healthier, safer, and more productive public lands through partnership efforts, and the Four Forest Restoration Initiative to accomplish landscape scale restoration of ponderosa pine ecosystems in the Southwest. These restoration efforts bring people together to work across ownerships, restore ecosystems, increase organizational capacity, and in the process create jobs and economic opportunities that contribute to sustainable economies. Modified Alternative A provides a platform for working with the public and other land managers to identify restoration needs across the landscape and manage NFS lands to support meeting shared restoration objectives.

Response to the Issue of Watershed Protection

Watersheds and water resources on NFS lands are important for many reasons: For example, they are the source of drinking water for one in five Americans, provide important species habitat for terrestrial and aquatic species, and support recreation opportunities in the plan area.

Modified Alternative A includes a strong set of requirements associated with maintaining and restoring watersheds and aquatic ecosystems, water resources, and riparian areas in the plan area. It incorporates the protection or mitigation requirements of the 1982 rule, but goes beyond the 1982 rule in requiring a proactive approach for maintaining or restoring terrestrial and aquatic ecosystems and watersheds in the plan area.

Under Modified Alternative A, information relevant to watersheds, aquatic ecosystems, and water resources will be identified and evaluated during the assessment phase. Plans will be required to identify priority watersheds for maintenance or restoration. Plan components are required for the maintenance and restoration of the ecological integrity of aquatic ecosystems and watersheds, water quality, and water resources in the plan area, including lakes, streams, wetlands, and sources of drinking water.

Plan components are also required for the maintenance and restoration of the ecological integrity of riparian areas, including structure, function, composition, and connectivity; taking into account a number of factors; and plan components must establish widths for riparian management zones. Because riparian resources across NFS units are very diverse, Modified Alternative A retains the 1982 rule requirements to give special attention to land and vegetation within approximately 100 feet of all perennial streams and lakes and prevent management practices that have serious or adverse impacts, but does not require a single national width for riparian management zones. Riparian areas may be forested or open, they are connected with all types of streams, lakes and wetlands, and they vary widely in existing condition and types of use. Modified Alternative A allows for the requirements to be tailored to specific conditions on the plan area. The set of requirements included in Modified Alternative A for riparian areas is more implementable and less costly than the requirements in Alternative D, and will lead to a more effective and appropriate set of plan components across a diverse system.

Under Modified Alternative A, responsible officials must ensure that projects and activities in riparian areas are consistent with plan requirements for maintaining or restoring riparian areas, do not seriously or adversely affect water resources, are suitable uses, and are compatible with desired conditions for those lands. The consistency requirement places the decision about what types of projects or activities may or may not be allowed and what management direction will guide these activities at the plan level. The Department concludes that this is the appropriate level at which to make these decisions.

NFS lands provide some of the highest quality water in the country and are important sources of drinking water, but there are streams that do not meet State water quality standards. Modified Alternative A requires that the Chief of the Forest Service establish requirements for best management practices for water quality, and that plans ensure implementation of those practices.

The Department concludes that Modified Alternative A appropriately elevates the emphasis on the conservation of water and riparian resources, can be implemented on all NFS units, and is soundly supported by recent advances in conservation biology and ecology.

Response to the Issue of Diversity of Plant and Animal Communities

Perhaps no other aspect of the proposed planning rule has sparked as much interest or generated as much debate as the requirement to provide for plant and animal diversity. In particular, there is disagreement between those who believe that without strong, specific requirements in the rule for maintaining species diversity and viability, the persistence of many species will be at increased risk, and those who believe that putting specific requirements in the rule will result in endless litigation that will keep the Agency from moving forward with planning and with projects and activities.

The Department's intent is to provide for the diversity of plant and animal communities, and keep common native species common, contribute to the recovery of threatened and endangered species, conserve proposed and candidate species, and maintain species of conservation concern within the plan area, within Agency authority and the inherent capability of the land.

Modified Alternative A requires that future plans be based on a complementary ecosystem and species-specific approach to provide for the diversity of plant and animal communities in the plan area and the long-term persistence of native species in the plan area. This approach is often referred to as the coarse-filter/fine-filter approach.

The ecosystem integrity and diversity requirements in Modified Alternative A are meant to provide a coarse-filter designed to maintain biological diversity. By working toward diverse, connected ecosystems with ecological integrity, the Agency expects that over time, management will create ecological conditions which support the abundance, distribution, and long-term

persistence of most native species within a plan area, as well as provide for diversity of plant and animal communities. The fine-filter provisions are intended to provide a safety net for those species whose specific habitat needs or other influences on their life requirements may not be fully met under the coarse-filter provisions.

The coarse-filter/fine-filter approach is a well-developed concept in the scientific literature and has broad support from the scientific community and many stakeholders. It incorporates the considerable advances of the past three decades in understanding of biological and conservation science. The coarse-filter/fine-filter approach is already incorporated into many recently revised plans and is yielding positive results. For example, restoration of longleaf pine in the South is resulting in increases in red-cockaded woodpecker populations, and restoration of watersheds and instream habitat in the Pacific Northwest is yielding benefits for salmon.

The provisions in Modified Alternative A recognize the importance of maintaining biological diversity of native species on each national forest and grassland, and the compositional, structural, and functional components that comprise the biological diversity on each NFS unit, and recognize the importance of native species and their contributions to maintaining the ecological integrity of ecosystems.

Considering habitat needs for non-vertebrates is not new to the Forest Service. 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. An 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: significant current or predicted downward trends in population numbers or density or significant current or predicted downward trends in habitat capability that would reduce a species' existing distribution. RFSS are thus similar to species of conservation concern. The conservation and management of many RFSS has been a part of many land management plans and projects and activities for decades.

The Department intends to provide for the persistence of all native species by the use of the coarse-filter/fine-filter approach, within Forest Service authority and the inherent capability of the plan area. Modified Alternative A provides a three-fold treatment of all native species.

First, Modified Alternative A requires coarse-filter plan components for the maintenance and restoration of the ecological integrity and diversity of ecosystems in the plan area. Plan components will support the long-term persistence of most native species in the plan area, including providing for species that are common or secure.

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. Modified Alternative A requires the responsible official to 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.

Third, Modified Alternative A requires the responsible official to develop coarse-filter plan components, and fine-filter plan components where necessary, to provide the desired ecological conditions necessary to maintain viable populations of species of conservation concern within the plan area, or to contribute to maintaining a viable population of a species of conservation concern across its range where it is not within the Agency's authority or is beyond the inherent capability of the plan area to provide the ecological conditions to maintain a viable population of that species 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. The rule requires that species of conservation concern must be ''known to occur in the plan area'' and that the regional forester identify the species of conservation concern for which ''the best available scientific information indicates substantial concern about the species' capability to persist over the long term in the plan area.''

The Department has considered the concerns raised by many that the requirement for maintaining viable populations of species of conservation concern on the plan area is an impossible task and that attempting to meet this requirement will come at the cost of all other management of the NFS lands. The Department concludes that Modified Alternative A provides a more holistic, consistent, realistic, and effective approach to maintaining native fish, wildlife, and plant species on national forests and grasslands than provided under the 1982 rule, while meeting restoration goals and the mandate of multiple use.

Modified Alternative A recognizes that there are limits to the Agency's authority and the inherent capability of the land, whereas the 1982 rule required management prescriptions to ''[p]rovide for adequate fish and wildlife habitat to maintain viable populations of [all] existing native vertebrate species,'' (See 1982 rule at § 219.27 (a)(6)) regardless of whether there are circumstances outside of the authority or the control of the Agency. Examples of circumstances that may be outside of the Agency's authority or the inherent capability of the plan area are provided above in the rationale for non-selection of Alternative B.

The Department concludes the management emphasis on species of conservation concern is more focused than the viability provisions under the 1982 rule, which included all vertebrate species whether there was concern about their persistence in the plan area or not. Since these species may be wide ranging or may occur on multiple units, the regional forester, in coordination with the responsible official, will identify species of conservation concern. Requiring that the regional forester identify species of conservation concern will increase consistency across units and build efficiency into the Agency's collective efforts to maintain the diversity of plant and animal communities.

The Department also considered the challenges the Forest Service has faced in monitoring management indicator species (MIS) under the 1982 rule. MIS monitoring has been the subject of much of the legal debate around the species provisions of the 1982 rule. Modified Alternative A does not include requirements to designate MIS or monitor their population trends. The concept of MIS as a surrogate for the status of other species is not supported by current science, and population trends are difficult and sometimes impossible to determine within the lifespan of a plan.

In the final rule, MIS monitoring has been replaced with monitoring of focal species. The concept of focal species is well supported in the scientific literature and community. Focal species are not surrogates for the status of other species. Focal species monitoring provides information regarding the effectiveness of the plan in providing the ecological conditions necessary to maintain the diversity of plant and animal communities and the persistence of native species in the plan area. Modified Alternative A does not require

or prohibit monitoring of population trends of focal species. Instead, it allows the use of any existing or emerging approaches for monitoring the status of focal species that are supported by current science. Monitoring methods for evaluating the status of focal species may include measures of abundance, distribution, reproduction, presence/absence, area occupied, survival rates, or others.

The Department expects that monitoring key ecosystem and watershed conditions along with monitoring the status of a set of well-chosen focal species will provide timely information regarding the effectiveness of plan components related to plant and animal diversity.

The requirements in Modified Alternative A regarding sustainability and diversity of plant and animal communities are part of the planning framework cycle that requires public participation, assessments, and monitoring. Additionally, provisions in these sections require the responsible official to coordinate with other land owners. These requirements support cooperation and an all-lands approach to ecosystem and species diversity and conservation.

Under plans developed under Modified Alternative A, the Department expects NFS lands to more consistently provide the ecological conditions necessary to maintain the diversity of plant and animal communities and the persistence of native species. Over time, the Department expects habitat quantity to increase and habitat quality to improve for most native species across the NFS including aquatic and riparian species. The Department also expects ecological conditions for many federally listed species, species proposed, and candidates for listing and species of conservation concern to improve within and among plan areas because Modified Alternative A gives emphasis to maintaining and restoring ecological conditions needed by these species. The final rule provides for collaborative approaches to addressing the range-wide concerns of species whose range and long term viability is associated with lands beyond the plan area.

The Department concludes that the combination of requirements in Modified Alternative A reflects a strong, implementable approach to providing for the diversity of plant and animal communities and the persistence of native species in the plan area, and is supported by the scientific literature and community. This approach meets the requirements of NFMA and MUSYA, and provides a holistic, consistent, realistic, and effective approach to providing for diversity of plant and animal communities on national forests and grasslands, while meeting restoration goals and the mandate of multiple use and sustained yield.

Response to the Issue of Climate Change

Consideration of changing conditions including climate in planning is not new to the Forest Service. The Climate Change Resource Center has been developed as a reference for Forest Service resource managers and decision makers who need information and tools to address climate change in planning and project implementation on NFS lands. For more than 20 years, Forest Service scientists have been studying and assessing climate change effects on forests and rangelands. Forest Service Research and Development provides long term research, scientific information, and tools that can be used by managers and policymakers to address climate change impacts to forests and rangelands. Climate change-related activities are carried out within research stations covering the whole country. In 2009, the Agency issued guidance for climate change considerations to provide the Agency with the support needed to incorporate climate change into land management planning and project-level NEPA documentation. Recent plan revisions include consideration of climate change.

Modified Alternative A incorporates a strategic framework for adaptive management: assess conditions on the ground using readily available information, build plan components recognizing that conditions may be changing, and monitor to determine if there are measurable changes related to climate change and other stressors on the plan area.

Under Modified Alternative A, responsible officials will identify and evaluate information relevant to understanding ecological conditions and trends and to forming a baseline assessment of carbon stocks. Plans will include plan components to maintain or restore ecological integrity, so that ecosystems can resist change, are resilient under changing conditions, and are able to recover from disturbance. Modified Alternative A also requires monitoring measurable changes on the plan area related to climate change and other stressors that may be affecting the plan area. Taken together, the planning framework and these requirements will ensure that information related to climate change will be addressed in a consistent and strategic fashion.

Modified Alternative A is consistent with and complements the Agency's climate change National Roadmap and Performance Scorecard, the Watershed Condition Framework and ecological restoration and sustainability policies. The climate change roadmap directs national forests and grasslands to develop climate change vulnerability assessments and identifies monitoring strategies. Elements in the scorecard will help the Agency to determine whether assessments and monitoring are being developed in a way that will help inform decisionmaking at the unit level. The scorecard includes requirements that complement or are complemented by requirements in Modified Alternative A. 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.*

Modified Alternative A capitalizes on existing Agency work such as the baseline carbon assessments conducted under the Climate Change Scorecard, the assessment and monitoring conducted under the Watershed Condition Framework, and the monitoring of climate change indicators occurring in the Forest Inventory and Analysis program, by ensuring integration of these activities into the land management planning process.

In selecting Modified Alternative A, the Department considered the present capability of the Agency to address climate change in planning. The Department also considered existing Agency policy on climate change and the ways in which the different alternatives could be integrated effectively with those policies. The Department concludes that the requirements for addressing climate change in the final rule can be carried out on all NFS units.

Response to the Issue of Multiple Uses

Modified Alternative A embraces the multiple use mandate of the Multiple-Use Sustained-Yield Act and recognizes the importance of multiple uses in many

sections of the alternative. Recreation, timber, grazing, and other multiple uses provide jobs and income to local communities, help to maintain social cultures and long standing traditions, connect people to the land, and contribute to the quality of life for many Americans.

The Agency has reported that spending by recreation visitors in areas within 50 miles of national forests and grasslands amounts to nearly $13 billion each year. Those dollars sustain more than 224,000 full and part-time jobs. Recreation accounts for more than half of all job and income effects attributable to Forest Service programs. Harvest of timber and other forest products from NFS lands contributed to more than 44,000 full- and part-time jobs with labor income totaling more than $2 billion in 2009. Livestock grazing on NFS lands contributes to an estimated 3,695 jobs and labor income totaling $91.9 million per year.

Timber harvest on NFS lands has declined from over 12 billion board feet in 1985 to approximately 2 billion board feet in 2009. In 1985, there were over 8 million cattle, sheep, and other domestic animals grazing on NFS lands. In 2009, this number dropped to approximately 6 million. In contrast, recreation visits to NFS lands have increased over this same period. There are many factors that influence the levels of timber harvest, grazing, and recreation, as well as other individual multiple uses of the NFS. These factors include increasing population, changing cultural and social values, greater access to NFS lands, changing rural and global economies, NFS budgets, and competing resource concerns. It is difficult to predict at this programmatic level the extent to which a new planning rule is likely to affect specific multiple uses in the future. As a result, the Department considered how each of the alternatives in the PEIS provides a framework for supporting the continued delivery of ecosystem services and multiple uses from the NFS.

Modified Alternative A considers ecological, economic, and social sustainability as equal and interdependent factors. Modified Alternative A emphasizes restoration of ecosystems so that they are capable of sustaining multiple uses over time. Restoration activities will produce jobs and income; at the same time; restored, functioning ecosystems can support species diversity while allowing multiple uses to continue. Under Modified Alternative A, timber production and grazing will continue to provide jobs, income, and ways of life for many Americans. Modified Alternative A emphasizes the importance of the continued delivery of sustainable recreation. Providing high quality recreation opportunities and a range of access to NFS lands creates jobs and income and connects people to the land.

Under Modified Alternative A, plans must contribute to economic and social sustainability and must provide for ecosystem services and multiple uses in the plan area. Responsible officials will use an integrated resource management approach to provide for multiple uses and ecosystem services in the plan area, considering a full range of resources, uses, and benefits relevant to the unit, as well as stressors and other important factors. As part of the multiple use requirements, Modified Alternative A will require plan components for sustainable recreation, including recreation settings, opportunities, access, and scenic character. Modified Alternative A also includes requirements for plan components for timber management, consistent with the requirements of NFMA.

Information relevant to multiple uses and their contributions to local, regional, and national economies, along with information about the benefits (ecosystem services) people obtain from the plan area, will be identified and evaluated in the assessment phase.

Monitoring will track progress towards meeting desired conditions and objectives for recreation and other multiple uses. Broad and unit scale monitoring may provide information on resource and social concerns and conflicts before they result in insurmountable challenges. Most importantly, the Department concludes that the requirements in Modified Alternative A for encouraging public participation, working across boundaries, and engaging other Federal agencies, State, local, and Tribal governments, will help identify multiple uses in the plan area, resolve conflicts, and facilitate the forward movement of effective land management activities.

The Department concludes that Modified Alternative A meets the Agency's multiple-use and sustained-yield obligations under MUSYA and provides an effective framework for sustaining the flow of goods and services from NFS lands over time.

Response to the Issue of Efficiency and Effectiveness

Under Modified Alternative A, the Department expects that individual plan revisions will cost less money and consume less time than they do under the 1982 rule procedures. The 1982 rule procedures are considered the baseline for comparing changes in cost and time for plan revisions because, until a new planning rule is in place, the 1982 rule procedures are being used as permitted by the transition provision of the 2000 rule to develop, revise, and amend all plans.

According to the Agency's regulatory impact analysis and cost-benefit analysis under Modified Alternative A, the Agency estimates that land management planning will cost an estimated $97.7 million per year, which is $6.3 million per year less than it currently costs to conduct planning under the 1982 procedures. More significantly, under Modified Alternative A, the Agency estimates that plan revisions will take, on average, 3 to 4 years as compared to 5 to 7 years under Alternative B, and will cost, on average, $3 to $4 million as compared to $5 to $7 million. As a result of these savings and efficiencies, the Forest Service will be able to revise significantly more plans during the 15-year revision cycle, than under the current planning structure.

Beyond cost and time savings, there are important ancillary benefits to increasing the efficiency of the planning revision process. Under shorter time frames it will be easier for the public to remain engaged throughout the revision process. One of the common concerns expressed by members of the public is that there is a significant amount of turnover in key Agency staff during the long timeframes required for plan revision under the current planning process. This can cause disruption and confusion as established relationships are severed and time and effort is needed to develop new relationships.

The new rule's requirements for increased collaboration and monitoring will lead to higher costs than are projected under Alternative B, but are expected to increase the effectiveness and relevance of land management plans. Increased collaboration provides benefits throughout the planning process and well into implementation. Analysis time may be shortened, administrative objections and the time needed to resolve them may be reduced, and projects developed under the resulting plans may be better understood and supported. Monitoring is important for adaptive management, and can help the Agency to test assumptions, track changing conditions, and measure management effectiveness over time. However, the Agency has long recognized that monitoring efforts when viewed across the Agency as a whole have often lacked consistency and, at times, credibility. The

monitoring requirements of Modified Alternative A complement broader Agency efforts to increase the efficiency and effectiveness of its inventory, monitoring and assessment programs, and make better use of the money currently spent on monitoring.

While the cost of each requirement is included in the total cost estimate of Modified Alternative A, many of the requirements involve work that is already occurring and that will continue to occur regardless of whether this, or another alternative is selected as the final rule. Modified Alternative A was developed as part of an integrated Agency framework to manage the NFS lands more efficiently. Other initiatives and Agency priorities that will complement and support the implementation of the new land management planning process and address critical NFS resource issues include the Watershed Condition Framework, Climate Change Scorecard, landscape scale restoration, an all lands approach, and a new system for inventory, monitoring, and assessment work that addresses core resource information and data needs at all levels of the Agency.

Modified Alternative A is neither the least nor the most costly of the alternatives the Department considered. Modified Alternative A reduces the costs and time required for plan development, amendment, and revision. However, the Department does not believe that selecting the least costly alternative should be the overriding criterion. Planning is an important investment. The requirements in Modified Alternative A are designed to lead to more effective plans, to yield greater efficiencies over time by ensuring a consistent approach to planning, to build on existing information, to facilitate adaptive management, and to allow the use of amendments and administrative changes to keep plans current so that future revisions are less costly.

The Department recognizes that some of the definitions, concepts, and terms used in Modified Alternative A are new or broadly worded. This Alternative sets forth process and content requirements to guide the development, amendment, and revision of land management plans across very diverse national forests and grasslands and over a long period of time. By setting out substantive and procedural requirements, the rule establishes the decision space within which the planning process is to be carried out and within which plan content must fit. The Forest Service will develop directives (the Forest Service Manual and Handbook) that will provide additional guidance and more detailed interpretation to ensure consistent and effective implementation of the rule. These directives will be available for public review and comment before they are finalized. Plans developed, revised and amended under the rule will be consistent with the rule and the directives.

Response to the Issue of Transparency and Collaboration

Modified Alternative A supports a transparent and collaborative approach to planning. As described in the PEIS, best practices in public involvement and collaboration emphasize the importance of engaging a broad spectrum of participants. Participants might live close to a plan area or not. What matters is they care about that area for some reason, can contribute to an understanding of relevant issues, can help get planning or project work done, and can help increase organizational and community capacity. A plan revision or amendment process that offers a broad spectrum of participation opportunities is much more likely to produce a meaningful, shared understanding of the social, economic, or ecological factors of importance in the plan area. Forests and grasslands that already engage a broad spectrum of public interests early and often report that their proposed projects and plans more accurately incorporate public vision and interests. They further report that upfront public involvement builds more understanding of proposed actions, and that people typically respond more positively to these proposals.

Under Modified Alternative A, responsible official will be required to provide meaningful opportunities for public participation in each phase of the planning framework. Modified Alternative A includes requirements for outreach, Tribal consultation, and coordination with other planning efforts. Responsible officials will continue to engage State and local governments, Tribes, private landowners, other Federal agencies, and the public at large, but additionally will encourage participation by youth, low-income and minority populations, who have traditionally been underrepresented in the planning process. Having the forest or grassland supervisor as the responsible official provides greater opportunity for people to interact directly with the decision maker than under current rule procedures. Use of a pre-decisional review (objection) process is also consistent with a more collaborative approach.

Modified Alternative A allows flexibility at the local level to determine the most appropriate method and scale of the public involvement. Much of the literature on building effective collaboration discusses the need for flexibility to select public involvement methods appropriate for the unique needs of specific situations and participants.

Modified Alternative A is consistent with current practice on effective public engagement and incorporates approaches that have proven successful and implementable on NFS units.

The requirements for public participation, notification, and documentation required in Modified Alternative A support transparency in planning. This alternative's requirements to consider the accessibility of the process and of information, to use contemporary tools to engage the public and to post all notifications online further increase transparency.

Response to the Issue of Coordination and Cooperation Beyond NFS Boundaries

Ecological and social systems are not confined within NFS unit boundaries. Ecosystem services produced by national forests and grasslands affect and are affected by land management activities on adjacent private, State, local, and other Federal Government lands.

Under Modified Alternative A, the responsible official will consider the landscape-scale context for management and will look across boundaries throughout the assessment, plan development/revision, and monitoring phases of the planning process. The assessment phase will provide information about conditions and trends relevant to management of the plan area in the context of the broader landscape. Responsible officials will take an all-lands approach into account when developing plan components for ecological sustainability and multiple uses and ecosystem services. Plan and broader-scale monitoring, along with direction to engage the public and other land managers in each phase, will also support an all-lands approach. Responsible officials will leverage their resources and knowledge with those of other agencies to increase effectiveness and gain efficiency in planning and future implementation of their plans.

The PEIS includes several examples of landscape scale planning, projects, and assessments that are currently using an all-lands approach in planning, assessment and monitoring. They have resulted from an increased recognition

that NFS land management must be considered in the broader landscape and that only this kind of approach can address problems such as maintaining watershed conditions, conserving wide-ranging species, and providing for effective transportation and infrastructure on and off NFS lands. The Department concludes that Modified Alternative A incorporates these best practices and provides a framework for continuing and expanding them.

Compliance With the Endangered Species Act of 1973, as Amended

Beginning in September, 2010 and continuing through the development of the final rule and its accompanying final programmatic environmental impact statement (PEIS), representatives from the U.S. Fish and Wildlife Service (USFWS) and the National Oceanic and Atmospheric Administration (NOAA) Fisheries (the reviewing agencies) met regularly with members of the Forest Service to discuss Endangered Species Act of 1973 issues related to the final rule. During that time, the three agencies worked closely together to identify the relevant issues and appropriate level of analysis associated with this rule and the environmental analysis for it. They collaborated on a consultation process and on the biological assessment (BA). The Agency requested consultation under section 7(a)(1) and 7(a)(2) of the Endangered Species Act of 1973 with the reviewing agencies in July, 2011. Additionally, the Agency requested conferencing on the potential effects of the rule on all species that are proposed for Federal listing and currently occur on NFS lands, and those that are candidates for Federal listing that occur on or are suspected to occur on NFS lands. A summary of the consultation meetings between the Forest Service, NOAA Fisheries, and the USFWS can be found in Appendix E of the final PEIS.

NOAA Fisheries and USFWS have each prepared a biological opinion pursuant to section 7(a)(2) of the Endangered Species Act including a conservation review pursuant to section 7(a)(l) Act (16 U.S.C. 1536(a)(1) and (2)). Each agency issued a biological opinion that adoption of the final planning rule is not likely to jeopardize the continued existence of the endangered or threatened species under its jurisdiction and is not likely to destroy or adversely modify any of those species' critical habitat. Each agency's biological opinion also concluded that the planning rule would set forth a system for land use plans that would further the conservation purposes of the Endangered Species Act under section 7(a)(1).

Copies of the biological assessment, its addendum, and the biological opinions are in the project record and can be viewed online at: *http://www.fs.usda.gov/planningrule.*

Response to Comments

The following is a description of specific comments received on the proposed rule, responses to comments, and changes made in response to comments. Each comment received consideration in the development of the final rule. In addition, following the publication of the PEIS, the Department received comments on the PEIS and the preferred alternative. These comments were also considered by the Department in the development of the final rule, and any changes made in response to those comments are described below. A response to comments on the draft EIS and the proposed rule may be found in the response to comments appendix of the EIS located online (see **ADDRESSES**).

General Comments

The Department received the following comments not specifically tied to a particular section of the 2011 proposed 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 prior to development of the proposed rule was the most extensive, transparent and participatory process ever used 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 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 this final rule.

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. After publication of the final rule, public participation in planning at the unit level is mandated by § 219.4, which requires the responsible official to offer meaningful opportunities for public involvement and participation early and throughout the development of a land management plan or plan revision. The Agency is also exploring ways to engage more broadly with the public to implement this final rule.

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 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 DEIS had to be submitted in writing during the 90-day comment period by postal system, fax, or one of two Web sites.

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. The final rule seeks to balance different, and often competing, public needs and perspectives on planning into a process that is 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 to. 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 electronic mail in-box, 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 Procedure 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 through extraordinary lengths to facilitate the ability of the public to understand and comment on the proposed rule and proposed environmental impact statement. In fact, the Administration identified this rule as a flagship for open government

within the U.S. Department of Agriculture. The Department published in the **Federal Register** 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 draft environmental impact statement (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. 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 the science reviews, along with public comments, in preparing the final programmatic environmental impact statement (PEIS) and final rule.

The Department believes the public had sufficient time to review these materials and consider them when commenting on the proposed planning rule. 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: External science review and Federal Advisory Committee Act. Some respondents were concerned that the external science review of the DEIS violated the Federal Advisory Committee Act (FACA) because they believed 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, each of whom separately conducted an 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; they were not established, controlled or managed as a group by the Agency; and they did not provide the Agency 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 terminated upon promulgation of that regulation. The NFMA states that the Secretary may, from time to time, appoint similar committees when considering revisions of the regulations, but the Secretary need not do so (16 U.S.C. 1604(h)(1)).

Comment: External science review and public comment. Some respondents were concerned that science review meetings of the external reviewers were not open to the public, and that the documents considered and produced were not available to the public. Some respondents were concerned that the Agency did not make the reviews public when the proposed rule was published for comment on February 14, 2011.

Response: There were no ''science review'' meetings held by the external reviewers. The Agency did not provide the external reviewers with 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 phase, 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, each of the reviews (unedited), the contractor's summary of the reviews, and the identities of the reviewers were made public. The reviews were not available in February because the reviewers

received the DEIS for review at the same time as the rest of the public.

Comment: External 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 basic charge to the science reviewers was to evaluate how well the proposed planning rule's 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 to comment on the alternatives. However, the text of the proposed planning rule and alternatives was included in the appendices of the DEIS 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: External 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 it to select the reviewers and provide their responses to the Agency.

Comment: External science review and CEQ documents. Some respondents commented that the 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 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)) and the April 30, 1981 memorandum from the Executive Office of the President on scoping. Both are current and still relevant; see the CEQ Web 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, along with other comments submitted by the public. The issues raised in the reviews informed the final PEIS, along with the other feedback received during the public comment period.

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 rule should provide more discretion and flexibility to develop a forest plan by reducing the use of ''shalls'' and ''musts.'' Other respondents felt phases ''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 wording in the final rule was chosen to reflect the degree of structure the Department decided as appropriate for various aspects of the rule. The Department's goal in creating the final rule 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 of the final rule. In addition, the Department allows flexibility for plans to reflect the different unique circumstances across the National Forest System (NFS), including in response to best available scientific information, public input, and information about changing conditions at the unit level. The Department believes that the final rule strikes a good balance.

The Department recognizes that there may be significant differences in circumstances across the NFS that make specific national standards unworkable or not reflective of the best available scientific information for a given plan area. The final rule balances the need for national consistency with the need for local flexibility to reflect conditions and information on each unit. Additional direction will be included in the Forest Service Directives System, and a new requirement was added to § 219.2 that requires the Chief to establish a national oversight process for accountability and consistency of planning under this part.

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. Where changes have been made in the final rule, these discussions can be found in the following section-by-section discussions. Responses to these comments and their relationship with the supporting final programmatic environmental impact statement (PEIS) can be found in Appendix M of the 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 changes are discussed in the section-by-section responses below. The final rule sets the stage for a planning process that can be responsive to the desires and needs of present and future generations of Americans for the multiple uses of NFS lands. The final rule does not make choices between the multiple uses of a plan area. The unit plans developed under the final rule will 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 expressed 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 to occur. They felt an effective planning rule will reflect the aspirations of diverse communities.

Response: The Department has revised the proposed wording on sustainability, diversity of plant and animal communities, multiple uses, and timber requirements as well as wording in other sections of the final rule to reflect public comments and better ensure the needs of present and future generations. See discussions under the section-by-section response to comments.

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, 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 development of a 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 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 are in the process of being revised. There will be an opportunity for public comment on the directives before they are finalized. 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 activities 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, 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 development of a planning rule. The final rule is intended to provide overall direction for how plans are developed, revised, and amended and for required plan components and other plan content. The final rule and alternatives found in the supporting 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 parts 200–299, which govern management of the national forests, grasslands, and prairie. 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 223 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 development of a 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 DEIS. Another respondent felt the public participation requirements will 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. Section 219.3 of the final rule requires 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. Such documentation must: identify what information was determined to be the best available scientific information, explain the basis for that determination, and explain how the information was applied to the issues considered. This requirement will provide transparency and an explanation to the public as to how the best available scientific information was used to inform how the responsible official arrived at important decisions. Section 219.14 includes additional requirements for the plan decision document to increase transparency and explain the rationale for decisionmaking.

Section 219.4 of the final rule lists the minimum specific points during the planning process when opportunities for public participation will be provided, and includes direction to provide meaningful opportunities for public engagement and share information with the public in an open way. To meet these requirements, the responsible official must be proactive in considering 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. All members of the public will be provided opportunities to participate in the planning process. Section 219.16 provides requirements for public notification to ensure that information about the planning process reaches the public in a timely and accessible manner.

Section 219.19 of the final rule includes 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, the final rule provides the responsible official with the flexibility to select the public participation methods that best fit specific planning needs.

Land management planning for NFS lands falls under Forest Service authority and is a responsibility of the Agency. As such, Agency employees are responsible for the preparation of the actual planning documents. Section 219.5(b) states that interdisciplinary teams will be established to prepare assessments; new plans, plan amendments, plan revisions, and unit monitoring programs. However, under § 219.4, the public will have numerous opportunities to participate in the process and contribute to the content of those documents.

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: The final rule recognizes and does not change the unique government-to-government relationship between the United States and Indian Tribes. The final rule recognizes and does not modify prior existing Tribal rights, including those involving hunting, fishing, gathering, and protecting cultural and spiritual sites. The rule requires the Agency to work with federally recognized Indian Tribes, government-to-government, as provided in treaties and laws, and consistent with Executive orders when developing, amending, or revising plans. The final rule encourages Tribal participation in NFS planning. Further, the rule recognizes the responsibility of Forest Service officials to consult early with Tribal governments and to work cooperatively with them where planning issues affect Tribal interests. Nothing in the final rule should be construed as eliminating public input or Tribal consultation requirements for future projects. The final rule requires 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.

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 (TTRA). Some were concerned with the influence of court decisions on the scope of the rule.

Response: All alternatives in the final PEIS are faithful to and require compliance with all laws governing the Forest Service, including ANILCA, TTRA, and the other laws identified by respondents. This is reaffirmed in the final rule, § 219.1(f), which states 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 the final rule, and the final rule does not conflict 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. 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,* 661 F.3d, 1209, 1267–1268 (10th Cir. 2011); *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, which directs the Forest Service to administer the national forests for ''sustained yield of the several products and services obtained therefrom.'' 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 the development of a planning rule.

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 whether this rulemaking is in compliance with the RFA and the rule's capacity to respond to the needs of small governments.

Response: The rule has 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 will 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 is 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.

The rule imposes no requirements on small or large entities, nor does it impose requirements or costs on specific types of industries or communities. Rather, the proposed rule sets out a planning process that is designed to provide more opportunities for all affected parties to collaborate in all phases of planning. These opportunities will increase capacity to consider the needs and desires of small entities and reduce the potential for adverse economic impacts. For example, under the final rule, 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. Further discussion of compliance with RFA is found in this document under the heading *Proper consideration of small entities.*

Comment: Cooperation beyond NFS boundaries. Some respondents were concerned that the ''all lands'' approach is not within the Forest Service's authority.

Response: The final rule provides the framework for the development, amendment, or revision of land management plans for national forests, grasslands, prairies, or other administrative units of the NFS. It does 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, the final rule requires 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. These requirements are found in § 219.4 (public participation), § 219.6 (assessment), § 219.8 (sustainability), § 219.9 (diversity), and § 219.10 (multiple use) of the final rule.

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 final rule does 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 to developing the proposed and final rules. 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 final rule uses an adaptive management framework that will facilitate an efficient and implementable planning process. Overall, there are fewer procedural requirements in this final rule than were required by the 1982 planning procedures, and the Agency expects that individual plans will take less time and cost less money to complete. There are a number of analysis and procedural requirements under the 1982 Planning Rule that will no longer be required under the final rule, which will save considerable time, effort, and money. The 1982 planning rule places a great deal of emphasis on using economic analyses to find the solution to planning

problems and challenges. However, the final rule emphasizes public participation and science. Examples of requirements from the 1982 rule not included in the final are: 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 will facilitate more collaboration with the public and an efficient amendment process. The rule allows 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.

Comment: Significance of the rule. Some respondents felt that the Forest Service fails to address the rule as ''significant'' under E.O. 12866;

Response: The proposed rule was designated as significant by the Office of Management and Budget and, therefore subject to the Office of Management and Budget review. The Agency reviewed this proposed rule under the Department procedures and Executive Order (E.O.) 12866 issued September 30, 1993, as amended by E.O. 13563 on Regulatory Planning and Review (76 FR 3821 (Jan. 21, 2011)). The Agency prepared two Cost Benefit Analysis reports (Jan. 25, 2011 for the proposed rule, Nov. 17, 2011 for the final rule). The reports discuss the regulatory impact analysis requirements associated with E.O. 12866 and 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 final rule is 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. Additional details about the potential for specific planning costs and cost effectiveness to change under the final rule is provided in the final PEIS and Appendix A of the Cost Benefit Analysis Report (Nov. 17, 2011) for the final rule. Although overall planning costs for the Agency under the new rule are not projected to be substantially different from the 1982 rule, the projected cost per plan is expected to be lower than under the 1982 rule, the time it takes to revise a plan is projected to be shorter, and it is expected that more plans will be revised in a 15-year period. In addition, it is anticipated that units will have greater capacity to maintain the currency and reliability 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 of the final PEIS, accounting for direct, indirect, and induced effects. Though economic impacts are not estimated, Appendix C in the Cost Benefit Analysis report for the final rule (2011) provides a limited qualitative discussion of potential indirect effects related to timber, rangeland, and recreation opportunities under baseline conditions. 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 final rule to jobs within specific industry sectors as compared to the other alternatives in the PEIS have not been evaluated as these impacts cannot be determined in the absence of on-the-ground project activity at the unit level.

Comment: Economic benefits of monitoring and ecosystem services. Some respondents felt that the Forest Service should identify benefits from comprehensive monitoring and provision of ecosystem services.

Response: The programmatic benefits of planning tasks or requirements such as comprehensive monitoring (§ 219.12(b)), development of plans to sustain multiple uses (§§ 219.1(b) and 219.10), and accounting for ecosystem services when guiding unit contributions to sustainability (§ 219.8(b)) are accounted for in the discussion of contributions to overall planning efficiency in the ''Efficiency'' section of Chapter 3 of the final PEIS as well as the ''Cost Benefit Analysis'' for the final rule (2011).

As identified by the definition of ecosystem services in § 219.19 of the final rule, benefits from 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).

As noted in the Cost Benefit Analysis for the final rule in the ''Efficiency and Effectiveness Impacts'' section, the programmatic benefits of comprehensive monitoring include improved capacity to gather information and reduce uncertainty for a number of integrated and broader-scale conditions, trends, drivers, and stressors—including capacity to detect effects of management within unit boundaries as well as stressors beyond unit boundaries that affect (or are affected by) unit conditions and action. Emphasis on coordination between unit and broader-scale monitoring is expected to help reduce redundancy and ensure information is complementary and consistent.

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: Collaboration and public participation costs are projected to increase from approximately $1 million annually under the 1982 rule provisions, to $11 million annually under this final rule. This increase reflects the requirements in the final rule for public participation opportunities at various stages of planning. The final rule also states that outreach and collaborative processes should be used where feasible and appropriate (§ 219.4(a)). The Department recognizes that gains in effectiveness and planning efficiency from collaboration may vary across units and be reflective of existing collaborative capacity. The Agency realizes collaboration cannot guarantee a

successful planning process; however, the Department and the Agency believe that the increased investment in public participation will likely result in a more effective and ultimately more efficient planning process, by building support early in the process. Details on assumptions relevant to the consideration of the costs of collaboration can be found in the final PEIS section on Efficiency in Chapter 3.

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: As noted in § 219.13 of the final rule, the requirements for amendments are simpler than requirements for plan development or revision. The final rule allows amendments to be proposed without completing an assessment. As a consequence, the amount of resources associated with amendments is expected to be substantially less than that required for plan development or revision in many cases. Amendments allow for plans to be changed more quickly to respond to changing conditions on the ground than plan revisions.

The Department expects that the adoption of new approaches under the final rule for addressing species viability and diversity within plan components, while recognizing local land and unit capabilities and limits, will increase the feasibility as well as the effectiveness of responding to species and ecosystem diversity, sustainability and recovery needs. Further it is expected the final rule will increase overall planning efficiency for both plan management planning and project-level analysis.

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 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. Though litigation costs are not included in the efficiency analysis, it is expected that the pre-decisional objection process contained in subpart B of the final rule and the investments in public participation will lower litigation costs compared to the former post-decisional appeal process and fewer opportunities for public input under the 1982 rule procedures.

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: The Department believes that the framework for adaptive management provided in the final rule is efficient, effective, and will reduce the cost and time needed for development, revision, and amendment of individual plans. The final rule provides 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)).

Analyses will focus on outcomes and analysis of impacts and effects. Analyses will in no way be eliminated or discouraged during the planning process under this new rule. Under the NEPA process during plan revisions and plan amendments, responsible officials will evaluate potential tradeoffs among alternatives as they relate to ecological, social, and economic sustainability and environmental effects.

The Department has chosen to emphasize a rule that supports ecological, social, and economic sustainability as the primary goal for management of NFS lands. The final rule does not include requirements to demonstrate that plans will maximize net public benefits or require valuation of economic efficiency or require present net value analysis as the 1982 rule did. The Department believes the focus should be on collaboration, science, and sustainability, rather than the extensive analysis that was done under the 1982 rule procedures. The Department decided the purpose and applicability of the final rule (§ 219.1) is to produce plans under which the Forest Service will manage NFS lands to sustain multiple uses in perpetuity while maintaining long-term health and productivity of the land. Plans are intended to guide management of NFS lands so they are ecologically sustainable and contribute to social and economic sustainability while providing people and communities with a range of benefits, consistent with MUSYA and NFMA. Under the final rule, responsible officials have the discretion 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: Overall, the cost and time of completing an individual plan, revision, or amendment is expected to be less than that needed using the 1982 rule procedures. Under the final rule the Department: (1) Applies flexibility within a clearly defined national-level framework, and (2) requires plans to be developed in a more cooperative context with both community and scientific involvement, thereby building stakeholder trust. In addition, as compared to the 1982 rule, the final rule changes the planning process and reallocates resources to improve the currency, reliability, and legitimacy of plans. This attention to building support early and throughout the process is intended to improve the effectiveness of plans and the Agency's ability to implement projects developed under plans.

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 NFMA requires a planning rule to insure consideration of the economic and environmental aspects of the various systems of renewable resource management (16

U.S.C. 1604(g)(3)A). The rule requires consideration of economic aspects in the requirements for an assessment and when developing plan components. However, the NFMA does 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, the Department has decided not to require those calculations as a part of planning under the final rule. The rule requires plan components to contribute to economic sustainability, which includes consideration of market and non-market benefits. Additionally, in a number of sections, the rule requires consideration of ecosystem services and multiple uses, including provisioning, regulating, and cultural services, all of which involve numerous non-market goods and services (for example, Assessment—§ 219.6(b); Social and economical sustainability—§ 219.8(b); and Multiple use—§ 219.10(a)). These requirements, in combination with public participation early and throughout the planning process (§ 219.4), are expected to improve Agency capacity to acknowledge the relative values of both market and non-market goods and services. Under NEPA requirements, the responsible official will carry out effects analyses for significant issues and the environmental documents will discuss the comparative benefits and tradeoffs associated with non-market ecosystem services.

Comment: Pilot testing. One respondent noted that the rule should be pilot tested on a sample of units.

Response: The Agency intends on phasing in the implementation of the new rule by starting several plan revisions in 2012. This initial phase of implementation will provide opportunities for the Agency to adapt to and refine directives and technical advice for planning under the new rule. Units selected for the initial phase of implementation of the final rule represent a broad spectrum of conditions and are geographically representative. The final rule is intended to provide a flexible planning framework that allows for continuous learning and improvement in implementation.

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, will affect implementation. These uncertainties also influence anticipated outcomes of the 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 shortfalls in the national planning rule, since budgets, staffing, program emphasis, and planning needs differ among the units. However, the final rule does 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: The final rule recognizes 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, § 219.7(e)(1)(ii) of the rule states that ''Objectives should be based on reasonably foreseeable budgets.'' Also the final rule sets out the requirements for developing plan monitoring program within the financial and technical capabilities of the Agency (§ 219.12(a)(4)(ii)). The effects of plan alternatives such as budgetary effects will be disclosed when preparing an environmental impact statement for each new plan or plan revision.

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. It is important to note that the estimated costs for the new rule (Table 6 in the final PEIS) are within the historic range of aggregate planning, inventory, and monitoring annual budgets (1995–2010).

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: Section 219.5(a)(2)(i) of the final rule states that a new plan or plan revision requires preparation of an environmental impact statement. The NFMA gives considerable discretion to the Agency when considering physical, economic, and other pertinent factors. The Department does not want the planning rule to prescribe specific processes for assessing and evaluating economic efficiency. Cost-benefit analyses, or net present value estimation, are not required when evaluating plan alternatives; however, such an analysis (quantitative and/or qualitative) may be useful in some cases to satisfy the NEPA objectives (42 U.S.C. Sec 4331, 101 and 102(2)) and to demonstrate fulfillment of MUSYA goals (for example, ''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;'' (16 U.S.C. 531(a))). The Forest Service handbook for NEPA (FSH 1909.15, chapter 20, section 22.32) 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 22.32) 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. The Department requires that land management plans will be

within the fiscal capability of the unit (§ 219.1(g)). The rule requires that objectives be based on reasonably foreseeable budgets (§ 219.7(e)(1)(ii)) and that the monitoring program be within the financial and technical capabilities of the Agency (§ 219.12(a)(4)(ii)). Clarifications about disclosure of costs and benefits, as well as use of cost-benefit (or PNV) analysis are more appropriately included in the Agency directives.

Comments: Collaboration costs. Many respondents supported public participation opportunities in the decisionmaking process. Some respondents felt collaboration will 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 will 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 Department believes that involving the public early on through a participatory, open, and meaningful process is the best way to approach planning. The final rule sets out a planning process that is designed to provide more opportunities for the public to collaborate with the Agency and to become more involved in all phases of planning, including monitoring, assessment, and development of alternatives for land management plan revisions or amendments. Section 219.4 of the final rule requires the responsible official to engage the public in early and meaningful opportunities for participation during the planning process and to coordinate with other public planning efforts, including State and local governments. However, the final rule gives the responsible official discretion to tailor the scope, scale, and types of participation opportunities to be congruent with the need and level of interest, subject to the requirements of section 219.4. Collaborative processes would be used where feasible and appropriate.

The final PEIS does not demonstrate that collaboration will lead to Forest Service cost savings in planning. Because of the public participation and collaboration throughout the planning process, the Department expects that the cost for collaboration and engaging the public during the planning process would be higher than that under the 1982 procedures. However, it is anticipated that overall planning efficiency will be improved as other planning activities such as analyzing and revising plan components are anticipated to be streamlined. It is also expected that increased participation and collaboration throughout the planning process will 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 the final rule will guide projects that could in turn affect distribution of employment, income, and payments to local governments. Impacts to jobs within specific industry sectors due to the final rule compared to the other alternatives 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.

The effects of plan proposals as well as proposed projects will continue to be evaluated in accordance with NEPA; impacts to employment, income, and payments will likewise continue to be evaluated as appropriate to the need to address plan or project-specific significant issues. The Department does not want the planning rule to 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 by the proposed rule. However, the proposed rule cost and benefit analysis did not estimate the effects of the rule on site-specific projects developed under land management plans, because site-specific project costs are a function of unknown future site-specific plan or project proposals occurring under new, revised, or amended plans under the final rule; it is, therefore, not possible to estimate or characterize changes in project-specific costs.

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: The Department believes that the final rule supports management of the NFS to contribute to social and economic sustainability. The rule does not 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 final 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 rule in combination with other broad Agency actions and strategies (for example, roadless rules, strategic plans and other Agency goals, NEPA procedures, transition to implementing the final rule, 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 or compliance costs on States (that is, Federalism).

Response: Executive Order 13132 (that is, Federalism) establishes requirements the Federal Government must follow as it develops and carries out policy actions that affect State or local governments. The Department concludes that the rule would not impose compliance costs on the States (or local governments) and would not have substantial direct effects on the States.

Section-By-Section Explanation of the Final Rule

The following section-by-section descriptions are provided to explain the approach taken in the final rule to NFS land management planning.

Subpart A—National Forest System Land Management Planning

Section 219.1—Purpose and Applicability

This section of the final rule describes the purpose of the rule and its applicability to units of the NFS. This section affirms the multiple-use, sustained-yield mandate of the Forest Service, and states that the purpose of this part is to guide the collaborative

and science-based development, amendment, and revision of land management plans that promote the ecological integrity of national forests and grasslands and other administrative units of the NFS. The NFMA requires the Agency to have a planning rule developed under the principles of the Multiple-Use Sustained-Yield Act of 1960 (MUSYA). The planning rule sets requirements for land management planning and content of plans and applies to all units in the NFS.

The requirements in the final rule should increase Agency and plan area capacity for adapting management plans to new and evolving information about stressors, changing conditions, and management effectiveness. The Department's intent is for responsible officials to use the planning framework to keep plans and management activity current, relevant, and effective.

Section 219.1—Response to Comments

Many comments on this section focused on consistency with MUSYA, compliance with or applicability of valid existing rights, treaties, and applicable laws, and the cost of the process for implementing the rule. The Department modified the wording of the proposed rule to move a reference to ''ecosystem services'' from paragraph (a) of this section to paragraph (c); add at paragraph (c) ''clean air'' as a benefit provided by ecosystem services and replace the term ''healthy and resilient'' with ''ecological integrity;'' move direction about the Forest Service Directives System previously in paragraph (d) of this section in the proposed rule to § 219.2(b)(5); and make other clarifications for readability. These changes are not changes in requirements; they are just clarifications and reorganizations.

The Department added direction at paragraph (g) of this section to 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. In the proposed rule we had similar wording in §§ 219.8 through 219.11. Adding this requirement in paragraph (g) is a change because the requirement now applies more broadly to the process and content requirements of the final rule.

Comment: Ecosystem services. Some respondents objected to the use of ''ecosystem services'' in § 219.1(b) and throughout the rule. One respondent felt the term diluted the congressionally honored and sanctioned ''multiple use'' mission of the national forests.

Response: The use of the term ''ecosystem services'' has been removed from § 219.1(b), added to § 219.1(c), and revised throughout the final rule; however, the final rule retains reference to ''ecosystem services.'' The final rule 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 the proposed rule. The Department believes this revised wording 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 balanced 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. The rule sets up a process so individual forests and grasslands are managed with a balanced approach to best meet the needs of present and future generations of Americans. The Department recognizes Americans expect a range of benefits and services from the National Forest System, which can include both tangible objectives and intangible benefits. Under § 219.4, the final rule sets forth an open process for public collaboration, participation, and coordination to inform desired conditions and objectives for NFS lands. The words ''spiritual sustenance'' in § 219.1(c) of the proposed rule have been changed to ''spiritual…benefits'' in this final rule because the word ''sustenance'' was confusing.

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, the final rule acknowledges this fact in § 219.1(d).

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: The list of laws in § 219.1 is not intended to be a complete list of laws and regulations requiring Agency compliance. The Department did not choose to include an exhaustive list of applicable laws and regulations, as the Agency is obligated to comply with all applicable laws and regulations regardless of whether it is referenced in the text of the final rule. All plans and planning decisions must comply with applicable laws and regulations.

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 must constrain the development of management direction within the plan and planning process within a unit's expected fiscal capability. The Department came to this conclusion because if a responsible official develops a plan beyond a unit's fiscal capability, then management towards the plan objectives and thus plan desired conditions will not be realistic or possible. The Department removed the phrase ''and the fiscal capability of the unit'' from § 219.10 and § 219.11, and added 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. This requirement at § 219.1(g) applies to all sections of the rule, including sections 219.8, 219.9, 219.10, and 219.11.

Section 219.2—Levels of Planning and Responsible Official

Planning occurs at three levels—national strategic planning, NFS unit planning, and project or activity planning. Section 219.2 of the final rule describes these levels of Agency planning, identifies the responsible official, and describes specific attributes and requirements for unit-level planning. This section also provides the basic authorities and direction for developing, amending, or revising a plan. In addition, it identifies the responsibilities of the Chief for oversight, leadership, and direction.

Some people wanted to see very detailed requirements in the rule, such as monitoring methods and protocols, while others emphasized the need to keep the rule simple, so it would endure and could be implemented across different landscapes within the NFS. This section ensures that the Agency will establish additional needed details in the Directives for effective implementation of the planning rule, while allowing rule wording to remain relevant even as conditions change.

Section 219.2—Response to Comments

Many comments on this section focused on the level of the responsible official, the appropriate scale for planning, and consistency of plans across the NFS. The Department modified the wording from the proposed rule to address concerns raised by the public and other regulatory agencies that more specific requirements were needed to ensure consistent implementation of the rule. The Department moved wording formally in section 219.1 of the proposed rule to this section and added paragraph (b)(5) that requires the Chief:

(i) To establish direction for NFS land management planning under this part in the Forest Service Directives System (what was formerly § 219.1(d) in the proposed rule);

(ii) To establish and administer a national performance oversight and accountability process to review NFS land management planning under this part; and

(iii) To establish procedures in the Forest Service Directives System (Directives) to guide how data on various renewable resources, as well as soil and water will be obtained to respond to 16 U.S.C. 1604(g)(2)(B).

The addition of the oversight requirement in (ii) is a minor change in requirements in response to the comments received. The other changes are not changes in requirements, they are just clarifications.

Comment: Level of responsible official and consistency with regional or national programs. Some respondents felt the proposed 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 change 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 the proposed rule could lead to individual forest and grassland level plans that are inconsistent with neighboring unit plans and with regional or national programs.

Response: The responsible official will usually be the forest or grassland supervisor, who is most familiar with the resources, issues, and the people relevant to and interested in the unit. However, § 219.2(b)(3) provides 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 must develop, amend, or revise plans within the framework set out by this final rule and is accountable for compliance with the rule and the multitude of relevant laws and policies. To ensure compliance, the final rule wording 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 the final rule 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 final rule includes other requirements at § 219.4 for public participation and coordination with other planning efforts. The final rule also requires in § 219.15 that other resource plans be consistent with the plan components. The Department anticipates that the final rule will 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 Department expects that these programs and requirements will be mutually supportive and will contribute to good land management.

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: The final rule allows planning at the most appropriate scale to address issues and resource concerns specific to that unit. The final rule does set forth requirements to consider other scales while developing plans. Section 219.7(f)(1)(ii) requires the responsible official to describe the distinctive roles and contributions of the plan area within the context of a broader landscape. Section 219.7(f)(1)(i), specifically discusses priority watersheds. Section 219.7(d) requires 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. The final rule also provides that two or more responsible officials may undertake joint planning for their units.

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.

Requirements for broader-scale assessments and assessments for each individual watershed are not included in the final rule. Adding these requirements would add more preliminary steps to planning that may further delay completion of plan revisions or amendments and may not

be necessary for the planning process. The assessments envisioned in the planning rule are focused on gathering and evaluating existing information relevant to the plan or the specific plan area.

The 1982 rule required the preparation of a regional guide and a planning process for the development of that guide. The final rule does not include a requirement for regional planning. 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.

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: The final rule sets the framework for the development, amendment, and revision of unit plans: The requirements set forth in the final rule are for plans, not for projects or activities that are developed under the plan. Section 219.15 requires projects and activities carried out under the plans developed under the final rule to be consistent with the plans. 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. Section 219.15(d) of the final rule identifies how project and activities must be consistent with plan components.

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: The final rule does not prohibit referencing laws, regulations, or Forest Service directives if the responsible official feels that doing so will add clarity.

Section 219.3—Role of Science in Planning

This section requires that the responsible official use the best available scientific information to inform the planning process and plan decisions, and provides requirements for documenting the use of the best available scientific information (BASI). The intent of this requirement is to ensure that the responsible official uses BASI to inform planning, plan components, and other plan content, that decisions are based on an understanding of the BASI and that the rationale for decisions is transparent to the public. The Department also expects that this requirement will increase the responsible official's understanding of risks and uncertainties and improve assumptions made in the course of decisionmaking.

Section 219.3—Response to Comments

Many people provided comments on this section of the proposed rule. Most comments focused on whether or not to include a requirement for use of the BASI, discretion about how science should be used, and the potential procedural burdens created by this requirement. The Department modified the wording of the proposed rule as follows: (1) To clarify how scientific information is to be used in the planning process; (2) to clarify the level of discretion the responsible official has in using scientific information; and (3) to manage the potentially burdensome requirements for documentation.

The Department clarified how BASI will be used in the planning process; changing the wording from ''the responsible official shall take into account the best available scientific information,'' to ''the responsible official shall use the best available scientific information to inform the planning process.'' This clarification is consistent with the Department's intent as described in the preamble to the proposed rule. This clarification is in response to public comments expressing concern that the proposed rule wording would allow the responsible official to ignore best available scientific information. This wording makes clear that the responsible official must use the BASI to inform the process and decisions made during the planning process.

The Department also modified the requirement that the responsible official ''determine what information is the most accurate, reliable, and relevant to a particular decision or action'' to a requirement that the responsible official ''determine what information is the most accurate, reliable, and relevant to the issues being considered.'' This change focuses the requirement on the issues being considered, because the underlying issues form the basis for decisionmaking, and are the appropriate focus for the requirement to ensure that the responsible official uses scientific information to inform plan-related decisions.

The Department eliminated paragraphs (a), (b), and (c) of § 219.3 of the proposed rule. The remaining paragraph was modified to require the responsible official to document how the best available scientific information was used to inform the assessment, the plan decision, and the monitoring program. Changing these requirements is responsive to public comments about the process associated with meeting the requirements of this section.

Comment: Best available scientific information. A respondent felt the term ''best available scientific information'' used in the proposed rule is value laden and implies judgment that cited scientific information is potentially superior to other scientific information on the topic. This respondent felt using the term would put responsible officials in the position of choosing one scientist over another. Additionally, the concern was expressed that the lack of a clear definition of ''best available scientific information'' 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 available scientific information is.

Response: The Department decided to retain the term ''best available scientific information'' (BASI) from the proposed rule, and to require that such information be used to inform the assessment, the planning process, and plan components and other plan content, including the monitoring program. The responsible official must determine what information is the most accurate, reliable, and relevant with regard to the issues being considered. In some circumstances, the BASI would be that which is developed using the scientific method, which includes clearly stated questions, well designed investigations, and logically analyzed results, documented clearly and subjected to peer review. However, in other circumstances the BASI for the matter under consideration may be information from analyses of data obtained from a local area, or studies to address a specific question in one area. In other circumstances, the BASI could be the result of expert opinion, panel consensus, or observations, as long as the responsible official has a reasonable basis for relying on that information.

The Department recognizes often there is uncertainty in science, and

there may be differing or inconclusive scientific information. Different disciplines, including the social and economic sciences as well as ecologic science, may provide scientific information that is the best available for the issues being considered. Gathering a range of scientific information and acknowledging potential uncertainties is critical to adequately inform the responsible official as well as the public during the planning process.

The Agency already has a fundamental legal requirement to consider relevant factors, including the relevant scientific information, and explain the basis for its decisions. The Department included this section in the rule, with its explicit requirements for determining and documenting the use of the best available scientific information, to inform the planning process and to help to ensure a consistent approach across the National Forest System.

To respond to comments about the level of documentation for individual units, the requirements for documentation were changed from the proposed rule. The Department eliminated paragraphs (a), (b), and (c) of § 219.3 of the proposed rule, and replaced 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. Section 219.14(a)(4) requires that the plan decision document must document how the best available scientific information was used to inform planning, plan components, and other plan content, including the monitoring program. The remaining paragraph was modified to require 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, because the monitoring results are scientific information. In addition, the new documentation requirements call for the responsible official to explain the basis for the determination, and explain how the information was applied to the issues considered.

The Forest Service Directives System will contain further detail on how to document the use of 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 will 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.

The final rule is 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, the final rule is 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.'' Responsible officials will 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 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 Department never intended that the responsible official could have the discretion to disregard best available scientific information (BASI) in making a decision. To clarify the Department's intent, the final rule requires the responsible official to use the BASI to inform the planning process rather than take BASI into account. While the BASI must inform the planning process and plan components, it does not dictate what the decision must be: BASI may lead a responsible official to a range of possible options. There also may be competing scientific perspectives and uncertainty in the science. Furthermore, scientific information is one of the factors relevant to decisionmaking. Other factors include budget, legal authority, local and indigenous knowledge, Agency policies, public input, and the experience of land managers.

Comment: Funding for BASI. 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 take relevant scientific information into account in decisionmaking. The Agency already has a fundamental legal requirement to consider relevant factors, including relevant scientific information, and explain the basis for its decisions.

This section is not intended to impose a higher standard for judicial review than the existing ''arbitrary and capricious'' standard. The requirements of this final rule section are also separate from those of the Council on Environmental Quality's NEPA regulations, (40 CFR 1502.22(b)), which in some circumstances 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. This final rule section does not change that requirement. The requirements in section 219.3 are focused on ensuring the responsible official uses the BASI that is already available to inform the planning process. Thus, while an assessment report or monitoring evaluation report may identify gaps or inconsistencies in data or scientific knowledge, the final rule does not 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.

Including this section in the rule, with its explicit requirements, for determining and documenting the use of the BASI to inform planning the planning process, will help to ensure a consistent approach across the National Forest System that will lead to more credible and supportable plan decisions.

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: Section 219.3 of the final rule requires the responsible official to document how the BASI was used to inform the assessment, plan decision, and design of the monitoring program. Such documentation must: identify what information was determined to be the BASI, explain the basis for that determination, and explain how the information was applied to the issues considered. This requirement will provide both transparency and an explanation to the public as to how BASI was used by responsible officials to arrive at their decisions.

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 Department concludes that the adaptive management framework of assessment, revision or amendment, and monitoring in this final rule provides a scientifically supported process for decisionmaking in the face of uncertainty and particularly under changing conditions. The intent of this framework is to create a responsive planning process and allows the Forest Service to adapt to changing conditions and improve management based on new information. Monitoring provides the feedback for the planning cycle by testing assumptions, tracking relevant conditions over time, and measuring management effectiveness.

The assessment report will document information needs relevant to the topics of the assessment and the best available scientific information that will be used to inform the planning process.

The science of risk management is rapidly evolving. To require specific techniques or methodologies would risk codifying approaches that may soon be outdated. The responsible official will inform the public about the risks and uncertainties in the environmental impact statements and environmental assessments for plans, plan revisions, and plan amendments.

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: The rule sets forth an adaptive land management planning process informed by both a comprehensive assessment and the best available scientific information. Section 219.6(b)(3)–(4) requires responsible officials 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. Section 219.8(a)(1)(iv) requires climate change be taken into account when the responsible official is developing plan components for ecological sustainability. When providing for ecosystem services and multiple uses, the responsible official is required by § 219.10(a)(8) to consider climate change. Measureable changes to the plan area related to climate change and other stressors affecting the plan area are to be monitored under § 219.12(a)(5)(vi). Combined with the requirements of the Forest Service Climate Change Roadmap and Scorecard, these requirements will ensure that Forest Service land management planning addresses climate change and supports adaptive management to respond to new information and changing conditions.

Section 219.4—Requirements for Public Participation

This section of the final rule requires the responsible official to provide meaningful opportunities for public participation throughout the planning process. It gives direction for providing such opportunities, including for outreach, Tribal consultation, and coordination with other public planning efforts. The intent of this section is to emphasize the importance of active public engagement in planning and to provide direction for the responsible official to take an active, modern approach to getting public input, including recognition of the need for accessibility of the process and engagement of all publics, the responsibility for Tribal consultation, and engagement with other land managers as part of an all lands approach. The outcomes of public participation can include a greater understanding of interests underlying the issues, a shared understanding of the conditions on the plan area and in the broader landscape that provide the context for planning, the development of alternatives that can accommodate a wide range of interests, and the potential development of a shared vision for the plan area, as well as an understanding of how and why planning decisions are made. Engaging the public early and throughout the process is expected to lead to better decisionmaking and plans that have broader support and relevance.

Section 219.4—Response to Comments

Many comments on this section focused on the requirements for the kinds and level of participation opportunities and outreach, coordination with local and State governments and planning efforts, and Tribal consultation. This section was reorganized and new paragraph headings were assigned to increase clarity. Wording affirming that the Forest Service retains decisionmaking authority and responsibility for all decisions was moved from the definition of collaboration of the proposed rule to paragraph (a) of this section. The Department also listed State fish and wildlife agencies, and State foresters in paragraph § 219.4(a)(1)(iv) as illustrative examples of relevant State agencies.

The Department modified the wording about trust responsibilities in § 219.4(a)(2) that was designated at § 219.4(a)(5) of the proposed rule. The proposed rule said: the Department recognizes the Federal Government's trust responsibility for federally recognized Indian Tribes. The final rule says: the Department recognizes the Federal Government has certain trust responsibilities and a unique legal relationship with federally recognized Indian Tribes. This change was made to ensure accurate recognition of the relationship between the Federal Government and federally recognized Tribes.

The Department deleted the phrase, ''to the extent practicable and appropriate,'' from the end of paragraph § 219.4(b) for coordination with other public planning efforts, in response to public comment. The change is intended to make clear that the requirements for coordination with other public planning efforts have not been reduced from previous rules. However, this change is not intended to require the Agency's planning efforts to tier to, or match the timing of other public planning efforts. These changes are not changes in requirements, they are clarifications.

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 to 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 rule requires the responsible official to engage and encourage participation by a diverse array of people and communities throughout the planning process. This includes those interested at the local, regional, and national levels and covers all groups and organizations that are interested in the land management planning process. The Department recognizes the need to engage a full range of interests and individuals in the planning process. The national forests and grasslands belong to all Americans and not just those who have economic or previously expressed interest. The Department concluded it was important for the final rule to recognize that opportunities for public participation in the planning process must be fair and accessible, while recognizing and taking into account the diverse interests, responsibilities, and jurisdictions of interested and affected parties. The final rule does not require participation from any specific group. The rule also allows flexibility in the methods of offering opportunities for engagement, recognizing that the best way to engage will vary at different times and in different places. The responsible official has the discretion to determine the scope, timing, and methods for participation opportunities necessary to address local, regional, and national needs, while meeting the requirements of § 219.4.

The planning procedures established for land management planning in the Forest Service Directives System will also provide further direction to ensure consistent implementation of the requirements of the final rule.

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: This final rule contains a balanced approach that requires the responsible official to engage a diverse array of people and communities throughout the planning process. Participation opportunities must be provided throughout all stages of the land management planning process, including during plan revision and amendment.

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. Because the term ''collaboration'' is often associated with only those activities on one end of the public engagement spectrum, the Department chose to retain the term ''public participation'' in the final rule to make clear that the full spectrum of tools for public engagement can be used in the planning process. Every planning process will involve traditional scoping and public comment; in addition, the responsible official will determine the combination of additional public participation strategies that would best engage a diverse set of people and communities in the planning process.

The final rule absolutely provides the flexibility to support the use of already working processes, including existing collaborative processes. Because the make-up and dynamics of the communities surrounding each planning area differ, and because the level of interest in decisionmaking may vary, based on the scope and potential impact of the decision being contemplated, the responsible official needs the flexibility to select the public participation methods that would best meet the needs of interested people and communities. The wording ''feasible and appropriate'' provides the responsible official the flexibility needed to develop effective participation opportunities, including using existing opportunities for collaboration.

Planning procedures established in the Forest Service Directives System will provide further guidance and clarification for how the public participation requirements of the final rule will be implemented.

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: The final rule directs the responsible official to take the accessibility of the process, opportunities, and information into account when designing opportunities for public participation, precisely because individuals may vary in their ability to engage, including in how much time and money they have to spend on participating in the process. Likewise, the final rule directs the responsible official to consider the cost, time, and available staffing when developing opportunities for public participation that meet needs and constraints specific to the plan area. This is to ensure that the process is feasible and efficient. In addition, § 219.1(g) requires that the planning process be within the authority of the Forest Service and the fiscal capability of the unit.

However, the rule does place a strong emphasis on developing opportunities early and throughout the planning process, with costs of planning projected to be redirected toward collaboration, assessment, and monitoring activities and away from development and analysis of alternatives, as compared to the 1982 procedures. The public participation requirements are expected to improve plans and increase planning efficiency in a variety of ways. Collaborative efforts during the early phases of planning are expected to result in improved analysis and decisionmaking efficiency during the latter stages of planning; lead to improved capacity to reduce uncertainty by gathering, verifying, and integrating information from a variety of sources; reduce the need for large numbers of plan alternatives and time needed for plan revisions; potentially offset or reduce monitoring costs as a result of collaboration during monitoring; improve perceptions regarding legitimacy of plans and the planning process; increase trust in the Agency, and potentially reduce the costs of litigation as a result of receiving public input before developing and finalizing decisions. Overall, it is the Department's

view that investment in providing opportunities for public engagement will lead to stronger and more effective and relevant plans.

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: The Department recognizes that other forms of information besides written documentation, such as local and indigenous knowledge and public experiences, should also be taken into account. Opportunities for the public to provide information during the assessment phase will help the responsible official to capture other forms of knowledge, and to reflect that information in the assessment report that will be available to the public. This section of the final rule requires the responsible official to encourage public participation, thus sharing knowledge, ideas, and resources. In addition, paragraph (a)(3) of this section requires 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: To ensure accountability in implementation for all of the requirements in the final rule, the Department added § 219.2(b)(5) requiring 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 will provide further guidance and clarification for how the public participation requirements of the final rule will be implemented.

Comment: Decisionmaking authority. Some respondents felt the rule must disclose the Forest Service retains full decisionmaking authority.

Response: While § 219.4 of the rule commits 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. Paragraph (a) of this section has been modified to include the sentence ''The Forest Service retains decisionmaking authority and responsibility for all decisions throughout the process,'' which was previously in the definition for collaboration in the proposed rule.

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. This is reflected in the requirement that responsible officials 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. The Department recognizes the need to engage a full range of interests and individuals in the planning process and the responsibility to promote environmental justice. To encourage wide-ranging participation, the final rule retains the requirement for the responsible official to seek participation opportunities for traditionally underrepresented groups like youth, low-income populations, and minority populations.

The Department added requirements in §§ 219.8 and 10 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, in addition to the requirements for outreach to youth, low-income, and minority populations included in this section. Specific issues regarding recreation access on a unit will be addressed at the local level during the planning process.

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: Section 219.4(a)(1)(iv) of the final rule clarifies the responsible official's 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. However, a successful planning process must be inclusive in order to adequately reflect the range of values, needs, and preferences of society. All members of the public would be provided opportunities to participate in the planning process. Section 219.4(a) of the final rule lists specific points during the planning process when opportunities for public participation would be provided. To meet these requirements, the responsible official must be proactive in considering who may be interested in the plan, those who might be affected by the plan or a change to the plan, and how to encourage various constituents and entities to engage. Responsible officials will encourage participation by interested individuals and entities, including those interested at the local, regional, and national levels.

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 the final rule. Section 219.4(b)(3) clarifies requirements for coordination efforts.

Under § 219.4(a), the final rule requires the responsible official 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. The final rule also requires 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 the final rule, the responsible official must 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. The Department deleted the phrase, ''to the extent practicable and appropriate,'' from the end of paragraph § 219.4(b), in response to public comment. This change is not intended to require the Agency's planning efforts to tier to, or match the timing of other public planning efforts. It was made to make clear that the requirements for coordination with other public planning efforts have not been reduced from previous rules.

The requirement for coordination from the 1982 rule to identify and consider other information is found in § 219.6(a) of the final rule. Section 219.6(a) of the final rule requires consideration of relevant information in assessments of other governmental or non-governmental assessments, plans, monitoring evaluation reports, and studies. The final rule does not adopt the coordination requirements of Alternative D of the DEIS because the coordination requirements are part of the species viability requirements of Alternative D. The final rule does 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)(2)(ii)). To discuss the role of the Forest Service unit in the broader landscape, final rule §§ 219.4(a)(1), 219.6(a), 219.7(c)(1), and 219.12(a) 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. The final rule recognizes that participants have different roles, responsibilities, and jurisdictions, which the responsible official will take into account in designing opportunities for participation. The final rule does not adopt the requirement of the 1982 rule to meet with a designated State official and representatives of Federal agencies and local governments because people can often collaborate together without a face-to-face conference. The Department expects responsible officials to effectively engage States, Tribes, and local officials and other representatives in collaborative planning processes.

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) the responsible official must 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. Section 219.4(b) requires that 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 are required to identify and consider relevant existing information, which may include relevant neighboring land management plans and local knowledge. This information may include State forest assessments and strategies, ecoregional assessments, nongovernmental reports, State comprehensive outdoor recreation plans, community wildfire protection plans, public transportation plans, and State wildlife action plans, among others.

However, plans are not required to be consistent with State forest assessments or strategies or plans of State and local governments under the final rule. The Forest Service must 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. 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. The final rule does not repeat legal requirements found in public law, such as NEPA and NFMA, but § 219.1(f) would require plans to comply with all applicable laws and regulations.

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. Several organizations commented on the preferred alternative that the final rule should require responsible officials to grant cooperating agency status under NEPA to entities if federally recognized Tribes, States, counties, or local governments appropriately apply for such status.

Response: The responsible official will encourage federally recognized Tribes, States, counties, and other local governments to seek cooperating agency status where appropriate. The final rule does not preclude any eligible party from seeking cooperating agency status; rather, it provides direction to Forest Service responsible officials to encourage such engagement where appropriate. Cooperating agency status under NEPA is determined under the Council of Environmental Quality (CEQ) requirements for cooperating status (40 CFR 1501.6). Further guidance may be found at *http://www.fs.fed.us/emc/nepa/index.htm.* The final rule does not affect that process. For federally recognized Tribes, cooperating agency status does not replace or supersede the trust responsibilities and requirements for consultation also recognized and included in the final rule. Any request for cooperating agency status will be considered pursuant to the CEQ requirements and Agency policy.

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: The final rule acknowledges 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. While the final rule requires 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. Responsible officials will 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 U.S.C. 1712(b)) be included in the final rule.

Response: The final rule provides participation, consultation, and coordination opportunities for Tribes during the land management planning process, under § 219.4. This section also states at § 219.4(b) 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 U.S.C. 1712(b) has been added to the final rule at § 219.4(b)(2). 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. The final rule includes requirements for engaging Tribes during the land management planning process. At § 219.4(a)(2) the final rule states 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 requires that the responsible official provide opportunities for participation and consultation for federally recognized Indian Tribes and Alaska Native Corporations.

Section 219.5—Planning Framework

This section provides an overview of the framework for land management planning, and identifies what occurs during each phase. It also includes the requirement for the establishment of an interdisciplinary team for planning. This framework reflects key themes heard from the public, as well as experience gained through the Agency's 30-year history with land management planning.

The framework requires a three-part learning and planning cycle: (1) Assessment; (2) plan development, plan revision, or plan amendment; and (3) monitoring. This framework is science-based (§ 219.3), and provides a blueprint for an open and participatory land management process (§§ 219.4 and 219.16). It is intended to create a better understanding of the landscape-scale context for management and support an integrated and holistic approach to management that recognizes the interdependence of ecological resources and processes, and of social, ecological, and economic systems. The framework creates a structure within which land managers and partners will work together to understand what is happening on the land. It is intended to establish a responsive process that would allow the Agency to adapt management to changing conditions and improve management based on new information and monitoring, using narrower, more frequent amendments to keep plans current between revisions.

Section 219.5—Response to Comments

Many comments on this section focused on the need for more clarity in the framework. The Department made changes to § 219.5(a)(1) to describe the assessment and emphasize that the assessment process is intended to be rapid, and use existing information related to the land management plan within the context of the broader landscape. The Department removed the discussion about the preliminary need to change the plan from paragraph (a)(1) because the discussion has been removed from the assessment (§ 219.6) and discussed in paragraph (a)(2) of this section and in § 219.7. The Department removed the introductory text of paragraph (a)(2) of this section because it was redundant to paragraph (a)(2)(i) of this section and to § 219.7(b). Section 219.5(a)(2)(ii) was slightly modified to clarify that the first step to amend a plan is to identify a preliminary need to change the plan. Additional edits were made for clarity. The changes to this section are not changes in requirements, they are just clarifications.

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 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 the rule. In

addition to the descriptions of what occurs during each phase provided in this section, changes were made to §§ 219.6, 219.7 and 219.12 to make clear that information from each phase should be used to inform each of the other phases. In § 219.6, assessments are required for new plan development and plan revision, and a new list of topics for the assessment was included to more closely link the assessment requirements to the requirements for plan components and other plan content. The responsible official must identify and consider relevant information contained in monitoring reports during the assessment phase. These monitoring evaluation reports are developed in the monitoring phase as required in § 219.12(d), which requires that they be used to inform adaptive management. Section 219.7 requires the responsible official to review relevant information from the assessment and monitoring to identify a preliminary need for change and to inform the development of plan components and other plan content, including the monitoring program. In this way, the framework builds on information gathered and developed during each phase of the planning process and supports adaptive management for informed and efficient planning.

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: 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 will be considered during of the planning process. The responsible official must meet all the requirements contained in the final rule, including the requirement 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.

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: The Department concluded that the responsible official should have 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. Also, individual team members often have broad areas of expertise and may represent multiple disciplines.

Section 219.6—Assessments

This section sets out both process and content requirements for assessments. In the assessment phase, responsible officials will rapidly identify and evaluate relevant and existing information to provide a solid base of information and context for plan decisionmaking, within the context of the broader landscape. The final rule identifies and provides examples of sources of information to which the responsible official should refer, requires coordination and participation opportunities, and requires documentation of the assessment in a report to be made available to the public. This phase is intended to be rapid, and changes were made to the final rule to improve the efficiency of the assessment process. The Department expects the assessment required by the final rule will take about 6 months to complete.

The content of assessments will be used to inform the development of plan components and other plan content, including the monitoring questions, and to provide a feedback loop. The final rule narrows and clarifies the requirements for the content of plan assessments, to increase efficiency and provide a clearer link to the requirements for plan components and other plan content in the other sections of the final rule. During the assessment phase, the public will have the opportunity to bring forward relevant information. Gathering and evaluating existing, relevant information will help both the responsible official and the public form a clear base of information related to management issues and decisions that will be made later in the planning process.

Section 219.6—Response to Comments

Many comments on this section focused on concerns about the assessment phase in the proposed rule being too open ended, lengthy and costly, and/or not closely enough linked to the requirements for plan components and monitoring in the other phases of the framework. The Department determined that these concerns were valid, and made a number of changes to this section in response. The Department reorganized the section to clarify the process and direction for assessments.

In the introductory paragraph, the Department removed the description of what an assessment is, and provided a cross-reference to description of the assessment in § 219.5(a)(1). This change was made to avoid redundancy, and is not a change in requirements. Changes to the description of the assessment in § 219.5(a)(1) were made to focus on the use of existing information in a rapid process. This change reflects the intent for this phase as stated in the preamble to the proposed rule, and makes that intent clear in the final rule. Additional changes to reflect this focus were made throughout this section. These changes reflect the preamble discussion of the proposed rule about rapid assessments; therefore, these changes are clarifications based on public comments to make the assessment more efficient.

In paragraph (a) of the final rule the Department made several changes, including:

(1) Removed specific requirements for formal notification and encouragement of various parties to participate in the assessment (designated at § 219.6(a)(1) and (a)(2) of the proposed rule); these specific requirements were removed in response to public comments. Requirements for public participation and notification during this phase are still present in §§ 219.4 and 219.16. This is a change in requirements that is based on public comments to make the assessment more efficient.

(2) Moved the type of information to identify and consider from paragraph (b)(2) of this section of the proposed rule to paragraph (a)(1) in this section. The Department added public transportation plans and State wildlife data to the list of example documents to consider contained in paragraph (a)(1). The Department further clarified in this paragraph that relevant local knowledge will be considered if publicly available or voluntarily provided. These additions are not changes in requirements as they clarify the Department's intent.

(3) Changed the description of the report at paragraph (a)(3) from a set of reports to a single assessment report; changed discussion of additional information needs to clarify that they should be noted in the assessment report, but that new information need not be developed during the assessment phase; and changed the requirement from documenting how science was ''taken into account'' to how the best available scientific information was ''used to inform'' the assessment for

consistency with § 219.3. These changes reflect public comments on making the assessment phase more efficient, as well as public comments on § 219.3.

(4) Removed the requirement for the assessment to identify the need to change the plan from this section and added that requirement as an early step in the planning process in § 219.7. The Department moved the requirement to § 219.7 because after reading the public comments it was decided that identifying a need to change the plan in the assessment phase may cause confusion with the NEPA process. The planning rule continues to emphasize a ''need for change'' approach to planning but this now begins with a preliminary identification of the need to change the plan identified in the beginning of plan development (§ 219.7) within the formal NEPA process.

Paragraph (b) describes the content of assessments for plan development or plan revision. The Department added a specific listing of 15 topics that would be identified and evaluated relevant to the plan area, and removed the requirement in the proposed rule that the assessment report identify and evaluate information related to the substantive sections of the plan (§§ 219.7, 219.8, 219.9, 219.10, and 219.11). This change was made in response to comments that the assessment phase needed to be both more efficient and more narrowly and specifically focused on the information needed to form a basis for developing plan components and other plan content. These changes represent a change in requirements. Changes made to § 219.7 provide additional clarity to link the two phases.

One term in the list of 15 items may be unfamiliar to the reader: baseline assessment of carbon stocks. The final rule requires that the responsible official use existing information to do a baseline assessment of carbon stocks. Carbon stocks are the amount of carbon stored in the ecosystem, in living biomass, soil, dead wood, and litter. This requirement was included in response to public comments to ensure that information about baseline carbon stocks is identified and evaluated before plan revision or development, and to link this phase to the requirements of the Forest Service Climate Change Roadmap and Scorecard. The Department's expectation is that this information would be generated via implementation of the Roadmap and Scorecard prior to planning efforts on a unit, and that the assessment phase would use that information to meet the direction in § 219.6(b)(4). The Forest Service has developed a National Roadmap and Performance Scorecard for measuring progress to achieve USDA strategic goals (USDA Forest Service 2010d, 2010j). The roadmap describes the Agency's strategy to address climate change and the scorecard is an annual reporting mechanism to check the progress of each NFS unit.

The requirements for the assessment to identify distinctive roles and contributions and potential monitoring questions previously included in paragraph (b) were removed from this section of the rule because they implied there would be decisions in the assessment phase that should be made as part of the plan decision. Both requirements are still present in other sections of the final rule; therefore, the removal of these requirements from this section of the rule is a minor change.

At § 219.6(c) the Department removed requirements for plan amendments that were consolidated with requirements for plan amendments in § 219.13(b)(1) for clarity and to avoid duplication. In addition, the Department changed the word ''issue'' to ''topic'' to avoid confusion with the term ''issues'' as used in the NEPA process. These changes are not changes in requirements, they are just clarifications.

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: Section 219.6 of the final rule changes the requirements for assessments. A single document identifying and evaluating key information for a plan revision or amendment will serve as an important source to set the stage for planning in both the development of the plan and in the evaluation of environmental effects through an environmental impact statement.

The final rule stresses the assessment as an information gathering and evaluation process specifically linked to the development of plan components and other plan content, in the context of the broader landscape. The final rule requires information about the list of topics in § 219.6(b) to be identified and evaluated in the assessment. The inclusion of this list as opposed to the broader direction included in the proposed rule 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 final rule.

The requirement of the proposed rule to find 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. Changes to § 219.7 clarify that the responsible official must 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. The information may be used and referenced in the planning process, including environmental documentation under NEPA. However, the assessment report is not a decision document.

The responsible official is required to provide public participation opportunities to all interested parties during the assessment process, and must provide notice of such opportunities, as well as the availability of the assessment report. The public will have a formal opportunity to comment on information derived from the assessment later in the NEPA process of the plan development, amendment, or revision.

The Department decided to retain the flexibility provided in the proposed rule for the responsible official to determine when an assessment prior to plan amendment is needed, along with the scope, scale, process, and content for plan amendments, in order to keep the amendment process flexible. Amendments can be broad or they can be narrow and focused only on a subset, or even on a single one, of the topics identified in the list of 15 in the final rule, or on something not on the list. Or the amendment could take place while the information in the assessment done for the plan revision or initial development is still up-to-date, such that a new assessment would not be needed. The circumstances and

considerations for when a plan amendment assessment should occur are too variable to specify in the final rule.

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 agrees the assessment phase needs to be efficient and effective. The Department focused the final rule on rapidly gathering and evaluating existing information on the topics identified in paragraph (b) of the final rule. The intent 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 solid context for decision-making required during the planning phase. The Forest Service will use relevant existing information from a variety of sources, both internal to the Agency and from external sources. The responsible official is required to provide public participation opportunities to all interested parties during the assessment process. The Department concludes that engaging the public to inform the assessment report will help the responsible official and the interested public to develop a common base of information to use in the planning phase, increasing the legitimacy and integrity of future decisions.

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: The list in § 219.6(b) includes the topics identified in these comments. The Department accepts that the list included in the final rule represents a focused set of topics relevant to the development of plan components and other plan content required in other sections of the final rule. The final rule requires that the best available scientific information be used to inform all phases of the planning process. 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: The final rule does not require annual evaluations of monitoring results by each region or for the broader-scale monitoring strategy. The three-part planning cycle of assessments, planning, and monitoring will provide a framework to identify changing conditions and respond with adaptive management. Broader-scale monitoring will help to identify and track changing conditions beyond the individual forest level. The final rule requires consideration of information from both the broader and plan scales of monitoring. This information would be described in the biennial plan monitoring report for each unit if applicable to plan area. Annual investigations and review, in addition to what is provided for in the rule, would be procedurally difficult and was deemed not necessary.

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 does not intend for assessments to replace monitoring. The final rule requires monitoring and biennial monitoring reports. Results from monitoring will be considered when developing an assessment and during the planning phase, just as the information gathered during the assessment phase will inform the planning phase, including development of the monitoring program.

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, the final rule does not 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 final rule is 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: The detailed notification requirements previously included in this section have been removed in order to make the process more efficient and clearer. However, the final rule still requires 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.

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: The rule requires the responsible official to provide opportunities for the public to participate in and provide information for the assessment process. For a new plan or plan revision, the final rule specifies the minimum scope of the assessment. For a plan amendment assessment, the need for and scope of the assessment will be determined by the responsible official based on the circumstances. The assessment is an informational document, not a decision document; therefore, a formal comment period is not required. As such, an opportunity to appeal or object to an assessment report is not required by the final rule. Other opportunities for

formal comment and objection are provided in the rule 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: The final removes this requirement from the assessment as it implies a decision that should be made when approving the distinctive roles and contributions of the unit as part of the other plan content (§ 219.7(f)). It is retained in the requirement for other plan content in § 219.7 of the final rule.

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: Section 219.6(a)(3) of the final rule requires the assessment to document in the report information needs related to the list of topics in paragraph (b) as part of the assessment report. Adding a requirement for the responsible official to document all information gaps or uncertainties could become burdensome and was inconsistent with the rapid evaluation of existing information.

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: The final rule does not add a cumulative effects requirement to the assessment. The assessment identifies and evaluates information on conditions and trends related to the land management plan. This will 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 disclosed in the environmental documentation for planning or project decisionmaking.

Section 219.7—Plan Development or Plan Revision

This section sets out requirements for how to develop a new plan or revise an existing plan. This section has two primary topics: (1) The process for developing or revising plans and (2) direction to include plan components and other content in the plan. The intent of this section is to set forth a process for planning that reflects public input and Forest Service experience. The process set forth in the final rule requires the use of the best available scientific information to inform planning (§ 219.3), and requires public participation early and throughout the process (§ 219.4). By conducting an assessment using a collaborative approach before starting a new plan or plan revision, and by working with the public to develop a proposal for a new plan or plan revision, the Department expects that the actual preparation of a plan would be much less time consuming then under the 1982 rule procedures, and that plans will be better supported. These requirements incorporate the best practices learned from the past 30 years of planning, and the Department concludes these practices can be carried out in an efficient and effective manner.

This section also sets out requirements for plan components. These plan components are based on techniques widely accepted and practiced by planners, both inside and outside of government. The set of plan components must meet the substantive requirements for sustainability (§ 219.8), plant and animal diversity (§ 219.9), multiple use (§ 219.10), and timber requirements based on the NFMA (§ 219.11) as well as other requirements laid out in the plan. Except to correct clerical errors, plan components can only be changed through plan amendment or revision. Plan components themselves cannot compel Agency action or guarantee specific results. Instead, they provide the vision, strategy, objectives, and constraints needed to move the unit toward ecological, social, and economic sustainability

In addition to the plan components, this section includes requirements for other plan content. Other required plan content differs from plan components in that an amendment or revision is not required for changes to be made that reflect new information or changed conditions.

Section 219.7—Response to Comments

Many comments on this section focused on aspects of the plan component and NEPA requirements. The Department retains the 2011 proposed rule wording in the final rule except for minor changes and the following:

(1) At paragraph (c)(2)(i) of this section, the Department consolidated the requirement to identify a preliminary need to change the plan from § 219.6(a) and § 219.7(a). This change is not a change in requirement for the planning process, but moves this requirement from the assessment phase to the start of the planning phase. Also, in this paragraph, the Department modified the wording to make the link between the assessment and monitoring phases with the plan phase clearer: the final rule requires that the responsible official review relevant information from the assessment and monitoring to identify a preliminary need to change the plan and to inform the development of plan components and other plan content. This change reflects the intent of the Department as stated in the preamble to the proposed rule and responds to public comment. It is a change in requirement.

(2) At paragraph (c)(2)(ii) of this section, the Department added a requirement to consider the goals and objectives of the Forest Service strategic plan. The Department added this requirement to respond to public comments and to address the requirement of 16 U.S.C. 1604(g)(3) to specify guidelines for land management plans developed to achieve the goals of the ''Program.'' Today the ''Program'' is equivalent to the Forest Service strategic plan. This is an additional requirement to implement the NFMA.

(3) At, paragraph (c)(2)(v) of this section, the Department edited the wording regarding whether to recommend any additional area for wilderness to remove the confusing term ''potential wilderness areas.'' The paragraph was also edited to clarify that lands that may be suitable, as well as lands that are recommended for wilderness designation, must be identified. These changes clarify the proposed rule and respond to public comment.

(4) At paragraph (c)(2)(vii), the Department added a new requirement to identify existing designated areas other than wilderness or wild and scenic rivers, and determine whether to recommend any additional areas for designation. The changes make clear that if the responsible official has the delegated authority to designate a new area or modify an existing area, then the responsible official may designate such lands when approving the plan, plan revision, or plan amendment. Based on

public comment, the Department added this requirement to clarify the requirement of § 219.10(b)(1)(vi) of the proposed rule.

(5) At paragraph (c)(3) the Department added the requirement for the regional forester to identify species of conservation concern for the plan area in coordination with the responsible official in paragraph (c)(2) of this section. The Department added this requirement in response to public comment to provide more consistency and accountability in selecting the species of conservation concern. This is a new requirement.

(6) At paragraph (d) of this section, the Department clarified that management areas or geographic areas are required in every plan. This is a clarification of paragraph (d) of the proposed rule and reflects the Department's intent for the proposed rule. Under the proposed rule, inclusion of management and/or geographic areas was implied by paragraph (d); the change to the final rule makes clear that every plan must include management areas or geographic areas or both, to which plan components would apply as described in paragraph (e) of the final rule. The Department removed the provision of the proposed rule that stated every project and activity must be consistent with the applicable plan components, because § 219.15(b) and (d) also state this, and this statement would be redundant. These changes are not changes in requirements; they are clarifications.

(7) At paragraph (e)(1)(iv), the Department clarified the wording in the description of a guideline to respond to comments on the preferred alternative. The Department changed the word ''intent'' to ''purpose.'' The final wording is: ''a guideline is a constraint on project and activity decisionmaking that allows for departure from its terms, so long as the *purpose* of the guideline is met.'' In addition, in the second sentence of paragraph (e)(1)(iv), Department added the words ''or maintain'' because guidelines, like standards, may be established to help achieve or maintain a desired conditions or conditions.

(8) At paragraph (e)(1)(v), the Department clarified that plans will include identification of specific lands as suitable or not suitable for various multiple uses and activities, in response to public comment on this section. It retains the wording that makes clear that the suitability of an area need not be identified for every use or activity, 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. This is a clarification of the proposed rule paragraph (d)(1)(v) to carry out the intent of the proposed rule.

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: The rule requires preparation of an EIS as part of the plan revision process. The NEPA requires development of a range of reasonable alternatives in the EIS. Therefore, a duplicative requirement in the 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. The public does not need special process to make this request.

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: The final rule allows 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 final rule, 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: The final rule requires the preparation of an EIS for plan revisions and new plans. Plan amendments must 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. The requirements for public participation are described in § 219.4 and notifications in § 219.16. The Department retained the wording on combining notifications where appropriate to allow for an efficient amendment process while continuing requiring public notice.

The NEPA regulations at 40 CFR 1508.23 provides that a proposal ''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. The final rule does 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 final rule requires that the responsible official consider management and resources across the landscape; and in § 219.4 the responsible official is directed to

consider opportunities for the plan to address the impacts identified or contribute to joint objectives across jurisdictions. Section 219.12 provides a framework for coordination and broader-scale monitoring. However, the rule provides overall direction for plan components and other plan content, and for how plans are developed, revised, and amended. 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. Those communities, groups, or persons interested in these important issues can influence plan components and plan monitoring programs by becoming involved in planning efforts throughout the process, including the development and monitoring of the plan, as well as the development of proposed projects and activities under the plan.

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: A primary goal of the new rule is to create a framework in which new information is identified and used to support adaptive management. The Department expects the new rule to facilitate, over time, the increased use of the amendment process to react more quickly to changing conditions. Placing overly prescriptive requirements in this section could inhibit the responsible official's ability to adaptively manage within the planning rule framework. Section 219.7(c)(2)(ii) in the proposed rule, now (c)(2)(iii) in the final rule, is simply intended as a process step to identify the relevant resources present in plan area for the purpose of developing plan components. This is not intended to be a new assessment, but is linked to the requirements for the assessment in section 219.6(b) of the final rule. Sections 219.8–219.11 contain the requirements for developing plan components to address those resources.

Plan Components

Comment: Plan component wording, standards, and guidelines. A respondent remarked that it was unclear if plans could meet the requirements in this section for plan components by including only one of each of the different kinds of plan components, or whether the Agency is making a binding commitment to include more than one standard, which the respondent believed to be more binding than desired conditions or guidelines.

Response: This section of the rule identifies what plan components are, and requires that every plan contain desired conditions, objectives, standards, guidelines, and suitability. The intent of the Department in the proposed rule was that the responsible official would determine the best mix of plan components to address the rule's substantive requirements. However, some respondents were concerned that the rule could be interpreted to require only one of each kind of plan component for every plan. Therefore, the final rule includes changes to the wording in sections 219.8–11 to require that plans include ''plan components, including standards or guidelines.''

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: Plans under the rule will 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, will 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 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 must meet the requirements of §§ 219.8 through 219.11, including to provide for ecological sustainability. Projects and activities must be consistent with desired conditions as described in § 219.15. The Forest Service Directives System will describe how desired conditions should be written and developed.

States do have responsibilities for managing fish and wildlife, but the rule requires plans to include plan components for ecological conditions (habitat and other conditions) to maintain diversity of fish and wildlife species, as required by NFMA. Responsible officials will continue to coordinate with Federal, State, and local governments and agencies on other public planning efforts.

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: Such guidance is not included in this final rule. Analysis methods and technical procedures are constantly changing; the planning rule would quickly be outdated if specific methods were mandated. Additional guidance with regard to social and economic resource analysis is more appropriate in the Forest Service Directives System, and revisions to the Forest Service directives will be available for public comment.

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: The rule uses objectives to support measureable progress toward a desired condition. Objectives will lead

to the development of a proactive program of work to achieve the desired condition by describing the focus of management in the plan area. Objectives will be based on achieving and monitoring progress toward desired conditions, and will 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: The proposed wording for goals is unchanged in the final rule because the proposed optional use of goals allows responsible officials to determine whether or not they are a useful plan component in addressing the local situation. Inclusion of a goal for youth, minority, and urban populations is not required in the final rule because the final rule requires the responsible official to encourage participation of youth, low-income populations, and minority populations throughout the planning process, and to consider opportunities to connect people with nature as well as to contribute to social and economic sustainability when developing plan components. See §§ 219.4, 219.8(b), and 219.10(a).

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, the respondent stated 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).

The Department clarified the wording of paragraph (e)(1)(v) to make clear that plans will include identification of specific lands as suitable or not suitable for various multiple uses and activities, in response to public comment on this section; however, the Department decided not to require determinations in every plan for specific uses other than timber. The final rule retains the wording that makes clear that the suitability of an area need not be identified for every use or activity, 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. The responsible official will determine when to identify suitability for various uses and activities as part of the set of plan components needed to meet the requirements of §§ 219.8–219.11.

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 or constrain 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). The final rule or a plan developed under the final rule cannot make a de facto withdrawal. Withdrawals occur only by act of Congress or by the Secretary of the Interior 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: 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. The respondent felt that making guidelines enforceable in the same way as standards eliminates what the respondent believed to be the Department's that guidelines are discretionary to provide management flexibility. One respondent policy advocated making guidelines binding, because if they are discretionary, why include them. Several respondents commented on the preferred alternative that the Department should remove the discretion to meet the rule's substantive mandates through either standards ''or'' guidelines by requiring ''standards *and* guidelines.''

Response: The final rule retains the proposed rule's distinction between

standards and guidelines. Under the final rule, standards and guidelines are both mandatory—projects and activities must be consistent with the applicable standards and guidelines. Consistency with a standard is determined by strict adherence to the specific terms of the standard, while consistency with a guideline allows for either strict adherence to the terms of the guideline, or deviation from the specific terms of the guideline, so long as the purpose for which the guideline was included in the plan is met (§ 219.15). This approach to guidelines allows for flexibility as circumstances warrant, for example, when there is more than one way to achieve the intended purpose, or new information provides a better way to meet the purpose, without lessening protections. Guidelines included in plans pursuant to this final rule must be written clearly and without ambiguity, so the purpose is apparent and project or activity consistency with guidelines can be easily determined.

The final rule retains the preferred alternative's wording of ''standards or guidelines'' throughout sections 219.8–219.11. While every set of plan components developed to meet a substantive requirement of the rule must include standards or guidelines, including both may not be appropriate in every circumstance.

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 the rule will facilitate management to move the unit towards one or more desired conditions. 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: The rule includes specific requirements for plan components in §§ 219.8 through 219.11. The final rule has been modified to clarify that ''standards or guidelines'' must be part of the set of plan components required by each of those sections. However, the Department does not agree there should be specific national standards for each of the resources or uses mentioned in the comment, because significant differences in circumstances across the National Forest System could make specific national standards unworkable or not reflective of the best available scientific information for a given plan area. The final rule balances the need for national consistency with the need for local flexibility to reflect conditions and information on each unit. Additional direction will be included in the Forest Service Directives System, and a new requirement was added to § 219.2 that require the Chief to establish a national oversight process for accountability and consistency of planning under this part.

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 final rule requires each plan to include management areas or geographic areas, allows for the plan to identify designated or recommended areas as management areas or geographic areas, allows the responsible official to identify or recommend new designated areas, and clarifies the term ''designated area'' under § 219.19, in response to public comment.

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: The final rule wording removes the term ''potential wilderness areas'' from the final rule in response to public comments. The wording in § 219.7 clarifies that the Agency will 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. Section 219.10(b)(iv) wording has also been changed to clarify that areas recommended for wilderness designation will be managed to protect and maintain the ecological and social characteristics that provide the basis for their suitability for wilderness designation. Direction for the evaluation process and inventory criteria is listed in Forest Service Handbook 1909.12—Land Management Planning Handbook, Chapter 70—Wilderness Evaluation. Chapter 70 is part of the Forest Service Directives System being revised following the final rule and the public is encouraged to participate in the upcoming public comment period for those directives. The wilderness evaluation requirement in the rule is not in conflict with the law. In addition, 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, Public Law 98–428. § 201(b)(2); 98 Stat. 1659.

Comment: Roadless area management and inventory. 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. An organization commented on the preferred alternative that the Department should clarify that the intended starting point for the wilderness evaluation is a full inventory of all unroaded lands.

Response: Agency management direction for inventoried roadless areas is found at 36 CFR part 294—Special Areas, and plans developed pursuant to the final rule must comply with all applicable laws and regulations (§ 219.1(f)).

The wording of § 219.7(c)(2)(v) was changed in the final rule to clarify that areas that may be suitable for inclusion in the National Wilderness System must be identified as part of the planning process, along with recommendations for wilderness designation. This change makes clear that each unit will identify an inventory of lands that may be suitable as a starting point for evaluating which lands to recommend. Inventories of lands that may be suitable for inclusion in the National Wilderness Preservation System will be conducted following direction in Forest Service Handbook 1909.12—Land Management Planning Handbook, Chapter 70 Wilderness evaluation, which also includes criteria for evaluation. Chapter 70 is part of the Forest Service Directives System which will be revised following the promulgation of this rule. The public is encouraged to participate in the upcoming public comment period for those directives. It is currently Agency policy that unless otherwise provided by law, all roadless,

undeveloped areas that satisfy the definition of wilderness found in section 2(c) of the Wilderness Act of 1964 be evaluated and considered for recommendation as potential wilderness areas during plan development or revision (FSM 1923).

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. The Department decided it is not going to require responsible officials to withdraw any such recommendations.

Other Plan Content

Comment: Forest vegetation management practices. Some respondents requested clarification of proposed § 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.'' Therefore, under the final rule and Forest Service Directives System, the Department expects plans to 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 may also include recreation and wildlife projects. The final rule allows 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: Under the public participation process, the Department believes the development of the distinctive roles and contributions, while not required by NFMA, will be a unifying concept helping define the vision for the plan area within the broader landscape. The preferred vision is expected to assist the responsible official in developing plan components for the multiple uses. However, projects and activities would not be required to be consistent with the plan area's distinctive roles and contributions, so the Department decided to keep this description as other plan content.

Comment: Additional plan components and content. Some respondents suggested additional required plan components like partnership opportunities, coordination activities, monitoring program, or specific maps.

Response: Plan components are the core elements of plans. Projects and activities must be consistent with plan components (§ 219.15), and an amendment or revision is required to change plan components. Plan components in the rule 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 final rule.

Some items like a monitoring program are included as other required content in the plan, but not as a required plan component. The final rule allows 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(f)) 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 is not included as a plan component, 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. The Department did not require specific maps as part of the final rule.

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: Section 219.7(f)(1)(i) requires identification of priority watersheds for restoration. This will focus integrated restoration of watershed conditions. Setting priorities can help ensure that investments provide the greatest possible benefits. The Department realizes that priority areas for potential restoration activities could change quickly due to events such as wildfire, hurricanes, drought, or the presence of invasive species. Therefore, this requirement is included as ''other required content'' in § 219.7(f)(1)(i) rather than as a required plan component, allowing an administrative change (§ 219.13) to be used when necessary to quickly respond to changes in priority. Any changes would require notification.

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 adaptive management approach incorporated in the WCF provides the best opportunity and most efficient way to prioritize watersheds for restoration or maintenance. The Department expects that implementation of the final rule and the WCF will be mutually supportive.

Section 219.8—Sustainability

The requirements of this section of the final rule are linked to the requirements in the assessment (§ 219.6) and monitoring (§ 219.12). In addition,

this section provides a foundation for the next three sections regarding diversity of plant and animal communities (§ 219.9), multiple use (§ 219.10), and timber requirements based on the NFMA (§ 219.11). Together these sections of the final rule require plans to include plan components designed to maintain or restore ecological conditions to provide for ecological sustainability and to contribute to social and economic sustainability.

The requirements of this section, and all sections of the rule, are limited by the Agency's authority and the inherent capability of the plan area. This limitation arises from the fact that some influences on sustainability are outside the Agency's control, for example, climate change, national or global economic or market conditions, and urbanization on lands outside of or adjacent to NFS lands. Given those constraints, the Department realizes it cannot guarantee ecological, economic, or social sustainability. It is also important to note that plan components themselves do not compel agency action or guarantee specific results. Instead, they provide the vision, strategy, guidance, and constraints needed to move the plan area toward sustainability. The final rule should be read with these constraints in mind.

Additional requirements for contributing to social and economic sustainability are found in § 219.10 and § 219.11.

Section 219.8—Response to Comments

Many comments on this section focused on the concepts of ecological health, resilience and integrity, requirements for riparian area management, the relationship between social, ecological, and economic sustainability, and the requirements for social and economic sustainability. The Department reorganized this section to improve clarity, and made the following changes in response to public comment.

1. The Department changed the order of the wording of the introductory paragraph.

2. At paragraph (a)(1) of this section, the Department changed the caption ''Ecosystem plan components'' to ''Ecosystem Integrity.'' In addition, the Department replaced the phrase ''healthy and resilient'' to ''ecological integrity'' in this paragraph and throughout this subpart. The Department also modified additional wording of this section to reflect this change. This change responds to public concern about how to define and measure ''health'' and ''resilience.'' Ecosystem integrity is a more scientifically supported term, has established metrics for measurement, and is used by both the National Park Service and the Bureau of Land Management. Requirements included in this section, as well as in § 219.9 require plans to include plan components designed to ''maintain or restore ecological integrity.''

3. The Department modified the list of factors the responsible official must take into account when developing plan components at paragraph (a)(1)(i)–(v). The Department removed the term ''landscape scale integration'' and replaced it with a requirement for the responsible official to take into account the interdependence of terrestrial and aquatic ecosystems, the contributions of the plan area to the broader landscape, and the conditions of the broader landscape that influence the plan area. The Department also added a requirement to take into account opportunities for landscape scale restoration. The additional wording clarifies the Department's intent that the planning framework be designed to ensure that managers understand the landscape-scale context for management, and the interdependence of ecosystems and resources across the broader landscape.

The Department removed air quality from paragraph (a)(1) and added air quality to paragraph (a)(2). This change is in response to public comment that requested that air resources be treated in a similar manner to soil and water resources. Additionally, the paragraph was modified to add the term ''standards or guidelines'' to clarify here and in similar sentences throughout §§ 219.8 through 219.11 that standards or guidelines must be part of the set of plan components developed to comply with requirements throughout the rule. Except for the change for air quality, these changes to paragraph (a)(1) are not changes in requirements, because they reflect the Department's intent as stated in the preamble for the proposed rule, and provide additional clarity.

4. At paragraph (a)(2) of this section, the Department changed the caption ''Ecosystem elements'' to ''Air, soil, and water.'' This reorganized paragraph requires the plan to have plan components, including standards or guidelines, to maintain or restore the elements of air, soil, and water resources. The Department also changed the phrase ''maintain, protect, or restore'' of the proposed rule to ''maintain or restore'' here and throughout the final rule. This change is in response to public comment, and to make the rule consistent throughout the sections, and recognizes that the concept of protection is incorporated as part of how a responsible official accomplishes the direction to maintain or restore individual resources. These changes are not changes in requirements, they are clarifications.

5. At paragraph (a)(2) the Department reorganized the elements that plan components are designed to maintain or restore. The Department removed the provisions about terrestrial elements and rare plant communities from paragraph (a)(2); these items are now discussed in § 219.9(a) of the rule. At paragraph (a)(2)(iv) the Department combined the wording about aquatic elements and public water supplies of paragraphs (a)(2)(i) and (a)(2)(iv) of the proposed rule. The wording about water temperatures changes, blockages of water courses, and deposits was removed from this paragraph and is now more appropriately discussed with riparian areas at paragraph (a)(3)(i) of this section.

6. Paragraph (a)(3) adds specific requirements to the proposed rule to maintain or restore riparian areas. It provides that plan components must maintain or restore the ecological integrity of riparian areas, including ''structure, function, composition and connectivity,'' to make clear that the plan must provide direction for proactive management of riparian areas. Paragraph (a)(3) also sets out a list of elements relevant to riparian areas that must be considered when developing plan components to maintain or restore ecological integrity, and it changes the proposed rule's requirement for a ''default width'' for riparian areas to a requirement for a riparian management zone. These changes respond to public comment to provide more clear and specific direction for riparian areas. In addition, at paragraph (a)(3), the Department added a requirement to give special attention to the area 100 feet from the edges of perennial streams and lakes; and a requirement 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 zones or the site-specific delineated riparian areas. These requirements are carried forward from the 1982 rule. These additional requirements were added because public comments suggested the proposed rule was too vague or too open to interpretation with regard to minimum requirements.

7. At paragraph (a)(4), the Department added a requirement for the Chief to

establish requirements for national best management practices for water quality in the Forest Service directives and for plan components to ensure implementation of these practices. The public will have an opportunity to comment on these Forest Service directives. The Department added this requirement to respond to comments that the rule needed provisions to protect water quality and other comments about the use of best management practices.

8. At paragraph (b) of this section, the Department requires plan components to guide the unit's contribution to social and economic sustainability. The Department modified this paragraph to:

(i) Add reference to ''standards or guidelines,'' consistent with changes in other sections.

(ii) Remove wording about distinctive roles and contributions contained in the proposed rule, because the requirement is in § 219.7. This is not a change in requirements.

(iii) Add scenic character, recreation settings, and access in response to public comment about recreation. This change reflects the intent of the Department as stated in the preamble to the proposed rule.

(iv) Add a new requirement to take into account opportunities to connect people with nature to respond to public comments about the need to connect Americans, especially young people and underserved communities, with the NFS. This additional requirement adds specificity to the proposed rule direction to contribute to social sustainability and provide for ecosystem services as defined in the proposed rule.

(v) Make additional edits for clarity.

Comment: Maintain, protect, or restore. Some respondents did not understand why in some sections of the 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. To avoid future confusion, the phrase ''maintain and restore'' has been used consistently throughout §§ 219.8 and 219.9. 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 will require different levels of investment based on the difference between the desired and existing conditions of the system.

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: Wording was added to § 219.8 of the final rule 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, in response to public comment.

Wording was also added to require that the Chief establish requirements for national best management practices (BMPs) for water quality in the Forest Service Directives System, and that plan components ensure implementation of those practices. The relevant directives (FSM 2532 and FSH 2509.22) are currently under development and will be published for public comment. At this time, the Department anticipates that the proposed directives will require the use of the national core BMPs (*National Core BMP Technical Guide,* FS–990a, in press).

The final rule does not require monitoring of implementation and effectiveness of best management practices, but does require monitoring of select watershed and ecosystem conditions, as well as progress toward meeting the plan's desired conditions and objectives.

These changes and the requirements in this 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 will support watersheds, aquatic ecosystems, and water resources throughout the National Forest System.

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 Department added wording at § 219.8(a)(3) to require special attention to land and vegetation for approximately 100 feet from the edges of all perennial streams and lakes. The Department decided to make this change to respond to public comment and retain the special attention provided in the 1982 rule, but decided not to require a minimum default width because the scientific literature states riparian area widths are highly variable and may range from a few feet to hundreds of feet. The final rule requires 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. Plan components to maintain or restore the ecological integrity of riparian areas will 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: Section 219.8 has been revised in the final rule to address these concerns. The final rule 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 further requires 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-specific delineated riparian areas. The Department expects projects and activities, including restoration projects, will occur in riparian areas. Plans may allow for projects and activities in riparian areas that may have short term or localized adverse impacts in order to achieve or contribute to a plan's desired conditions or objectives, so long as they do not seriously and adversely affect water conditions or fish habitat.

These requirements are similar to the requirements of the 1982 rule. They are in addition to the final rule requirements in § 219.8(a)(3) that plans must include plan components, including standards or guidelines, to maintain or restore the ecological integrity of riparian areas in the plan area, including plan components to maintain or restore structure, function, and composition. The changes to the proposed rule make clear that plans must provide for the ecological integrity of riparian areas in the plan area, and must include a set of plan components, including standards or guidelines, to do so. The responsible official must 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. These requirements are in addition to the requirements in § 219.8(a)(2) to include plan components to maintain or restore water quality and water resources, and the requirement in § 219.7(f) to identify priority watersheds for restoration or maintenance.

The Department believes that these requirements provide strong direction for proactive management (active and passive) of water resources beyond what was required in the 1982 rule, while allowing the responsible official to use the best available scientific information, public input, and information about local conditions to inform development of plan components in response to these requirements.

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 proposed rule and the final rule both 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 the rule 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 that at times, management activities maintaining existing, less than desirable conditions in the short-term may be critical to preventing further degradation and for successful restoration towards desired conditions over the long-term. For example, the primary management emphasis in some areas may be controlling the spread of invasive species when eradication is not currently feasible.

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 final rule adds clarifying wording to § 219.8. The word ''integration'' was changed to ''interdependence'' to better reflect the Department's intent, and new wording was added requiring the responsible official to consider contributions of the unit to ecological conditions within the broader landscape influenced by the plan area and conditions in the broader landscape that may influence the sustainability of resources and ecosystems, as well as opportunities for landscape scale restoration. These changes clarify the former requirement in the proposed rule and strengthen the planning framework by ensuring responsible officials understand the interdependence of ecosystems in the plan area, as well as the role and contribution of their units and the context for management within the broader landscape.

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 final rule explicitly addresses invasive species in § 219.6, which requires information about stressors such as invasive species to be identified and evaluated, and in corresponding requirements in §§ 219.8 and 219.10. Plan components are required to maintain or restore ecological integrity 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, and the ability of the ecosystems on the unit to adapt.

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, whereas other felt that economic sustainability should be prioritized. 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 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 that 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'' (16 U.S.C. 531). Under this final rule, ecological, social, and economic systems are recognized as interdependent, without one being a priority over another. The rule requires the consideration of ecological, social, and economic factors in all phases of the planning process. However, the final rule recognizes 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, the final rule requires 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.

Ecological sustainability will help provide people and communities with a range of social, economic, and ecological benefits now and in the future. In addition, plan components will provide directly for a range of multiple uses to contribute to social and economic sustainability. The final rule includes a modified definition of sustainability by defining the terms ecological sustainability, economic sustainability, and social sustainability as part of the definition of 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: Section 219.8(b)(6) of the final rule requires 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 proposed § 219.8(b)(4) should be expanded to include ''cultural landscapes.''

Response: The final rule does not create a separate aspect of sustainability for management of cultural resources, but does address cultural resources and uses. The definition in the final rule of ''social sustainability'' recognizes the ''relationships, traditions, culture, and activities that connect people to the land and to one another, and support vibrant communities.'' In addition: Section 219.1(c) recognizes that NFS lands provide people and communities with a wide array of benefits, including ''cultural benefits.'' Section 219.4 requires opportunities for public and Tribal participation and coordination throughout the planning process. Section 219.4(a)(3) requires 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. Section 219.6(b) requires the assessment to include identification and evaluation of information about cultural conditions and cultural and historic resources and uses. Section 219.8 in the final rule recognizes 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. Section 219.10(b)(1)(ii) of the rule requires ''plan components * * * for a new plan or plan revision must provide for protection of cultural and historic resources,'' and ''management of areas of Tribal importance.'' The final rule also includes recognition of and requirements for ''ecosystem services,'' which include ''cultural heritage values.'' These requirements, in combination with the requirement that plan content include descriptions of a unit's roles and contributions within the broader landscape under § 219.7(e), ensure the cultural aspects of sustainability will be taken into account when developing plan components that guide unit contributions to social sustainability.

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 the final rule would dictate the social or economic sustainability of local communities—to the contrary, the rule recognizes that plans cannot dictate social or economic sustainability. However, the Department recognizes that management of NFS lands can influence local communities as well as persons and groups outside of these communities, and that some local economies may be more dependent on the management of the plan area and NFS resources than others. Section 219.4 requires 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. Section 219.6(b) requires in the assessment phase that responsible officials identify and evaluate existing relevant information about social, cultural, and economic conditions, benefits people obtain from the NFS planning area, and multiple uses and their contribution to the local, regional, and national economies. Section 219.8 requires that plans provide plan components to contribute to economic and social sustainability, and section 219.10 requires plans to provide for ecosystem services and multiple uses. Section 219.12 requires monitoring progress toward meeting the desired conditions and objectives in the plan, including for providing multiple use opportunities. These requirements will help plans contribute to vibrant communities.

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: The final rule provides a framework for plan development, amendment, and revision with sufficient flexibility to accommodate the continuously evolving range of social and economic conditions across the Forest Service administrative units. The final rule does not prescribe a specific process for assessing and evaluating social and economic sustainability, nor does it 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: This final rule does not discriminate or give more weight to one group or kind of expert over another.

Section 219.9—Diversity of Plant and Animal Communities

This section of the final rule fulfills 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 [of this Act], 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 U.S.C. 1604(g)(3)(B)).

The final rule adopts 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. This requirement retains the strong species conservation intent of the 1982 rule but with a strategic focus on those species that are vulnerable paired with a focus on overall ecosystem integrity and diversity. The final rule requires the use of the best available scientific information to inform the development of the plan components including the plan components for diversity. It also recognizes limits to agency authority and the inherent capability of the plan area.

The Department's intent in providing the requirements in this section is to provide for diversity of plant and animal communities, and provide ecological conditions to keep common native species common, contribute to the recovery of threatened and endangered species, conserve candidate and proposed species, and maintain viable populations of species of conservation concern within the plan area.

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 therefore offers 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. The final rule recognizes the importance of maintaining the biological diversity of each national forest and grassland, and the integrity of the compositional, structural, and functional components comprising the ecosystems on each NFS unit.

The coarse-filter requirements of the rule are set out as requirements to develop plan components designed to maintain or restore ecological conditions for ecosystem integrity and ecosystem diversity in the plan area. Based upon the current science of conservation biology, by working toward the goals of ecosystem integrity and ecosystem diversity with connected habitats that can absorb disturbance, the Department expects that over time, management would maintain and restore ecological conditions which provide for diversity of plant and animal communities and support the abundance, distribution, and long-term persistence of native species. 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 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.

Similarly, 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) of the Rocky Mountain Region), mountain plovers (proposed threatened), and burrowing owls (RFSS), in addition to supporting common species that depend on the shortgrass prairie ecosystem. 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.

The final rule 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. The species for which the rule requires fine-filter plan components, when necessary, are federally listed threatened and endangered (T&E) species, proposed and candidate species, and species of conservation concern. If 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, within Agency authority and the inherent capability of the land.

Species-specific plan components provide 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 the 1982 rule, the final rule explicitly acknowledges that there are limits to Agency authority and the inherent capability of the land. With respect to species of conservation concern (SCC), the responsible official may determine that those limits prevent maintenance or restoration of the ecological conditions necessary to maintain a viable population of a species of conservation concern within the boundaries of the plan area. The responsible official must then include plan components to maintain or restore ecological conditions within the plan area to contribute to maintaining a viable population of that species within its range. In doing so, the responsible official would be required to coordinate to the extent practicable with other land managers.

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 for.

In section 219.19, 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.'' By defining species as ''was historically or is present in a particular ecosystem,'' the Department is not suggesting that historically native species that are no longer present must be reintroduced. The Department is recognizing that if such species were to return or to be reintroduced to the area, they would still be considered native.

In addition to developing, amending, and revising plans under the diversity requirements of this section, the final rule includes requirements for ecological sustainability in § 219.8, and in § 219.10 for providing for multiple uses including wildlife and fish, considering ecosystem services, fish and wildlife species, habitat and habitat connectivity, and habitat conditions for wildlife, fish, and plants commonly enjoyed and used by the public when developing plan components for integrated resource management. Requirements in the assessment and monitoring phases are also linked to and support the requirements of this section.

Section 219.9—Response to Comments

The Department received many comments on this section. People suggested a broad range of approaches, including reinstating the 1982 viability requirements; protecting and maintaining healthy habitats with no species specific provisions; increasing viability requirements; and mirroring the NFMA wording for diversity without including reference to viability. In addition, some people emphasized that there is a need to coordinate and cooperate beyond NFS unit boundaries for purposes of identifying and protecting critical habitat, migration corridors, and other habitat elements.

The Department also received many comments expressing concern or confusion over the relationship between the ecosystem diversity requirement in paragraph (a) and the species conservation requirement in paragraph (b) in this section of the proposed rule. In particular, there was concern over whether the complementary coarse-filter and fine-filter strategy described in the preamble and DEIS for the proposed rule was clearly expressed in the proposed rule wording itself. Additionally, there was a lack of understanding of how these two requirements would maintain both the diversity of plant and animal communities and the persistence of native species within the plan area as expressed in the preamble.

In response to public comments, the Department modified the proposed rule wording and made additions to it. The result is a final § 219.9 that has the same intent as the proposed rule but is clearer and will better effectuate the Department's approach to providing for diversity.

The Department added wording to the introduction to explain, as expressed in the preamble for the proposed rule, that plans adopt a complementary ecosystem (coarse-filter) and species-specific (fine-filter) approach to maintaining the diversity of plant and animal communities and the persistence of native species in the plan area. This combined approach for maintaining biological diversity over large landscapes is a well-developed concept in the scientific literature, and is generally supported by the science community for application on Federal lands.

Paragraph (a) was modified with the new heading of ''Ecosystem plan components,'' and subdivided into 2 parts. The new paragraph (a)(1) has a heading of ''Ecosystem integrity'' and includes the requirements of paragraph (a) of the proposed rule, consistent with the equivalent requirement in § 219.8(a). As in § 219.8 the ''health and resilience'' of the proposed rule was replaced with ''ecological integrity'' as described in the discussion of 219.8. The concept of ecological integrity is also being advanced by the U.S. Department of the Interior for National Park System lands. Having similar approaches to assessing and evaluating ecological conditions across the broader landscape will facilitate an all-lands approach to ecological sustainability.

The Department added a new paragraph ((a)(2)), which retains the proposed rule heading of ''ecosystem diversity.'' This paragraph includes new wording to make clear that the plan must include plan components to maintain the diversity of ecosystems and habitat types in the plan area. This change was made to explain, as described in the preamble to the proposed rule that plans provide for ecosystem diversity. As part of providing for this requirement, paragraph (a)(2) includes direction to provide plan components to maintain and restore key characteristics of ecosystem types (similar to requirements of proposed rule § 219.8(2)(i) and (ii)), rare native plant and animal communities (moved from proposed rule § 219.8(a)(2)(iii)), and diversity of native tree species (moved from paragraph (c) of proposed § 219.9). Both subsections of paragraph (a) direct that the responsible official include ''standards or guidelines'' in the set of plan components developed to meet these requirements.

The heading of paragraph (b) was changed from ''Species Conservation'' to ''Additional, species-specific plan components'' to clarify the fact that both the ecosystem plan components (coarse-filter) and the additional species-specific plan components (fine-filter) contribute to species conservation. Paragraph (b)(1) adds proposed species to candidate species as species to be conserved. The substance of paragraph (b) was modified in the final rule to make it clear that the plan components required by this paragraph are intended to complement and supplement the coarse-filter requirements, where necessary.

In response to comments on the preferred alternative, a change was made to the wording in § 219.9(b)(1) to clarify the Department's intent that the responsible official must make a determination as to whether additional, species-specific plan components are required. The final rule states that ''the responsible official shall determine whether or not the plan components required by paragraph (a) provide the ecological conditions necessary 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.''

The ''if then'' statement in paragraph (b)(1) conveys the Department's expectation that for most native species, including threatened, endangered, proposed, candidate, and species of conservation concern, the ecosystem integrity and ecosystem diversity requirements (coarse-filter) would be expected to provide most or all of the ecological conditions necessary for those species' persistence within the plan area. However, for threatened, endangered, proposed, candidate, and species of conservation concern, the responsible official must review the coarse-filter plan components, and if necessary, include additional, species-specific (fine-filter) plan components to provide the ecological conditions to contribute to recovery of threatened and endangered species, to conserve proposed and candidate species, and to maintain viable populations of species of conservation concern in the plan area. As in many places in the final rule, paragraph (b) clarifies that the responsible official will include ''standards or guidelines'' in the set of plan components developed to meet these requirements. The word ''developed'' in this paragraph was changed to the word ''included'' to be consistent with similar construction in this and other sections that the plan will include plan components to meet various requirements.

Within paragraph (b)(1), the Department changed the requirement for ecological conditions to maintain ''viable populations of species of conservation concern'' (§ 219.9 (b)(3) of the proposed rule) to ''*a* viable population of *each* species of conservation concern'' (emphasis added). The change reflects the Department's intent from the proposed rule, but provides clarity in response to confusion about whether the proposed rule wording referred to populations of different species or multiple populations of the same species in the plan area, as well as concern that the proposed rule wording could be interpreted to mean that plans did not have to address every species of conservation concern. This clarification is consistent with the preamble of the proposed rule which discusses the agency's obligation in terms of maintaining ''a viable population of a species of conservation concern * * * to maintain the long-term persistence of that species.'' 76 FR 8493 (February 14, 2011).

As in the proposed rule, the ecosystem and species-specific requirements in the final rule are both limited by Forest Service authority and the inherent capability of the plan area. As in the proposed rule, the final rule provides an alternative standard for species of conservation concern if it is beyond the Forest Service's authority or the inherent capability of the plan area to provide ecological conditions to maintain a viable population of a species of conservation concern within the plan area. In such cases, the final rule requires that the responsible official document that determination (new requirement in the final rule) and include plan components, including standards or guidelines, to maintain or restore ecological conditions within the plan area to contribute to maintaining a viable population of the species within its range. The words ''to the extent practicable'' following the word ''contribute'' were removed from the final rule because they caused confusion and were unnecessary given other provisions of the rule, including Section 219.1(g). The final rule retains a modified requirement that in providing such plan components, the responsible official shall coordinate to the extent practicable with other Federal, State, Tribal, and private land managers having management authority over lands ''relevant to that population,'' to reflect the need for a cross boundary approach to species conservation.

The Department added paragraph (c) to the final rule to modify and clarify the definition of species of conservation concern, formerly in section 219.19. The new wording clarifies that the species of conservation concern must be ''known to occur in the plan area,'' that the regional forester is the line officer who identifies the species of conservation concern, and the standard for that is ''the best available scientific information indicates substantial concern about the species' capability to persist over the long term in the plan area.''

The Department believes these revisions more clearly describe the application of the coarse-filter/fine-filter strategy for maintaining biological diversity as discussed in scientific literature and the PEIS. As plan components designed to meet these requirements are created and complied with, the broad spectrum of habitat and other ecological conditions necessary to support the diversity of plant and animal communities and the persistence of native plant and animal species would be expected through this complementary strategy.

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/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: In response to public comments, the Department clarified the proposed rule wording and made additions to the final rule. The coarse-filter/fine-filter approach used in the final rule and the modifications made to the proposed rule are explained in the introductory paragraphs of the response to comments on section 219.9.

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 rule. The three agencies worked together to identify the relevant issues and appropriate level of analysis associated with the final rule and environmental analysis, and have collaborated on a consultation process and 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 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. The Agency completed consultation, as discussed in this preamble in the section with the caption of: *Compliance with the Endangered Species Act of 1973, as Amended.*

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. These species are at risk of extinction and are protected under the ESA. Under the ESA, the Forest Service is to carry out ''programs and activities for the conservation of endangered species and threatened species'' (16 U.S.C. 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 U.S.C. 1635(a)(2)).

As did the proposed rule, the final rule requires that the plan include plan components to provide ecological conditions in the plan area necessary to contribute to the recovery of T&E species, using coarse-filter plan components and adding species-specific plan components where necessary. While the 1982 rule at section 219.19(a)(7) did have specific requirements for protection of T&E critical habitat, and required objectives to remove T&E species from listing, where possible, through appropriate conservation measures, the requirement in the final rule that requires plan components to provide ecological conditions to ''contribute to the recovery of'' T&E species is more comprehensive. The final rule recognizes that these species may not be viable or have a viable population at this time, and in many cases may rely on lands and conditions outside NFS boundaries and beyond Agency control. Thus an individual NFS unit rarely can fully meet the recovery needs of a listed species. Under this final rule, the Department anticipates that plan components, including standards or guidelines, for the plan area would address conservation measures and actions identified in recovery plans relevant to T&E species. When implemented over time, these requirements would be expected to result in plans that will be proactive in the recovery and conservation of the threatened, endangered, proposed, and candidate species in the plan areas. These requirements will further the purposes of § 7(a)(1) of the ESA, by actively contributing to threatened and endangered species recovery and maintaining or restoring the ecosystems upon which they depend.

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. The responsible official may also contribute to other recovery actions, such as species reintroductions to increase species distribution and threatened and endangered species monitoring programs. 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 will be forthcoming on procedures for conducting ESA section 7(a)(1) conservation reviews of plans in the Forest Service directives.

Complementary sections of the final rule, §§ 219.3, 219.4, and 219.6, in combination emphasize: the role of science in preparing, revising, or amending a plan; collaboration, including coordination with other planning efforts; consideration of objectives of other agencies and entities; the encouragement of appropriate agencies and entities to participate in determining assessment needs and identify contributions of relevant broad-scale assessments and plans of other agencies and governments; and the incorporation of broad-scale monitoring to address questions that are more appropriately answered at scales beyond NFS boundaries. These processes, programs, and activities would be incorporated into future unit planning processes and plans, and as these plans are implemented, they will actively contribute to ESA goals.

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: The Department added definitions for ''candidate species,'' and ''proposed species,'' and ''conserve'' to § 219.19 of the final rule to clarify the definitions of these terms and to avoid misunderstanding. Under the ESA, candidate and proposed species do not receive the special legal protections afforded to threatened and endangered species. However, the Department believes it is important to develop 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. Similar to T&E species, candidate and proposed species may not have a viable population that can be maintained in the plan area at this time. In the final rule, the Agency would provide coarse-filter, and where necessary, additional fine-filter plan components for ecological conditions that would conserve candidate and proposed species, reducing risks to those species and providing for the maintenance or restoration of needed ecological conditions.

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 require that plans provide ecological conditions to maintain viable populations of species of conservation concern. The Department's ability to maintain the diversity of plant and animal communities is dependent on protecting the plant and animal species and the interactions and processes the species perform. The Department developed the final rule in recognition that many Agency plans, programs, and activities are important influences on providing the desired ecological conditions for plant and animal communities and native species on NFS lands. In accordance with the MUSYA, plans must also provide for multiple uses including wildlife and fish.

The provisions in this final rule are focused on providing the ecological conditions necessary to support the diversity and persistence of native plant and animal species. The final rule maintains and provides additional direction to work with State fish and wildlife agencies, other Federal agencies, as well as others, to conserve fish, wildlife, and plant habitats and populations on NFS lands and to contribute to shared goals, such as those provided in state wildlife action plans or in threatened or endangered species recovery plans. Requirements in §§ 219.4, 219.6, 219.10, and 219.12 of this final rule complement and support interagency collaboration on habitat and species conservation.

Comment: Species of Conservation Concern (SCC) and Viability. Some respondents felt the rule should include the following wording from § 219.19 of the 1982 rule: ''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 providing protections for species other than vertebrates as it could lead to the possibility of maintaining viable populations of invertebrates, fungi, microorganisms, and other life forms, which these respondents suggest is inappropriate and beyond the Agency's authority.

Response: The Department concludes that managing ecological conditions for species protection is well within the authority of the Forest Service to manage the NFS for multiple use, and that the requirements of this section are more strategic and implementable than the 1982 rule while providing strong requirements focused on maintaining diversity and the persistence of native species within the plan area. The 1982 rule required that ''habitat shall be managed to maintain viable populations of existing 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.

The final rule instead relies on current scientific literature to adopt the complementary ecosystem and species-specific approach described above in the introduction to this section, and to focus 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), the final rule requires 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.

The final rule provides direction for 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 known to occur in the plan area, 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.''

For this category of species, the final rule requires 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 the final rule requires 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. 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. The rule requires the responsible official to work in coordination with other relevant land managers when developing such plan components.

Species of conservation concern, like the categories of common species and imperiled species, is not limited to native and desired non-native vertebrates (as in the 1982 rule); it may include any native plant or animal species that meets the definition. 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, in each NFS region, the regional forester 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: significant current or predicted downward trends in population numbers or density; or significant current or predicted downward trends in habitat capability that would reduce a species' existing distribution. RFSS are similar to SCC. 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 rule are found in the Regulatory Planning and Review section of the preamble and in the final PEIS supporting this final rule. These costs are not expected to be too expensive or cumbersome to be carried out by the Agency. Because these requirements adopt a scientifically supported approach, acknowledge that there are limits to Agency control, and focus management attention more strategically on ecosystem plan components that will provide for most species and where necessary on additional species-specific plan components for species that are vulnerable, the Department believes that the requirements of this section, combined with the requirements in other sections of the rule for public participation, assessment and monitoring, will result in a strong, more effective, efficient, and implementable framework for providing for species diversity and persistence.

Comment: Distribution of species or habitat. Some respondents raised concerns that the definition of a viable population and the requirements for species of conservation concern do not include the requirement that these species or habitats be ''well-distributed'' as is required in the 1982 rule and they feel that this omission results in a lessening of protection for species between the 1982 rule and this final planning rule.

Response: NFMA does not require that species or habitats be well-distributed within the plan area. The 1982 rule stated at § 219.19 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. For planning purposes, a viable population shall be regarded as one which has the estimated numbers and distribution of reproductive individuals to insure its continued existence is well distributed in the planning area. In order to insure that viable populations will be maintained, habitat must be provided to support, at least, a minimum number of reproductive individuals and that habitat must be well distributed so that those individuals can interact with others in the planning area.''

This final rule includes requirements to restore or maintain ecological conditions to support viable populations of species of conservation concern. It requires that the responsible official determine whether or not the plan components required by paragraph (a) ''provide the ecological conditions necessary to * * * maintain a viable population of each species of conservation concern within the plan area. If the responsible official determines that the plan components required in paragraph (a) are insufficient to provide such ecological conditions, then additional, species-specific plan components, including standards or guidelines, must be included in the plan to provide such ecological conditions in the plan area'' (§ 219.9(b)(1)). The rule defines a viable population as: ''A population of a species that continues to persist over the long term with *sufficient distribution to be resilient and adaptable* to stressors and likely future environments'' (§ 219.19) (emphasis added).

The intent behind both the 1982 provisions and the final rule provisions is the same: To provide habitat to maintain viable populations. However, there are a number of reasons for the Department's decision not to include the term ''well-distributed'' in the final rule and instead used the phrase ''with sufficient distribution to be resilient and adaptable.'' The term is not defined in the 1982 rule, has been inconsistently interpreted in plans, and has been applied in many different ways.

Importantly, the term ''well-distributed'' on its own is not clearly biological: Many people have interpreted the term in a geographical context as opposed to a biological context. This geographic interpretation has proven problematic at times, because the plan area is not an ecological boundary; it is an administrative boundary that may overlap completely or only partially with a species' natural ecological range. In addition, for some species, those areas of overlap may be changing in response to changing conditions.

Since 1982, we have learned more about what is important for a species to persist on the landscape, with an evolving understanding of important ecological concepts like resilience, connectivity, and adaptability, and of stressors such as climate change. For these reasons, instead of relying on the term ''well-distributed,'' the Department chose instead to include a more ecologically-based definition of a viable population, ''with sufficient distribution to be resilient and adaptable to stressors and likely future environments'' such that the population ''continues to persist over the long term.''

Combined with the requirement in section 219.3 to use the best available scientific information to inform the plan, this definition is intended to focus the development of plan components on providing ecological conditions where they will be most useful and important to the species, which may or may not lead to habitat that is evenly or ''well'' distributed across the plan area for every species. For some species, that may mean having the appropriate ecological conditions throughout the plan area. For others, it may mean focusing on a small portion of the plan area. For others, it may mean working to restore or provide ecological conditions for a species whose range is migrating in response to changing conditions. For still others, it may mean providing a corridor or corridors to connect habitat.

The change from ''well distributed'' to ''sufficient distribution to be resilient and adaptable'' is intended to clarify that we are using ''distribution'' in an ecological context to support species' long term persistence and to help increase consistency in implementation. The Department recognizes that the long-term security of species improves as distribution increases and habitat and other ecological conditions are maintained or improved. Whether distribution is ''sufficient'' will be evaluated in the context of what a population needs for resilience and adaptability such that it can continue to persist over the long term, considering the species' natural history, the ability of individuals to interact, historical distribution and potential future distribution, and recognizing that habitat and species distribution will be dynamic over time. The responsible official will use the best available scientific information to inform this evaluation. In making this evaluation, it is the Department's expectation that for the purposes of this subpart, the individuals of a species of conservation concern that exist in the plan area will be considered to be members of one population of that species. The responsible official would consider the distribution of individuals or groups that would support a viable population of that species in the plan area. Additional guidance will be included in the directives, which will be available for public notice and comment.

It is important to recognize that the requirements of § 219.9(b)(1) and the definition of viable population support and are part of a broader set of requirements in the final rule that are important for species conservation, including the requirements in §§ 219.8 and 219.9 to maintain or restore ecological integrity, including connectivity of ecosystems in the plan area; and the requirement in § 219.9(a) to provide a diversity of ecosystem types throughout the plan area.

Combined, the requirements in the final rule are expected to provide the

conditions that support the persistence of native species in the plan area and maintain the diversity of plant and animal communities. For these reasons, the Department believes that the set of requirements in the final rule is not a lessening of protection from the 1982 rule, and represents a science-based approach to species conservation.

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: In response to these comments, the definition of species of conservation concern was moved from § 219.19 to a new paragraph (c) in this section and was modified. The Department changed the line officer who identifies the SCC for the plan area from the responsible official (normally the forest supervisor) to the regional forester in the final rule. The change was made to provide additional consistency and promote efficiency in identifying species of conservation on and among national forests and grasslands within a region. The broader-scale monitoring strategy will also be developed by the regional forester.

The final rule's definition of SCC makes the criterion for identifying such species narrower and more scientific than the definition in the proposed rule. The species must be ''known to occur in the plan area,'' and ''the best available scientific information'' must indicate ''substantial concern'' about the species' capability to persist over the long-term in the plan area.

Additional guidance for the identification of species of conservation concern will be included in the Forest Service Directives System, with an opportunity for public comment. The Department expects that State or Tribal lists of endangered, threatened, rare, endemic, or other classifications of species, such as those listed as threatened under State law; and other sources such as the NatureServe conservation status system may be used to inform the identification of SCC.

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 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 the rule or not. The Department believes it is more transparent and effective to require a robust and scientifically supported approach to providing for the diversity of plant and animal communities and the persistence of native species within the plan area and openly acknowledge that there are some circumstances outside of Agency control, allowing responsible officials to adjust, adapt, and work more collaboratively with other land managers to protect species in the context of the broader landscape.

The ''inherent capability of the land'' is defined in § 219.19 of the final rule as: ''The ecological capacity or ecological potential of an area characterized by the interrelationship of its physical elements, its climatic regime, and natural disturbances'' Examples of circumstances where the plan area may lack the inherent capability to maintain a viable population of a species 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 a viable population of the species within the plan area. Additional examples of circumstances outside the Agency's control, including those that may be outside the Agency's authority or the inherent capability of the land, are discussed earlier in this document as part of the rational for non-selection of Alternative B (No Action).

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.

Section 219.3 requires the use of the best available scientific information to inform the plan components required by this section, and § 219.14 requires the responsible official to document how the requirements of this section were met. Section 219.2 requires that the Chief establish a national oversight process for accountability and consistency. The Forest Service Directives System will include additional direction for implementing the requirements of this section, and will be available for public comment.

Comment: Diversity of tree and other plant species. Some respondents felt the rule is 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(a)(2)(iii) on the NFMA.

The final rule requires in paragraph (a)(2)(i) and (ii) 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. These characteristics are similar to what was required in the proposed rule at § 219.8(2)(i) and (ii) and (iii)). More specific requirements were not included in the final rule, because these issues are best identified and determined at the forest or grassland level, reflecting ecosystems

and plant and animal communities on the unit. Further direction will be provided in the Forest Service Directives System and in individual plans.

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: The Department agrees the issues raised are important. The final rule is intended to provide overall planning direction applicable throughout the entire National Forest System. The type of guidance requested by these respondents 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 national forest, grassland, prairie, or other comparable administrative unit. Some of the requested guidance, such as how to do assessments for particular species, would not apply to planning throughout the entire System. Other types of guidance, instructing the Agency on how to carry out the rule's requirements, may be so detailed that if, included in the rule, may make it unmanageably long and complicated. Also, including instructions in the rule on how to carry out various planning tasks may tie the Agency to procedures even when it learns better ways to carrying out those tasks. The Department concludes that placing such direction in Forest Service directives, which can change more readily than a rule, or allowing the Agency to try out various ways to carry out the rule, is likely to result in more effective and efficient planning than including such detail in the final rule itself.

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 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: The final rule does not 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. None of the species are listed under ESA, but little is known about them. The final rule requires an assessment of existing, relevant information, and the use of best available scientific information to inform plan components to meet the species and diversity requirements of the rule. The final rule clarifies that species of conservation concern must be known to occur in the plan area and that the best available scientific information must indicate substantial concern about the species' capability to persist over the long term in the plan area.

Section 219.10—Multiple Use

This section requires that plans provide for ecosystem services and multiple uses, including outdoor recreation, range, timber, watershed, wildlife, and fish, within Forest Service authority and the inherent capability of the plan area, through integrated resource management. The responsible official must consider a range of uses, resources, services, and opportunities relevant to the plan area when developing plan components to provide ecosystem services and multiple uses, along with reasonably foreseeable risks to ecological, social, and economic sustainability. In addition, this section includes specific requirements for plan components for a new plan or plan revision. This section builds on the requirements in § 219.8 for plans to provide for ecological sustainability and contribute to social and economic sustainability.

Section 219.10—Response to Comments

Many comments on this section focused on multiple use requirements, requirements for ecosystem services, recreation, cultural and historic resources, wilderness and wild and scenic rivers, and designated areas. In response to public comment, the Department made a number of changes to this section to clarify intent.

The Department rearranged the wording of the introductory paragraph of this section to clarify the intent of the Agency that plans must provide for ecosystem services and multiple uses. The Department removed the term ''fiscal capability'' from the introductory paragraph because direction about fiscal capability is now included in § 219.1(g), and to be consistent with §§ 219.8 and 219.9.

The Department modified the requirements of paragraph (a) to clarify the wording, make these requirements parallel to other sections of the rule, and to respond to public comments. The Department added a requirement to have plan components, including standards or guidelines, for integrated resource management to provide for ecosystem services and multiple uses in the plan area. This change is in response to public comment to clarify that plan components for integrated resource management are to provide for ecosystem services and multiple uses, and to require standards or guidelines as part of the set of plan components developed to comply with the requirements of paragraph (a). As in earlier sections, the Department also changed the phrase ''multiple uses, including ecosystem services'' to ''ecosystem services and multiple uses,'' consistent with the MUSYA (see response to comments for § 219.1). The Department added a definition of integrated resource management in § 219.19, reflecting the interdependence of ecological resources as well as economic, ecological, and social systems.

Paragraph (a)(1) to (a)(10) includes a list of elements the responsible official shall consider when developing plan components for integrated resource management to provide for ecosystem services and multiple uses in the plan area. The Department modified this list in response to public comments; some of these modifications are additional requirements. The Department modified the list as follows: In paragraph (a)(1), changed the term recreational values to recreation opportunities to make the wording consistent with other sections and with paragraph (b)(1), and added ''and uses'' to the end of the list in paragraph (a)(1) to recognize that the list includes both resources and uses and that there may be other resources and uses relevant to the plan area; in paragraph (a)(3), added the words ''appropriate placement of infrastructure'' to recognize that there may be new infrastructure needs or proposals in addition to the need for sustainable management of already existing infrastructure; in paragraph (a)(5), modified wording to emphasize that responsible officials, in addition to meeting the requirements in § 219.9 for diversity and species and providing for wildlife and fish as part of the earlier direction in § 219.10 and paragraph (a)(1), should specifically consider habitat conditions for species that are used or enjoyed by the public for recreational opportunities such as

hunting and fishing, or for subsistence, and added a requirement that the responsible official collaborate with other land managers in doing so; in paragraph (a)(6), dropped the wording in the proposed rule to consider ''the landscape context for management as identified in the assessment'' because it was redundant with modifications made to the requirements in § 219.7, and moved the text at proposed paragraph (a)(7) to the final paragraph (a)(6); moved the text from proposed rule paragraphs (a)(7), (8) and (9), with some modifications, to the final rule paragraphs (a)(6),(7), and (8); in paragraph (a)(9) in the final rule added a new requirement, to consider ''public water supplies and associated water quality,'' in recognition of the role that national forests and grasslands play in providing drinking water to nearly one in five Americans; and added a requirement at (a)(10), to require consideration of opportunities to connect people to nature, recognizing that plans should consider both the resources on the plan area and people's connection to them.

Paragraph (b)(1)(i) to (b)(1)(vi) sets forth a list of requirements for plan components for new plans or plan revisions, adding the requirement that the set of plan components developed to meet these requirements include standards or guidelines, consistent with similar changes in other sections. The Department modified the requirements of paragraph (b) to clarify the wording, make these requirements parallel to other sections of the rule, and to respond to public comments. In paragraph (b)(1)(i), the Department slightly modified the requirement to require that plans must provide for sustainable recreation, including recreation settings, opportunities, and access; and scenic character; and to make clear in this section that recreation opportunities may include non-motorized, motorized, developed, and dispersed recreation on land, water, and in the air.

In addition, the Department modified paragraph (b) by: Changing the wording for protection of wilderness and management of areas recommended for wilderness to be clearer; adding a requirement for management of rivers ''determined suitable'' for inclusion in the Wild and Scenic River System; changed paragraph (b)(1)(vi) to be consistent with changes made to § 219.7(c)(2)(vii) that clarify that the responsible official may establish new designated areas as part of the plan; and made additional edits for clarity. Some of these are additional requirements to respond to public comment.

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 Department made changes to this section to clarify that plans must include plan components to provide for multiple uses. 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 the rule. The MUSYA expanded upon the original purposes for which national forests may be established and administered, which 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 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 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 acknowledges and applies the MUSYA throughout the final rule. In the very first section of the final rule, § 219.1(b) states that the Forest Service manages the NFS to sustain the multiple use of its renewable resources in perpetuity while maintaining the long term health and productivity of the land, consistent with MUSYA. The rest of the sections in subpart A give additional direction on how to do that. The assessment phase and public participation will help the responsible official determine the range of ecosystem services and multiple uses provided by the unit. Section 219.10 requires plan components to provide for ecosystem services and multiple uses, using an integrated approach to resource management. These plan components will be informed by the assessment, public input, and the best available scientific information, as well as monitoring.

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: The phrase ''multiple uses, including ecosystem services'' has been changed throughout the rule to ''ecosystem services and multiple uses.'' The Department believes this revised wording is consistent with the MUSYA, which directs the Agency to ''develop and 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 adjustments in use to conform to changing needs and conditions.'' (16 U.S.C 531). ''Ecosystem services'' may be a relatively new term, but 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.

Research has provided insights into the ecosystem services to be obtained from the NFS. During the planning process, the assessment phase, public input, monitoring, and the best available scientific information will help the responsible official identify and develop plan components to provide for the ecosystem services to be obtained from each NFS unit.

Comment: Relationship of ecosystem services to other multiple uses. Some respondents felt proposed § 219.10 gave ecosystem services higher priority than other multiple uses.

Response: The final rule does not give ecosystem services higher priority than multiple uses. It provides an integrated resource management approach, where interdependent elements of sustainability are considered as a whole, instead of as separate resources or uses. The mix of plan components included in each plan will 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: The final rule does not include this type of guidance as it is more appropriate in the Agency's directives, because methods, models, and indicators will alter over time. Forest Service directives will be developed for the final rule, and members of the public will have the opportunity to comment on them. 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.

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: Section 219.4 of the final rule requires the responsible official to provide opportunities for public participation in all phases of the planning framework. Section 219.3 requires the identification and use of the best available scientific information to inform the planning process. Section 219.6 requires identifying and evaluating existing information relevant to the plan area, including with regard to multiple uses. Monitoring will 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 required under this section.

Comment: Specific objectives, prohibitions, and inclusion of specific multiple uses and ecosystem services. 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: The final rule recognizes that conditions on each plan area will vary. The final rule therefore focuses on providing a framework for sustainability and integrated resource management and requiring associated plan components, including standards and guidelines. Objectives for resources and constraints on uses will 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. The final rule provides a planning framework to be used on all units in the NFS. As part of the planning process, the final rule includes direction for the responsible official to identify, evaluate, and consider all relevant resources when developing plan components for ecosystem services and multiple uses. Section 219.6 includes general direction to identify and evaluate existing relevant information for ecosystem services and multiple uses, in addition to direction to identify and evaluate information about specific resources and uses such as air, soil, water, and recreation. Section 219.7 includes direction to develop a list of relevant resources as part of the plan revision or development process, building on the assessment and any additional information developed in the planning process. Sections 219.8–219.11 include requirements for some specific resources, in addition to the requirement in § 219.10(a) to consider all relevant resources and uses in developing plan components. Throughout, the responsible official will use the best available scientific information, and will be informed by public participation.

The final rule does not prioritize multiple uses; rather, it requires the responsible official to provide plan components for integrated resource management, based on the resources and uses relevant to the plan area. Specific direction or guidance for specific uses will be included in the Forest Service Directives System, the plans themselves, and/or in the subsequent decisions regarding projects and activities.

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: The planning rule does not impose requirements that would create inconsistencies with existing laws or regulations governing mineral exploration and development on Federal lands. Plans developed under the final rule must comply with all applicable laws and regulations (§ 219.1(f)). It is not expected that the rule will cause delays or impede mineral exploration and development on NFS units. Section 219.10(a) specifically recognizes mineral resources and directs 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 requires the responsible official take into account multiple uses that contribute to the local, regional or national economies.

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 it should be supported. Some respondents felt the rule should include more specific direction for livestock grazing.

Response: The final rule sets the stage for a planning process that is responsive to the multiple use desires and needs of present and future generations of Americans. Rangeland ecosystems are part of many units, and the MUSYA specifically provides that range is one of the multiple uses for which the national forests are managed. The appropriate level of grazing on a unit or other direction regarding range use in the plan area is best determined in individual plans and at the site-specific level, so that direction is appropriate to the conditions in the plan area.

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 economic 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. 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), will provide the habitat and other ecological conditions necessary to support these species.

Sections 219.6, 219.8 and 219.12 also recognize the importance of outdoor recreation opportunities and uses, including hunting and fishing. In addition, section 219.10 of the final rule retains the provision of the proposed rule that specifically requires consideration of habitat conditions for wildlife, fish, and plants commonly enjoyed and used by the public for hunting, fishing, trapping, gathering, observing, and subsistence. The final rule adds 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. This addition, combined with the requirements of §§ 219.4 and 219.6, should ensure appropriate consideration is given to species of importance to these groups and entities. The final rule is not intended to require that units maintain ecological conditions that meet all population goals of State agencies.

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: The final rule recognizes 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 this final rule. 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. Providing for sustainable recreation is one of the biggest challenges and opportunities facing the Forest Service, and land management planning is a critical process in meeting this need.

The final rule provides direction for sustainable recreation throughout the planning process. The final rule retains the term ''sustainable recreation'' 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. The rule recognizes and states in § 219.10 and the definition section in § 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, recreational aviation, hang gliding, and many more. A detailed list was not included in § 219.10 so as not to inadvertently leave a recreation use out, and also in recognition that new recreational uses are always being developed.

In the assessment phase (§ 219.6), the responsible official must identify and evaluate existing information relevant to recreation settings, opportunities, and access, in addition to recreational infrastructure, benefits people obtain from the plan area and the contribution of multiple uses to the local, regional, and national economies. Section 219.8 requires the responsible official to take sustainable recreation and scenic character into account when developing plan components to contribute to social and economic sustainability.

Section 219.10 requires plan components to provide for multiple uses including outdoor recreation. In paragraph (a), responsible officials must consider aesthetic values, ecosystem services, recreation settings and opportunities, and habitat conditions specifically for species used and enjoyed by the public for recreational opportunities such as hunting, fishing, and wildlife observation. Responsible officials must also consider placement and management of infrastructure, including recreational facilities. It is appropriate to refer to such facilities as infrastructure because recreational facilities are fixed capital installations that enhance recreational experiences. These facilities include: campgrounds, roads, trails, backcountry airstrips, and drinking water and wastewater infrastructure. In paragraph (b), the final rule requires 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 requires monitoring for visitor use and progress toward meeting recreational objectives.

These requirements are in response to public comment and in recognition of the importance of recreation.

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: The requirement in § 219.10(b)(1)(i) is changed in the final rule; where the proposed rule provided that the plan ''should identify recreational settings and desired conditions for scenic landscape character,'' the final rule requires 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. The term ''landscape character'' in proposed § 219.19 has been replaced in the final rule with ''scenic character'' to clarify what resource is being considered. The scenic resource falls under the Agency's multiple use and sustained yield mandate. ''Landscape character'' in the proposed rule was defined in terms of visual and cultural identity; ''scenic character'' is defined in the final rule in terms of scenic identity.

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: Section 219.7(d) of the final rule requires management areas or geographic areas in every plan. A plan could include management areas based on recreation settings and opportunities.

Comment: Preservation easement. A respondent expressed concern the Agency is considering putting grazing allotments under a ''preservation easement.''

Response: ''Preservation easements'' were not proposed for inclusion in the

planning rule and are not included in the final rule.

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: The Department considers cultural and historic resources to be very important for social sustainability as well as important economic contributors. Benefits of cultural and historic sites include: expanded knowledge and understanding of history; cultural and spiritual connections to our heritage; scientific data about past cultures or historical conditions and similar matters; and tourism that benefits rural economies. The final rule provides direction for cultural and historic resources throughout the planning process. The assessment phase requires 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.'' Section 219.8 also requires the responsible official to take cultural and historic resources on the plan area into account when developing plan components to contribute to economic sustainability and social sustainability, which includes the traditions and culture that connect people to the land.

In § 219.10, paragraph (a) requires 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. Paragraph (b) retains the requirement of the proposed rule that plan components must 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 the responsible official would seek to avoid or minimize potential harm by following established procedures for cultural and historic resource management. The rule does not remove or change Agency obligations to meet the National Historic Preservation Act and other laws and Executive orders for the protection of these resources.

The final rule does not include more specific direction for cultural and historic uses or activities and does not establish priorities among the multiple uses. Additional process requirements and guidance are more appropriately located in Agency directives, land management plans, and projects or activities.

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: Section 219.1(d) of the final rule 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 the final rule requires 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) requires 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 requires plan components to provide for management of areas of Tribal importance. Specific issues of access and use will 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: Plans are not required to provide for spiritual sustenance. The final rule recognizes in § 219.1(c) and in the definition of ''ecosystem services'' that spiritual values is one of the benefits people derive from the NFS. To contribute to social and economic sustainability, plans must provide for ecosystem services and multiple uses as provided in this section. 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 states 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 the final rule states plans must comply with all applicable laws and regulations, including the Wilderness Act. The Department changed the wording of § 219.10(b)(iv) of the final rule 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 the proposed rule 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.'' The changes were made to increase clarity and better reflect the Department's intent from the proposed rule. This requirement, in addition to related requirements in §§ 219.6, 219.7, and 219.10(a)(1), reflect the Agency's responsibilities under the Wilderness Act and are consistent with the recognition in the MUSYA that wilderness is consistent with its purposes and provisions.

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 (Pub. L. 98–428. § 201(b)(4); 98 Stat 1660).

The Department believes the requirement in the final rule meets the Agency's intent to ensure that the types and levels of use allowed would maintain wilderness character and would not preclude future designation as wilderness. Specific direction regarding incompatible uses in recommended wilderness areas will be found in the Forest Service Directives System and in plans themselves.

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: Section 219.7 of the final rule was modified to require the identification and evaluation of areas that may be suitable for inclusion in the National Wilderness Preservation System. Public input during the opportunities for public participation will 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 (Pub. L. 98–428. § 201(b)(2); 98 Stat. 1659). 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 will 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 consistent with its multiple use purposes and provisions. The responsible official will 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 final rule has been changed to include suitable rivers in § 219.10(b)(1)(v). 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, the Department decided it is 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.

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. These areas can contribute in important ways to social and economic sustainability as well as ecologic sustainability.

The definition of designated areas in § 219.19 has been modified so that it is clear that designated areas may be established in the land management planning process or by a separate process by statute or by an administrative process in accord with NEPA requirements and other applicable laws. Section 219.7(c)(2) has been modified to make clear that responsible officials may designate an area if they have the delegated authority to do so. Section 219.10(b)(1)(vi) of the final rule requires plan components to provide for the ''appropriate management of other designated or recommended special areas in the plan area, including research natural areas.'' Specific guidance on designation procedures is more appropriate for the Agency's directives, and is not found in the rule.

Section 219.11—Timber Requirements Based on the NFMA

This section of the final rule includes provisions for identifying lands as not suitable for timber production and for limitations on timber harvest. This section meets the statutory requirements of the NFMA related to management of the timber resource. The NFMA, along with the requirements of this section, would provide for mitigation of the effects of timber harvest on other resources and multiple uses. Other sections of the final rule contain provisions that supplement the requirements of this section.

Timber is one of the multiple use purposes of the NFS, as recognized by the MUSYA and the Act of 1897, also known as the Organic Administration Act. Timber is also recognized by § 219.10 of this subpart. The National Forest Management Act of 1976 signaled a new direction for the planning and management of NFS lands, especially with regard to management of the timber resource and impacts to other resources. Management and use of timber harvest on NFS lands continues to evolve. Today, harvest of timber on NFS lands occurs for many different reasons, including ecological restoration, community protection in wildland urban interfaces, habitat restoration, and protection of municipal water supplies. Timber harvest also supports economic sustainability through the production of timber, pulp for paper, specialty woods for furniture, and fuel for small-scale renewable

energy projects. Timber harvesting, whether for restoration or wood production objectives, also supports employment and provides payments in lieu of taxes in many counties throughout the country.

This final rule provides the guidance for developing plans, not guidance for individual projects, and it is important to recognize that any individual timber project or activity could not provide for all aspects of social, economic, or ecological sustainability. However, all projects and activities must be consistent with the plan components in the plan, including those developed to meet the requirements of sustainability, diversity, multiple use, and timber (§§ 219.8 through 219.11), as required by § 219.15.

Section 219.11—Response to Comments

Many concerns were raised over direction for timber harvest for purposes other than timber production, responsible official discretion in determining timber harvest on lands not suited for timber production, and suitability of lands for timber production. For clarity, the Department modified this section from the wording of the proposed rule.

In the opening paragraph of this section, the Department removed the phrase ''the plan must provide for multiple uses and ecosystem services including timber'' because that requirement is found in § 219.10 and replaced that phrase with the words ''the plan must include plan components, including standards or guidelines, and other plan content regarding timber management'' to more accurately reflect the requirements of this section. The Department changed the term ''capability'' to ''inherent capability'' to be consistent with other sections of this subpart. The Department defines the term inherent capability in § 219.19. The Department removed the term ''fiscal capability'' from this section. Fiscal capability is now discussed in § 219.1 and is an overarching consideration throughout the planning process, rather than being pointed out for only selected portions of the planning process. Other minor wording changes were made for clarity.

Paragraph (a) has a new caption of ''Lands not suited for timber production.'' In paragraph (a)(1) of this section, in the discussion of identifying lands not suitable for timber production, the Department removed the sentence ''The responsible official may determine, considering physical, economic, and other pertinent factors, that lands are not suitable for timber production.'' The Department removed this sentence about factors because the criteria at paragraphs (a)(1)(i) through (a)(1)(vi) are the physical, economic, and other pertinent factors to deal with the requirements of the statute (16 U.S.C. 1604(k)), and include the consideration of other desired conditions and objectives in the plan. In particular, paragraph (a)(1)(iii) of this section deals with the economic factors as the responsible official develops desired conditions to provide for social, economic, and ecological sustainability (§§ 219.8–219.11).

The provision discussing the 10-year review of lands not suitable for timber production that was in paragraph (a) of the proposed rule has been removed from paragraph (a)(1) and moved to modified paragraph (a)(2) of this section.

The specific factors in paragraph (a) for identifying lands not suitable for timber production are based on the NFMA requirements limiting timber harvest (16 U.S.C. 1604(g)(3)(E)) and the Agency policy. Paragraph (a)(1)(iv) of this section contains a specific criterion that would not allow lands to be identified as suitable for timber production unless technology is currently available for conducting timber harvest without causing irreversible damage to soil, slope, or other watershed conditions. Available technology may vary from place to place, and could be, for example: horse logging, ground based skidding, aerial systems, or cable logging systems. This provision has been in place since the 1979 rule, to meet the NFMA obligation to consider physical factors to determine the suitability of lands for timber production. The factor has been effective in protecting watershed conditions. However, the Department removed the words ''or substantial and permanent impairment of the productivity of the land'' from paragraph (a)(1)(iv) in the final rule because it caused confusion and the Department's intent was captured by the remaining term ''irreversible damage to soil, slope, or watershed conditions.''

Paragraph (a)(2) of this section now discusses the requirements of the 10-year review of lands not suitable for timber production. This paragraph combines and modifies discussions from paragraph (a)(1) and paragraph (a)(3) of the proposed rule for clarity.

Paragraph (a)(2) of the proposed rule has been modified and redesignated as paragraph (b) with a new caption of ''Timber harvest for the purposes of timber production.'' The Department removed the wording of the proposed rule about lands which are not identified in the plan as ''not suitable'' for timber production are suited for timber production because some respondents believed this required the designation of these lands as suitable for timber production, which was not the Department's intent. In addition, the Department added a requirement in paragraph (b) of this section to clarify that where a plan identifies lands as suitable for timber production the plan must include plan components to guide timber harvest for timber production or for other multiple purposes on such lands.

Modified paragraph (c) of this section combined provisions from paragraph (b)(2) and paragraph (c) of the proposed rule. Paragraph (c) has a new caption of ''timber harvest for purposes other than timber production.''

Paragraph (c) of this section sets forth that the 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 condition(s) or objective(s) of the plan in order to protect other multiple-use values, and for salvage, sanitation, or public health or safety. The wording ''in order to protect other multiple-use values'' was added for consistency with the intent of the NFMA, which allows for timber harvest ''necessitated to protect * * * multiple use values'' other than timber production on lands not suited for timber production (16 U.S.C. 1604(k)). The wording of this paragraph also reflects longstanding Agency practices of using timber harvest to protect other multiple use values and public health and safety in areas not suited for timber production.

In modified paragraph (d) of this section, the rule discusses the limitations on timber harvest based on statutory requirements, incorporating and modifying wording from the paragraphs (b)(1) and (d) of this section of the proposed rule. Paragraph (d)(1) of this section in the final rule states the same requirement as paragraph (b)(1) of the proposed rule.

At paragraph (d)(2) in this section, the rule includes the provision that plan components shall ensure timber harvest would occur only where soil, slope, or other watershed conditions would not cause irreversible damage, which is a requirement of NFMA (16 U.S.C. 1604(g)(3)(E)(i)); the proposed rule (at paragraph (d)(1)) included a citation to this part of NFMA, therefore this change does not add a new requirement.

Paragraph (d)(3) of this section includes the same requirement as paragraph (d)(2) of the proposed rule.

In paragraphs (d)(4)(i) through (d)(4)(iii) of this section, the rule directs that plan components must ensure that plans include size limits for regeneration of even-aged stand of trees in one harvest operation. The rule retains wording of paragraphs (d)(3), (d)(3)(i), (d)(3)(ii), and (d)(3)(iii) of the proposed rule, with minor changes for clarity. The changes include: (1) Clarifying what the plan may or may not provide, rather than set out a prohibition on projects; (2) the term ''areas to be cut in one harvest operation'' has been replaced with ''openings that may be cut in one harvest operation;'' and (3) the discretion for plans to exceed the default maximum size of paragraph (d)(3)(i) of the proposed rule has been changed from ''Cut openings larger than those specified may be permitted where larger units will produce a more desirable combination of benefits'' to ''Plan standards may allow for openings larger than those specified in paragraph (d)(4) of this section to be cut in one harvest operation where the responsible official determines that larger harvest openings are necessary to help achieve desired ecological conditions in the plan area.'' These changes in wording from the proposed to the final rule are not changes in requirements, but simply clarify the Department's intent.

In paragraph (d)(5) of this section, the rule directs that plan components must ensure that timber will be harvested only where the harvest complies with resource protection requirements of the NFMA. Paragraph (d)(5) is a modification of paragraph (d)(1) of the proposed rule and this modification is not a change in requirements. These requirements reference the provisions of NFMA to limit harvest to situations where the productivity of the land could be sustained and harvesting prescriptions are appropriately applied. For example, by referencing NFMA paragraph (d)(5) requires plan components for even-aged timber harvest that: (1) Limit clearcutting to locations where it is determined to be the optimum method for regenerating the site; (2) require interdisciplinary review of the harvest proposal; and (3) require cutting to be blended with the natural terrain. These requirements are referenced but not repeated in the final rule because the Department believes they are incorporated and enhanced by the requirements for resource protection in other sections of the rule and plan consistency requirements of § 219.15. In addition, some requirements are not repeated because they are addressed by other regulations; for example, the NEPA regulations direct environmental analysis and the use of interdisciplinary teams.

In paragraph (d)(6) of this section, the rule directs that plan components must set forth the limit on the quantity of timber that may be sold in the national forest. The Department modified the wording of paragraph (d)(4) of the proposed rule, and moved the provision to paragraph (d)(6) of the final rule as follows:

(1) The proposed rule required plan components to limit the quantity of timber that can be removed annually in perpetuity on a sustained-yield basis. The final rule says plan components must ensure the quantity of timber that may be sold from the national forest is limited to an amount equal to or less than that which can be removed from such forest annually in perpetuity on a sustained-yield basis. This change was made to agree with the NFMA wording.

(2) The Department added a sentence that this limit may be measured on a decadal basis to reflect the Agency practice, and 16 U.S.C. 1611. Note that under this paragraph the quantity sold in any given year may exceed the annual average for the decade, but the total quantity sold over a 10-year period may not exceed the decadal limit.

(3) The Department changed the provision that required the plan to ''provide for departure from the limit, as provided by NFMA'' to ''The plan may provide for departures from this limit as provided by the NFMA where departure would be consistent with the plan's desired conditions and objectives.''

(4) The Department added that exceptions for departure from this limit on the quantity sold must be made with a public review and comment period of at least 90 days, to be consistent with the NFMA.

The Department concludes that these changes in wording at revised paragraphs (d)(6) of this section clarify the Department's intent and reflect the requirements of the NFMA.

In paragraph (d)(7) of this section, the rule directs that plan components must ensure that the regeneration harvest of even-aged stands of trees is limited to stands that generally have reached the culmination of mean annual increment of growth (CMAI). The Department retains the wording of paragraphs (d)(5) of the proposed rule, with minor changes for clarity. The changes include: Changing the provision that ''Exceptions, set out in 16 U.S.C. 1604(m), are permitted only if consistent with the land management plan'' to ''Plan components may allow for exceptions, set out in 16 U.S.C. 1604(m), only if such harvest is consistent with other plan components of the land management plan.'' The Department removed the provision of the proposed rule at paragraph (d)(5) that stated: ''If such exceptions are anticipated, the responsible official should include those exceptions in the land management plan as standards or guidelines'' because it is now redundant with the sentence ''Plan components may allow for exceptions * * *.'' The Department removed the provision about directives and CMAI, because that sentence is redundant with the provision at § 219.2(b)(5)(i) requiring Forest Service directives. These modifications at revised paragraphs (d)(7) of this section are not changes in requirements but clarify the Department's intent and reduce redundancy.

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 and other limited timber harvest on lands not suited for timber production. Some respondents felt the proposed rule should prohibit timber harvesting on unsuitable lands or specify that timber salvage on those 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. Therefore, the Department clarified 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. Consistent with Section 1604(k) of NFMA, § 219.11(c) of the proposed rule also allows timber harvest for salvage, sanitation or public health or safety in areas not suitable for timber production. The Department believes that the provisions of this section provide a balanced approach recognizing that timber harvest will be necessary in many places to assist the Agency in accomplishing restoration and other multiple use objectives.

Section 219.11(d)(1) of the final rule restates the prohibition that had been in the proposed rule at 219.11(b)(1), that no harvest for the purpose of timber production may occur on lands not suitable for timber production. The final rule at § 219.11(d) also requires plan components to ensure no timber harvest may occur on lands where timber harvest would cause irreversible damage to soil, slope, or other watershed

conditions. Timber harvest must be consistent with the desired conditions set out in the plan (§ 219.15).

Comment: Responsible official discretion in determining timber harvest on lands not suited for timber production. Some respondents felt the proposed rule allows the responsible official too much discretion in allowing or permitting timber harvesting on lands not suited for timber production.

Response: This section, as well as other sections of the rule, provides sideboards to the responsible official's discretion. The rule identifies factors to be considered by the responsible official in paragraph (c) of this section consistent with the NFMA, specific limitations that require standards or guidelines for timber harvest, and consistency with other applicable plan components.

Section 219.3 of the rule requires the responsible official to use the best available scientific information. The rule also allows 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 will still undergo additional opportunities for public involvement during the project's NEPA process. The Department believes that these requirements provide an appropriate balance of requirements and discretion.

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: The proposed rule provides overall direction for how plans are developed, revised, and amended. Section 219.11(a)(1)(iii) requires 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. Additional guidance regarding suitability of lands will 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. The rule also allows those interested communities, groups, or persons to engage in the public participation process for the development of plans. Public participation will 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 for a plan developed under the final rule is required to be disclosed under the NEPA process at the time of plan development, revision, or (if relevant) amendment. The Department recognizes that the cost of timber harvest is a major concern. The real measure of the worth of the timber program; however, is not net cost versus revenues, but costs versus public benefits. The final rule requires plan components for restoration which will likely result in projects to achieve multiple benefits. Some of these benefits can be measured as receipts; others are public benefits for which revenues are not received, such as restored watersheds; improved wildlife habitat; and improved bird watching, fishing, and hunting opportunities. The emphasis of the final rule is sustainability; and managing vegetation can help attain sustainability. 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. Increasingly, the Agency uses stewardship contracts to offer projects to achieve multiple objectives including harvesting timber for restoration purposes.

For lands to be identified in the plan as suitable for timber production, timber production on those lands 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 will establish management areas with different desired conditions based on providing social, economic, and ecological sustainability. This suitability determination is complex and will be based on analysis of costs, benefits, and values.

Additional rule requirements for a detailed analysis of costs and benefits other than the final rule requirement for an EIS for plan development and plan revision and that plans be amended to be consistent with Forest Service NEPA procedures are not necessary.

Comment: Review of lands suitable for timber production. A respondent felt lands suitable and not suitable 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 requires the identification of lands suitable for timber production (the respondent declared that the NFMA only requires identification of land not suited for timber production); and (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 the rule follows this mandate. The rule requires identification of land not suited for timber production and imposes specific factors to be considered. The purpose of identifying lands not suitable for timber production is to identify the land base upon which timber production harvest levels are subsequently calculated (lands suitable for timber production). To avoid confusion, the provision saying that ''all lands not identified in the plan as not suitable for timber production are suited for timber production'' has been removed from the final rule. The Department believes the respondent's 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.

Comment: Aesthetic resources. A respondent felt ''aesthetic resources'' should be removed from proposed § 219.11(d)(2) wording because timber harvesting can create less appealing aesthetics but can be an integral part of sustaining high quality wildlife habitat.

Response: The final rule retains 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: Section 219.11 includes timber requirements based on the NFMA. The term ''allowable sale quantity'' (ASQ) is a term of art of the 1982 rule. The term ASQ is used in the NFMA in discussions about departures that exceed the quantity of timber that may be sold from the national forest (16 U.S.C. 1611). However, the NFMA does not require that the term be used in the implementing regulations (16 U.S.C. 1604). 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 this final rule. Plans will have an upper limit for timber harvest for the quantity of timber sold as required in § 219.11(d)(6). The requirements in § 219.7(f) that plan content must include information about the planned timber sale program and timber harvesting levels, and in § 219.11(d)(6) that the plan must limit the quantity of timber that may be sold from the national forest to that which can be removed annually in perpetuity on a sustained-yield basis, provide a more practicable way to give direction than using the term ''ASQ.'' Additional requirements will be found in the Forest Service Directive System.

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 requires a plan amendment under this final rule. 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(f)) may be done with an administrative change.

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: Final rule §§ 219.7(f) and 219.11(d)(6) 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 because the NFMA does not require such a calculation and it would be a highly speculative harvest level that would not likely be realistic. Harvest levels must be within the fiscal capability of the unit.

Comment: Timber harvest unit size limits. Some respondent 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 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 the final rule, the Department continues these standards with the exceptions provided through the responsible official, who is normally the forest or grassland supervisor. 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 the 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: The Department changed the wording in paragraph (d)(6) of this section of the final rule to add clarity. In addition, the Department requires 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)(6)).

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 heath 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, the final rule continues to limit the use of CMAI to regeneration harvests of even-aged stands.

Section 219.12—Response to Comments

Many comments on this section focused on requirements for the plan monitoring program, broad-scale monitoring strategies, and use of the monitoring information and the monitoring report. Throughout this section of the final rule, the Department

made minor edits for clarity and changed the name from ''unit monitoring program'' in the proposed rule to the ''plan monitoring program'' In the final rule. This change to the name clarifies that monitoring is intended to focus on the plan components and is not geographically defined or applicable to other resource program monitoring on the unit. Additionally, the Department added a sentence to paragraph (a) to draw a clearer link between the monitoring program and the use of monitoring information for adaptive management of the plan area.

The Department removed the requirements for science in paragraph (a)(4)(ii) because the requirements of § 219.3 apply to the entire subpart and therefore do not need to be repeated here. The Department is committed to using science to inform monitoring and the decisions based on monitoring information.

At paragraph (a)(5) of this section, the Department corrected the phrase monitoring ''questions or indicators'' to ''questions and associated indicators'' to better reflect the way questions and indicators are used for monitoring. In response to public comment the Department made several changes to the list of required monitoring questions and associated indicators of paragraph (a)(5) as follows:

(1) At paragraph (a)(5)(ii) of this section, the Department added direction that the monitoring for the status of select ecological conditions include questions and indicators for key characteristics of terrestrial and aquatic ecosystems, to link this monitoring requirement to the ecological requirements in §§ 219.8 and 219.9.

(2) At paragraph (a)(5)(iii) of this section, the Department clarified that questions and indicators for the status of focal species are to assess the ecological conditions required under § 219.9, to link this monitoring requirement more clearly to the coarse-filter requirements.

(3) At paragraph (a)(5)(iv) the Department added a new requirement for questions and indicators for the status of a select set of 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. This change was made in response to comments to more closely link monitoring with the need to assess progress towards meeting plan components for the species requirements in § 219.9. Additional discussion of this addition is discussed in the comment on *monitoring of at risk species.*

(4) At paragraph (a)(5)(v), the Department added the status of visitor satisfaction to the requirement for questions and indicators for the status of visitor use designated at paragraph (a)(5)(iv) of the proposed rule, in response to public comment.

(5) At paragraph (a)(5)(vi), the Department retained the requirement for questions and indicators related to climate change designated at paragraph (a)(5)(v) of the proposed rule, and changed the words ''and other stressors on the unit'' to ''and other stressors that may be affecting the plan area.''

(6) The Department removed the requirement for questions and indicators for the carbon stored in above ground vegetation previously designated at paragraph (a)(5)(vi) of the proposed rule. This change is accompanied by a change to § 219.6(b)(4) that requires responsible officials to identify and evaluate existing information for a baseline assessment of carbon stocks as part of the assessment. This change in requirements will lead to a more comprehensive assessment of carbon stocks (as opposed to carbon stored in above ground vegetation) earlier in the planning process. The Department retains the requirement to monitor changes related to climate change and other stressors (§ 219.12(a)(5)(vi).

(7) At paragraph (a)(5)(vii), the Department removed the requirement for questions and indicators for the progress toward fulfilling the unit's distinctive roles and contributions and added a requirement for questions and indicators addressing the progress toward meeting the desired conditions and objectives in the plan, including for providing multiple use opportunities. This change more accurately reflects what the Department intended to accomplish with the previous requirement at paragraph (a)(5)(vii) and the other requirements of (a)(5), and will help inform management effectiveness.

(8) At paragraph (a)(5)(viii), the Department changed the term ''management system'' to ''each management system'' to use words of the NFMA at 16 U.S.C. 1604(g)(3)(C) and respond to public comments.

The Department added wording to paragraph (a)(7) to clarify that project and activity monitoring may be used to gather information for the plan monitoring program, and that plan monitoring may inform the development of specific projects and activities; but that the plan monitoring requirements of this section are not a prerequisite for making a decision to carry out a project or activity.

At paragraph (c) of this section on timing and process, the Department removed the requirement at paragraph (c)(1) where the proposed rule required the responsible official to work with the public to identify potential monitoring needs during the assessment. The Department removed this requirement from the assessment phase in response to public comments to make the assessment phase more efficient and focused. As required in § 219.7, the assessment information will inform the development of monitoring questions and indicators during the plan development or revision phase.

The Department removed paragraph § 219.12(c)(4) of the proposed rule, the requirement that responsible officials ensure that scientists are involved in the design and evaluation of unit and broad-scale monitoring, because wording of the requirement was confusing and the substance of the requirement was redundant with the coordination requirements at §§ 219.12(a)(1) and (b)(2) of the rule.

The Department reorganized paragraph (d) for clarity. The Department removed the second sentence of paragraph (d)(1) of the proposed rule and moved to paragraph (d)(2) the requirement the monitoring evaluation report indicate whether a change to plan components or other plan content may be warranted. In addition, at paragraph (d)(2) the Department added the requirement that the report must be used to inform adaptive management of the unit.

At paragraph (d)(1)(iii) of the proposed rule the Department removed the requirement that the monitoring evaluation report must describe how best available science was taken into account, because the report is intended to be an evaluation of data and information gathered by the plan monitoring program, which must be informed by best available scientific information. A new requirement was added to section 219.14(a)(4) to make clear that the plan decision document must document how the responsible official used best available scientific information to inform the plan monitoring program.

In addition, paragraph (d)(3) of the proposed rule is now paragraph (d)(1)(iii) of the final rule, paragraph (d)(2) of the proposed rule is now (d)(3) of the final rule, but no changes to these requirements were made.

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 cannot address all the questions.

Response: Because the information needs most critical for informed and adaptive management will vary by unit, the rule allows 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 this section. Paragraph (a)(2) 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 must 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 allows 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.

However, section 219.12(a)(5) of the final rule provides direction for a set of monitoring questions and associated indicators that must be part of every plan monitoring program. The list reflects substantive requirements of the final rule and links to the assessment phase. The responsible official can always consider additional factors and add questions and indicators.

Every plan monitoring program would contain one or more questions and associated indicators that address each of the following: (1) The status of select watershed conditions; (2) the status of select ecological conditions including key characteristics of terrestrial and aquatic ecosystems; (3) the status of focal species to assess the ecological conditions required under § 219.9; (4) the status of a select set of 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; (5) the status of visitor use, visitor satisfaction, and progress toward meeting recreation objectives; (6) measurable changes on the plan area related to climate change and other stressors affecting the plan area; (7) progress toward meeting the desired conditions and objectives in the plan, including for providing multiple use opportunities; and (8) the effects of each management system to determine that they do not substantially and permanently impair the productivity of the land.

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 rule cannot grant enforcement authorities to the public. Those authorities can only be granted by Congress. However, the rule's public participation and reporting requirements allow for a more transparent Government and holds officials accountable for sharing monitoring information and data with the public. This data will be open to public scrutiny, criticism, and objective review. The public will 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.

Accountability is achieved through the rule by requiring officials to develop monitoring, plan monitoring programs with questions and indicators and broader-scale monitoring strategies, and to prepare biennial monitoring reports. All these requirements allow for public involvement and review. Section 219.2(b)(5) of the rule further requires the Chief of the Forest Service to administer a national oversight and accountability process to review NFS land management planning which includes monitoring programs. The Agency already follows Departmental standards for the objectivity of information used to inform significant decisions under the Information Quality Act (Section 515 of Public Law 106–554). In addition, the responsible official is subject to performance review and accountability for fulfilling requirements of the 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) will include information that will 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.

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: The final rule requires the use of the best available scientific information to inform the monitoring program, requires the responsible official to identify the fundamental questions and indicators that will inform the design of monitoring programs, and will lead to a robust monitoring program that will be used to inform management. The public will have opportunities to provide input into the design of the monitoring program and to review the monitoring data. The monitoring information can be used in a number of ways, including analyzing cumulative effects. The final rule includes direction to take financial and technical capabilities of the Agency into account in designing the monitoring program, and requires in § 219.1(g) that the plan be within the fiscal capability of the unit.

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 information to be collected, used and compared across planning units. For that reason the final rule directs that the plan monitoring program must be coordinated and integrated with broader scale monitoring strategies to ensure that monitoring is complementary and efficient, and gathered at the appropriate scales, along with direction to coordinate with Research and Development, State and Private Forestry, and others. To support implementation of these requirements, the Agency is currently reviewing its inventory and monitoring system. However, the final rule does not include national monitoring standards for consistency across units 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 what is being monitored and 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.

For these reasons the Department concluded it would be more appropriate to include additional direction and guidance, including for the kinds of technical specifications identified by the respondents, in the Forest Service Directives and in the unit plans. The final rule makes clear in paragraph (a)(6) of this section that a range of monitoring techniques may be used to carry out the monitoring required by this section: different questions and indicators will require the use of different, and evolving, techniques or methodologies. The responsible officials will 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.

Comment: Monitoring triggers. Some respondents thought that the monitoring program should include triggers or thresholds for action.

Response: The rule did not include triggers or thresholds because not all monitoring elements and indicators are suited to triggers. Establishing triggers can be complex and time consuming. The rule does not preclude the inclusion of triggers where they can be developed and where they are informed by the best available scientific information. The Department does intend the three phases of planning to be connected, and for each phase to inform the others. The information gathered and evaluated in the assessment phase will help the responsible official to develop a strategic monitoring program, and the information from monitoring will be used to indicate whether a new assessment is warranted, and to inform future assessments and plan components and other plan content. Wording was added to § 219.7 to make clear that the assessment and monitoring reports should be used to inform the plan development or revision, and to § 219.12 to make clear that the monitoring report should be used to inform adaptive management.

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: The rule provides more encouragement to use secondary data including sources external to the Agency than previous planning rules. Section 219.4 requires opportunities for public participation throughout the planning process, including developing the monitoring program. Section 219.12(c)(3)(i and ii) specifically directs 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, governmental and non-governmental sources. Monitoring data will be used to inform adaptive management. The requirements in this rule are intended to result in a more strategic use of monitoring dollars, and to leverage those investments where it is feasible and appropriate to do so.

Comment: Collection of data beyond unit boundaries. Some respondents felt the proposed rule inappropriately makes the responsible officials undertake broader-scale monitoring analyses, monitoring of significant areas not federally owned, and to collect data beyond unit boundaries.

Response: The final rule does not impose a requirement for responsible officials or regional foresters to monitor non-NFS lands. The monitoring requirements do not give responsible officials license to monitor where they lack authority.

It is appropriate and efficient to recognize that some monitoring questions are best evaluated at scales broader than one unit, to best inform management of a 193 million acre National Forest System that spans the country. The final rule directs the regional forester to develop a broader-scale monitoring strategy, in coordination with others, and encourages identifying opportunities for multi-party monitoring. The rule encourages responsible officials to coordinate monitoring across NFS units. The rule allows the Agency to continue efforts to use data from other agencies and sources because monitoring cooperation is in the best interest of Americans and the land, informing effective management and facilitating the strategic use of monitoring dollars.

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 monitoring programs. The final rule directs 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: 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 has been removed in response to public comment because the requirement was confusing and can be met through the coordination requirements at §§ 219.12(a)(1), (b)(2) and (c)(3)(ii) of the final rule. The final rule requires the use of best available scientific information to inform the design and content of the monitoring program, opportunities for public participation, and coordination in development of the monitoring program with Forest Service Research and Development, along with other partners and the public. The external science community may be involved in variety of ways, for example, through public participation opportunities or the use of external scientific reports.

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: Section 219.12(a)(5) of the rule requires 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. The number of monitoring questions and indictors may vary by topic. The Department believes that the set of minimum requirements for the plan monitoring program included in paragraph (a)(5) of the final rule is appropriate, reflects the substantive requirements of the final rule, builds on the information gathered during the assessment phase, and is focused on informing adaptive management of the plan area.

Paragraph (a)(5) does not limit the questions and indicators in any given plan. The responsible official has 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. The Department's intent is for the responsible official to determine what information needs are most critical for informed and adaptive management of the plan area. Because most resource management concerns vary by forests or grasslands, the rule allows the responsible official discretion to set priorities for monitoring where it is most needed. This discretion is also important for fostering opportunities to coordinate monitoring with other government agencies and non-government entities. Therefore, an extensive list of other possible monitoring requirements in addition to the set in paragraph (a)(5) is not included in the final rule.

The requirements to include questions and associated indicators to monitor measurable changes on the plan area related to climate change and other stressors was retained in the final rule, because it is important to track changing conditions. The final rule removes the monitoring requirement for carbon stored in above ground vegetation because the Department added a requirement in the assessment phase (§ 219.6(b)) to identify and evaluate existing information for a baseline assessment of carbon stocks. This change reflected comments to this section and the assessment section, and is consistent with the Agency's Climate Change Scorecard which also requires a baseline assessment of carbon stocks. The Department added a requirement for the plan monitoring program to monitor progress toward meeting the plan's desired conditions and objectives and a requirement to monitor visitor satisfaction in § 219.12(a)(5) of the final rule.

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 gauge progress towards meeting the requirements of § 219.9 of the proposed rule.

Response: In response to these comments, the Department added wording to the required questions and indicators of § 219.12 to link them 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. The changes to the requirements for questions and indicators are explained in the introduction to the response to comments of this section. The Department modified the definition of ''ecosystem'' to explain these interrelated ecosystem elements so the relationship between monitoring questions and indicators are clearly related to the ecological conditions of §§ 219.8 and 219.9. The Department modified the definition of focal species 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.

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) The inclusion of the focal species (§ 219.19) in the monitoring section 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 the rule 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) The requirement for monitoring questions that address the status of focal species is linked to the requirement of § 219.9 of the final rule to provide for ecosystem integrity and diversity, which describes the coarse-filter approach for providing diversity of plant and animal

communities and the persistence of native species in the plan area. The rule requires plan components designed to maintain or restore a range of ecological conditions at a variety of spatial and temporal scales (§§ 219.8 and 219.9). Appropriate monitoring of focal species will provide information about the integrity of the ecosystem and the effectiveness of the plan components in maintaining diversity of plant and animal communities in the plan area. In other words, focal species monitoring is 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 is not intended to provide information about the persistence of any individual species. The rule does not require managing habitat conditions for focal species, nor does it 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 will provide guidance for considering the selection of a focal species from these or other categories. Criteria for selection 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 does not preclude the use of an invasive species as a focal species, whose presence is a major stressor to an ecosystem.

(4) The final planning rule does not require a specific number or numeric range of focal species to be selected. The number will vary from unit to unit. The definition of focal species requires a small subset of species. The responsible official has discretion to choose the number of focal species that he or she determines will 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.

(5) The rule does not specify how to monitor the status of focal species. Monitoring methods may include measures of abundance, distribution, reproduction, presence/absence, area occupied, survival rates, or others. The objective is not to choose the monitoring technique(s) that will provide the most information about the focal species, but to choose a monitoring technique(s) for the focal species that will provide useful information with regard to the purpose for which the species is being monitored.

The final rule does not require monitoring species population trends. Species population trend monitoring is costly, time intensive, and may not provide conclusive or relevant information. In addition, traditional monitoring of species population size and trend is not reliable for many species because of wide variations in population size. For certain species, for example, a more reliable method may be presence-absence data obtained through non-invasive genetic sampling. Presence-absence modeling could be used to map and predict species distribution, help model habitat requirements and use occurrence data to help estimate the probability of a species being present in sustainable numbers within a geographic area. Genetic sampling, which is drawing DNA from physical species evidence collected at sites under evaluation, can be used to acquire data for this approach. Other monitoring techniques in addition to these examples may be more appropriate in a given circumstance. Therefore, although population trend monitoring may be used where feasible and appropriate, the final rule explicitly provides discretion to the responsible official to choose the most appropriate methods for monitoring, using the best available scientific information to inform the monitoring program.

Specific guidance on focal species selection and monitoring methodology is expected to be further described in the Agency's planning directives. 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: The Department's decision to require monitoring of focal species as well as select ecological and watershed conditions is a shift from the 1982 rule's requirement to specifically monitor population trends of ''management indicator species,'' or MIS. The theory of MIS has been discredited since the 1982 rule. Essentially, monitoring the population trend of one species should not be extrapolated to form conclusions regarding the status and trends of other species. The requirement for monitoring questions that address the status of focal species is linked to the requirement of § 219.9 of the final rule to provide for ecosystem integrity and diversity, which describes the coarse-filter approach for providing diversity of plant and animal communities and the persistence of native species in the plan area. 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 the rule. Instead, the Agency expects to take advantage of recent technological advancements in monitoring the status of focal species, such as genetic sampling to estimate area occupied by species.

The provisions under § 219.9 of the final planning rule 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, the final planning rule incorporates the concept of focal species for monitoring the ecological conditions required in § 219.9. 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. The monitoring questions and associated indicators required in § 219.12(a)(5)(i–iv) as discussed above are expected to assess progress towards meeting the desired ecological conditions required under §§ 219.8 and 219.9, and the effectiveness of those conditions in maintaining the diversity of plant and animal communities and

supporting the persistence of native species in the plan area.

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) the engagement of research, state fish and wildlife agencies, and others; and (3) a broader spatial scale then one plan area.

Response: The rule requires (1) all aspects of planning to use the best available scientific information to inform the planning process, plan components, and other plan content, including the monitoring program (§§ 219.3 and 219.14); (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)(ii)); and (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: In response to public comments, the Department added a requirement to the rule for 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). It is expected that monitoring a select set of the ecological conditions required by these species will 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. Monitoring for watershed conditions, other ecological conditions, and focal species will also provide information about the effectiveness of plan components for at risk species.

In some circumstances, a threatened, endangered, proposed, or candidate species, or a species of conservation concern may be the most appropriate focal species for assessing the ecological conditions required by § 219.9. However, as explained in earlier responses in this section, population trend monitoring is not required by the final rule.

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 final rule requires monitoring the status of select ecological conditions. The concept of ecological conditions as defined in the proposed rule and the final rule includes more than vegetation composition and structure: it is designed to encompass those factors as well as others, including stressors that are relevant to species and ecological integrity.

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: The final rule removes ''distinctive roles and contributions'' from § 219.12 in response to public comment because the Department has decided that the new requirement at paragraph (a)(5)(vii) for questions and indicators addressing the progress toward meeting the desired conditions and objectives in the plan, including for providing multiple use opportunities, more accurately reflects what the Department intended to accomplish with the previous requirement at paragraph (a)(5)(vii) in the proposed rule and the other proposed requirements of (a)(5).

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: The final rule adds the word ''each'' to the monitoring requirement for management systems. As clarification, § 219.19 of the final rule also includes a definition of management system as a timber management system such as even-aged management or uneven-aged management. 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.)

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. The respondent felt the proposed provisions would fail to ensure that actions do not jeopardize biodiversity.

Response: The Department requires 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. Questions and indicators associated with the required topics in § 219.12(a)(5) of the final rule can be used to evaluate effects of management procedures (practices) based on the outcomes observed in ecological conditions. The Department concludes that these monitoring requirements support the substantive requirements for ecological integrity and ecosystem and species diversity in the final rule.

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. The rule gives discretion to the responsible officials to consider the extent and methods chosen to address conservation education. Other sections direct the responsible official to

consider opportunities to connect people to nature. However, a specific requirement for monitoring conservation education was not added to the final rule.

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 the monitoring requirements 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: The proposed rule does not obligate the Agency to monitor beyond its fiscal means. Final rule §§ 219.1(g), 219.12(a)(4)(ii) and 219.12(b)(3) ensures that responsible officials must exercise discretion to develop technically and financially feasible monitoring programs. Although monitoring information will be used by responsible officials to inform the need to change plan components, including standards or guidelines, the rule specifically makes clear in § 219.12(a)(7) that monitoring is not a prerequisite for carrying out a project or activity such as the renewal of special use permits.

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 economic and social structures of local communities will be monitored.

Response: The rule requires certain subjects be addressed with one or more questions and associated indicators as the basis for plan monitoring. The NEPA compliance in support of proposed plans and projects will disclose the economic and social effects to local communities, and paragraph (a)(5)(vii) of this section requires monitoring progress towards meeting desired conditions and objectives in the plan, which will include plan components developed to contribute to social and economic sustainability. However, there is no requirement to monitor the economic and social structures of local communities. The Department believes that the monitoring requirements of the final rule will be achievable.

Comment: Feasibility of climate change monitoring. Some respondents felt the requirement for plan monitoring programs to include one question and indictor associated with measurable changes on the unit related to climate change and other stressors would be neither affordable nor achievable.

Response: The Department believes that including monitoring questions and indicators associated with measureable changes on the unit related to climate change and other stressors is achievable. 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 for climate change. This section allows the responsible official to use and build on other data and programs, encourages coordination with others and multi-party monitoring, and recognizes that some monitoring questions may best be answered at a scale broader than on plan area. The flexibility provided in this section will allow the responsible official to develop a strategic, effective, and financially achievable monitoring program, while meeting the requirements of paragraph (a)(5).

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. The Department added wording to paragraph (a)(7) to clarify that project and activity monitoring may be used to gather information for the plan monitoring program, and that plan monitoring may inform the development of specific projects and activities. The Department anticipates that project and activity monitoring will be used as part of the plan monitoring program, but the responsible official has the discretion to strategically select which projects to monitor and the monitoring questions related to those projects that will best inform the monitoring program and test assumptions, track changing conditions, or evaluate management effectiveness. However, the final rule makes clear the monitoring requirements of this section are not a prerequisite for making a decision to carry out a project or activity. Each project carried out under the plan will not automatically include the monitoring requirements for the plan.

Project monitoring may also occur for purposes other than supporting the plan monitoring program, and the final rule does not preclude project-specific monitoring requirements developed as part of project or activity decisions. The planning rule does not discuss requirements for project monitoring; therefore, funding of project monitoring is an issue outside the scope of the 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. The rule establishes those elements of monitoring necessary to inform adaptive management of the resources on the unit. None of the requirements of monitoring for the plan monitoring program apply to individual projects or activities. These monitoring requirements do not delay or foreclose management activities.

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: The planning rule does not apply to any ongoing projects or activities except as provided by § 219.15.

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: The final rule requires the use of best available scientific information to inform the development of the monitoring program. However, the final rule does not add the requirement suggested by the respondent as some monitoring questions or indicators may be adequately addressed with existing data. 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: The Department made changes in response to public comments to make clear the focus on adaptive management. The monitoring program is required to be designed to inform management (§ 219.12(a)). The final rule requires that the monitoring evaluation report be used to inform adaptive management of the plan area (§ 219.12(d)(2)), in addition to the requirement that the report indicate whether new information indicates that changes are warranted. The final rule requires 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)). Section 219.5(a) sets forth a responsive planning process that informs integrated resource management and allows the Agency to adapt to changing conditions, including climate change, and improve management based on new information and monitoring. The final rule also requires 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: The Department decided to retain the requirement 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. The biennial evaluation of monitoring is intended to collect, evaluate, and report on new data or results that provide information for adaptive management: for example, information about management effectiveness, progress towards meeting desired conditions or objectives, changing conditions, or validation (or invalidation) of assumptions. The biennial monitoring evaluation does not need to evaluate all questions or indicators on a biennial basis but must focus on new data and results that provide new information for adaptive management. 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. The Department believes that this requirement is implementable and important to inform adaptive management.

The Agency's experience is that an annual evaluation is too frequent to determine trends or to accumulate meaningful information and the 5-year time frame (§ 219.10(g) of the 1982 rule) is too long to wait in order to respond to changing conditions or new information. Therefore, the Department determined the monitoring evaluation would occur at a 2-year interval. The Department recognizes some kinds of monitoring indicators require longer time frames for thorough evaluation of results, but a biennial review of what information has been collected will ensure evaluation of available information is timely and can be used to inform planning and adaptive management of the unit.

The Department also retained the requirement that the responsible official publish the monitoring evaluation report, so that it is available to the public. Section 219.4(a) of the final rule requires the responsible official to provide opportunities for the public to participate in reviewing the results of monitoring information. The responsible official may elect various methods for this participation, but the rule does not direct any specific form for this participation such as requiring formal comment on the biennial evaluation. Public notice of the availability of the monitoring evaluation report is required, and must be posted online. Additional notice may be made in any way the responsible official deems appropriate. Any changes to the monitoring program require consideration of public comment.

Section 219.5(a)(3) of the final rule states that under the planning framework ''monitoring is continuous.'' The biennial monitoring evaluation report would not halt monitoring; it would simply report new information obtained from that monitoring.

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 and the plan be updated to incorporate information from petition(s).

Response: The requirement in this section for a biennial evaluation report is focused on providing systematic and transparent reporting and evaluation of information obtained pursuant to the monitoring program established consistent with this section. The report will be used to inform adaptive management on the unit. As part of the planning process, the responsible official may also consider any additional relevant information contained in other sources, such as petitions or new environmental analyses.

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 respond 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: The final rule requires 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. It also requires that the monitoring evaluation report be used to inform adaptive management of the plan area to ensure that the plan remains effective and relevant. The responsible official will need to evaluate when the information warrants a change to the plan. The public will have the opportunity to review the biennial monitoring report, and is welcome to provide input to the responsible official. The Department modified the requirements of paragraph (a)(5) in response to public comments and to more closely link the monitoring requirements to the assessment topics and to the substantive requirements in §§ 219.7 through 219.11. The responsible official is not limited to the monitoring requirements identified in paragraph (a)(5) of this section. The responsible official may add questions and indicators to reflect the monitoring needs most appropriate to inform effective management for that unit. In addition, the broader-scale monitoring strategies will identify questions and indicators best monitored at a broader geographic scale than the plan area.

The Department concluded that the set of monitoring requirements in the final rule provides an appropriate balance between requiring core monitoring on each unit and recognizing that there will 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 this section. The responsible official will need to document the rationale for decisionmaking, as well as how best available scientific information was used to inform the monitoring program. Additional direction will be included in the Forest Service Directive System, and may be provided as a result of the Agency's ongoing review of its monitoring system.

The final rule requires monitoring of watershed conditions, as well as ecological conditions associated with aquatic ecosystems, and progress towards meeting desired conditions and objectives. The Department believes that these monitoring requirements will support the substantive requirements in the final rule for plan components for watersheds, water quality, water resources, and riparian areas, including those considerations with regard to water identified in the comment, and will inform management effectiveness and adaptive management.

The Department expects monitoring will be informed by FIA data. 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. Any amendment or revision conducted as a result of new information from monitoring would be carefully done in accordance with the NEPA and the requirements of this final rule. Rapid, narrow amendments can help plans stay current and relevant, while recognizing that more information will be available over time. Since responsible officials already have discretion to consider precautionary measures when risks to resources are uncertain during NEPA analysis, the Department decided it is not necessary to add precautionary wording to the final rule. Any significant change in resource management would need to be consistent with the sustainability and other requirements in the final rule.

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: Section 219.2 requires national oversight and process for accountability for planning. In addition, a substantive change to a 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. The final rule allows 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

This section of the rule sets out the process for changing plans through plan amendments or administrative changes. The section would allow the responsible official to use new information obtained from the monitoring program or other sources and react to changing conditions to amend or change the plan. The Department's intent is that plans will be kept more current, effective, and relevant by the use of more frequent and efficient amendments, and administrative changes over the life of the plan, also reducing the amount of work needed for a full revision.

Plan Amendments

Plan amendments incrementally change the plan as need arises. Plan amendments could range from project specific amendments or amendments of one plan component, to the amendment of multiple plan components. For example, a monitoring evaluation report may show that a plan standard is not sufficiently protecting streambeds, indicating that a change to that standard may be needed to achieve an objective or desired condition in the plan for riparian areas. In that case, the responsible official could choose to act quickly to propose an amendment to change that particular standard.

The process requirements for plan amendments and administrative changes are simpler than those for new plan development or plan revisions in order to allow responsible officials to keep plans current and adapt to new information or changed conditions.

As discussed in § 219.6, the final rule does not require an assessment prior to initiating a plan amendment, because a new assessment will not always be necessary or useful. However, the responsible official can always choose to conduct an assessment and take additional time to develop a proposal when the potential amendment is broader or more complex or requires an updated understanding of the landscape-scale context for management. For example, a monitoring evaluation report may indicate that a new invasive species is affecting forest health on the plan area. The responsible official may want to conduct a new, focused assessment to synthesize new information about the spread of that species, how other plan areas or land management agencies are dealing with the threat, what stressors make a resource more vulnerable to the species, how the species may be impacting social or economic values, or how neighboring landowners are approaching removal of the species. The responsible official, consistent with the requirements for public participation in § 219.4, would then collaboratively develop a proposal to amend several plan components to deal with the invasive species.

All plan amendments must comply with Forest Service NEPA procedures. This final rule provides that appropriate NEPA documentation for an amendment could be an EIS, an environmental assessment (EA), or a categorical exclusion (CE) depending upon the scope and scale of the amendment and its likely effects. A proposed amendment that may create a significant environmental effect and thus require preparation of an EIS is considered a significant change in the plan for the purposes of the NFMA.

Administrative Changes

Administrative changes allow for rapid correction of errors in the plan components. In addition, other content in the plan, as identified in § 219.7(f), could be altered with an administrative change, including the monitoring plan, the identification of watersheds that are a priority for maintenance or restoration, the plan area's distinctive roles and contributions, and information about proposed or possible actions that may occur on the plan area during the life of the plan. This final rule requires the responsible official to provide public notice before issuing any administrative change. If the change would be a substantive change to the monitoring program, the responsible official must also provide an opportunity for the public to comment on the intended change and consider public concerns and suggestions before making a change. The Department believes that allowing administrative changes to other content, other than plan components, would help the responsible official rapidly adapt that content to changing conditions and respond to new information, while requiring the responsible official to keep the public informed. For example, a major fire event may make a particular watershed a new priority, or a new collaborative monitoring effort may require the addition of one or more monitoring questions.

Section 219.13—Response to Comments

The Department made minor modifications to the wording of this section from the 2011 proposed rule for clarity.

At the end of paragraph (a), the words ''(including management areas or geographic areas)'' were added to reflect the modifications of § 219.7, and to clarify that an amendment is required for any change in how or whether plan components apply to those areas.

The Department merged provisions about plan amendments found in two sections of the proposed rule (§§ 219.6(c) and 219.13(b)(1)) into one paragraph (paragraph (b)(1) of this section) of the final rule, for clarity. The provisions were removed from § 219.6(c) of the final rule.

The Department added a sentence to the end of paragraph (b)(3) of this section to make clear that a proposed amendment that may have a significant environmental effect and thus require preparation of an EIS is considered a ''significant change in the plan'' for purposes of the NFMA. The NFMA at 16 U.S.C. 1604(f)(4) states that plans shall be amended in any matter whatsoever after public notice, and, if such amendment would result in a significant change in a plan, the plan must be amended in accordance to the requirements of 16 U.S.C. 1604(e) and (f) and public involvement required by 16 U.S.C. 1604(d). Likewise, as part of the NEPA process, the responsible official must determine whether the significance of the proposed amendment's impact on the environment would require an environmental impact statement. This addition to the final rule makes the NEPA and NFMA findings of ''significance'' one finding. If under NEPA a proposed amendment may have a significant effect on the environment and an EIS must be prepared, the amendment would automatically be considered a significant change to a plan.

The Department finds that the process requirements for an EIS, the 90-day public comment period required by this final rule, and the additional requirements for amendments under this final rule meet the requirements for a amendment that results in a significant change to the plan under 16 U.S.C. 1604(f)(4). Thus, the responsible official must make only one determination of significance, under the well-known standards of NEPA.

For other plan amendments, less detailed levels of NEPA compliance such as the preparation of environmental assessment or a decision memo using a categorical exclusion may be appropriate. There is the same opportunity for persons to file objections to all proposed amendments as there is for proposed revisions (subpart B of the final rule).

Paragraph (c)(1) of both the proposed and the final rule provide that changes to ''other plan content,'' may be made via an administrative change (unlike the plan components, which require an amendment to make substantive changes). Because of the importance of the monitoring program to the public, the proposed rule provided and the final rule retained a requirement that substantive changes to the monitoring program made via an administrative change can be made only after notice and consideration of public comment. In the final rule, the Department added the word ''substantive'' to convey the Department's intent that minor changes or corrections to the monitoring program can be made via an administrative change without providing an opportunity for public comment.

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 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: Requiring an EIS for all amendments would be burdensome, and unduly expensive for amendments with no significant environmental effect. It would also inhibit the more frequent use of amendments as a tool for adaptive management to keep plans relevant, current and effective between plan revisions based on changing conditions and new information. The Department requires the responsible official to follow NEPA procedures and choose the appropriate level of analysis: EIS, EA, or CE, based on the scale and scope of the amendment. As clarification, § 219.13 of the final rule clarifies that any plan amendment that may create a significant environmental effect and therefore require preparation of an EIS will be considered ''a significant change in the plan'' for the purposes of the NFMA; requiring a 90-day comment period under § 219.16. An EIS is always required for a plan revision or for development of a new plan.

Comment: Amendment verses administrative change. Some respondents felt the proposed rule was confusing regarding when an amendment and when an administrative change was to be used.

Response: Plan components are the plan's desired conditions, objectives, standards, guidelines, suitability of areas, or goals described in § 219.7. An amendment is 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 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 instead.

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: The final rule retains the 30-day minimum comment period for a plan amendment (§ 219.16(a)). Agency practice shows 30 days can be reasonable when an EA is prepared.

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: No change was made to this provision in the final rule. Project-specific amendments are short-lived with the project, and localized to the project area. The point of a project-specific amendment is to allow a project that would otherwise not be consistent with the plan to be authorized and carried out in a manner appropriate to the particular time and place of the project, without changing how the plan applies in other respects. Project specific amendments give 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) requires 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: Final rule § 219.17(b)(2) allows amendments to existing plans to be initiated for a period of 3 years under the provisions of the prior planning regulation. This provision is unchanged from the proposed rule.

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 conform the plan to the congressionally mandated change, 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 rule requirements for administrative changes will facilitate more rapid adjustment of plans. 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. The responsible official must 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 must 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 Documents and Planning Records

This section of the rule requires the responsible official to record approval of a new plan, plan revision, or amendment in a decision document prepared according to Forest Service's NEPA procedures and this section. This section describes requirements for decision documents and associated records for approval of plans, plan amendments, or plan revisions. These requirements will increase the transparency of the decision and the rationale for approval, and require the responsible official to document how the plan complies with the requirements in this final rule.

This section also sets forth basic requirements for the responsible official to maintain public documents related to the plan and monitoring program. It requires the responsible official to ensure that certain key documents are readily accessible to the public online and through other means, and that the planning record be available to the public.

Section 219.14—Response to Comments

Comments on this section focused on the availability of documents. The Department largely retained the wording from the 2011 proposed rule; however,

the Department did make changes for consistency in this section to reflect changes made in other sections of the rule.

At paragraph (a)(2) the proposed rule wording of ''An explanation of how the plan components meet the sustainability requirements of § 219.8 and the diversity requirements of § 219.9, taking into account the limits of Forest Service authority and the capability of the plan area'' was modified to ''An explanation of how the plan components meet the sustainability requirements of § 219.8, the diversity requirements of § 219.9, the multiple use requirements of § 219.10, and the timber requirements of § 219.11.'' The Department added the requirements to explain how plan components meet the requirements of §§ 219.10 and 219.11 to cover all the substantive requirements for plan components. The Department removed the words taking into account the limits of Forest Service authority and the capability of the plan area, because they are part of §§ 219.8–11 and § 219.1(g).

At paragraph (a)(4), the Department changed the wording from the proposed rule wording of ''taken into account and applied in the planning process,'' to ''how the best scientific information was used to inform planning, the plan components, and other plan content, including the plan monitoring program'' to be consistent with the final rule wording of § 219.3. This change was made to make clear that § 219.3 applies to every aspect of planning, and the public must be able to see and understand how it has been applied. Additional minor edits were made for clarity.

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. 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. The requirements of this section will help increase transparency and public understanding of the responsible official's decisions. Based on public comment, the Department added the multiple use requirements of § 219.10 and the timber requirements of § 219.11 to the list of items (§ 219.14(a)(2)) that the responsible official address in explaining how plan components meet the requirements of the rule. Section 219.14(a)(4) of the final rule also requires 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 the final rule requires 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. The final rule keeps the wording of the proposed rule that these documents must be ''readily accessible'' online; the expectation is that the documents would be posted as soon as they are finished and formatted for public viewing. Documents that require formal notifications will be posted when formal notice is made, if not before. In addition, the final rule requires that documents identified in § 219.52(c)(1) must be available online at the time of notification of the start of the objection period.

Making all data and information used in the planning process available online would be very time-consuming and expensive. However, to ensure that units continue to make all planning records available for those who may be interested, the final rule requires the responsible official to make all documents available at the office where the plan, plan revision, or amendment was developed. The final rule does not prohibit the responsible official from using other means of making documents available.

Comment: Availability of NEPA documents. Some respondents stated the final EIS supporting a plan should be made available no later than the start of objection process.

Response: The Department requires the objection process to begin after the NEPA documents are final and made available. Section 219.52(c) lists the required items that the public notice must contain in notifying the public of the beginning of the objection process including a draft plan decision document. In addition, the final rule requires that documents identified in § 219.52(c)(1) must be available online at the time of notification of the start of the objection period.

Section 219.15—Project and Activity Consistency With the Plan

This section of the final rule provides that projects and activities authorized after approval of a plan, plan revision, or plan amendment developed pursuant to the final rule must be consistent with plan components as set forth in this section. The NFMA requires that ''resource plans and permits, contracts and other instruments for the use and occupancy of National Forest System lands shall be consistent with the land management plans'' (16 U.S.C. 1604(i)). However, no previous planning rule provided specific criteria to evaluate consistency of projects or activities with the plan.

This section provides that every project and activity authorized after approval of a plan, plan amendment, or plan revision developed pursuant to the final rule must be consistent with the plan and the applicable plan components as set forth in this section. Project decision documents must describe how the project or activity is consistent with the plan. This final rule specifies criteria to use to evaluate consistency with the plan components.

The Agency has experienced difficulty in the past in determining how new plan components and content in a plan apply to projects and activities approved prior to the effective date of a plan amendment or revision. With respect to such projects and activities, the rule requires that: 1) the plan decision document must expressly allow such projects to go forward or continue, and thus deem them consistent, or 2) in the absence of such express provision, the authorizing instrument (permit, contract, and so forth) approving the use, occupancy, project, or activity must be adjusted as soon as practicable to be consistent with

the plan, plan amendment, or plan revision, subject to valid existing rights.

Other types of plans may be developed for the lands or resources of the planning area. These resource plans, such as travel management plans, wild and scenic river plans, and other resource plans, may be developed for the lands or resources of the planning area. This section requires that other resource plans be consistent with the land management plan and applicable plan components. If such plans are not consistent, modifications of the resource plan must be made or amendments to the land management plan must be made to resolve any inconsistencies.

Section 219.15—Response to Comments

The Department retained the wording of the proposed rule, except for three modifications. The Department clarified the first sentence of paragraph (a)(1) to say every decision document approving a plan, plan amendment, or plan revision must state whether authorizations of occupancy and use made before the decision document may proceed unchanged.

At paragraph (d), the Department added that every project and activity must be consistent with the applicable plan components and removed those words from § 219.7(d) of the proposed rule, because this provision is more appropriate in this section of the final rule.

At paragraph (d)(3), in response to comments received on the preferred alternative, the Department modified the direction for determining consistency with guidelines to make the Department's intent more clear. Paragraph (d)(3)(i) was modified to reflect the structure of the requirement for standards in paragraph (d)(2), and now reads: ''Complies with applicable guidelines as set out in the plan.'' In paragraph (d)(3)(ii), the Department replaced ''carrying out the intent'' to ''achieving the purpose'' of the applicable guidelines.

The Department removed the wording at § 219.15(d)(3)(ii) of the proposed rule that repeated text from § 219.7(e)(1)(iv), to avoid duplication and because the reference to § 219.7(e)(1)(iv) is adequate.

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: No previous planning rule provided specific criteria to evaluate consistency of projects or activities with the plan. 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 we believe that we can provide 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.

This section requires 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 this section. Paragraph (d) specifies criteria to evaluate consistency, and requires that project approval documents describe how the project or activity is consistent. Given the very large number of project and activities, and the wide variety of those projects and activities, it is not feasible to provide any direction more specific than that set out in paragraph (d).

Section 219.16—Public Notifications

In this section, the final rule sets forth requirements for public notification designed to ensure that information about the planning process reaches the public in a timely and accessible manner. This section describes when public notification is required, how it must be provided, and what must be included in each notice. This section of the final rule is meant to be read with § 219.4 of the rule in mind, which sets forth direction for responsible officials to engage the public and provide opportunities for interested individuals, entities, and governments to participate in the planning process.

This final rule represents a significant new investment in public engagement designed to involve the public early and throughout the planning process. The Department is making this investment in the belief that public participation throughout the planning process will result in a more informed public, better plans, and plans that are more broadly accepted by the public than in the past. The requirements in this section respond to the consensus that people want to be informed about the various stages of the planning process, with clear parameters for when and how they can get involved.

Public input at several points during the development of the rule emphasized the importance of updating the way we provide notice to the public to ensure that we successfully reach a diverse array of people and communities and inform them about the process and how they could participate. Many people said that using only one outreach method would not reach all needed communities. In response, this section directs responsible officials to use contemporary tools to provide notice to the public, and, at a minimum, to post all notices on the relevant Forest Service Web site.

This section of the final rule provides that ''notifications may be combined where appropriate.'' This provision would allow flexibility for plan amendments to have a more streamlined, efficient process than new plans or plan revisions, where appropriate. This approach is in keeping with the public's desire and the Agency's need for a process that allows plan areas to quickly and efficiently adapt to new information and changing conditions. (see § 219.13 for further discussion.)

Section 219.16—Response to Comments

The Department made the following changes to this section of the final rule:

In the introduction to paragraph (a) the Department changed the term ''formal notifications'' to ''notifications.'' This change is a clarification.

The Department removed the requirement at paragraph (a)(1) for a formal notice for the preparation of an assessment, in response to public comments on the efficiency of the assessment process. A requirement for notice of opportunities to provide information for assessments is now in paragraph (c)(6) of this section: notice must be posted online, and additional notice may be provided in any way the responsible official deems appropriate.

The wording of paragraph (a)(1) in the final rule, formerly paragraph (a)(2) in the proposed rule, was modified to remove the words ''when appropriate'' before plan amendment. The change reflects the Department's intent in the proposed rule and responds to public comments about confusion over whether notice to initiate the development of plan amendments is required (it is). This change is not a change in requirement, this is a clarification.

At paragraph (c)(3) the Department added a new paragraph that requires that when the notice is for the purpose of inviting comments on a proposed plan, plan revision, or plan amendment, and a draft EIS is prepared, the Environmental Protection Agency (EPA) **Federal Register** notice of availability of an EIS shall serve as the required **Federal Register** notice. This change makes the procedure similar to the prior rule procedures and eliminates an additional **Federal Register** notice at the time of a DEIS.

At paragraph (c)(6), the Department modified ''plan amendment assessments'' to ''assessment reports'' in the list of public notices that may be made in any way the responsible official deems appropriate that was in paragraph (c)(5) of the proposed rule. This change clarifies how the public will receive notice of a completed assessment report. The word ''additional'' was added to the beginning of paragraph (c)(6) to make clear that, at a minimum, notice for the items in the paragraph must be posted online. This change is a clarification.

At paragraph (d), the Department added an exception for the content for public notices when the notice is for the purpose of inviting comments on a proposed plan, plan amendment, or plan revision for which a draft EIS is prepared. This change is necessary because of the change at paragraph (c)(3), stating that the **Federal Register** notice of availability for the draft EIS will serve as the required public notice. The EPA has a standard format for notices that does not include the requirements of paragraph (d). The public will be able to find the additional information online.

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: The final rule removes the wording ''when appropriate'' in relation to plan amendments in what is now § 219.16(a)(1) in the final rule, in response to public comment and to clarify the Department's intent from the proposed rule.

Comment: Notification. Some respondents felt the words ''deems appropriate'' in paragraph (c)(5) of the proposed rule 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 the final rule requires, at a minimum, that all public notifications must be posted online and the responsible official should use contemporary tools to provide notice to the public. These could include an array of methods, such as meetings, town halls, email, or Facebook posts. The best forms of notice will vary by plan area and over time, therefore the rule does not seek to predetermine what those tools might be. The wording ''deems appropriate'' in paragraph (c)(6) 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; therefore, it has been retained in the final rule.

Additionally, there are requirements outlined in (c)(1)–(5) for posting notices in the **Federal Register** and applicable newspaper(s) of record for the notices required in paragraph (a). The use of the **Federal Register** to give notice for all amendments and administrative changes would be inefficient for the Agency; therefore the requirements in paragraph (c) vary.

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. The Department concludes that such a requirement would be unworkable, and that the forms of public notice required by this section, including the requirement that all notices be posted online, will enable informed and active public engagement.

Section 219.17—Effective Dates and Transition

This section of the final rule describes when approval of plans, plan revisions, or plan amendments would take effect and when units must begin to use the new planning regulations.

Section 219.17—Response to Comments

Many comments on this section focused on the efficiency of the process, clarity, and potential additional requirements. The Department retained the wording from the proposed rule except for the following changes:

The Department changed the wording of paragraph (a) of the proposed rule about effective dates of the proposed rule in response to public comments about the efficiency of the planning process. The final rule retains the requirement that a plan or plan revision, is effective 30 days after publication of notice of approval, and also retains that requirement for a plan amendment for which an EIS is prepared. The final rule removes the 30 day delay for amendments that do not require an EIS; such amendments are effective immediately upon publication of the notice of approval. This change in requirements improves the efficiency of amendments.

Paragraphs (b)(1)–(3) were modified slightly to reflect that the effective date of the final rule will be 30 days after the date of publication of the final rule in the **Federal Register**.

In paragraph (b)(2) of this section, the Department modified the wording and added a new first sentence to clarify that all new plan amendments initiated after the effective date of this rule must use the objections process of subpart B, even if the amendment is developed using the planning procedures of the prior planning regulation. This is a change made to require that subpart B apply to all plans, plan revisions and plan amendments initiated after the effective date of the final rule. In the rest of paragraph (b)(2) the Department: Revised the sentences to improve the ease, flow, and clarity of this paragraph, and clarified that when initiating plan amendments the optional appeal procedures are not available.

In paragraph (b)(3) of this section, the Department clarified that the objection process of subpart B of this part applies if the responsible official completing a plan process initiated prior to this part chooses objections instead of optional appeal procedures. This change was made to avoid confusion about which objection procedures would apply in that case (prior rule of December 18, 2009, or subpart B of this final rule). In addition, the Department clarified that the objection process of subpart B may be chosen only if the public is provided the opportunity to comment on a proposed plan, plan amendment, or plan revision, and associated environmental analysis. These clarifications are not a change in requirements.

In paragraph (c) the Department added wording in response to public comments to clarify that existing plans will remain in effect until revised, and that the final rule does not compel a

change to any existing plan, except as required in § 219.12(c)(1). In addition the Department added wording that none of the requirements of this part apply to projects or activities on units with plans developed or revised under a prior planning rule until the plan is revised under this part, except that projects and activities must be consistent with plan amendments developed under this final rule. These changes are not changes in requirements; the changes clarify the intent of the Department in the proposed rule. This paragraph in the final rule is needed for clarity so that all NFS units understand they are subject to the new planning rule for plan development, plan amendment, and plan revision, while still requiring NFS units to follow the plan provisions of their current plans.

Comment: Timing of compliance. 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. 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.

Response: There is no transition period for new plans or plan revisions initiated after the effective date of the final rule: all new plans and plan revisions must conform to the new planning requirements in subpart A. Plan revisions that are currently ongoing or initiated prior to the effective date of the final rule may be completed using either the previous rule or the final rule. Many of the ongoing plan revision efforts have taken many years, and it could be expensive in terms of both time and costs to require them to follow the new procedures, in addition to delaying needed improvements to outdated plans. It could also be unfair to the public who have invested time in these efforts. The responsible official does have the discretion to conform an ongoing revision effort to the requirements of the new rule after providing notice to the public, if doing so would be feasible and appropriate for that effort.

For amendments, there would be a 3-year transition window during which amendments may be initiated and completed using the 2000 rule, including the 1982 procedures via the 2000 rule's transition provisions, or may conform to the new rule. After 3 years, all new plan amendments must conform to the new rule. This transition period for new amendments would give the responsible official the option to facilitate amendments for plans developed under previous rules for a limited time, using a familiar process, until full familiarity with the new rule develops.

Plan decisions will not be approved until the Agency has resolved any objections filed under subpart B. This delay of the effective date until after the objections are resolved should adequately avoid disruptions. Many legal challenges to plans go on for years, however, and it would not be workable to wait to implement a plan until after all legal challenges are resolved.

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 the final rule. 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 and the final rule should therefore 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. Changes were made as described above to improve clarity.

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 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 applies. 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). This provision is needed for clarity so that all NFS units understand they are subject to the new planning rule for plan development, plan amendment, and plan revision, but otherwise are governed by the plan provisions of their current plans. Responsible officials, who continue plan development, revisions or amendments initiated prior to the effective date of the final rule using the procedures of the 1982 rule, must comply with the 1982 rule procedures in developing those plans, plan revisions or amendments. Plan amendments initiated after the effective date of this rule, may for three years follow the 1982 rule procedures or the requirements of this rule for 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. The final rule does not require a 30 day-delay for project-specific plan amendments, and provides 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

If any part of this final rule is held invalid by a court, this section provides that the invalid part would be severed from the other parts of the rule, which would remain valid.

Section 219.18—Response to Comments

This section explains that it is the Department's intent that the individual provisions of the final rule be severable from each other. The Department retains the 2011 proposed rule wording in the final rule.

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 the final rule, 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 the rule is inappropriate.

Section 219.19—Definitions

This section sets out and defines the special terms used in the final subpart A. Changes to this section were made in response to public comments.

The Department added definitions for: best management practices, candidate species, conserve, disturbance regime, ecological integrity, inherent capability of the plan area, integrated resource management, maintain, management system, native species, persistence, proposed species, recreation opportunity, restore, recovery, riparian management zone, scenic character, and stressors for clarity and to define new terms.

The Department removed definitions for: Health(y), landscape character, potential wilderness areas, and resilience, because the terms are not used in the final rule. The Department moved a modified definition of species of conservation concern from § 219.19 to § 219.9. The Department removed the definition of system drivers, because the term is defined in the rule in § 219.6 as disturbance regimes, dominant ecological processes, and stressors—including wildland fire, invasive species, and climate change.

The Department modified the definitions for: assessment, collaboration, connectivity, conservation, designated areas, ecological conditions, ecosystem, focal species, landscape, multiple use, recreation setting, restoration, riparian areas, sole source aquifer, sustainability, and sustainable recreation to improve clarity.

The Department modified the definition of ''ecosystem'' to further explain and describe the key characteristics related to ecosystem composition, structure, function, and connectivity so the relationship between monitoring questions and indicators are clearly related to the ecological conditions of §§ 219.8 and 219.9.

Section 219.19—Response to Comments

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.

Response: Some of the requested definitions were included in the final rule, where including a definition provides additional meaning or clarity, or where the term is uncommon terms or used with a specific meaning. Other requested definitions were not included, either because the term was not included in the final rule, or the Department used the terms in their ordinary meaning.

Comment: 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: The final rule either does not use the term; therefore, a definition is not provided or the final rule uses the commonly understood meaning, making definition unnecessary.

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: The Department has modified the definition 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. The need for new information may be identified in the assessment report, but development of new information is not required or intended during the assessment process.

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: The proposed rule defined collaboration; the final rule defines both collaboration and collaborative process using the proposed rule's definition of collaboration. The definition is unchanged except that the last sentence of the proposed rule's definition was moved to § 219.4. The concept of feedback is indirectly included in the proposed rule definition. The concept of feedback is an important part of why the Department supports an adaptive framework that provides meaningful opportunities for public participation early and throughout the process. The moved sentence clarifies that under collaboration the Forest Service retains decisionmaking authority and responsibility for all decisions throughout the process.

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. A comment was received on the preferred alternative, asking if the lists in the definition of designated areas were exhaustive.

Response: The Department clarified the definition of designated areas in the final rule. 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 the final rule. The final rule provides 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. The final rule in § 219.10(b)(vi) provides for appropriate management of other designated or recommended areas, which would include areas such as congressionally designated national historic trails. To respond to the comment on the preferred alternative, the Department clarified the definition of designated areas to explicitly show that the list of examples is not exhaustive by removing the word ''include'' and added the words: Examples of * * * designated areas are.

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. The Department therefore retained the term in the final rule, and modified it in response to public comments. The Department modified the definition of connectivity, removing the words that would limit the concept to ''separate national forest or grassland areas.'' The final rule definition is worded to apply to several scales and to identify the types of the biophysical aspects of ecological functions that the term encompasses.

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 retains the definition of conservation because the definition is consistent with the use of the term in the rule. However, the Department added species to the list of resources included in the definition 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.

Response: In the final rule, the concept of disturbance is limited to any disruption of an ecosystem, watershed, plant and animal community, or species population: therefore the Department retained the proposed rule definition. 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: When the term diversity is used alone in the rule, its meaning is the commonly understood use of the term and therefore no rule definition of the term is necessary. The final rule retains a definition of the term ecosystem diversity. The term biodiversity is not in the rule, and therefore no definition of that term is needed.

Comment: Definition of ecosystem services. Some respondents felt specific aspects of 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 final rule retains the proposed definition, which focuses on the ''benefits people obtain from ecosystems.'' 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: The Department changed the definition of focal species 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. The Department retained the concept of a small number in the final rule because the responsible official has discretion to choose the small subset of focal species that he or she determines will be useful and reasonable in providing the information necessary to make informed management decisions. The Department does not expect a focal species to be selected for every element of ecological conditions.

Comment: Definition of integrated resource management. Several respondents felt the phrase ''integrated resource management'' needed to be defined.

Response: In the final rule the term has been defined as multiple-use management that recognizes the interdependence of ecological resources and is based on the need for integrated consideration of ecological, social, and economic factors. The approach of integrated resource management considers all relevant interdependent elements of sustainability as a whole, instead of as separate resources or uses. ''Integrated resource management'' is not the same as the ''all-lands approach.'' ''Integrated resource management'' refers to the way in which the resources are to be considered, as a whole instead of by individual resource. The ''all-lands approach'' refers to the area of analysis for the planning phases, which can extend beyond the national forest and grassland boundary.

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 applies to a perspective for assessment purposes for resources and influences that may extend beyond the NFS boundary. The Department retained the landscape term in the final rule because conditions and trends across the broader area may influence, or be influenced by projects or activities on NFS lands. Plan components would apply only the NFS lands, but the responsible official should 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 final rule retains the proposed rule's

definition for native knowledge. The final rule requires the use of the best available scientific information to inform decisions. The final rule strikes a balance for using science as an integral and foundational, but not the sole, influence on planning, allowing for other sources of information or input, including native knowledge, to be considered during the planning process.

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: The final rule revised the proposed rule definition to remove the words ''over time and space'' to ensure 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. The rule framework itself is based on the concept that the set of monitoring questions and indicators that make up the monitoring program will be used to inform adaptive management on the unit over time. The terms that the commenter wishes added to the definition are key concepts and terms in the rule, but adding them to the definition of monitoring is unnecessary.

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 established 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 the final rule, as part of plans, or as part of projects or activities carried out under the plans.

Other terms used in § 219.10 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 be defined as engagement in activities.

Response: The Department retained the proposed rule 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.

Response: The Department's use of the term productivity in the rule does not include economic productivity; therefore, the proposed rule definition is retained in the final rule.

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: The final planning rule adopts the definition advanced by the Society for Ecological Restoration International, but retains from the proposed rule (with minor word changes) the additional explanation 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 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: The final rule rewords the proposed rule's definition for ''riparian areas'' and adds a definition for ''riparian management zone.'' 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 areas'' are defined in physical and biological terms; riparian management zones are defined in administrative terms. A riparian area and a riparian management zone would overlap, but one may be wider or narrower than the other.

Comment: Definition of risk. A respondent felt the definition of ''risk'' should refer to ''probability'' and ''magnitude.''

Response: The Department retains the definition of the proposed rule for risk because ''probability and magnitude'' are equivalent to ''likelihood and severity'' in the proposed rule 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: The term ''social science'' was not in the proposed rule and is not in the final rule, and therefore need not be defined. The final rule includes reference to social sustainability in the definition for sustainability.

Comment: Definition of stressor. A respondent felt the Agency should define the term stressor.

Response: The Department defines the term stressor in the final rule 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 social sustainability might be an opportunity to remove hunting and fishing from the NFS.

Response: The Department decided to keep the term but modify the definition for clarity. The definition in the rule 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, the Department defined 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, which is how we have now defined it) deals largely with addressing conflicts between uses.

The Department's use of the term socially sustainable 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: See the response to comments to section 219.9 for a discussion of the term well-distributed.

The final planning rule does not specifically incorporate ''high likelihood'' or a specified time period 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 will 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

Introduction to This Subpart

Subpart B sets forth the requirements for the objection process in this final rule.

Prior to the 2000 rule, the administrative review process for plan decisions provided an opportunity for a post-decisional appeal. With this process, a plan was generally put into effect before the appeal was resolved. This scenario has often been problematic because when reviewing appeals, if a reviewing officer finds fault with a plan already in effect, the remedy can be costly to both the Forest Service and the public in terms of time and money. Such a situation can also damage public trust in the planning process. Interim direction is often put into place while the responsible official prepares further analysis and other appropriate corrections.

After receiving initial public input, reviewing public comments, and taking into account agency history and experience regarding pre- or post-decision administrative appeal processes, the Department decided to include a pre-decisional administrative review process, called an objection process, in the final rule. An objection prompts an independent administrative review by an official at a level above the deciding official and a process for resolution of issues. This process allows interested individuals to voice objections and point out potential errors or violations of law, regulations, or agency policy prior to approval and implementation of a decision. The Forest Service has successfully used a similar process since 2004 for administrative review of hazardous fuel reduction projects developed pursuant to the Healthy Forests Restoration Act.

Section 219.50—Purpose and Scope

This section states that the purpose of the subpart is to establish a process for pre-decisional administrative review of plans, plan amendments, and plan revisions.

Section 219.50—Response to Comments

This subpart describes a pre-decisional administrative review (objection) process for plans, plan amendments, or plan revisions. The Department retains the 2011 proposed rule wording in the final rule of § 219.50. To respond to comments on the preferred alternative, the Department changed the wording in § 219.50 and throughout subpart B to clarify that the parties that may object include States and Tribes as well as organizations and individuals. The preferred alternative and the proposed rule used the terms ''individual'' and ''organization'' for those who may file an objection. States and Tribes are not organizations; therefore, the Department changed the term ''organization'' to ''entity'' in sections 219.50, 219.53, 219.55 and 219.61. These modifications to subpart B are clarifications, not changes in requirements,

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: The Department's choice of this approach is based on two primary considerations. First, a pre-decisional objection is more consistent with the collaborative nature of this final rule 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. Second, pre-decisional objections 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 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. This approach fits well with a collaborative approach to planning, and encourages resolution before a plan, plan amendment, or plan revision is approved.

The Department believes that having both a pre-decisional objection process and a post decision appeals process would be redundant and inefficient.

Section 219.51—Plans, Plan Amendments, or Plan Revisions Not Subject To Objection

This section identifies those plans, plan amendments, or plan revisions that would not be subject to the pre-decisional objection process under the final rule.

Section 219.51—Response to Comments

The Department retains the 2011 proposed rule wording in the final rule except to change the term formal comments to substantive formal comments. This change was made throughout this subpart.

Comment: Secretary decisions subject to administrative review. Some respondents felt decisions made by the Secretary or the Under Secretary for Natural Resources and Environment affecting the Forest Service should be subject to administrative review.

Response: Land management plan decisions made by the Secretary or Under Secretary for Natural Resources and Environment have never been subject to appeal or objection. The Department chooses not to change this approach. The Agency anticipates that approvals of plans, plan amendments, or plan revisions by the Secretary or

Under Secretary will continue to be rare occurrences.

Section 219.52—Giving Notice of a Plan, Plan Amendment, or Plan Revision Subject To Objection Before Approval

Section 219.52 provides additional information for providing the public notice, required by § 219.16 subpart A, that would begin the objection filing period. This notice serves three particular purposes: (1) To notify parties eligible to file objections that the objection filing period is commencing; (2) to notify parties eligible to file objections and others of the availability of planning documents and how to obtain those documents; and, (3) to establish a publicly and legally verifiable start date for the objection filing period.

Section 219.52 would require the Forest Service to make a special effort to ensure the public understands how the objection process in this subpart would be used for each plan, plan amendment, and plan revision. Specifically, the responsible official would be required to disclose the objection procedures by stating that this process will be used during scoping under the NEPA process and in the appropriate NEPA documents. Early disclosure will help ensure that those parties who may want to file objections are aware of the necessary steps to be eligible.

The final rule also requires the responsible official to make the public notice for beginning the objection filing period available to those who have requested the environmental documents or who are eligible to file an objection. This requirement is intended to ensure that the necessary information reaches those who have specifically requested it and those who could have a particular interest in the start of the objection filing period by virtue of their eligibility to file an objection.

Paragraph (c) outlines the format and content of the public notice to ensure potential objectors have necessary procedural information, can find underlying documents, and understand the process, timing, and requirements for filing an objection.

Section 219.52—Response to Comments

Changes were made to wording in this section to be consistent with changes made in response to public comments on other sections in this subpart, including changing the term ''formal comments'' to ''substantive formal comments'' and the objection periods from 30 days in the proposed rule to 45 days, or 60 days if an EIS was prepared.

The Department added a sentence to paragraph (a) of this section to allow the responsible official to choose to use the objection process for a plan, plan amendment, or plan revision initiated before the effective date of the rule even when the scoping notice had not indicated that an objection process would be used. To ensure meaningful notice is given, however, the notice that the objection process will be used must be given prior to an opportunity to provide substantive formal comment on a proposed plan, plan amendment, or revision and associated environmental analysis.

A requirement to make the documents identified in paragraph (c)(1) of this section available online at the time of public notice was added for clarity, to reflect the Department's intent.

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 subpart A requires 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 in this section 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). 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 said the objection process forces the public to guess and predict what the actual decision will be.

Response A draft plan decision document is one of the items § 219.52 (c) requires to be made available to the public when public notice of the beginning of the objection process is given. If no objections are filed, the draft, once signed would become the decision. If an objection is filed, there may be changes made for the final 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 a final plan decision. This process is more efficient and more consistent with the participatory approach used in the final rule.

Section 219.53—Who May File an Objection

This section of the rule identifies eligibility requirements for filing an objection under this subpart. This section is written in the context of § 219.4 in subpart A, which expresses the Agency's intent to involve the public early and throughout the planning process in keeping with the collaborative nature of this final rule.

Section 219.53—Response to Comments

Except for minor corrections of editorial errors, the Department retains the proposed rule wording. The Department changed the term ''formal comments'' to ''substantive formal comments.'' In the proposed rule, we used both terms; in the final rule, we used the term ''substantive formal comments'' consistently throughout. The Department clarified in paragraph (a) that objections must be based on previously submitted substantive formal comments ''attributed to the objector'' to be consistent with § 219.54(c)(7). As discussed in response to comments for § 219.50, the Department changed the term ''organizations'' to ''entities'' in this section. These changes are not changes in requirements, but are clarifications.

Comment: Substantive formal comment. Some respondents requested the rule define ''substantive formal comment.''

Response: The proposed rule included a definition for ''formal comments.'' The final rule includes instead a definition of ''substantive formal comments,'' the term used throughout this subpart in the final rule, at § 219.62 of the final rule, in response to this comment. The definition is consistent with the definition used in Agency appeal regulations 36 CFR part 215 for ''substantive comment.''

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 rule requires 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 is intended to encourage public engagement throughout the planning process and help ensure that the Agency has the opportunity to hear and respond to potential problems as early as possible in the process. Without this requirement some substantive problems might not be identified until the end of the planning process.

This requirement will 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 the final rule requires 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 then can best be addressed. The Department does not believe it is 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 does not require participation in every one of those opportunities. This requirement should assist in the timely involvement of the public. The objection process is expected to resolve many potential 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: The planning process is intended to engage interested individuals and entities in an ongoing dialogue in which all substantive issues and concerns are identified. The Department decided to 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, this subpart recognizes that there may be issues that arise after the opportunities for public comment, and allows parties who have participated earlier 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 individuals and entities, other than Federal agencies. Federal agencies have other avenues for working together to resolve concerns, including consultations required by various environmental protection laws. It is expected that Federal agencies will work cooperatively during the planning process.

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.

Section 219.54—Filing an Objection

This section of the final rule sets out how to file an objection, and the minimum content that must be included.

Section 219.54—Response to Comments

Minor changes were made to this section in response to public comment. Paragraph (a) was changed to clarify that all objections must be submitted to the reviewing officer for the plan. The Department added ''other published Forest Service documents'' to (b)(2) of this section to indicate that, along with Forest Service Directives System documents and land management plans, published Forest Service documents may be referenced rather than included in an objection. The Department also clarified in Paragraph (b) that any documents not listed in (b)(1)–(4) that are referenced in an objection must be included with the objection or a web link must be provided. These minor changes and clarifications reflect public comments.

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 final rule retains the proposed rule wording. The Department believes the requirements are clear, and will help the reviewing officer understand the objection and review it in a timely way. The documents that can be included by reference 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 a proposed plan, plan amendment, or plan revision comment period. The final rule was modified to allow for published Forest Service documents to be included by reference as well. All documents not identified in the list in § 219.54(b), or Web links to those documents, must be included with the objection, if referenced in the objection.

Comment: Internet submission of objections. Some respondents felt the rule should allow filing of objections via Internet communication.

Response: An email submittal to the appropriate email address is 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 meaningful 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.

Section 219.55—Objections Set Aside From Review

This section describes the various circumstances that would require a reviewing officer to set aside an objection from review and the notification requirements related to setting an objection aside.

Section 219.55—Response to Comments

The Department made minor changes for clarity and consistency. Comments on this section were answered in response to comments regarding § 219.53. As discussed in response to comments for § 219.50, the Department changed the term ''organization'' to ''entity'' in this section.

Section 219.56—Objection Time Periods and Process

This section details the time in which objections can be filed, how time periods are calculated, the evidence required to demonstrate a timely filing, the role and responsibilities of the reviewing officer, publication of notifications, and the reviewing officer's response requirements.

Section 219.56—Response to Comments

Two changes were made to this section. The Department lengthened the amount of time from 30 days to 60 days to file an objection if an EIS has been prepared and the Department lengthened the time from 30 days to 45 days if an EIS is not prepared. This change in procedural requirements was made to give more time to the public in response to public comment on the proposed rule. Changes to other sections in this subpart were made to be consistent with this change.

In addition, in paragraph (e) of this section, the Department added the requirement that for an objection or part of an objection related to the selection of species of conservation concern, the reviewing officer may not be the regional forester who identified those species, but must be a different line officer. The Chief may be the reviewing officer or may delegate the reviewing officer authority and responsibility to a line officer at the same administrative level as the regional forester. In addition, the Department added a requirement for the reviewing officer for the plan to convey any such objections to the appropriate line officer. These changes in requirements are needed because of the change in § 219.9(c) subpart A requiring that the regional forester, rather than the responsible official for the plan, identify the species of conservation concern.

Comment: Thirty-day comment period. Some respondents felt the 30-day time limit for filing an objection is too short.

Response: Section 219.56 was changed to modify the objection filing period to 60 days for a new plan, plan revision, or a plan amendment for which an EIS is prepared, and 45 days for amendments for which an EIS is not prepared in response to this comment.

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: The final rule retains the 10-day requirement. Persons who have been participating throughout the process should already be familiar with those issues, 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 affect the reviewing officer's ability to schedule meetings in a timely manner 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

This section explains the Department's requirements for the process and responsibilities related to the resolution of objectives. The intent of this process is to have a meaningful dialogue with objectors and interested parties in order to resolve as many concerns as possible prior to approval of a plan, plan amendment, or plan revision.

Section 219.57—Response to Comments

The Department retains the proposed rule wording in the final rule.

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 will 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 allow similar issues to be examined and responded to consistently and efficiently.

Section 219.58—Timing of a Plan, Plan Amendment, or Plan Revision Decision

This section describes when a responsible official could approve a plan, plan amendment, or plan revision.

Section 219.58—Response to Comments

Other than a minor correction to paragraph (c) to change ''30-day time period'' to ''allotted filing period'' to be consistent with the option of either the 60-day or 45-day time period for filing of an objection under § 219.56, the Department retains the proposed rule wording in the final rule.

Comment: A respondent felt that the 5-day business period following the objection period should be increased to 10 days.

Response: The Department determined that 5 business days are an adequate time period for an objection that was timely filed to be received by the reviewing officer, under any delivery option.

Section 219.59—Use of Other Administrative Review Processes

This section would allow for the use of other administrative review processes in lieu of the objection process in certain circumstances when the Forest Service is participating in a multi-Federal agency planning process or when a plan amendment is approved in a decision document approving a project or activity.

Section 219.59—Response to Comments

The proposed rule authorized the reviewing officer to choose whether to adopt the administrative review procedure of another Federal agency. The final rule instead gives the responsible official this authority, to better reflect the Department's intent, and consistent with the requirement for the responsible official to notify the public early in the planning process that a review process other than the objection process of this subpart would be used.

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 applicable to a project and all future projects in the plan area is made at the same time as that project or activity decision. In such circumstances, the objection process applies to the plan amendment decision, and the review process of 36 CFR part 215 or 218 would apply to the project or activity decision (§ 219.59(b)). In these circumstances, while the NEPA analysis for amendment and project may be combined, the responsible official is making two separate decisions: A project or activity decision and a plan amendment that applies to all future projects or activities. Each action, project, and amendment, should be reviewed under its appropriate review procedures. A person or entity may seek review of either or both, depending upon the person's or entity's concerns.

The Department requires the public be notified during the NEPA process that the objection process will be used (unless the option provided by paragraph (a) of this section to use another process is available and chosen). 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

This section clarifies that nothing in this subpart restricts the statutory authority of the Secretary of Agriculture regarding the protection, management, or administration of NFS lands.

Section 219.60—Response to Comments

The section of the final rule is unchanged from the proposed rule. No comments were submitted by the public on this section.

Section 219.61—Information Collection Requirements

This section explains that this subpart's requirements regarding information that an objector must provide are ''information collection requirements'' as defined by 5 CFR part 1320 and that these requirements have been approved by the Office of Management and Budget.

Section 219.61—Response to Comments

This section of the final rule is unchanged from the proposed rule. No comments were submitted by the public on this section.

Section 219.62—Definitions

This section defines some of the terms and phrases used in subpart B of the proposed rule.

Section 219.62—Response to Comments

The Department has made a few minor changes throughout this section.

The final rule dropped the definition of ''formal comments'' and added a definition of ''substantive formal comments.'' This definition includes the definition of the proposed rule's term, ''formal comments,'' and added wording to clarify when comments are considered substantive. The final rule also modified the definition of ''objection period'' by replacing the proposed rule's ''30 calendar day period'' with ''allotted filing period.'' As discussed in response to comments for § 219.50, the Department changed the term ''organization'' to ''entity'' in this section.

Comment: Substantive formal comment: Some respondents requested the rule define ''substantive formal comment.''

Response: In response to this comment, and because the term ''substantive formal comment'' is now used consistently throughout this subpart, the final rule defines ''substantive formal comments.'' The definition is consistent with the definition used in Agency appeal regulations 36 CFR 215 for ''substantive comment.''

Regulatory Certifications

Regulatory Planning and Review

The Agency reviewed this final rule under U.S. Department of Agriculture (Department) procedures and Executive Order (E.O.) 13563 issued January 18, 2011, and E.O. 12866 issued September 30, 1993. Executive Orders 13563 and 12866 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility.

The final rule will not have an annual effect of $100 million or more on the economy or adversely affect productivity, competition, jobs, the environment, public health or safety, or State or local governments. This final rule will not interfere with an action taken or planned by another Agency. Finally, this final rule will not alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients of such programs. However, because of the extensive interest in National Forest System (NFS) planning and decisionmaking, this rule has been designated a significant regulatory action, although not economically significant, under section 3(f) of Executive Order 12866. Accordingly, the rule has been reviewed by the Office of Management and Budget (OMB).

A cost benefit analysis, including the regulatory impact analysis requirements associated with Executive Orders 13563 and 12866 and OMB circulars, has been developed. The analysis evaluates the regulatory impact and compares the costs and benefits of implementing the final rule to the baseline, which assumes planning pursuant to the 1982 rule procedures, as allowed by the transition provisions of the 2000 planning rule (36 CFR 219.35(b), 74 FR 67073 (December 18, 2009)). This analysis is posted on the World Wide Web at: *http://www.fs.usda/planningrule,* along with other documents associated with this final rule.

The scope of this analysis is limited to programmatic or agency procedural activities related to plan development, plan revision, and plan amendment of land management plans for management units (for example, national forests, grasslands, prairies) within the NFS. No costs or benefits associated with on-the-ground projects or activities are characterized or projected. Potential procedural effects evaluated in the analysis include potential changes in agency costs for planning and changes in overall planning efficiency. In this analysis, costs refer to planning costs to the Agency. Benefits refer to the benefits of the alternatives in terms of planning efficiency and capacity for land management plans to maintain long-term health and productivity of the land for the benefits of human communities and natural resources. This analysis identifies and compares the costs and benefits associated with developing, maintaining, revising, and amending NFS land management plans under six alternatives: Alternative A the proposed NFS planning rule (proposed rule); Modified Alternative A modification of the proposed rule (final rule); Alternative B the implementation of 1982 rule procedures under the 2000 rule (No Action); Alternative C the minimum to meet the National Forest

Management Act (NFMA) and purpose and need; Alternative D a modified version of the proposed rule with an alternative approach to species diversity and an emphasis on watershed health; Alternative E a modified version of the proposed rule with emphasis on monitoring performance and collaboration. Alternative B is the no action alternative and therefore the baseline for this analysis.

The final rule includes the same concepts and underlying principles as the proposed rule. However, there are a number of changes to the rule text and to the document structure. The changes are based on public comment received during the comment period on the DEIS and the proposed rule (Alternative A).

The cost and benefits of the final rule are evaluated within the context of a planning framework consisting of the three-part learning and planning cycle: Assessment, development/revision/amendment, and monitoring. The cost-benefit analysis focuses on key activities related to this three-part planning cycle for which agency costs can be estimated with the 1982 rule procedures as a baseline. Differences in costs across alternatives are estimated when possible, but benefits are discussed qualitatively as potential changes in procedural or programmatic efficiency. The key activities for which costs were analyzed include: (1) Assessments (for example, identification and evaluation of existing information relevant to the plan area to establish a basis of information and the landscape-scale context for management prior to changing the plan); (2) public participation (for example, collaboration and public participation activities not including those required by the NFMA and NEPA); (3) development and analysis of plan revision and amendment decisions (developing of alternatives to address the need to change the plan, analyzing and comparing the effects of alternatives, notification and comment solicitation requirements under NEPA, and finalizing and documenting plan revision and plan amendment decisions); (4) science support (activities for assuring identification and use of the best available scientific information); (5) resolution of issues regarding plan revisions or plan amendments through the administrative processes of appeals or objections; (6) monitoring (limited to those monitoring activities that support planning); and (7) minimum plan maintenance (minimum expenses to maintain a plan during non-revision years, excluding assessment, collaboration, and analysis/decision costs associated specifically with plan amendments).

Primary sources of data used to estimate agency costs include recent cost-benefit analyses, business evaluations, and budget justifications for planning rules issued between 2000 and 2008 and recent historical data (1996–2009) regarding regional and unit-level budget allocations and paid expenditures for planning and monitoring activities related to planning. The 1982 rule procedures are considered the baseline for this analysis. Until a new planning rule is in place, the 1982 rule procedures are being used, as permitted by the transition provision of the 2000 rule, to develop, revise, and amend all plans. Agency costs are initially estimated for the 1982 rule procedures and then used as a baseline from which adjustments are made, based on explicit differences in planning procedures, to estimate the incremental impact of the final rule. However, it should be noted that cost projections of the final rule are speculative because there are challenges anticipating the process costs of revising and amending plans at this programmatic level of analysis. Annual costs are estimated separately for years during which units (with regional support) are engaged in plan revision and the years units are engaged in plan maintenance/amendment. The estimated costs are then aggregated to estimate total planning costs. Based on past studies and analyses of plan revisions under the 1982 rule procedures, the agency determines that plan revisions under the 1982 rule procedures will take approximately 5 years. These studies and analyses indicate that plan revisions for some units may take 7 years or longer. For estimation of average agency costs for planning over a 15-year planning cycle, it is assumed that management units will be engaged in plan revision for 3 to 4 years under the final rule and 5 years under the 1982 rule procedures, assuming annual plan maintenance or more frequent but shorter amendments than the 1982 rule procedures will be occurring for the remaining years between revision cycles.

Monitoring is assumed to occur every year, but monitoring differs slightly for plan revision years compared to maintenance years. Shorter revision periods reflect the expectation that the process for revising plans will be more efficient under the final rule because of procedural changes described below (see ''Efficiency and Cost Effectiveness Impacts''). It is also assumed that approximately 120 management units will initiate plan revision over the next 15 years (2012 through 2026). Total costs are assumed to cover activities directly related to planning (and monitoring for planning purposes) at the unit and regional office levels, as well as indirect or overhead (cost pools) activity for supporting planning activities, but do not include project-level costs. Costs associated with planning at the national office and research stations are assumed to remain relatively constant across alternatives; these costs are unknown but not expected to be substantial compared to other costs evaluated. Total costs (2009 dollars ($)) are estimated for a 15-year planning cycle and then annualized assuming a 3 percent and 7 percent discount rate. Annualized costs accrued over the 15-year period reflect the annual flow of costs that have been adjusted to acknowledge society's time value of money.

Due to the programmatic nature of the final action, the benefits derived from land management plans developed, revised, or amended under the different alternatives are not quantified. Instead, the benefits of the alternatives are assessed qualitatively for procedural or programmatic efficiency. Efficiency is a function of (1) the time and resources used (costs) to complete and maintain plans, and (2) the degree to which those plans are capable of providing direction for resource monitoring, management, and use/access that sustains multiple uses (including ecosystem services) in perpetuity and maintains long-term health and productivity of the land for the benefit of human communities and natural resources, giving due consideration to relative values of resources (that is, meets the objectives of the NFMA and other key guiding legislation).

Agency Cost Impacts

Results of the cost analysis indicate agency costs increase for some key activities and decrease for others under the final rule and alternatives. However, total annual planning costs are not projected to be substantially different between the final rule and the 1982 rule procedures. Estimates of potential differences in planning costs are complicated by the unknown effects of any future Forest Service directives that might be developed to support the final rule.

As shown in Table 1, the annual average undiscounted cost to the Agency for all planning-related activities under the final rule ($97.7 million per year) are estimated to be $4.8 million per year lower compared to the proposed rule ($102.5 million per year), and $6.3 million per year lower

compared to the 1982 rule procedures ($104 million per year).

TABLE 1—SUMMARY OF ESTIMATED ANNUAL AVERAGE COSTS OF ALTERNATIVE RULES

[In million $ per year *]

	Estimated annual average costs			Net savings/(cost) comparisons	
	Final rule	Proposed rule	1982 rule procedures	Final rule to proposed rule	Final rule to 1982 rule procedures
Annual average undiscounted costs	97.7	102.5	104	4.8	6.3
Annualized discounted costs at 3%	97	102	103	5	6
Annualized discounted costs at 7%	96.3	101.2	102.2	4.9	5.9

* Estimates are in 2009 dollars.

Assuming a 3 percent discount rate, the projected annualized cost for the final rule is estimated to be $97 million, while the projected annualized cost for the proposed rule is $102 million, implying an annualized cost difference between the final rule and the proposed rule of $5 million, while the projected annualized cost for the 1982 rule procedures is $103 million, implying a projected annualized cost difference of $6 million. Assuming a 7 percent discount rate for the same timeframe, the projected annual cost estimate for the final rule is $96.3 million compared to $102.2 million under the 1982 rule procedures.

Given the relatively small change in estimated costs, combined with the uncertainty associated with costing assumptions, estimated annual planning costs for the final rule are not projected to be substantially different from the proposed rule and the 1982 procedures. However, over a 15-year period more plan revisions and amendments are expected to be completed under the final rule as compared to the 1982 rule procedures for about the same amount of cost estimated. It is anticipated that units will 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) and (c)): Thereby improving the quality of plans and therefore the efficiency of the planning process.

Based on the above quantitative comparison, annual average planning costs to the Agency are projected to be similar for the final rule, the proposed rule, and the 1982 procedures. A learning curve is expected under the final rule. During the initial efforts by management units to develop, revise, or amend plans under the new rule, costs are expected to reflect additional time and resources needed to adjust to a new planning framework, including training. It is likely the cost of training will decrease gradually over time. Therefore, during the first 15-year period, planning costs will be slightly elevated and not significantly different from the no-action alternative as units adjust to the new planning process and build collaborative capacity. In subsequent 15-year periods, planning costs are likely to decrease as the new process becomes more established. Planning costs in subsequent planning cycles are expected to decrease, recognizing there will still be efficiency gains during the initial planning efforts.

The cost and benefit analysis assumed eight management units will start plan revision annually. Therefore, approximately 120 management units will at least initiate plan revision over the next 15 years (2012 through 2026). This analysis also assumed each management unit would take 3 to 4 years to revise a plan under the final rule and 5 years under the 1982 rule procedures. Given these assumptions, over a 15 year period, there would be approximately 104 plan revisions completed under the final rule in contrast to an estimated 88 plans revised under the 1982 rule procedures, a net increase of 16 plans revised under the final rule.

Efficiency and Cost-Effectiveness Impacts

The numerous public meetings, forums, and roundtable discussions revealed growing concern about a variety of risks, stressors, and challenges to planning (for example, climate change; insects and disease; recreation, timber, and other shifts in demands; population growth, and other demographic shifts; water supply protection and other ecosystem support services). Addressing these types of risks and contingencies requires a larger landscape perspective, information from a broad spectrum of sources, and a framework that can facilitate adaptation to new information. The new procedural requirements under the rule are designed to recognize these needs. The requirements are intended to increase agency capacity to adapt management plans in response to new and evolving information about risks, stressors, contingencies, and management constraints as described in the section above. It is anticipated under the final rule that the Agency will be able to establish plans that are efficient and legitimate frameworks for managing resources that meet public demand in a sustainable fashion and satisfy the goals of the MUSYA and the NFMA, and that management units will be better able to keep plans updated and current with evolving science and public concerns without substantial changes in planning costs over a 15-year period.

Under the final rule, costs are projected to be redirected toward collaboration, assessment, and monitoring activities and away from development and analysis of alternatives compared to the 1982 rule procedures. Costs are also expected to be redirected more toward maintenance or plan amendments under the final rule, due in part to expectations that less time will be needed to complete plan revisions. These effects are projected to occur, in part, because of broader support and resolution of issues at earlier stages of plan revision, achieved through collaboration as well as other procedural changes.

The reallocation of efforts and costs across different phases of planning, and across key planning activities under the final rule is expected to improve overall planning efficiency. Shifts in emphasis and resources under the final rule are projected to improve the currency, reliability, and legitimacy of plans to serve as a guide for: (1) Reducing uncertainty by identifying and gathering existing and new information about conditions, trends, risks, stressors, contingencies, vulnerabilities, values/needs, contributions, and management

constraints; (2) integrating and assessing ecological, social, and economic information to determine if outputs and outcomes related to unit contributions to ecological, social, and economic conditions indicate a need to change the plan; and (3) responding to the need for change in management activities, projects, or revisions and amendments to plan components. Potential increases and/or reallocation of costs associated with assessment, analysis, and monitoring requirements for elements such as diversity and sustainability are expected to provide clearer direction for subsequent project planning. Project-level costs are not included in the analysis of land management planning costs.

Agency planning costs under the final rule are estimated to be slightly lower compared to the proposed rule and the 1982 rule procedures, however, due to relatively small differences in estimated costs, combined with uncertainty associated with costing assumptions, the estimated agency costs are not projected to be substantially different between the proposed rule, the final rule, and the 1982 rule procedures. Changes in rule requirements under the final rule will enhance planning efficiency, and more plan revisions and amendments, as well as more effective plans, are expected as a result of the final rule. Details about the potential effects of specific procedural changes on agency costs and planning efficiency are described below, by activity category.

Assessment: Slight increases in assessment costs (compared to the cost of doing an analysis of the management situation under the 1982 rule procedures) are anticipated under the final rule. This is due to an increased emphasis 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. Gains in cost effectiveness are achieved through other elements such as direction to rely on existing information and the removal of required prescriptive benchmark analysis. Changes in the assessment requirements and guidance are expected to increase planning efficiency and effectiveness by improving capacity to assimilate and integrate existing and new information to inform changes to the plan.

Assessments would identify and evaluate information at landscape levels and at a geographic scale based on ecological, economic, or social factors relevant to the plan area, rather than reliance on administrative boundaries. This broader approach would enhance capacity to incorporate information about conditions outside of NFS boundaries relevant to management of the plan area.

Risks and vulnerabilities to ecosystem elements and functions would be considered in assessments thereby encouraging consideration of the effects of long-term environmental or social/economic variability, events, and trends on future outputs, ecosystem services, and outcomes.

For the final rule, the level of effort, or reallocation of effort (and cost) to the assessment phase is reduced as compared with the proposed rule, due to a narrower focus on rapid review and evaluation of existing information (for example, assessments completed by States and other entities, and so forth), as well as the inclusion of a specific set of topics to focus on for the assessment, as opposed to the broader direction in the proposed rule. Requirements to discuss roles and contributions, ''need-to-change,'' as well as monitoring questions have been removed under the final rule. The 'benefits people obtain from NFS planning areas' (ecosystem services) have been highlighted under the final rule. Direction to gather and evaluate information about potential species of conservation concern is more explicit (and transparent) under the final rule. The changes in assessment requirements under the final rule are expected to improve the cost effectiveness of assessments. These changes are also designed to increase the likelihood of improving capacity to respond to changes in conditions and trends, as originally intended under the proposed rule.

Public Participation: Requirements for public participation (including collaboration) have not changed between the proposed and final rules. Costs associated with public participation are projected to increase under the final rule as compared to the 1982 rule procedures due primarily to requirements that opportunities for participation, including collaboration where feasible and appropriate, be provided throughout the planning process. Gains in cost effectiveness may occur, in part, by providing responsible officials with discretion to design collaborative strategies that meet unit-specific needs and constraints and recognize local collaborative capacity. Costs for some units may be higher where potential barriers to collaboration are present (for example, pre-existing relationships may exacerbate perceived inequities; absence of pre-existing social networks or capacity; or false commitments). Recognizing these challenges, the final rule provides responsible officials with discretion to determine the scope, methods, and timing of opportunities for public participation that are appropriate to the circumstances specific to the action being taken, and the final rule states that opportunities for collaboration be offered when feasible and appropriate. However, changes in guidance and requirements for public participation under the final rule are expected to increase planning efficiency, especially as related to the relevance and effectiveness of plans, because of the following:

(1) Improved analysis and decisionmaking efficiency during latter stages of planning due to increases in public input during early phases;

(2) Improved capacity to reduce uncertainty by gathering, verifying, and integrating information from a variety of sources, including Tribal or other forms of knowledge, within and beyond unit boundaries;

(3) Potential to offset or reduce agency monitoring costs as a result of collaboration during monitoring plan development and monitoring itself;

(4) Improved capacity to consider values and concerns for all economic sectors and social segments, including amenity-driven demographic shifts associated with local or rural communities in wildland dependent counties;

(5) Reduced need for large numbers of plan alternatives as well as time needed to complete plan revisions as a consequence of broader support and resolution of issues achieved through public participation and collaboration during early phases of final plan development;

(6) Improved perceptions regarding the legitimacy of plans and the planning process and improved ability to address issues and concerns prior to the need for litigation by increasing transparency, developing awareness of the values and expected behavior of others, and seeking greater understanding about values, needs, tradeoffs, and outcomes during earlier stages of planning; and,

(7) Building unit (and regional) capacity to overcome existing barriers to collaboration (for example, absence of social networks or capacity; perceptions about pre-existing power relationships) through training and facilitation.

Analysis and decisions (plan development, plan revision or amendment): Costs associated with analysis and decisions are estimated to decrease overall under the final rule due primarily to the effect of fewer prescriptive requirements (relative to

1982 rule procedures) regarding probable (management) actions, timber program elements, number and types of alternatives, evaluation of alternatives, and minimum management requirements. The forces affecting the cost include (1) increased emphasis on consideration of resource attributes and conditions such as sustainability, watershed health, and water supply, and (2) adaptation to new approaches for addressing species viability and diversity in the short-term (with long-term potential for gains in cost-effectiveness).

The following elements associated with the final rule are expected to increase planning efficiency by facilitating plan revisions and amendments, expanding capacity for adaptive management, and improving guidance for responding to diverse determinations of a need to change the plan:

The adoption of a coarse-filter/fine-filter approach for addressing species viability and diversity within plan components, combined with the recognition of land management and resource limits which constrain the Agency, is expected to make management units better able to develop plans that provide feasible or realistic direction for responding to species and ecosystem sustainability and recovery needs and meeting requirements for plant and animal diversity.

A greater emphasis on sustainability and ecosystem integrity in plan components is expected to facilitate restoration responses triggered by new information regarding environmental, social, and economic risks and stressors, including climate change and changes in demand for goods and services. Expected results include reduced effects from anthropogenic stressors, thereby helping to restore healthy ecosystems and compatible uses (especially in areas sensitive to disturbance and changing conditions) as well as increased protection of riparian area function.

Refocusing the use of the term ''restoration'' to focus on recovery of resiliency and ecosystem functions (instead of historical reference points) provides greater flexibility to respond to need-for-change regarding damaged ecosystems.

Greater emphasis placed on identifying each unit's role in providing ecosystem services within a broader landscape or region should facilitate the design of management responses that recognize the marginal effects or contributions of ecological, social, or economic conditions originating from outside of the traditional unit study area boundaries.

More frequent amendments expected under the final rule could potentially lead to fewer need-for-change determinations when plans are revised. Assessments and proposal steps may not be needed for some amendments.

Under the final rule, slightly more effort is re-directed to activities associated with development and analysis of plan revisions (or amendments) compared to the proposed rule. Examples of changes under the final rule that can enhance overall planning efficiency include:

- Moving ''Need-to-change'' determinations from assessments to the plan revision phase to clarify the separation between the assessment and NEPA phases;
- Clarifying how plan area ecosystems are integrated into landscape-level ecological, social, and economic sustainability;
- Refining and clarifying requirements for riparian zones; and
- Clarifying unit responsibilities for the diversity of plant and animal communities.

These changes are expected to contribute to planning efficiency by improving the capacity of plans to provide for sustainability and diversity.

Science support: Slight cost increases for science support may occur under the final rule due in part to more prescriptive wording to use the best available scientific information during the planning process to inform the planning process, plan components, and other plan content, including the monitoring program. On the other hand, requirements under the final rule for using the best available scientific information to inform decisions contribute to planning efficiency by maximizing coverage of scientific input from diverse sources, integrating science throughout all stages of planning, and taking advantage of scientific knowledge from external partners and agency research stations, thereby strengthening the decisionmaking process. Also the final rule has fewer documentation requirements, concentrating the burden of documentation on the most relevant and appropriate points in the planning process. Additional changes are made to clarify the responsible official's use of best available scientific information in informing the planning process.

Resolutions: The cost effect of a shift from a post-decisional appeals process (under the 1982 rule procedures) to a pre-decisional objection period under the final rule is difficult to project. Ongoing litigation under the current planning rule is costly and time consuming and may continue under the new rule. However, the new planning framework (i) places greater emphasis on public participation and collaboration early and throughout the planning process, (ii) adopts a pre-decisional objection process, and (iii) changes the regional office responsible official from regional forester to forest supervisor. These changes are expected to improve legitimacy and trust in the planning process and contribute to more efficient resolution of issues early in the process, prior to the plan development, plan revision or plan amendment approval. Making a decision on an objection before plan approval can be less disruptive than an appeal decision which can come months after plan implementation begins. The more frequent use of amendments expected under the final rule will keep plans more current and is expected to narrow the focus of changes over time. In addition, the assessment and monitoring phases of the planning framework are expected to build public support and improve the legitimacy and relevance of plans by providing and continually updating a transparent base of information to inform management decisions. There is no expectation of unanimous support for any given proposed plan development, plan revision or plan amendment under any of the alternatives, however early resolution of issues is expected to occur and contribute to overall planning efficiency under the final rule. Efficiency gains under the final rule are expected to be similar to the proposed rule for resolution of issues, recognizing that the objection period for actions involving environmental impact statements is extended to 60 days under the final rule and to 45 days when there is no environmental impact statement.

Monitoring: Relative increases in monitoring costs as compared to the 1982 rule procedures are anticipated as a consequence of a greater emphasis on broader input and participation in the design and implementation of monitoring, new approaches for characterizing diversity and resiliency, and two-level (plan and broad-scale) monitoring. However, over time, the two-level approach to monitoring is expected to increase monitoring efficiencies and decrease the cost of other planning related activities. Under the final rule, the two-level approach to monitoring is intended to inform the plan area management and make progress toward desired outcomes. By testing assumptions, tracking changing conditions, and assessing management effectiveness, monitoring information will inform adaptive management and lead to more effective and relevant

plans. Plan monitoring and broader-scale monitoring levels are related. The monitoring framework would require monitoring to be more consistent across units of the NFS. The final rule would mobilize multi-party monitoring resources by working across all Forest Service branches and engage partners and other Government agencies in its monitoring efforts to help reduce the cost of added monitoring requirements and provide for monitoring efforts that are complementary. There is also potential that collaboration would result in more cooperative monitoring programs with other agencies and the public. This could help leverage resources to accomplish additional monitoring.

Changes in guidance and requirements for monitoring under the final rule as compared to the 1982 rule procedures are expected to increase planning effectiveness by improving capacity to gather information and reduce uncertainty for a number of integrated ecological, social, and economic conditions, trends, risks, stressors, constraints, and values within and beyond unit boundaries.

Monitoring under the final rule focuses to a greater extent on ecosystems, habitat diversity, and smaller numbers of species to monitor (relative to MIS under Alternative B), with the intent that tracking of species diversity and habitat sustainability will be more cost-effective and reflective of unit-specific capabilities. Two-level monitoring is intended to create a more systematic and unified monitoring approach to detect effects of management within unit boundaries as well as track risks, stressors, and conditions beyond unit boundaries that affect, or are affected by, unit conditions and actions.

Emphasis on coordination between plan area monitoring and broader-scale monitoring helps ensure information is complementary, is gathered at scales appropriate to monitoring questions, reduces redundancy, and improves cost-effectiveness.

Efficiency gains under the final rule are expected to be similar to the proposed rule. Changes to monitoring requirements under the final rule should enhance those gains by: (1) Clarifying that monitoring information should inform need-to-change, (2) modifying requirements for engaging various partners in developing the monitoring program, and (3) clarifying the connection between the monitoring requirements and the requirements for diversity in § 219.9.

Distributional Impacts

Due to the programmatic nature of this rule, it is not feasible to assess distributional impacts (for example, changes in jobs, income, or other measures for social and economic conditions across demographics or economic sectors) in detail. Under the final rule, units would continue to use their timber sale program and other forest management activities to enhance timber and other forest resource values and benefits over time (similar to the 1982 procedures). Continued monitoring of recreation use is expected under the final rule as a result of continuation of the national visitor use monitoring system. Collaboration under the final rule would help assure consideration of a broad spectrum of recreational values and an integrated mix of sustainable recreation opportunities relevant to each NFS unit.

Grazing allotments are parcels or designated areas of rangeland leased or permitted to a livestock grazer. Their use is planned and monitored to maintain sustainable production and rangeland health. Plans would include plan components to maintain or restore ecological integrity of lands, including rangelands, and grazing allotment management plans would continue to be modified to be consistent with plans developed under the final rule, as they are for plans developed using the 1982 rule procedures.

In general, the final rule is designed to facilitate engagement and involvement throughout all phases of planning, thereby improving capacity to consider and incorporate values and concerns for all economic sectors and social segments affected by any given plan, plan revision, or plan amendment. The final rule is also intended to facilitate assimilation of existing or new information about local or rural, as well as national, concerns and values throughout the planning process. Increased opportunities for considering and addressing social and economic concerns through participation and collaboration under the final rule therefore apply evenly across all sectors and populations.

The final rule requires plans to have plan components that ''guide the plan area's contributions to social and economic sustainability.'' The final rule also requires that plans include a statement of the roles and contributions of the unit within a broader landscape and that assessments, plan component development, and monitoring consider social and economic conditions, including a broad spectrum of goods and services. These requirements provide a flexible means for acknowledging the varying and relative importance of plan area contributions to social and economic sustainability as it relates to a range of economic sectors and populations across units and regions.

The final rule is more prescriptive about considering and facilitating restoration of damaged resources as well as improving resource capacity to withstand environmental risks and stressors (that is, resiliency), thereby providing greater capacity for sustaining local or rural economic opportunities to benefit from forest resources and ecosystem services, including recreation/tourism and water supply/watershed health as well as restoration based activities.

Proper Consideration of Small Entities

The final rule has also been considered in light of Executive Order 13272 regarding proper consideration of small entities and the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), which amended the Regulatory Flexibility Act (5 U.S.C. 601 et. seq.). The Department has determined this action will not have a significant economic impact on a substantial number of small entities as defined by the E.O. 13272 and SBREFA, because the final rule imposes no requirements or costs on small entities, nor does it impose requirements or costs on specific types of industries or communities. In addition, the final rule provides more opportunities for small entities to engage with the Department and become more involved in all phases of planning, thereby expanding capacity to identify and consider the needs and preferences of small entities. Timelier planning and management decisions under the final rule should increase opportunities for small entities to benefit from implementation of updated land management plans. Additional emphasis on ecosystem resiliency to facilitate restoration activities and on sustainable recreation opportunities should help sustain economic opportunities linked to local or rural communities, many of which are host to small entities. Therefore, a regulatory flexibility analysis is not required for this final rule.

Energy Effects

This final rule has been reviewed under Executive Order (E.O.) 13211 issued May 18, 2001), ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use.'' It has been determined that this final rule does not constitute a significant energy action as

defined in E.O. 13211. While the Agency does not manage subsurface minerals, mineral exploration and development does occur on NFS lands. Similarly, the Agency recognizes the growing demand for geothermal, wind, and solar energy development on NFS lands. Agency management of the renewable resources mandated by MUSYA recognizes ongoing and potential exploration and development while protecting and conserving these renewable resources. The final rule set out administrative procedural requirements whereby NFS land management plans are developed, revised, and amended. The final rule recognizes in § 219.10 that development of renewable and non-renewable energy resources are among the potential uses in a plan area. However, the final rule does not dictate the activities that may occur or not occur on administrative units of the NFS. Accordingly, the final rule does not have energy requirements or energy conservation potential.

Plans developed under the final rule will provide the guidance for making future project or activity resource management decisions. The final rule recognizes in § 219.10 that the placement and maintenance of infrastructure such as transmission lines are among the potential uses in a plan area. Land management plans may identify major rights-of-way corridors for utility transmission lines, pipelines, and water canals. The effects of the construction of utility transmission lines, pipelines, and canals are, of necessity, considered on a case-by-case basis as specific construction proposals. While these plans may consider the need for such facilities and may include standards and guidelines that may constrain energy exploration and development, they would not authorize construction of them; therefore, the final rule does not constitute a significant energy action within the meaning of E.O. 13211. Consistent with E.O. 13211, direction to incorporate consideration of energy supply, distribution, and use in the planning process will be included in the Agency's administrative directives for carrying out the final rule.

Environmental Impacts

This final rule establishes the administrative procedures to guide development, amendment, and revision of NFS land management plans. The Agency has prepared a final programmatic environmental impact statement to analyze possible environmental effects of the final rule, present several alternatives to the final rule, and disclose the potential environmental impacts of those alternatives. The final programmatic environmental impact statement is available on the Web at *http://www.fs.usda.gov/planningrule*.

The final rule requires plan development, amendment, or revision to follow NEPA procedures. The rule requires an EIS for plan development and plan revisions. The rule also requires that plan amendments comply with Forest Service NEPA procedures. The appropriate NEPA documentation for an amendment may be an EIS, an EA, or a CE, depending upon the scope and scale of the amendment and its likely effects.

Controlling Paperwork Burdens on the Public

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the information collection or reporting requirements for the objection process were previously approved by the Office of Management and Budget (OMB) and assigned control number 0596–0172 for the objection process included in the Title 36, Code of Federal Regulations, Part 218—Predecisional Administrative Review Processes, Subpart. A—Predecisional Administrative Review Process for Hazardous Fuel Reduction Projects Authorized by the Healthy Forests Restoration Act of 2003.

The information required by subpart B of this rule is needed for an objector to explain the nature of the objection being made to a land management plan, plan amendment, or plan revision. This final rule retains the objection process established in the CFR 218 objection regulation and does not require additional information be provided from the public. This rule does instead give direction that is more detailed to both the public and Forest Service personnel on the timelines, requirements, and procedures of the objection process.

Federalism

The Agency has considered this final rule under the requirements of Executive Order (E.O.) 13132 issued August 4, 1999, ''Federalism.'' The Agency has made an assessment that the final rule conforms with the Federalism principles set out in this Executive Order; would not impose any compliance costs on the States; and would not have substantial direct effects on the States, on the relationship between the national Government and the States, nor on the distribution of power and responsibilities among the various levels of government. Therefore, the Agency concludes that this final rule does not have Federalism implications. Moreover, § 219.4(a) of this final rule shows sensitivity to Federalism concerns by requiring the responsible official to encourage participation of State and local governments and Indian Tribes in the planning process. In addition, § 219.4(b) requires the responsible official to coordinate planning with State and local governments and Indian Tribes.

In the spirit of E.O. 13132, the Agency provided many opportunities for State and local officials, including their national representatives, to share their ideas and concerns in developing the final regulation. Respondents to the February 14, 2011, proposed rule included the following: 113 county government agencies or elected officials, 62 State government agencies, elected officials, or associations, and 18 American Indian government agency, or elected officials. Many Tribal, State, and local government agencies submitted comments requesting that collaboration and coordination be mandatory before beginning plan revisions. Some respondents suggested that forest plans be made locally and adapted to ''local management,'' ''local control,'' and ''local collaboration.'' Intergovernmental planning coordination was supported by many respondents as well. Many respondents cited Federal, Tribal, State, local, and other types of planning they felt the Agency should be careful to consider and integrate into forest plans. Respondents often agreed that the Agency's planning efforts are strengthened when achieved in careful collaboration with local governments and other local interests. Comments of this nature were sometimes followed up with considerations for ''cooperating agency'' provisions to solidify the process and outcomes to be achieved through the participation of cooperating agencies. The Department carefully considered these comments when making changes to the rule.

Consultation With Indian Tribal Governments

On September 23, 2010, the Deputy Chief for the National Forest System sent letters inviting more than 600 federally recognized Tribes and Alaska Native Corporations to begin consultation on the proposed planning rule. The Forest Service continued to conduct government-to-government consultation on the planning rule while developing the final rule. The Forest Service considers Tribal consultation as an ongoing, iterative process through the issuance of the final rule.

The Agency held 16 consultation meetings across the country in November and December 2010. During these meetings, Forest Service leaders

met with Tribal and Alaska Native Corporation leaders, or their designees, to discuss a Tribal consultation paper, which described how the draft proposed rule discussed concerns Tribes had raised during the collaborative sessions held earlier in the year. Forest Service leaders also met one-on-one with Tribal leaders that requested consultation in this manner. In July 2011, the Deputy Chief for the National Forest System sent letters encouraging federally recognized Tribes and Alaska Native Corporations to continue consult prior to release of the final rule. Tribes have continued to consult one-on-one with Forest Service leaders, as well as through regional or sub-regional consultation meetings. All of the consultation meetings that have occurred throughout development of the proposed and final rule have strengthened the government-to-government relationship with the Tribes as well as improved the final rule. Consultation is an ongoing process and can occur at any time, including following publication of the final rule.

The Agency incorporated the input received through consultation before December 13, 2010, into the proposed rule. Those concerns heard during Tribal consultation after December 13 and which were given to the Agency by October 21, 2011, were considered for incorporation in the final rule.

The Agency also held two national Tribal roundtable conference calls to provide additional opportunities for Tribes and Tribal associations to comment prior to the development of the proposed planning rule. More than 45 Tribes and Tribal associations participated in the First National Tribal Roundtable on May 3, 2010, and more than 35 Tribes and Tribal associations participated in the Second National Tribal Roundtable on August 5, 2010. Transcripts and summaries of these meetings are available on the planning rule Web site. Additionally, six Tribal roundtables were held in California, Arizona, and New Mexico.

On March 11, 2011, after publication of the proposed rule, the Forest Service held a Tribal teleconference to provide information on the proposed rule and answer questions. Sixteen Tribes participated in the discussion and had the opportunity to have their questions answered by the Ecosystem Management Coordination Director and the Associate Chief of the Forest Service. A number of Tribes submitted comments on the proposed rule during the public comment period and the content of these letters has been carefully considered in developing the final rule.

The Agency heard from Tribal leaders that the rule should clearly state how the special rights and interests of Tribes would be provided for in the planning process and show how Tribes will be engaged early throughout the planning process. They emphasized the obligation the Forest Service has to Tribes to fulfill treaty obligations and trust responsibilities, protect and honor reserved rights, and fully recognize the unique government-to-government relationship that exists between the Federal Government and Tribes. Tribal leaders also stated that the role of science in the planning process must account for traditional Tribal knowledge. In response to these concerns, the final rule recognizes and does not modify the unique government-to-government relationship between the United States and Indian Tribes. The final rule recognizes and does not modify prior existing Tribal rights, including those involving hunting, fishing, gathering, and protecting cultural and spiritual sites. The rule requires the agency to work with federally recognized Indian Tribes, government-to-government, as providing in treaties and laws and consistent with Executive orders when developing, amending, or revising plans. The final rule encourages Tribal participation in NFS planning. Further, the rule recognizes the responsibility of Forest Service officials to consult early with Tribal governments and to work cooperatively with them where planning issues affect Tribal interests. Nothing in the final rule should be construed as eliminating public input or Tribal consultation requirements for future projects conducted in accordance with the final rule. The responsible official shall request information from Tribes about native knowledge, including information about land ethics, cultural issues, and sacred and culturally significant sites, during the planning process.

At § 219.4(b)(2), for plan development or revision, the responsible official shall review the planning and land use policies of federally recognized Indian Tribes, Alaska Native Corporations, other Federal agencies, and State and local governments. The results of the review would be displayed in the environmental impact statement for the plan. The final rule at § 219.4(a)(1)(v) requires, where appropriate, the responsible official to encourage federally recognized Tribes to seek cooperating agency status. This provides an additional opportunity for Tribes to be engaged in the planning process and provides further avenues for Tribes to provide input during the planning process. Additionally, the responsible official may participate in planning efforts of federally recognized Indian Tribes and Alaska Native Corporations, where practicable and appropriate. For federally recognized Tribes, cooperating agency status does not replace or superseded the trust responsibilities and requirements for consultation also recognized and included in the final rule.

Tribal leaders stated that they want to see non-federally recognized Tribes and groups included in the consultation or planning process, as well as the involvement of youth. Non-federally recognized groups and Tribes would be able to participate in the planning process under the public requirements in § 219.4. Section 219.4(a)(1)(ii) requires the responsible officials to encourage participation by youth, as well as low-income and minority populations.

Tribes place great emphasis on protection of water resources and want to see the planning rule include stipulations for water protection. Water resources are discussed throughout this final rule, including specifically in § 219.7 (New plan development or plan revision), § 219.8 (Sustainability), § 219.9 (Diversity of Plant and Animal Communities), and § 219.10 (Multiple Use). Tribes support a management approach that moves away from monoculture management and promotes sustainable and diverse populations of plants and animals. Section 219.9 of the final rule requires land management plans to contain components, including standards or guidelines, to maintain or restore the ecological integrity of terrestrial and aquatic ecosystems and watersheds in the plan area.

The definition of native knowledge in § 219.19 has been retained based on the feedback that we received during consultation. The definition acknowledges that native knowledge is a way of knowing or understanding the world derived from multiple generations of indigenous peoples' interactions, observations, and experiences with their ecological systems, and that it is also place-based and culture-based knowledge in which people learn to live in and adapt to their own environment through interactions, observations, and experiences with their ecological system.

Many Tribes had a variety of concerns regarding social, economic, and ecological sustainability, and suggested that the Agency specifically discuss cultural sustainability within the final rule and protect cultural resources. The definition in the final rule of

''sustainability'' notes that ''social sustainability refers to the capability of society to support the network of relationships, traditions, culture, and activities that connect people to the land and to one another, and support vibrant communities.'' In addition, § 219.1(c) recognizes that NFS lands provide people and communities with a wide array of benefits, including ''cultural benefits.'' Section 219.4 requires opportunities for public and Tribal participation and coordination throughout the planning process. Section 219.4(a)(3) requires 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. Section 219.6(b) requires assessment content to include cultural conditions and cultural and historic resources and uses. Section 219.8 in the final rule recognizes 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.'' Section 219.10(b)(1)(ii) of the rule requires ''plan components * * * for a new plan or plan revision must provide for protection of cultural and historic resources,'' and ''management of areas of Tribal importance.'' The final rule also includes recognition of and requirements for ''ecosystem services,'' which include ''cultural heritage values.'' These requirements, in combination with the requirement that plan content include descriptions of a unit's roles and contributions within the broader landscape under § 219.7(e), ensure the cultural aspects of sustainability will be taken into account when developing plan components that guide unit contributions to social sustainability.

During the consultation meetings, the Agency heard from Tribal leaders that confidentiality is a big concern. To explicitly discuss confidentiality, § 219.1(e) states that the responsible official shall comply with Section 8106 of the Food, Conservation, and Energy Act of 2008, Executive Order 13007 of May 24, 1996, Executive Order 13175 of November 6, 2000, laws and other requirements with respect to disclosing or withholding under the Freedom of Information Act certain information regarding reburial sites or other information that is culturally sensitive to Indian Tribe or Tribes.

The Agency has heard from Tribal leaders that they want to see sacred sites protected. The final rule requires that responsible officials request information from Tribes about sacred sites, and provides for protection of cultural and historic resources and management of areas of Tribal importance. In addition, a separate initiative by the USDA Office of Tribal Relations and the Forest Service is conducting a policy review concerning sacred sites and is consulting with Tribes during their effort. The Agency has informed Tribes of this separate initiative and how they can participate during the consultation meetings. Information that the Agency received during the planning rule consultation process regarding sacred sites has been shared with the USDA Office of Tribal Relations and the Forest Service initiative.

The Forest Service received many other comments during the Tribal consultation meetings. A number of these comments were regarding concerns that are outside of the scope of the national planning rule or that will be discussed at the local level during the development of land management plans. Tribes received responses to these comments in separate documents, which were mailed to those Tribes and Alaska Native Corporations that participated in the October and November 2010 consultation meetings following the publication of the proposed rule. Additionally, a document summarizing the comments and responses from these meetings was made available to federally recognized Tribes and Alaska Native Corporations as part of the consultation documents provided in August 2011.

Many of the public participation and other requirements in the final rule have significant potential to involve Tribes and tribal members in NFS planning and management, and to incorporate information into the process that will be relevant with regard to local effects of management on individual units, including to Tribal communities. However, pursuant to Executive Order 13175 of November 6, 2000, ''Consultation and Coordination with Indian Tribal Governments,'' the final rule itself does not have ''substantial direct effects.'' Effects, both positive and adverse, may occur at the local planning level, which is one of the many reasons the final rule includes requirements for tribal consultation as well as outreach to Tribes during public participation opportunities. Effects may also occur at the project or activity level, which have additional opportunities for public engagement.

The Agency has also determined that this final rule does not impose substantial direct compliance costs on Indian Tribal governments. This final rule does not mandate Tribal participation in NFS planning. Rather, the final rule imposes an obligation on Forest Service officials to provide Tribes an opportunity to consult and to reach out early to engage them throughout the planning process.

Takings of Private Property

The Agency analyzed this rule in accordance with the principles and criteria contained in Executive Order 12630 issued March 15, 1988, and the Agency determined that the rule does not pose the risk of a taking of private property.

Civil Justice Reform

The Agency reviewed the rule under Executive Order 12988, ''Civil Justice Reform.'' The Agency has not identified any State or local laws or regulations that are in conflict with this regulation or that would impede full implementation of this rule. Nevertheless, in the event that such conflicts were to be identified, the final rule, if implemented, would preempt the State or local laws or regulations found to be in conflict. However, in that case, (1) no retroactive effect would be given to this final rule; and (2) the Department would not require the use of administrative proceedings before parties could file suit in court challenging its provisions.

Unfunded Mandates

Pursuant to Title II of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538), the Agency has assessed the effects of this final rule on State, local, and Tribal governments and the private sector. This final rule does not compel the expenditure of $100 million or more by any State, local, or Tribal governments or anyone in the private sector. Therefore, a statement under § 202 of the Act is not required.

Environmental Justice

The Department considered impacts of the final rule to civil rights and environmental justice (pursuant to Executive Order 12898 (59 FR 7629, February 16, 1994)). If implemented, with outreach, public engagement and using NEPA procedures to document effects, this analysis concludes that no adverse civil rights or environmental justice impacts from the planning rule are anticipated to the delivery of benefits or other program outcomes on a national level for any under-represented population or to other U.S. populations or communities from the adoption of the final 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 scale at the unit planning level. Differences in national level effects and regional/local level effects are the result of uneven distribution of minorities, low-income populations, and variations in regional, cultural, or traditional use, and differences in local access to resources. Impacts on the national forest level will be further examined at the unit level, including NEPA analysis for plan development, plan revision, or plan amendment and site-specific projects.

The participation efforts required by the final rule have significant potential to reach and involve diverse segments of the population that historically have not played a large role in NFS planning and management. Section 219.4(a) requires that when developing opportunities for public participation, the responsible official shall take into account the discrete and diverse roles, jurisdictions, responsibilities, and skills of interested and affected parties as well as the accessibility of the process, opportunities, and information. The responsible official is required to be proactive and use contemporary tools, such as the Internet, to engage the public, and share information in an open way with interested parties. Requirements of § 219.4 to consider accessibility and requirements to encourage participation by youth, low-income populations, and minority populations may improve environmental justice outcomes.

The final rule includes provisions for filing an objection before the final decision if the objector has filed a substantive formal comment related to a new plan, plan revision, or plan amendment. In the past, substantive formal comments were required to be in writing and submitted during the formal comment period when developing land management plans. The final rule expands the definition of a substantive formal comment to include written or oral comments submitted or recorded during an opportunity for public participation provided during the local unit's planning process (§§ 219.4 and 219.16).

If implemented, there are no anticipated adverse or disproportionate impacts to underserved, protected groups, low income, or socially disadvantaged communities. The final rule requirements, including outreach and collaboration, and the requirement for NEPA analysis are designed to avoid adverse or disproportionate effects; therefore, mitigating measures are not necessary or appropriate for adopting or implementing the planning rule. Local site-specific mitigation may occur as NFS projects and activities are planned and executed consistent with Department policy.

List of Subjects in 36 CFR Part 219

Administrative practice and procedure, Environmental impact statements, Indians, Intergovernmental relations, National forests, Reporting and recordkeeping requirements, Science and technology.

Therefore, for the reasons set forth in the preamble, the Forest Service revises part 219 of Title 36 of the Code of Federal Regulations to read as follows:

PART 219—PLANNING

Subpart A—National Forest System Land Management Planning

Sec.
219.1 Purpose and applicability.
219.2 Levels of planning and responsible officials.
219.3 Role of science in planning.
219.4 Requirements for public participation.
219.5 Planning framework.
219.6 Assessment.
219.7 New plan development or plan revision.
219.8 Sustainability.
219.9 Diversity of plant and animal communities.
219.10 Multiple use.
219.11 Timber requirements based on the NFMA.
219.12 Monitoring.
219.13 Plan amendment and administrative changes.
219.14 Decision document and planning records.
219.15 Project and activity consistency with the plan.
219.16 Public notifications.
219.17 Effective dates and transition.
219.18 Severability.
219.19 Definitions.

Subpart B—Pre-Decisional Administrative Review Process

219.50 Purpose and scope.
219.51 Plans, plan amendments, or plan revisions not subject to objection.
219.52 Giving notice of a plan, plan amendment, or plan revision subject to objection before approval.
219.53 Who may file an objection.
219.54 Filing an objection.
219.55 Objections set aside from review.
219.56 Objection time periods and process.
219.57 Resolution of objections.
219.58 Timing of a plan, plan amendment, or plan revision decision.
219.59 Use of other administrative review processes.
219.60 Secretary's authority.
219.61 Information collection requirements.
219.62 Definitions.

Authority: 5 U.S.C. 301; 16 U.S.C. 1604, 1613.

Subpart A—National Forest System Land Management Planning

§ 219.1 Purpose and applicability.

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

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

(c) The purpose of this part is to guide the collaborative and science-based development, amendment, and revision of land management plans that promote the ecological integrity of national forests and grasslands and other administrative units of the NFS. Plans will guide management of NFS lands so that they are ecologically sustainable and contribute to social and economic sustainability; consist of ecosystems and watersheds with ecological integrity and diverse plant and animal communities; and have the capacity to provide people and communities with ecosystem services and multiple uses that provide a range of social, economic, and ecological benefits for the present and into the future. These benefits include clean air and water; habitat for fish, wildlife, and plant communities; and opportunities for recreational, spiritual, educational, and cultural benefits.

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

(e) During the planning process, the responsible official shall comply with Section 8106 of the Food, Conservation, and Energy Act of 2008 (25 U.S.C. 3056), Executive Order 13007 of May

24, 1996, Executive Order 13175 of November 6, 2000, laws, and other requirements with respect to disclosing or withholding under the Freedom of Information Act (5 U.S.C. 552) certain information regarding reburial sites or other information that is culturally sensitive to an Indian Tribe or Tribes.

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

(g) The responsible official shall ensure that the planning process, plan components, and other plan content are within Forest Service authority, the inherent capability of the plan area, and the fiscal capability of the unit.

§ 219.2 Levels of planning and responsible officials.

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

(a) *National strategic planning.* The Chief of the Forest Service is responsible for national planning, such as preparation of the Forest Service strategic plan required under the Government Performance and Results Modernization Act of 2010 (5 U.S.C. 306; 31 U.S.C. 1115–1125; 31 U.S.C. 9703–9704), which is integrated with the requirements of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the NFMA. The strategic plan establishes goals, objectives, performance measures, and strategies for management of the NFS, as well as the other Forest Service mission areas: Research and Development, State and Private Forestry, and International Programs.

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

(2) A plan does not authorize projects or activities or commit the Forest Service to take action. A plan may constrain the Agency from authorizing or carrying out projects and activities, or the manner in which they may occur. Projects and activities must be consistent with the plan (§ 219.15). A plan does not regulate uses by the public, but a project or activity decision that regulates a use by the public under 36 CFR Part 261, Subpart B, may be made contemporaneously with the approval of a plan, plan amendment, or plan revision. Plans should not repeat laws, regulations, or program management policies, practices, and procedures that are in the Forest Service Directive System.

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

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

(5) The Chief is responsible for leadership and direction for carrying out the NFS land management planning program under this part. The Chief shall:

(i) Establish planning procedures for this part in the Forest Service Directive System in Forest Service Manual 1920—Land Management Planning and in Forest Service Handbook 1909.12—Land Management Planning Handbook.

(ii) Establish and administer a national oversight process for accountability and consistency of NFS land management planning under this part.

(iii) Establish procedures in the Forest Service Directive System for obtaining inventory data on the various renewable resources, and soil and water.

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

§ 219.3 Role of science in planning.

The responsible official shall use the best available scientific information to inform the planning process required by this subpart. In doing so, the responsible official shall determine what information is the most accurate, reliable, and relevant to the issues being considered. The responsible official shall document how the best available scientific information was used to inform the assessment, the plan decision, and the monitoring program as required in §§ 219.6(a)(3) and 219.14(a)(4). Such documentation must: Identify what information was determined to be the best available scientific information, explain the basis for that determination, and explain how the information was applied to the issues considered.

§ 219.4 Requirements for public participation.

(a) *Providing opportunities for participation.* The responsible official shall provide opportunities to the public for participating in the assessment process; developing a plan proposal, including the monitoring program; commenting on the proposal and the disclosure of its environmental impacts in accompanying NEPA documents; and reviewing the results of monitoring information. When developing opportunities for public participation, the responsible official shall take into account the discrete and diverse roles, jurisdictions, responsibilities, and skills of interested and affected parties; the accessibility of the process, opportunities, and information; and the cost, time, and available staffing. The responsible official should be proactive and use contemporary tools, such as the Internet, to engage the public, and should share information in an open way with interested parties. Subject to the notification requirements in § 219.16, the responsible official has the discretion to determine the scope, methods, forum, and timing of those opportunities. The Forest Service retains decisionmaking authority and responsibility for all decisions throughout the process.

(1) *Outreach.* The responsible official shall engage the public—including Tribes and Alaska Native Corporations, other Federal agencies, State and local

governments, individuals, and public and private organizations or entities—early and throughout the planning process as required by this part, using collaborative processes where feasible and appropriate. In providing opportunities for engagement, the responsible official shall encourage participation by:

(i) Interested individuals and entities, including those interested at the local, regional, and national levels.

(ii) Youth, low-income populations, and minority populations.

(iii) Private landowners whose lands are in, adjacent to, or otherwise affected by, or whose actions may impact, future management actions in the plan area.

(iv) Federal agencies, States, counties, and local governments, including State fish and wildlife agencies, State foresters and other relevant State agencies. Where appropriate, the responsible official shall encourage States, counties, and other local governments to seek cooperating agency status in the NEPA process for development, amendment, or revision of a plan. The responsible official may participate in planning efforts of States, counties, local governments, and other Federal agencies, where practicable and appropriate.

(v) Interested or affected federally recognized Indian Tribes or Alaska Native Corporations. Where appropriate, the responsible official shall encourage federally recognized Tribes to seek cooperating agency status in the NEPA process for development, amendment, or revision of a plan. The responsible official may participate in planning efforts of federally recognized Indian Tribes and Alaska Native Corporations, where practicable and appropriate.

(2) *Consultation with federally recognized Indian Tribes and Alaska Native Corporations.* The Department recognizes the Federal Government has certain trust responsibilities and a unique legal relationship with federally recognized Indian Tribes. The responsible official shall honor the government-to-government relationship between federally recognized Indian Tribes and the Federal government. The responsible official shall provide to federally recognized Indian Tribes and Alaska Native Corporations the opportunity to undertake consultation consistent with Executive Order 13175 of November 6, 2000, and 25 U.S.C. 450 note.

(3) *Native knowledge, indigenous ecological knowledge, and land ethics.* As part of tribal participation and consultation as set forth in paragraphs (a)(1)(v) and (a)(2) of this section, the responsible official shall request information about native knowledge, land ethics, cultural issues, and sacred and culturally significant sites.

(b) *Coordination with other public planning efforts.* (1) The responsible official shall coordinate land management planning with the equivalent and related planning efforts of federally recognized Indian Tribes, Alaska Native Corporations, other Federal agencies, and State and local governments.

(2) For plan development or revision, the responsible official shall review the planning and land use policies of federally recognized Indian Tribes (43 U.S.C. 1712(b)), Alaska Native Corporations, other Federal agencies, and State and local governments, where relevant to the plan area. The results of this review shall be displayed in the environmental impact statement (EIS) for the plan (40 CFR 1502.16(c), 1506.2). The review shall include consideration of:

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

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

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

(iv) Opportunities to resolve or reduce conflicts, within the context of developing the plan's desired conditions or objectives.

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

§ 219.5 Planning framework.

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

(1) *Assessment.* Assessments rapidly evaluate existing information about relevant ecological, economic, and social conditions, trends, and sustainability and their relationship to the land management plan within the context of the broader landscape. The responsible official shall consider and evaluate existing and possible future conditions and trends of the plan area, and assess the sustainability of social, economic, and ecological systems within the plan area, in the context of the broader landscape (§ 219.6).

(2) *Plan development, plan amendment, or plan revision.*

(i) The process for developing or revising a plan includes: Assessment, preliminary identification of the need to change the plan based on the assessment, development of a proposed plan, consideration of the environmental effects of the proposal, providing an opportunity to comment on the proposed plan, providing an opportunity to object before the proposal is approved, and, finally, approval of the plan or plan revision. A new plan or plan revision requires preparation of an environmental impact statement.

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

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

(b) *Interdisciplinary team(s).* The responsible official shall establish an interdisciplinary team or teams to

prepare assessments; new plans, plan amendments, and plan revisions; and plan monitoring programs.

§ 219.6 Assessment.

The responsible official has the discretion to determine the scope, scale, and timing of an assessment described in § 219.5(a)(1), subject to the requirements of this section.

(a) *Process for plan development or revision assessments.* An assessment must be completed for the development of a new plan or for a plan revision. The responsible official shall:

(1) Identify and consider relevant existing information contained in governmental or non-governmental assessments, plans, monitoring reports, studies, and other sources of relevant information. Such sources of information may include State forest assessments and strategies, the Resources Planning Act assessment, ecoregional assessments, non-governmental reports, State comprehensive outdoor recreation plans, community wildfire protection plans, public transportation plans, State wildlife data and action plans, and relevant Agency or interagency reports, resource plans or assessments. Relevant private information, including relevant land management plans and local knowledge, will be considered if publicly available or voluntarily provided.

(2) Coordinate with or provide opportunities for the regional forester, agency staff from State and Private Forestry and Research and Development, federally recognized Indian Tribes and Alaska Native Corporations, other governmental and non-governmental parties, and the public to provide existing information for the assessment.

(3) Document the assessment in a report available to the public. The report should document information needs relevant to the topics of paragraph (b) of this section. Document in the report how the best available scientific information was used to inform the assessment (§ 219.3). Include the report in the planning record (§ 219.14).

(b) *Content of the assessment for plan development or revision.* In the assessment for plan development or revision, the responsible official shall identify and evaluate existing information relevant to the plan area for the following:

(1) Terrestrial ecosystems, aquatic ecosystems, and watersheds;

(2) Air, soil, and water resources and quality;

(3) System drivers, including dominant ecological processes, disturbance regimes, and stressors, such as natural succession, wildland fire, invasive species, and climate change; and the ability of terrestrial and aquatic ecosystems on the plan area to adapt to change;

(4) Baseline assessment of carbon stocks;

(5) Threatened, endangered, proposed and candidate species, and potential species of conservation concern present in the plan area;

(6) Social, cultural, and economic conditions;

(7) Benefits people obtain from the NFS planning area (ecosystem services);

(8) Multiple uses and their contributions to local, regional, and national economies;

(9) Recreation settings, opportunities and access, and scenic character;

(10) Renewable and nonrenewable energy and mineral resources;

(11) Infrastructure, such as recreational facilities and transportation and utility corridors;

(12) Areas of tribal importance;

(13) Cultural and historic resources and uses;

(14) Land status and ownership, use, and access patterns; and

(15) Existing designated areas located in the plan area including wilderness and wild and scenic rivers and potential need and opportunity for additional designated areas.

(c) *Plan amendment assessments.* Where the responsible official determines that a new assessment is needed to inform an amendment, the responsible official has the discretion to determine the scope, scale, process, and content for the assessment depending on the topic or topics to be addressed.

§ 219.7 New plan development or plan revision.

(a) *Plan revisions.* A plan revision creates a new plan for the entire plan area, whether the plan revision differs from the prior plan to a small or large extent. A plan must be revised at least every 15 years. But, the responsible official has the discretion to determine at any time that conditions on a plan area have changed significantly such that a plan must be revised (16 U.S.C. 1604(f)(5)).

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

(c) *Process for plan development or revision.* (1) The process for developing or revising a plan includes: Public notification and participation (§§ 219.4 and 219.16), assessment (§§ 219.5 and 219.6), developing a proposed plan, considering the environmental effects of the proposal, providing an opportunity to comment on the proposed plan, providing an opportunity to object before the proposal is approved (subpart B), and, finally, approving the plan or plan revision. A new plan or plan revision requires preparation of an environmental impact statement.

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

(i) Review relevant information from the assessment and monitoring to identify a preliminary need to change the existing plan and to inform the development of plan components and other plan content.

(ii) Consider the goals and objectives of the Forest Service strategic plan (§ 219.2(a)).

(iii) Identify the presence and consider the importance of various physical, biological, social, cultural, and historic resources on the plan area (§ 219.6), with respect to the requirements for plan components of §§ 219.8 through 219.11.

(iv) Consider conditions, trends, and stressors (§ 219.6), with respect to the requirements for plan components of §§ 219.8 through 219.11.

(v) Identify and evaluate lands that may be suitable for inclusion in the National Wilderness Preservation System and determine whether to recommend any such lands for wilderness designation.

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

(vii) Identify existing designated areas other than the areas identified in paragraphs (c)(2)(v) and (c)(2)(vi) of this section, and determine whether to recommend any additional areas for designation. If the responsible official has the delegated authority to designate a new area or modify an existing area, then the responsible official may designate such area when approving the plan, plan amendment, or plan revision.

(viii) Identify the suitability of areas for the appropriate integration of resource management and uses, with respect to the requirements for plan components of §§ 219.8 through 219.11, including identifying lands which are not suitable for timber production (§ 219.11).

(ix) Identify the maximum quantity of timber that may be removed from the plan area (§ 219.11(d)(6)).

(x) Identify questions and indicators for the plan monitoring program (§ 219.12).

(xi) Identify potential other content in the plan (paragraph (f) of this section).

(3) The regional forester shall identify the species of conservation concern for the plan area in coordination with the responsible official.

(d) *Management areas or geographic areas.* Every plan must have management areas or geographic areas or both. The plan may identify designated or recommended designated areas as management areas or geographic areas.

(e) *Plan components.* Plan components guide future project and activity decisionmaking. The plan must indicate whether specific plan components apply to the entire plan area, to specific management areas or geographic areas, or to other areas as identified in the plan.

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

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

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

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

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

(v) *Suitability of lands.* Specific lands within a plan area will be identified as suitable for various multiple uses or activities based on the desired conditions applicable to those lands. The plan will also identify lands within the plan area as not suitable for uses that are not compatible with desired conditions for those lands. The suitability of lands need not be identified for every use or activity. Suitability identifications may be made after consideration of historic uses and of issues that have arisen in the planning process. Every plan must identify those lands that are not suitable for timber production (§ 219.11).

(2) *Optional plan component: goals.* A plan may include goals as plan components. Goals are broad statements of intent, other than desired conditions, usually related to process or interaction with the public. Goals are expressed in broad, general terms, but do not include completion dates.

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

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

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

(ii) Describe the plan area's distinctive roles and contributions within the broader landscape;

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

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

(2) *Optional content in the plan.* A plan may include additional content, such as potential management approaches or strategies and partnership opportunities or coordination activities.

§ 219.8 Sustainability.

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

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

(i) Interdependence of terrestrial and aquatic ecosystems in the plan area.

(ii) Contributions of the plan area to ecological conditions within the broader landscape influenced by the plan area.

(iii) Conditions in the broader landscape that may influence the sustainability of resources and ecosystems within the plan area.

(iv) System drivers, including dominant ecological processes, disturbance regimes, and stressors, such as natural succession, wildland fire, invasive species, and climate change; and the ability of terrestrial and aquatic ecosystems on the plan area to adapt to change.

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

(vi) Opportunities for landscape scale restoration.

(2) *Air, soil, and water.* The plan must include plan components, including standards or guidelines, to maintain or restore:

(i) Air quality.

(ii) Soils and soil productivity, including guidance to reduce soil erosion and sedimentation.

(iii) Water quality.

(iv) Water resources in the plan area, including lakes, streams, and wetlands; ground water; public water supplies; sole source aquifers; source water protection areas; and other sources of drinking water (including guidance to prevent or mitigate detrimental changes in quantity, quality, and availability).

(3) *Riparian areas.* (i) The plan must include plan components, including standards or guidelines, to maintain or restore the ecological integrity of riparian areas in the plan area, including plan components to maintain or restore structure, function, composition, and connectivity, taking into account:

(A) Water temperature and chemical composition;

(B) Blockages (uncharacteristic and characteristic) of water courses;

(C) Deposits of sediment;

(D) Aquatic and terrestrial habitats;

(E) Ecological connectivity;

(F) Restoration needs; and

(G) Floodplain values and risk of flood loss.

(ii) Plans must establish width(s) for riparian management zones around all lakes, perennial and intermittent streams, and open water wetlands, within which the plan components required by paragraph (a)(3)(i) of this section will apply, giving special attention to land and vegetation for approximately 100 feet from the edges of all perennial streams and lakes.

(A) Riparian management zone width(s) may vary based on ecological or geomorphic factors or type of water body; and will apply unless replaced by a site-specific delineation of the riparian area.

(B) Plan components must ensure that no management practices causing detrimental changes in water temperature or chemical composition, blockages of water courses, or deposits of sediment that seriously and adversely affect water conditions or fish habitat shall be permitted within the riparian management zones or the site-specific delineated riparian areas.

(4) *Best management practices for water quality.* The Chief shall establish requirements for national best management practices for water quality in the Forest Service Directive System. Plan components must ensure implementation of these practices.

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

(1) Social, cultural, and economic conditions relevant to the area influenced by the plan;

(2) Sustainable recreation; including recreation settings, opportunities, and access; and scenic character;

(3) Multiple uses that contribute to local, regional, and national economies in a sustainable manner;

(4) Ecosystem services;

(5) Cultural and historic resources and uses; and

(6) Opportunities to connect people with nature.

§ 219.9 Diversity of plant and animal communities.

This section adopts a complementary ecosystem and species-specific approach to maintaining the diversity of plant and animal communities and the persistence of native species in the plan area. Compliance with the ecosystem requirements of paragraph (a) is intended to provide the ecological conditions to both maintain the diversity of plant and animal communities and support the persistence of most native species in the plan area. Compliance with the requirements of paragraph (b) is intended to provide for additional ecological conditions not otherwise provided by compliance with paragraph (a) for individual species as set forth in paragraph (b). The plan must provide for the diversity of plant and animal communities, within Forest Service authority and consistent with the inherent capability of the plan area, as follows:

(a) *Ecosystem plan components.* (1) *Ecosystem integrity.* As required by § 219.8(a), the plan must include plan components, including standards or guidelines, to maintain or restore the ecological integrity of terrestrial and aquatic ecosystems and watersheds in the plan area, including plan components to maintain or restore their structure, function, composition, and connectivity.

(2) *Ecosystem diversity.* The plan must include plan components, including standards or guidelines, to maintain or restore the diversity of ecosystems and habitat types throughout the plan area. In doing so, the plan must include plan components to maintain or restore:

(i) Key characteristics associated with terrestrial and aquatic ecosystem types;

(ii) Rare aquatic and terrestrial plant and animal communities; and

(iii) The diversity of native tree species similar to that existing in the plan area.

(b) *Additional, species-specific plan components.* (1) The responsible official shall determine whether or not the plan components required by paragraph (a) of this section provide the ecological conditions necessary 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. If the responsible official determines that the plan components required in paragraph (a) are insufficient to provide such ecological conditions, then additional, species-specific plan components, including standards or guidelines, must be included in the plan to provide such ecological conditions in the plan area.

(2) If the responsible official determines that it is beyond the authority of the Forest Service or not within the inherent capability of the plan area to maintain or restore the ecological conditions to maintain a viable population of a species of conservation concern in the plan area, then the responsible official shall:

(i) Document the basis for that determination (§ 219.14(a)); and

(ii) Include plan components, including standards or guidelines, to maintain or restore ecological conditions within the plan area to contribute to maintaining a viable population of the species within its range. In providing such plan components, the responsible official shall coordinate to the extent practicable with other Federal, State, Tribal, and private land managers having management authority over lands relevant to that population.

(c) *Species of conservation concern.* For purposes of this subpart, a species of conservation concern is a species, other than federally recognized threatened, endangered, proposed, or candidate species, that is known to occur in the plan area and for which the regional forester has determined that the best available scientific information indicates substantial concern about the species' capability to persist over the long-term in the plan area.

§ 219.10 Multiple use.

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

(a) *Integrated resource management for multiple use.* The plan must include plan components, including standards or guidelines, for integrated resource management to provide for ecosystem services and multiple uses in the plan area. When developing plan components for integrated resource management, to the extent relevant to the plan area and the public participation process and the requirements of §§ 219.7, 219.8, 219.9, and 219.11, the responsible official shall consider:

(1) Aesthetic values, air quality, cultural and heritage resources, ecosystem services, fish and wildlife species, forage, geologic features, grazing and rangelands, habitat and habitat connectivity, recreation settings and opportunities, riparian areas, scenery, soil, surface and subsurface water quality, timber, trails, vegetation, viewsheds, wilderness, and other relevant resources and uses.

(2) Renewable and nonrenewable energy and mineral resources.

(3) Appropriate placement and sustainable management of infrastructure, such as recreational facilities and transportation and utility corridors.

(4) Opportunities to coordinate with neighboring landowners to link open spaces and take into account joint management objectives where feasible and appropriate.

(5) Habitat conditions, subject to the requirements of § 219.9, for wildlife, fish, and plants commonly enjoyed and used by the public; for hunting, fishing, trapping, gathering, observing, subsistence, and other activities (in

collaboration with federally recognized Tribes, Alaska Native Corporations, other Federal agencies, and State and local governments).

(6) Land status and ownership, use, and access patterns relevant to the plan area.

(7) Reasonably foreseeable risks to ecological, social, and economic sustainability.

(8) System drivers, including dominant ecological processes, disturbance regimes, and stressors, such as natural succession, wildland fire, invasive species, and climate change; and the ability of the terrestrial and aquatic ecosystems on the plan area to adapt to change (§ 219.8);

(9) Public water supplies and associated water quality.

(10) Opportunities to connect people with nature.

(b) *Requirements for plan components for a new plan or plan revision.* (1) The plan must include plan components, including standards or guidelines, to provide for:

(i) Sustainable recreation; including recreation settings, opportunities, and access; and scenic character. Recreation opportunities may include non-motorized, motorized, developed, and dispersed recreation on land, water, and in the air.

(ii) Protection of cultural and historic resources.

(iii) Management of areas of tribal importance.

(iv) Protection of congressionally designated wilderness areas as well as management of areas recommended for wilderness designation to protect and maintain the ecological and social characteristics that provide the basis for their suitability for wilderness designation.

(v) Protection of designated wild and scenic rivers as well as management of rivers found eligible or determined suitable for the National Wild and Scenic River system to protect the values that provide the basis for their suitability for inclusion in the system.

(vi) Appropriate management of other designated areas or recommended designated areas in the plan area, including research natural areas.

(2) Other plan components for integrated resource management to provide for multiple use as necessary.

§ 219.11 Timber requirements based on the NFMA.

While meeting the requirements of §§ 219.8 through 219.10, the plan must include plan components, including standards or guidelines, and other plan content regarding timber management within Forest Service authority and the inherent capability of the plan area, as follows:

(a) *Lands not suited for timber production.* (1) The responsible official shall identify lands within the plan area as not suited for timber production if any one of the following factors applies:

(i) Statute, Executive order, or regulation prohibits timber production on the land;

(ii) The Secretary of Agriculture or the Chief has withdrawn the land from timber production;

(iii) Timber production would not be compatible with the achievement of desired conditions and objectives established by the plan for those lands;

(iv) The technology is not currently available for conducting timber harvest without causing irreversible damage to soil, slope, or other watershed conditions;

(v) There is no reasonable assurance that such lands can be adequately restocked within 5 years after final regeneration harvest; or

(vi) The land is not forest land.

(2) The responsible official shall review lands identified in the plan as not suited for timber production at least once every 10 years, or as otherwise prescribed by law, to determine whether conditions have changed so that they have become suitable for timber production. As a result of this 10-year review, the plan may be amended to identify any such lands as suitable for timber production, if warranted by changed conditions.

(b) *Timber harvest for purposes of timber production.* A plan that identifies lands as suitable for timber production must include plan components, including standards or guidelines, to guide timber harvest for timber production or for other multiple use purposes on such lands.

(c) *Timber harvest for purposes other than timber production.* Except as provided in paragraph (d) of this section, the plan may include plan components to allow for timber harvest for purposes other than timber production throughout the plan area, or portions of the plan area, as a tool to assist in achieving or maintaining one or more applicable desired conditions or objectives of the plan in order to protect other multiple-use values, and for salvage, sanitation, or public health or safety. Examples of using timber harvest to protect other multiple use values may include improving wildlife or fish habitat, thinning to reduce fire risk, or restoring meadow or savanna ecosystems where trees have invaded.

(d) *Limitations on timber harvest.* Whether timber harvest would be for the purposes of timber production or other purposes, plan components, including standards or guidelines, must ensure the following:

(1) No timber harvest for the purposes of timber production may occur on lands not suited for timber production.

(2) Timber harvest would occur only where soil, slope, or other watershed conditions would not be irreversibly damaged;

(3) Timber harvest would be carried out in a manner consistent with the protection of soil, watershed, fish, wildlife, recreation, and aesthetic resources.

(4) Where plan components will allow clearcutting, seed tree cutting, shelterwood cutting, or other cuts designed to regenerate an even-aged stand of timber, the plan must include standards limiting the maximize size for openings that may be cut in one harvest operation, according to geographic areas, forest types, or other suitable classifications. Except as provided in paragraphs (d)(4)(i) through (iii) of this section, this limit may not exceed 60 acres for the Douglas-fir forest type of California, Oregon, and Washington; 80 acres for the southern yellow pine types of Alabama, Arkansas, Georgia, Florida, Louisiana, Mississippi, North Carolina, South Carolina, Oklahoma, and Texas; 100 acres for the hemlock-Sitka spruce forest type of coastal Alaska; and 40 acres for all other forest types.

(i) Plan standards may allow for openings larger than those specified in paragraph (d)(4) of this section to be cut in one harvest operation where the responsible official determines that larger harvest openings are necessary to help achieve desired ecological conditions in the plan area. If so, standards for exceptions shall include the particular conditions under which the larger size is permitted and must set a maximum size permitted under those conditions.

(ii) Plan components may allow for size limits exceeding those established in paragraphs (d)(4) and (d)(4)(i) of this section on an individual timber sale basis after 60 days public notice and review by the regional forester.

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

(5) Timber will be harvested from NFS lands only where such harvest would comply with the resource protections set out in sections 6(g)(3)(E) and (F) of the NFMA (16 U.S.C. 1604(g)(3)(E) and (F)). Some of these

requirements are listed in paragraphs (d)(2) to (d)(4) of this section.

(6) The quantity of timber that may be sold from the national forest is limited to an amount equal to or less than that which can be removed from such forest annually in perpetuity on a sustained-yield basis. This limit may be measured on a decadal basis. The plan may provide for departures from this limit as provided by the NFMA when departure would be consistent with the plan's desired conditions and objectives. Exceptions for departure from this limit on the quantity sold may be made only after a public review and comment period of at least 90 days. The Chief must include in the Forest Service Directive System procedures for estimating the quantity of timber that can be removed annually in perpetuity on a sustained-yield basis, and exceptions, consistent with 16 U.S.C. 1611.

(7) The regeneration harvest of even-aged stands of trees is limited to stands that generally have reached the culmination of mean annual increment of growth. This requirement would apply only to regeneration harvest of even-aged stands on lands identified as suitable for timber production and where timber production is the primary purpose for the harvest. Plan components may allow for exceptions, set out in 16 U.S.C. 1604(m), only if such harvest is consistent with the other plan components of the land management plan.

§ 219.12 Monitoring.

(a) *Plan monitoring program.* (1) The responsible official shall develop a monitoring program for the plan area and include it in the plan. Monitoring information should enable the responsible official to determine if a change in plan components or other plan content that guide management of resources on the plan area may be needed. The development of the plan monitoring program must be coordinated with the regional forester and Forest Service State and Private Forestry and Research and Development. Responsible officials for two or more administrative units may jointly develop their plan monitoring programs.

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

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

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

(i) Information needs identified through the planning process as most critical for informed management of resources on the plan area; and

(ii) The financial and technical capabilities of the Agency.

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

(i) The status of select watershed conditions.

(ii) The status of select ecological conditions including key characteristics of terrestrial and aquatic ecosystems.

(iii) The status of focal species to assess the ecological conditions required under § 219.9.

(iv) The status of a select set of the ecological conditions required under § 219.9 to contribute to the recovery of federally listed threatened and endangered species, conserve proposed and candidate species, and maintain a viable population of each species of conservation concern.

(v) The status of visitor use, visitor satisfaction, and progress toward meeting recreation objectives.

(vi) Measurable changes on the plan area related to climate change and other stressors that may be affecting the plan area.

(vii) Progress toward meeting the desired conditions and objectives in the plan, including for providing multiple use opportunities.

(viii) The effects of each management system to determine that they do not substantially and permanently impair the productivity of the land (16 U.S.C. 1604(g)(3)(C)).

(6) A range of monitoring techniques may be used to carry out the monitoring requirements in paragraph (a)(5) of this section.

(7) This section does not apply to projects or activities. Project and activity monitoring may be used to gather information for the plan monitoring program, and information gathered through plan monitoring may be used to inform development of projects or activities. But, the monitoring requirements of this section are not a prerequisite for making a decision to carry out a project or activity.

(b) *Broader-scale monitoring strategies.* (1) The regional forester shall develop a broader-scale monitoring strategy for plan monitoring questions that can best be answered at a geographic scale broader than one plan area.

(2) When developing a monitoring strategy, the regional forester shall coordinate with the relevant responsible officials, Forest Service State and Private Forestry and Research and Development, partners, and the public. Two or more regional foresters may jointly develop broader-scale monitoring strategies.

(3) Each regional forester shall ensure that the broader-scale monitoring strategy is within the financial and technical capabilities of the region and complements other ongoing monitoring efforts.

(4) Projects and activities may be carried out under plans developed, amended, or revised under this part before the regional forester has developed a broader-scale monitoring strategy.

(c) *Timing and process for developing the plan monitoring program and broader-scale strategies.* (1) The responsible official shall develop the plan monitoring program as part of the planning process for a new plan development or plan revision. Where a plan's monitoring program has been developed under the provisions of a prior planning regulation and the unit has not initiated plan revision under this part, the responsible official shall modify the plan monitoring program within 4 years of the effective date of this part, or as soon as practicable, to meet the requirements of this section.

(2) The regional forester shall develop a broader-scale monitoring strategy as soon as practicable.

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

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

governmental and non-governmental entities;

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

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

(d) *Biennial evaluation of the monitoring information.* (1) The responsible official shall conduct a biennial evaluation of new information gathered through the plan monitoring program and relevant information from the broader-scale strategy, and shall issue a written report of the evaluation and make it available to the public.

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

(ii) Where the monitoring program developed under the provisions of a prior planning regulation has been modified to meet the requirements of paragraph (c)(1) of this section, the first monitoring evaluation must be completed no later than 2 years from the date the change takes effect.

(iii) The monitoring evaluation report may be postponed for 1 year in case of exigencies, but notice of the postponement must be provided to the public prior to the date the report is due for that year (§ 219.16(c)(6)).

(2) The monitoring evaluation report must indicate whether or not a change to the plan, management activities, or the monitoring program, or a new assessment, may be warranted based on the new information. The monitoring evaluation report must be used to inform adaptive management of the plan area.

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

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

§ 219.13 Plan amendment and administrative changes.

(a) *Plan amendment.* A plan may be amended at any time. Plan amendments may be broad or narrow, depending on the need for change, and should be used to keep plans current and help units adapt to new information or changing conditions. The responsible official has the discretion to determine whether and how to amend the plan. Except as provided by paragraph (c) of this section, a plan amendment is required to add, modify, or remove one or more plan components, or to change how or where one or more plan components apply to all or part of the plan area (including management areas or geographic areas).

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

(1) Base an amendment on a preliminary identification of the need to change the plan. The preliminary identification of the need to change the plan may be based on a new assessment; a monitoring report; or other documentation of new information, changed conditions, or changed circumstances. When a plan amendment is made together with, and only applies to, a project or activity decision, the analysis prepared for the project or activity may serve as the documentation for the preliminary identification of the need to change the plan;

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

(3) Amend the plan consistent with Forest Service NEPA procedures. The appropriate NEPA documentation for an amendment may be an environmental impact statement, an environmental assessment, or a categorical exclusion, depending upon the scope and scale of the amendment and its likely effects. A proposed amendment that may create a significant environmental effect and thus require preparation of an environmental impact statement is considered a significant change in the plan for the purposes of the NFMA.

(c) *Administrative changes.* An administrative change is any change to a plan that is not a plan amendment or plan revision. Administrative changes include corrections of clerical errors to any part of the plan, conformance of the plan to new statutory or regulatory requirements, or changes to other content in the plan (§ 219.7(f)).

(1) A substantive change to the monitoring program made outside of the process for plan revision or amendment may be made only after notice to the public of the intended change and consideration of public comment (§ 219.16(c)(6)).

(2) All other administrative changes may be made following public notice (§ 219.16(c)(6)).

§ 219.14 Decision document and planning records.

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

(1) The rationale for approval;

(2) An explanation of how the plan components meet the sustainability requirements of § 219.8, the diversity requirements of § 219.9, the multiple use requirements of § 219.10, and the timber requirements of § 219.11;

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

(4) The documentation of how the best available scientific information was used to inform planning, the plan components, and other plan content, including the plan monitoring program (§ 219.3);

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

(6) The effective date of the plan, amendment, or revision.

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

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

§ 219.15 Project and activity consistency with the plan.

(a) *Application to existing authorizations and approved projects or activities.* Every decision document approving a plan, plan amendment, or plan revision must state whether authorizations of occupancy and use made before the decision document may proceed unchanged. If a plan decision document does not expressly allow such occupancy and use, the permit, contract, and other authorizing instrument for the use and occupancy must be made

consistent with the plan, plan amendment, or plan revision as soon as practicable, as provided in paragraph (d) of this section, subject to valid existing rights.

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

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

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

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

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

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

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

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

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

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

(i) Complies with applicable guidelines as set out in the plan; or

(ii) Is designed in a way that is as effective in achieving the purpose of the applicable guidelines (§ 219.7(e)(1)(iv)).

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

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

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

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

§ 219.16 Public notifications.

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

(a) *When formal public notification is required.* Public notification must be provided as follows:

(1) To initiate the development of a proposed plan, plan amendment, or plan revision;

(2) To invite comments on a proposed plan, plan amendment, or plan revision, and associated environmental analysis. For a new plan, plan amendment, or a plan revision for which a draft environmental impact statement (EIS) is prepared, the comment period is at least 90 days. For an amendment for which a draft EIS is not prepared, the comment period is at least 30 days;

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

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

(5) To announce whenever a plan, plan amendment, or plan revision process initiated under the provisions of a previous planning regulation will be conformed to meet the provisions of this part (§ 219.17(b)(3)).

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

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

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

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

(3) When the notice is for the purpose of inviting comments on a proposed plan, plan amendment, or plan revision for which a draft EIS is prepared, the Environmental Protection Agency (EPA) **Federal Register** notice of availability of a draft EIS shall serve as the required **Federal Register** notice.

(4) For a plan amendment when an official other than the Chief, the Under Secretary, or the Secretary is the responsible official, and for which a draft EIS is not prepared, notices must be published in the newspaper(s) of record.

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

(6) Additional public notice of administrative changes, changes to the monitoring program, opportunities to provide information for assessments, assessment reports, monitoring evaluation reports, or other notices not listed in paragraph (a) of this section may be made in any way the responsible official deems appropriate.

(d) *Content of public notices.* Public notices required by this section except for notices applicable to paragraph (c)(3) of this section, must clearly describe the action subject to notice and the nature and scope of the decisions to be made; identify the responsible official; describe when, where, and how the responsible official will provide opportunities for the public to participate in the planning process; and explain how to obtain additional information.

§ 219.17 Effective dates and transition.

(a) *Effective dates.* (1) A plan or plan revision is effective 30 days after publication of notice of its approval.

(2) Except as provided in paragraph (a)(3) of this section, a plan amendment for which an environmental impact statement (EIS) has been prepared is effective 30 days after publication of notice of its approval; a plan amendment for which an EIS has not been prepared is effective immediately.

(3) A plan amendment that applies to only one specific project or activity is effective on the date the project may be implemented in accordance with administrative review regulations at 36 CFR parts 215 and 218.

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

(1) *Initiating plan development and plan revisions.* Plan development and plan revisions initiated after May 9,

2012 must conform to the requirements of this part.

(2) *Initiating plan amendments.* All plan amendments initiated after May 9, 2012 are subject to the objection process in subpart B of this part. With respect to plans approved or revised under a prior planning regulation, including the transition provisions of the reinstated 2000 rule (36 CFR part 209, published at 36 CFR parts 200 to 209, revised as of July 1, 2010), plan amendments may be initiated under the provisions of the prior planning regulation for 3 years after May 9, 2012, and may be completed and approved under those provisions (except for the optional appeal procedures of the prior planning regulation); or may be initiated, completed, and approved under the requirements of this part. After the 3-year transition period, all plan amendments must be initiated, completed, and approved under the requirements of this part.

(3) *Plan development, plan amendments, or plan revisions initiated before this part.* For plan development, plan amendments, or plan revisions that were initiated before May 9, 2012, the responsible official may complete and approve the plan, plan amendment, or plan revision in conformance with the provisions of the prior planning regulation, including its transition provisions (36 CFR part 209, published at 36 CFR parts 200 to 209, revised as of July 1, 2010), or may conform the plan, plan amendment, or plan revision to the requirements of this part. If the responsible official chooses to complete an ongoing planning process under the provisions of the prior planning regulation, but chooses to allow for an objection rather than an administrative appeal, the objection process in subpart B of this part shall apply. When the responsible official chooses to conform an ongoing planning process to this part, public notice must be made (§ 219.16(a)(5)). An objection process may be chosen only if the public is provided the opportunity to comment on a proposed plan, plan amendment, or plan revision, and associated environmental analysis.

(c) *Plans developed, amended, or revised under a prior planning regulation.* This part supersedes any prior planning regulation. No obligations remain from any prior planning regulation, except those that are specifically included in a unit's existing plan. Existing plans will remain in effect until revised. This part does not compel a change to any existing plan, except as required in § 219.12(c)(1). None of the requirements of this part apply to projects or activities on units with plans developed or revised under a prior planning rule until the plan is revised under this part, except that projects or activities on such units must comply with the consistency requirement of § 219.15 with respect to any amendments that are developed and approved pursuant to this part.

§ 219.18 Severability.

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

§ 219.19 Definitions.

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

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

Assessment. For the purposes of this subpart, an assessment is the identification and evaluation of existing information to support land management planning. Assessments are not decisionmaking documents, but provide current information on select topics relevant to the plan area, in the context of the broader landscape.

Best management practices for water quality (BMPs). Methods, measures, or practices selected by an agency to meet its nonpoint source control needs. BMPs include but are not limited to structural and nonstructural controls and operation and maintenance procedures. BMPs can be applied before, during, and after pollution-producing activities to reduce or eliminate the introduction of pollutants into receiving waters.

Candidate species. (1) For U.S. Fish and Wildlife Service candidate species, a species for which the U.S. Fish and Wildlife Service possesses sufficient information on vulnerability and threats to support a proposal to list as endangered or threatened, but for which no proposed rule has yet been published by the U.S. Fish and Wildlife Service.

(2) For National Marine Fisheries Service candidate species, a species that is:

(i) The subject of a petition to list and for which the National Marine Fisheries Service has determined that listing may be warranted, pursuant to section 4(b)(3)(A) of the Endangered Species Act (16 U.S.C. 1533(b)(3)(A)), or

(ii) Not the subject of a petition but for which the National Marine Fisheries Service has announced in the **Federal Register** the initiation of a status review.

Collaboration or collaborative process. A structured manner in which a collection of people with diverse interests share knowledge, ideas, and resources while working together in an inclusive and cooperative manner toward a common purpose. Collaboration, in the context of this part, falls within the full spectrum of public engagement described in the Council on Environmental Quality's publication of October, 2007: Collaboration in NEPA—A Handbook for NEPA Practitioners.

Connectivity. Ecological conditions that exist at several spatial and temporal scales that provide landscape linkages that permit the exchange of flow, sediments, and nutrients; the daily and seasonal movements of animals within home ranges; the dispersal and genetic interchange between populations; and the long distance range shifts of species, such as in response to climate change.

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

Conserve. For purposes of § 219.9, to protect, preserve, manage, or restore natural environments and ecological communities to potentially avoid federally listing of proposed and candidate species.

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

Designated area. An area or feature identified and managed to maintain its unique special character or purpose. Some categories of designated areas may be designated only by statute and some categories may be established administratively in the land management planning process or by other administrative processes of the Federal executive branch. Examples of statutorily designated areas are national heritage areas, national recreational areas, national scenic trails, wild and scenic rivers, wilderness areas, and wilderness study areas. Examples of administratively designated areas are experimental forests, research natural areas, scenic byways, botanical areas, and significant caves.

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

Disturbance regime. A description of the characteristic types of disturbance on a given landscape; the frequency, severity, and size distribution of these characteristic disturbance types; and their interactions.

Ecological conditions. The biological and physical environment that can affect the diversity of plant and animal communities, the persistence of native species, and the productive capacity of ecological systems. Ecological

conditions include habitat and other influences on species and the environment. Examples of ecological conditions include the abundance and distribution of aquatic and terrestrial habitats, connectivity, roads and other structural developments, human uses, and invasive species.

Ecological integrity. The quality or condition of an ecosystem when its dominant ecological characteristics (for example, composition, structure, function, connectivity, and species composition and diversity) occur within the natural range of variation and can withstand and recover from most perturbations imposed by natural environmental dynamics or human influence.

Ecological sustainability. See sustainability.

Ecological system. See ecosystem.

Economic sustainability. See sustainability.

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

(1) Composition. The biological elements within the different levels of biological organization, from genes and species to communities and ecosystems.

(2) Structure. The organization and physical arrangement of biological elements such as, snags and down woody debris, vertical and horizontal distribution of vegetation, stream habitat complexity, landscape pattern, and connectivity.

(3) Function. Ecological processes that sustain composition and structure, such as energy flow, nutrient cycling and retention, soil development and retention, predation and herbivory, and natural disturbances such as wind, fire, and floods.

(4) Connectivity. (see connectivity above).

Ecosystem diversity. The variety and relative extent of ecosystems.

Ecosystem services. Benefits people obtain from ecosystems, including:

(1) *Provisioning services,* such as clean air and fresh water, energy, fuel, forage, fiber, and minerals;

(2) *Regulating services,* such as long term storage of carbon; climate regulation; water filtration, purification, and storage; soil stabilization; flood control; and disease regulation;

(3) *Supporting services,* such as pollination, seed dispersal, soil formation, and nutrient cycling; and

(4) *Cultural services,* such as educational, aesthetic, spiritual and cultural heritage values, recreational experiences and tourism opportunities.

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

Environmental document. For the purposes of this part: an environmental assessment, environmental impact statement, finding of no significant impact, categorical exclusion, and notice of intent to prepare an environmental impact statement.

Environmental impact statement (EIS). See definition in § 219.62.

Even-aged stand. A stand of trees composed of a single age class.

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

Focal species. A small subset of species whose status permits inference to the integrity of the larger ecological system to which it belongs and provides meaningful information regarding the effectiveness of the plan in maintaining or restoring the ecological conditions to maintain the diversity of plant and animal communities in the plan area. Focal species would be commonly selected on the basis of their functional role in ecosystems.

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

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

Inherent capability of the plan area. The ecological capacity or ecological potential of an area characterized by the interrelationship of its physical elements, its climatic regime, and natural disturbances.

Integrated resource management. Multiple use management that recognizes the interdependence of ecological resources and is based on the need for integrated consideration of ecological, social, and economic factors.

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

Maintain. In reference to an ecological condition: To keep in existence or continuance of the desired ecological condition in terms of its desired composition, structure, and processes. Depending upon the circumstance, ecological conditions may be maintained by active or passive management or both.

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

Management system. For purposes of this subpart, a timber management system including even-aged management and uneven-aged management.

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

Monitoring. A systematic process of collecting information to evaluate effects of actions or changes in conditions or relationships.

Multiple use. The management of all the various renewable surface resources of the NFS so that they are utilized in the combination that will best meet the needs of the American people; making the most judicious use of the land for some or all of these resources or related services over areas large enough to provide sufficient latitude for periodic adjustments in use to conform to changing needs and conditions; that some land will be used for less than all of the resources; and harmonious and coordinated management of the various resources, each with the other, without impairment of the productivity of the land, with consideration being given to the relative values of the various resources, and not necessarily the combination of uses that will give the greatest dollar return or the greatest unit output, consistent with the Multiple-Use Sustained-Yield Act of 1960 (16 U.S.C. 528–531).

National Forest System. See definition in § 219.62.

Native knowledge. A way of knowing or understanding the world, including traditional ecological and social knowledge of the environment derived from multiple generations of indigenous peoples' interactions, observations, and

experiences with their ecological systems. Native knowledge is place-based and culture-based knowledge in which people learn to live in and adapt to their own environment through interactions, observations, and experiences with their ecological system. This knowledge is generally not solely gained, developed by, or retained by individuals, but is rather accumulated over successive generations and is expressed through oral traditions, ceremonies, stories, dances, songs, art, and other means within a cultural context.

Native species. An organism that was historically or is present in a particular ecosystem as a result of natural migratory or evolutionary processes; and not as a result of an accidental or deliberate introduction into that ecosystem. An organism's presence and evolution (adaptation) in an area are determined by climate, soil, and other biotic and abiotic factors.

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

Objection. See definition in § 219.62.

Online. See definition in § 219.62.

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

Persistence. Continued existence.

Plan area. The NFS lands covered by a plan.

Plan or land management plan. A document or set of documents that provide management direction for an administrative unit of the NFS developed under the requirements of this part or a prior planning rule.

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

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

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

Proposed Species. Any species of fish, wildlife, or plant that is proposed by the U.S. Fish and Wildlife Service or the National Marine Fisheries Service in the **Federal Register** to be listed under Section 4 of the Endangered Species Act.

Recovery. For the purposes of this subpart, and with respect to threatened or endangered species: The improvement in the status of a listed species to the point at which listing as federally endangered or threatened is no longer appropriate.

Recreation. See Sustainable recreation.

Recreation opportunity. An opportunity to participate in a specific recreation activity in a particular recreation setting to enjoy desired recreation experiences and other benefits that accrue. Recreation opportunities include non-motorized, motorized, developed, and dispersed recreation on land, water, and in the air.

Recreation setting. The social, managerial, and physical attributes of a place that, when combined, provide a distinct set of recreation opportunities. The Forest Service uses the recreation opportunity spectrum to define recreation settings and categorize them into six distinct classes: primitive, semi-primitive non-motorized, semi-primitive motorized, roaded natural, rural, and urban.

Responsible official. See definition in § 219.62.

Restoration. The process of assisting the recovery of an ecosystem that has been degraded, damaged, or destroyed. Ecological restoration focuses on reestablishing the composition, structure, pattern, and ecological processes necessary to facilitate terrestrial and aquatic ecosystems sustainability, resilience, and health under current and future conditions.

Restore. To renew by the process of restoration (see restoration).

Riparian Areas. Three-dimensional ecotones of interaction that include terrestrial and aquatic ecosystems that extend down into the groundwater, up above the canopy, outward across the floodplain, up the near-slopes that drain to the water, laterally into the terrestrial ecosystem, and along the water course at variable widths.

Riparian management zone. Portions of a watershed where riparian-dependent resources receive primary emphasis, and for which plans include plan components to maintain or restore riparian functions and ecological functions.

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

Scenic character. A combination of the physical, biological, and cultural images that gives an area its scenic identity and contributes to its sense of place. Scenic character provides a frame of reference from which to determine scenic attractiveness and to measure scenic integrity.

Social sustainability. See sustainability.

Sole source aquifer. Underground water supply designated by the Environmental Protection Agency (EPA) as the ''sole or principle'' source of drinking water for an area as established under section 1424(e) of the Safe Drinking Water Act (42 U.S.C. 300h–3(e)).

Source water protection areas. The area delineated by a State or Tribe for a public water system (PWS) or including numerous PWSs, whether the source is ground water or surface water or both, as part of a State or tribal source water assessment and protection program (SWAP) approved by Environmental Protection Agency under section 1453 of the Safe Drinking Water Act (42 U.S.C. 300h–3(e)).

Stressors. For the purposes of this subpart: Factors that may directly or indirectly degrade or impair ecosystem composition, structure or ecological process in a manner that may impair its ecological integrity, such as an invasive species, loss of connectivity, or the disruption of a natural disturbance regime.

Sustainability. The capability to meet the needs of the present generation without compromising the ability of future generations to meet their needs. For purposes of this part, ''ecological sustainability'' refers to the capability of ecosystems to maintain ecological integrity; ''economic sustainability'' refers to the capability of society to produce and consume or otherwise benefit from goods and services including contributions to jobs and market and nonmarket benefits; and ''social sustainability'' refers to the capability of society to support the network of relationships, traditions, culture, and activities that connect people to the land and to one another, and support vibrant communities.

Sustainable recreation. The set of recreation settings and opportunities on the National Forest System that is ecologically, economically, and socially sustainable for present and future generations.

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

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

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

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

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

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

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

Subpart B—Pre-Decisional Administrative Review Process

§ 219.50 Purpose and scope.

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

§ 219.51 Plans, plan amendments, or plan revisions not subject to objection.

(a) A plan, plan amendment, or plan revision is not subject to objection when the responsible official receives no substantive formal comments (§ 219.62) on that proposal during the opportunities for public comment (§ 219.53(a)).

(b) Plans, plan amendments, or plan revisions proposed by the Secretary of Agriculture or the Under Secretary for Natural Resources and Environment are not subject to the procedures set forth in this section. A decision by the Secretary or Under Secretary constitutes the final administrative determination of the U.S. Department of Agriculture.

(c) A plan, plan amendment, or plan revision is not subject to objection under this subpart if another administrative review process is used consistent with § 219.59.

(d) When a plan, plan amendment, or plan revision is not subject to objection under this subpart, the responsible official shall include an explanation with the signed decision document.

§ 219.52 Giving notice of a plan, plan amendment, or plan revision subject to objection before approval.

(a) The responsible official shall disclose during the NEPA scoping process and in the appropriate NEPA documents that the proposed plan, plan amendment, or plan revision is subject to the objection procedures in this subpart. This disclosure is in addition to the public notice that begins the objection filing period, as required at § 219.16. When a responsible official chooses to use the objection process of this subpart for a plan, plan amendment, or plan revision process initiated before the effective date of this rule, notice that the objection process will be used must be given prior to an opportunity to provide substantive formal comment on a proposed plan, plan amendment, or revision and associated environmental analysis.

(b) The responsible official shall make available the public notice for the beginning of the objection period for a plan, plan amendment, or plan revision (§ 219.16(a)(3)) to those who have requested the environmental documents or are eligible to file an objection consistent with § 219.53.

(c) The content of the public notice for the beginning of the objection period for a plan, plan amendment, or plan revision before approval (§ 219.16(a)(3)) must:

(1) Inform the public of the availability of the plan, plan amendment, or plan revision, the appropriate final environmental documents, the draft plan decision document, and any relevant assessment or monitoring evaluation report; the commencement of the objection filing period under 36 CFR part 219 Subpart B; and the process for objecting. The documents in this paragraph will be made available online at the time of public notice.

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

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

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

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

(6) Include a statement that an objection, including attachments, must be filed with the appropriate reviewing officer (§ 219.62) within 60 days, if an environmental impact statement has been prepared, otherwise within 45 days of the date of publication of the public notice for the objection process.

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

§ 219.53 Who may file an objection.

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

(b) Formal comments received from an authorized representative(s) of an entity are considered those of the entity only. Individual members of that entity do not meet objection eligibility requirements solely based on membership in an entity. A member or an individual must submit substantive formal comments independently to be eligible to file an objection in an individual capacity.

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

(d) Federal agencies may not file objections.

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

§ 219.54 Filing an objection.

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

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

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

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

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

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

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

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

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

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

(4) The name of the plan, plan amendment, or plan revision being objected to, and the name and title of the responsible official;

(5) A statement of the issues and/or the parts of the plan, plan amendment, or plan revision to which the objection applies;

(6) A concise statement explaining the objection and suggesting how the proposed plan decision may be improved. If applicable, the objector should identify how the objector believes that the plan, plan amendment, or plan revision is inconsistent with law, regulation, or policy; and

(7) A statement that demonstrates the link between prior substantive formal comments attributed to the objector and the content of the objection, unless the objection concerns an issue that arose after the opportunities for formal comment (§ 219.53(a)).

§ 219.55 Objections set aside from review.

(a) The reviewing officer shall set aside and not review an objection when one or more of the following applies:

(1) Objections are not filed in a timely manner (§ 219.56);

(2) The proposed plan, plan amendment, or plan revision is not subject to the objection procedures of this subpart pursuant to §§ 219.51 and 219.59;

(3) The individual or entity did not submit substantive formal comments (§ 219.53) during opportunities for public comment on the proposed decision (§ 219.16(a)(1) and (a)(2));

(4) None of the issues included in the objection is based on previously submitted substantive formal comments unless one or more of those issues arose after the opportunities for formal comment;

(5) The objection does not provide sufficient information as required by § 219.54(c);

(6) The objector withdraws the objection in writing;

(7) The objector's identity is not provided or cannot be determined from the signature (written or electronically scanned), and a reasonable means of contact is not provided (§ 219.54(c)); or

(8) The objection is illegible for any reason and a legible copy cannot easily be obtained.

(b) When an objection includes an issue that is not based on previously submitted substantive formal comments and did not arise after the opportunities for formal comment, that issue will be set aside and not reviewed. Other issues raised in the objection that meet the requirements of this subpart will be reviewed.

(c) The reviewing officer shall give written notice to the objector and the responsible official when an objection or part of an objection is set aside from review and shall state the reasons for not reviewing the objection in whole or part. If the objection is set aside from review for reasons of illegibility or lack of a means of contact, the reasons must be documented in the planning record.

§ 219.56 Objection time periods and process.

(a) *Time to file an objection.* For a new plan, plan amendment, or plan revision for which an environmental impact statement (EIS) is prepared, written objections, including any attachments, must be filed within 60 days following the publication date of the public notice for a plan, plan amendment, or plan revision before approval (§§ 219.16 and 219.52). For an amendment for which an EIS is not prepared, the time to file an objection is within 45 days. It is the responsibility of the objector to ensure that the reviewing officer receives the objection in a timely manner.

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

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

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

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

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

(2) The electronically generated posted date and time for email and facsimiles;

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

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

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

(e) *Reviewing officer role and responsibilities.* The reviewing officer is the U.S. Department of Agriculture (USDA) or Forest Service official having the delegated authority and responsibility to review an objection filed under this subpart. The reviewing officer is a line officer at the next higher administrative level above the responsible official; except that:

(1) For a plan amendment, that next higher-level line officer may delegate the reviewing officer authority and responsibility to a line officer at the same administrative level as the responsible official. Any plan amendment delegation of reviewing officer responsibilities must be made prior to the public notification of an objection filing period (§ 219.52).

(2) For an objection or part of an objection specific to the identification of species of conservation concern, the regional forester who identified the species of conservation concern for the plan area may not be the reviewing officer. The Chief may choose to act as the reviewing officer or may delegate the reviewing officer authority to a line officer at the same administrative level as the regional forester. The reviewing officer for the plan will convey any such objections or parts thereof to the appropriate line officer.

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

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

§ 219.57 Resolution of objections.

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

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

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

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

§ 219.58 Timing of a plan, plan amendment, or plan revision decision.

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

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

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

§ 219.59 Use of other administrative review processes.

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

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

§ 219.60 Secretary's authority.

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

§ 219.61 Information collection requirements.

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

§ 219.62 Definitions.

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

Address. An individual's or entity's current mailing address used for postal service or other delivery services. An email address is not sufficient.

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

in which a normally excluded action may have a significant environmental effect.

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

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

Formal comments. See substantive formal comments.

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

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

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

National Forest System. The National Forest System includes national forests, national grasslands, and the National Tallgrass Prairie.

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

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

Objection period. The allotted filing period following publication of a public notice in the applicable newspaper of record (or the **Federal Register**, if the responsible official is the Chief) of the availability of the appropriate environmental documents and draft decision document, including a plan, plan amendment, or plan revision during which an objection may be filed with the reviewing officer.

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

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

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

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

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

Substantive formal comments. Written comments submitted to, or oral comments recorded by, the responsible official or his designee during an opportunity for public participation provided during the planning process (§§ 219.4 and 219.16), and attributed to the individual or entity providing them. Comments are considered substantive when they are within the scope of the proposal, are specific to the proposal, have a direct relationship to the proposal, and include supporting reasons for the responsible official to consider.

Dated: March 23, 2012.

Harris D. Sherman,

Under Secretary, Natural Resources and Environment.

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