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National Forest System Land and Resource Management Planning; Proposed Rules

DEPARTMENT OF AGRICULTURE

Forest Service

36 CFR Part 219

RIN 0596–AAB86

National Forest System Land and Resource Management Planning

AGENCY: Forest Service, USDA.

ACTION: Proposed rule.

SUMMARY: The Forest Service is proposing changes to the National Forest System Land and Resource Management Planning Rule adopted November 9, 2000. These proposed changes are a result of a review conducted by Forest Service personnel at the direction of the Office of the Secretary. The review affirmed much of the 2000 rule and the underlying concepts of sustainability, monitoring, evaluation, collaboration, and use of science. Although the 2000 rule was intended to simplify and streamline the development and amendment of land and resource management plans, the review concluded that the 2000 rule is neither straightforward nor easy to implement. The review also found that the 2000 rule did not clarify the programmatic nature of land and resource management planning. This proposed rule is intended to improve upon the 2000 rule by providing a planning process which is more readily understood, is within the agency's capability to implement, is within anticipated budgets and staffing levels, and recognizes the programmatic nature of planning.

DATES: Comments must be received in writing by March 6, 2003. Comments received after this date will be considered and placed in the record only if practicable.

ADDRESSES: Send written comments to: USDA FS Planning Rule, Content Analysis Team, PO Box 8359, Missoula, MT 59807; via email to *planning_rule@fs.fed.us;* or by facsimile to Planning Rule Comments at (406) 329–3556. All comments, including names and addresses when provided, are placed in the record and are available for public inspection and copying. The agency cannot confirm receipt of comments. Persons wishing to inspect the comments need to call (801) 517–1023 to facilitate an appointment. In addition, the Forest Service preliminary draft directives on ecological, social, and economic sustainability, the business model cost study done to estimate predicted costs to implement the 2000 and proposed rules, the Civil Rights Impact Assessment, and the cost-benefit analysis accompanying this proposed rule are expected to be posted during the comment period on the World Wide Web/Internet at *www.fs.fed.us/emc/nfma.* These materials, when available, also may be obtained from the Director, Ecosystem Management and Coordination Staff, Forest Service, USDA, Mail Stop 1104,1400 Independence Avenue, SW, Washington, DC 20250–1104.

FOR FURTHER INFORMATION CONTACT: Jody Sutton, Content Analysis Team Program Coordinator, Forest Service, (801) 517–1023.

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Background

The Forest Service (the agency), an agency within the United States Department of Agriculture (the Department), is responsible for managing the lands and resources of the National Forest System, which include 192 million acres in 44 states, Puerto Rico, and the Virgin Islands. The System is composed of 155 national forests, 20 national grasslands, 1 national prairie, and other miscellaneous lands under the jurisdiction of the Secretary of Agriculture (the Secretary).

The Forest and Rangeland Renewable Resources Planning Act of 1974 (88 Stat. 476 *et seq.*), as amended by the National Forest Management Act of 1976 (NFMA) (90 Stat. 2949 *et seq.*; 16 U.S.C. 1601–1614), requires the Secretary to promulgate regulations under the principles of the Multiple-Use Sustained-Yield Act of 1960 that set out the process for the development and revision of land and resource management plans (16 U.S.C. 1604(g)). The first planning rule, adopted in 1979, was substantially amended on September 30, 1982 (47 FR 43026), and was amended in part on June 24, 1983 (48 FR 29122), and on September 7, 1983 (48 FR 40383). The 1982 rule, as amended, has guided the development, amendment, and revision of the land and resource management plans (LRMP or plans) that are now in place for all national forests and grasslands, including an initial plan recently completed for the Midewin National Tall Grass Prairie that was recently added to the National Forest System (NFS).

The Forest Service has undertaken several reviews of the planning process implemented under the 1982 rule. The first review took place in 1989, when 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'' (1990). The critique concluded that the agency spent too much time on planning; that planning costs too much; and, therefore, that the Forest Service needed a more efficient planning process. These findings are still considered valid and are a prime consideration in the development of this proposed rule.

Subsequently, the Forest Service published an Advance Notice of Proposed Rulemaking (56 FR 6508; Feb. 15, 1991) regarding possible revisions to the 1982 rule. A proposed rule was published in 1995 (60 FR 18886); however, the Secretary elected not to proceed with that proposal.

In response to suggestions from persons who commented on the 1995 proposed rule, the Secretary convened a 13-member Committee of Scientists (Committee or COS) in late 1997 to evaluate the Forest Service's planning process and recommend changes. In 1998, the COS held meetings across the country to invite public participation in their discussions. The Committee's findings were issued in a final report, ''Sustaining the People's Lands'' (March 1999). A proposed rule based on the COS report was published on October 5, 1999 (64 FR 54074), and a final rule was adopted on November 9, 2000 (65 FR 67514).

The 2000 Planning Rule

In response to many of the findings in the 1990 Critique of Land Management Planning and the 1999 COS report, the Forest Service attempted to prepare a planning rule that would provide a more efficient planning process. The 2000 planning rule (also referred to as the 2000 rule) changed the Forest Service planning process by: (1) Establishing ecological, social, and economic sustainability as the overall stewardship goal for managing the National Forest System; (2) identifying maintenance and restoration of ecological sustainability as the first priority for management of National Forest System lands; (3) requiring collaboration with the general public, interested organizations, Tribal, State and local governments, and Federal agencies in all phases of the planning process; (4) expanding monitoring and evaluation requirements; (5) specifying the use of scientists and establishing detailed requirements for the application of science in the planning process; and (6) providing a dynamic planning framework for solving problems and addressing issues at the appropriate scale. The 2000 rule applies not only to plan amendments and revisions, but also to project-level planning and decisionmaking.

The general goals of the 2000 rule are laudable. A major improvement achieved in that rule is the emphasis on sustainability, which assists the Forest Service in providing for multiple uses over time. The 2000 rule also promotes efficiency in that it eliminates zero-based plan revisions as recommended in the 1990 critique, and it removes some analytical requirements of the 1982 rule, such as the requirements for developing benchmarks, which are no longer considered helpful. The 2000 rule also emphasizes public involvement more than the 1982 rule. The 2000 rule gives explicit direction on the use of science in the planning process, while the 1982 rule relied on knowledge shared through an interdisciplinary team approach without procedural requirements for the use of science. The 2000 rule replaces the post-decisional administrative appeal process for challenging plans with a pre-decisional objection process. The 2000 rule also delegates the authority for plan decisions to the Forest, Grassland, or Prairie Supervisor, rather than to the Regional Forester. The 2000 rule also recognizes the plan as a dynamic document.

Despite the positive aspects of the 2000 rule, however, the number of very detailed analytical requirements, the lack of clarity regarding many of the requirements, the lack of flexibility, and the lack of recognition of the limits of agency budgets and personnel led to a reconsideration of this rule.

Subsequent Reviews of the 2000 Planning Rule

After adoption of the 2000 rule, the Secretary received a number of comments from individuals, groups, and organizations expressing concerns regarding the implementation of the 2000 rule. In addition, lawsuits challenging promulgation of the rule were brought by a coalition of 12 environmental groups from 7 states and by a coalition of industry groups (*Citizens for Better Forestry* v. *USDA,* No. C–01–0728–BZ–(N.D. Calif., filed February 16, 2001)) and (*American Forest and Paper Ass'n* v. *Veneman,* No. 01–CV–00871 (TPJ) (D.D.C., filed April 23, 2001)). As a result of these lawsuits and concerns raised in comments to the Secretary, the Department initiated a review of the 2000 rule focusing on its ''implementability.'' The ''NFMA Planning Rule Review,'' completed in April 2001, concluded that many of the concerns regarding implementability of the rule were serious and required immediate attention.

In addition, the Forest Service developed a business analysis model of the 2000 rule and conducted a workshop with field-level planners to determine the implementability of the 2000 rule based on this business model. The business model reflected business activities directly applied from the 2000 rule and provided the basis for a systematic evaluation of the rule for implementability.

The business model identified the following nine major categories of planning activities and associated sections of the 2000 rule:

(1) Collaboration (primarily §§ 219.12 through 219.18);

(2) Best Science/Science Consistency (primarily §§ 219.22 through 219.25 with consideration of relative text in §§ 219.11 and 219.20);

(3) Recommendations (primarily §§ 219.3 through 219.9 with consideration of relative text in §§ 219.19, 219.20, 219.21, 219.26, and 219.27);

(4) Sustainability (primarily §§ 219.19 through 219.21 with consideration of relative text in § 219.11);

(5) Developing/Revising Plan Decisions (primarily §§ 219.6 through 219.9 and 219.11 with consideration of relative text in §§ 219.20, 219.26, 219.28, and 219.29);

(6) Write Plan Documentation (primarily §§ 219.11 and 219.30);

(7) Maintain the Plan (primarily § 219.31);

(8) Objections and Appeals (primarily § 219.32); and

(9) Miscellaneous (public notifications and selected NEPA activities).

Within the context of the nine categories defined, the facilitated workshop centered on answering two questions: (1) Are the business requirements clearly understood? (2) What is the agency's perceived ability to execute the requirements?

An important consideration in this business model analysis was that it was conducted by planning practitioners who have current field-level experience. They are the agency experts in a variety of resource areas, including assessing what can reasonably be accomplished, considering existing knowledge and information, the issues relevant to planning areas, and local staffing and funding situations.

This review and analysis found the following:

(1) The 2000 rule has both definitions and analytical requirements that are very complex, unclear, and, therefore, subject to inconsistent implementation

across the agency; for example, species viability, population monitoring, and the range of variation within the current climatic period;

(2) Compliance with the regulatory direction on such matters as ecological sustainability and science consistency checks would be difficult, if not impossible, to accomplish; and

(3) The complexity of the 2000 rule makes it difficult and expensive to implement.

Sustainability. The planners particularly questioned whether or not the agency could achieve the ecological, social, and economic sustainability standards established in § 219.19 of the 2000 rule. Similar concerns were noted regarding the viability provisions for the diversity of plant and animal communities, also in § 219.19 of the rule. The reviewers found that the ecological sustainability requirements in the rule are not only complex, but needlessly so. Although the 2000 rule was intended to increase the focus on ecosystem-level analyses for addressing the diversity of plant and animal communities and, thereby, reducing the far more costly species-by-species approach, the means to accomplish the intent of the rule are not clear. There was disagreement among the reviewers about the degree of potential reduction in the species-by-species analysis burden in the 2000 rule.

The role of science. The reviewers affirmed the importance of using the best available science in planning. However, the detailed provisions of the 2000 rule for the use of science and scientists in the planning process raised many concerns.

(1) Field-level planners believed the 2000 rule includes unnecessarily detailed procedural requirements for scientific peer reviews, broad-scale assessments, monitoring, and science advisory boards.

(2) Moreover, these requirements do not recognize the limits of budgets for use of science, nor does the 2000 rule clearly relate use of science to the scope of issues in the planning process.

(3) The 2000 rule also does not recognize limitations on the availability of scientists. The reviewers believed it to be unwise to place such detailed requirements on the use of scientists in the rule given the ambiguities of the rule text and the limited availability of scientists. Although science is needed to inform the Responsible Official, the reviewers concluded that the 2000 rule anticipates a level of involvement by scientists that may or may not be needed considering the planning issues or the anticipated amount of project activities during on-the-ground implementation of the plan.

Monitoring. Reviewers identified three major issues arising from the monitoring requirements of the 2000 rule. First, the unnecessarily detailed requirements for monitoring and evaluation in the 2000 rule are likely beyond the capacity of many units to perform. Second, it was considered to be generally confusing throughout the rule to mix programmatic and project level planning direction. Third, the monitoring requirements in the 2000 rule are overly prescriptive and do not provide the Responsible Official sufficient discretion to decide how much information is needed.

Also, during development of this revised proposed planning rule, it became apparent that monitoring should be focused on whether on-the-ground management is achieving desired conditions identified in the plan. This focus was not clear in the 2000 rule, as its monitoring direction primarily required a broad array of techniques intended to measure indicators of sustainability. This conceptual change reflects a fundamental difference in philosophy between the 2000 rule and this proposed rule. The 2000 rule tends to be highly prescriptive regarding a variety of aspects of planning. This proposed rule tends to focus more on results, rather than on techniques for achieving results. The Responsible Official is guided by a very large body of law, regulation, and policy that helps ensure responsible management on the ground. The much lower amount of procedural detail in this new proposed rule reflects the agency's assumption that the Responsible Officials will discharge planning duties responsibly and will conduct planning within the bounds of authority.

Transition from the 1982 to the 2000 rule. The reviewers also identified concerns with the transition requirements of the 2000 rule. There is a lack of clarity about how projects are to be compliant with the 2000 rule and how the entire rule is to be used in the more limited scope of plan amendments. Planners expressed uncertainty about how transition to the 2000 rule would occur, particularly for site-specific decisions. Finally, to fully implement the 2000 rule the planners felt the relatively short transition period provided is unrealistic given the complexities and uncertainties identified.

Having considered the reports of the review teams, the Acting Deputy Under Secretary for Natural Resources and Environment requested that the Chief of the Forest Service develop a proposed rule to revise the 2000 rule.

Provisions and Intent of the Proposed Rule

Overview

The Forest Service is now proposing changes to the planning rule at 36 CFR part 219, adopted November 2000, to address issues and concerns raised in the various reviews. The proposed rule retains many of the basic concepts in the 2000 rule, namely sustainability, public involvement and collaboration, use of science, and monitoring and evaluation. The agency has attempted to substantially improve these aspects of the 2000 rule by eliminating unnecessary procedural detail, clarifying intended results, and streamlining procedural requirements consistent with agency staffing, funding, and skill levels.

Because of the concerns identified regarding the 2000 rule and because this proposed rule changes the 2000 rule, it is necessary to explain exactly how and why the 2000 rule has been adjusted in this proposal. However, the agency believes it is productive to begin this overview with a vision of the planning process and the contents of resource management plans. The Forest Service believes the direction of many aspects of current planning activities and the basic concepts of the 2000 rule are very valuable and reflect the expectations of the American people for planning on their public lands.

Planning

The agency expects programmatic planning to be accomplished in the following ways:

- The extent of a plan analysis will be proportional to the kinds of decisions being made.
- Plans will be kept up to date, because planning will be simpler and thus, plans will be more efficiently amended.
- Plan revision will be based on a ''need for change.''
- Plan monitoring and evaluation will be emphasized more and will measure the success of adaptive management efforts, and the attainment of, or progress toward, desired conditions. This monitoring and evaluation will provide key information to help keep plans current and will help inform project-level decisionmaking. States, other Federal agencies, local governments, Tribes, and the public will be more closely involved in monitoring efforts.
- Public involvement is expected to be collaborative, vigorous, and focused

on consensus-based identification of and reasonable choices for desired conditions.

• Planning will continue to actively involve our Federal, State, county, and Tribal partners.

• Science will be integrated throughout the planning process, from initial data collection and interpretation, through issue identification, to the analysis process, to development and design of monitoring, and later to evaluation of monitoring results.

• The agency's strategic plan, national assessments, and monitoring results will provide useful information for the development of land and resource management plans and a national context for planning.

• Planning analysis will be more focused on desired conditions rather than speculative and detailed examination of future project effects.

• Planning will continue to focus on addressing baseline conditions and trends applicable to the planning issues. Baseline condition and trend analysis will clearly display anticipated progress toward desired conditions if active management occurs and also what may happen if active management is restricted.

• Planning analysis will focus on reasonable choices for zoning the landscape.

• Planning will recognize budget limitations in order to help the Responsible Official prioritize and balance competing planning activities, such as choosing the appropriate approach for monitoring watersheds.

Plan Contents

The agency's vision of planning expects a land and resource management plan to contain:

• Broad, programmatic direction for a forest, grassland, or prairie. Plans will make such key strategic decisions as identification of priority areas for wildfire hazard reduction; designating major utility corridors; identification of areas of especially high diversity, or areas containing rare or unique species, ecosystems, or biotic communities that need certain protections; identification of lands at the broad-scale (not an acre-by-acre determination) suitable for timber harvest or grazing, or other consumptive uses; identification of areas suitable for motorized use; and identification of areas where certain types of recreation use may be emphasized.

• More specific statements of desired conditions for such resources as vegetation, recreation, cultural and heritage resources, and watersheds, developed within the context of ecological, economic, and social systems.

• More specific outcome-based objectives (*i.e.*, measurable standards of performance).

• A set of standards that set appropriate limitations on activities to help achieve desired conditions. Standards will be fewer, simpler, and better allow for adaptive management than existing plans.

• Identified special areas, such as areas recommended for wilderness or wild and scenic river status. Plans will continue to include specific direction for these areas.

• As needed, associated materials such as maps or other documents necessary to make plan decisions.

• Plans will be brief and will refer to, rather than repeat, what is already in the Forest Service Directive System, existing law, regulation, or policy.

• Collaborative work with the public and emphasis on consensus building should lead to fewer unresolved issues and, therefore, fewer plan alternatives.

The goal of the agency is to have a planning rule that is simpler and easier to implement than the 2000 rule and that allows the agency to more easily adapt to changing issues and opportunities. Available agency budgets, personnel availability, and other resource limitations are recognized as important because they help provide a framework for the Responsible Official to make decisions such as the following: What issues can the Responsible Official reasonably address? What method will be used to solicit meaningful public involvement? What are the pressing resource needs? What data needs to be collected? Does the unit need to hire specialists to support the planning action? Are contracts needed to obtain various kinds of information? Recognition of budget availability and limitations helps the Responsible Official make choices about how to weigh and balance competing needs and to consider the costs and benefits of various actions for optimal results.

The proposed rule retains the important improvements of the 2000 rule. These include:

• Emphasis on sustainability;

• Strong public involvement and collaboration;

• Use of science throughout the planning process;

• An emphasis on monitoring and evaluation as fundamental to adaptive management;

• Need-for-change planning;

• Use of the objection process;

• The identification of the Forest, Grassland, or Prairie Supervisor as the Responsible Official; and

• The concept of planning as a dynamic process.

The Forest Service believes the proposed rule will apply these important improvements more efficiently than does the 2000 rule. The Forest Service believes that the proposed rule provides as efficient a planning process as possible within the scope of the National Forest Management Act (NFMA) requirements. In addition to retention of the key improvements, the agency also looked to earlier versions of published and unpublished proposed planning rules as sources of ideas in revising specific sections. Finally, the Forest Service has applied over 20 years of planning experience to craft this proposed rule.

It is also useful at this point to discuss in more detail one important component of the body of direction that governs the Responsible Official's actions. The Forest Service Directive System consists of the Forest Service Manual (FSM) and Handbook (FSH), which codify the agency's policy, practice, and procedure. The system serves as the primary basis for the internal management and control of all programs and the primary source of administrative direction to Forest Service employees.

The FSM contains legal authorities, objectives, policies, responsibilities, instructions, and guidance needed on a continuing basis by Forest Service line officers and primary staff in more than one unit to plan and execute assigned programs and activities. The FSH is the principal source of specialized guidance and instruction for carrying out the direction issued in the FSM. Examples include Handbooks on land management planning and environmental analysis.

As discussed throughout this proposed rule, the Directive System plays and will continue to play an important role in directing field employees on how to conduct planning.

Section 219.5 of the 2000 rule is a specific example of direction better included in the agency's Directive System. The agency believes that much of the process direction, such as potential uses of an assessment (*e.g.*, identification of additional research needs), or who has responsibility for a broad-scale assessment (Regional Foresters and Station Directors), or examples of what a local analysis should describe (*e.g.* likely future conditions, characterizations of the area of analysis) are more appropriately addressed in the Directive System, not

a codified rule. Pursuant to NFMA, the Forest Service will provide notice and give the public an opportunity to comment on the proposed Forest Service Manual direction for this proposed rule because of the substantial public interest in this direction (36 CFR 216.4).

The agency must improve its planning processes so that direction and resources will be in place to manage the National Forest System (NFS) lands more effectively. The trend in planning over the past 20 years has been towards more complexity with the result that limited funds and personnel available to the agency are being disproportionately spent on planning and analysis. With this proposal, the agency seeks to produce a planning rule that sets the stage for planning to be done in a reasonable manner, at reasonable costs, in a reasonable amount of time, and thus provide a sound and rational framework for managing National Forest System lands.

The agency has evaluated the entire cost of planning for both the 2000 rule and proposed rule. The evaluation shows that there will be efficiencies and reduced costs associated with implementation of the proposed rule.

Increasing efficiency and reducing costs are important. The Forest Service believes that the public's primary expectation is that the agency do a good job of land management. The agency needs to balance its planning efforts with its efforts to actually manage the land through the application of plan direction to subsequent actions. There is urgency to make planning more efficient, as there are issues, activities, and resource concerns that are not halted during the planning process and which may pose increased concerns when planning occurs over excessively long timeframes. There is a growing population that will recreate on National Forest System lands whether the agency is prepared to deal with these uses or not. There are growing needs for watershed restoration for such purposes as prevention of flooding and the attendant adverse effects on people, property, and resource health. There are increasing demands for energy resources. Many NFS lands have a critical wildfire problem. Spending disproportionate agency time and money on planning and analysis that is not commensurate with the scope and effect of the decision to be made reduces the agency's ability to address serious land management issues.

Additionally, the Forest Service has seldom been able to revise its plans prior to NFMA's 15-year deadline. There have been several reasons for this delay, but one consistent cause has been the excessive length of time needed to plan under existing procedures. Please refer to the November 30, 2001, **Federal Register** notice (66 FR 59775), which contains the agency's schedule to systematically approach the NFMA 15-year revision deadline for NFS units, considering critical resource and social/economic issues. Reviewers may also refer to the Forest Service Ecosystem Management Coordination staff Web site at *www.fs.fed.us/emc/nfma* for the latest update of the agency-wide land and resource management plan (LRMP) revision schedule.

The Forest Service believes this proposed rule, if adopted, would improve and streamline the planning process. In accordance NFMA, plans are to be revised from time to time when the Secretary finds conditions on a unit have significantly changed, but at least every 15 years. Plan revisions that take four, five, or six or more years to complete are not responsive to the vision of NFMA, are not responsive to changing issues, and are in danger of exhausting public interest and involvement. When plans cannot be easily amended, many people feel that they need to have all their concerns resolved in a plan revision, because that will be the direction in place for many years. This viewpoint not only can increase contentiousness in planning, but also result in unreasonably high expectations of what a plan does. Several aspects of this proposed rule will improve the ability to not only revise plans more easily, but also to amend them more easily.

As stated, the proposed rule is intended to reflect the programmatic nature of planning and provide a process that is within the agency's ability to implement. Fundamental to programmatic planning is the premise that plans are permissive; that is, they allow, but do not mandate, certain activities to take place within the plan area. Consequently, the proposed rule emphasizes that plans themselves generally are not actions that significantly affect the quality of the human environment, nor do they dictate site-specific actions.

The agency must align its planning processes and performance responsibly. This means targeting dollars spent on planning to those activities that will yield clear benefits. Programmatic land and resource management planning cannot do more than establish a framework for management in an ever-changing environment. The Forest Service believes that the proposed rule provides as efficient a planning process as possible within the framework of NFMA direction.

A detailed explanation of the proposed rule that would amend the rules at 36 CFR Part 219 follows.

Section-by-Section Explanation of the Proposed Rule

Table I at the end of this document provides a section-by-section comparison of the 2000 rule and the proposed rule.

Proposed section 219.1—Purpose and applicability. The Multiple-Use Sustained-Yield Act of 1960 (MUSYA) establishes that NFS lands must be administered for outdoor recreation, range, timber, watershed, and wildlife and fish values. The Act authorizes and directs the Secretary to develop and administer these resources for multiple use and the sustained yield of the several products and services that are obtained from management of the surface resources. The Act defines multiple use as the management of all the various renewable surface resources of the NFS lands so that they are utilized in the combination that will best meet the needs of the American people. The Act further provides that sustained yield of the several products and services means the achievement and maintenance in perpetuity of a high-level annual or regular periodic output of the various renewable resources of the NFS without impairment of the productivity of the land.

The Forest Service has embraced the concept of sustainability to guide the agency in meeting requirements of MUSYA. Sustainability addresses the ''sustained yield'' aspect of MUSYA because it requires balancing resource management with the needs of current and future generations ''in perpetuity.'' The concept of sustainability will assist the Responsible Official in assuring that Forest Service management of the various renewable resources will be administered without impairment of the productivity of the land, as required by MUSYA. Sustaining the productivity of the land and its renewable resources means meeting present needs without compromising the ability to meet the needs of future generations. Meeting present and future needs does not imply all individual needs can be met at one time, either now or in the future.

The concepts of multiple use and sustainability are addressed in § 219.1 of the 2000 rule. Because these concepts are so fundamental to planning, they are retained in § 219.1 of this proposed rule. As does the 2000 rule, this proposed rule affirms the health of the land and sustaining its resources within the

authority granted by MUSYA as the overall goal for managing the National Forest System.

This section of the rule sets forth a clear process for establishing, amending, and revising plans and for monitoring plan implementation. As provided in § 219.1 of the 2000 rule, this proposed rule also recognizes that planning may consider many time frames and geographic areas and that it is an ongoing process. However, the proposed rule would not determine the selection or implementation of site-specific actions. Rather, the proposed rule requires documentation that a future project decision is consistent with the plan. The agency believes that a rule which focuses solely on programmatic-level planning will be better understood and more consistently applied than a rule that includes direction on both programmatic and project-level decisionmaking. Agency guidelines on project-level planning are specified in FSM 1950 and FSH 1909.15.

The USDA Office of General Counsel, Natural Resources Division working paper entitled ''Overview of Forest Planning and Project Level Decisionmaking,'' describes the nature of the agency's two-staged decisionmaking process. The paper is available on the World Wide Web at *www.fs.fed.us/emc/nfma.* The relevant issues, levels and kinds of analysis needed, and decisions to be made in a programmatic plan are quite different from those required for development of site-specific projects. The paragraph in this section regarding the applicability of the proposed rule is the same as § 219.34 of the 2000 rule, except that it adds a reference to subsequent statutes in order to allow for any future additions to the National Forest System.

Proposed section 219.2—Nature and scope of a land and resource management plan. This section of the proposed rule establishes the fundamental purpose of a plan and provides specific requirements on how that purpose will be met. In contrast to §§ 219.1–219.5 of the 2000 rule, this proposed section describes the nature of a land and resource management plan concisely, and, thereby, sets the stage for a planning process that is more flexible and efficient.

Proposed paragraph (a) of this section establishes that the fundamental purpose of a plan is (1) to establish the desired conditions to be achieved through the management of the lands and various renewable resources of the National Forest System and (2) to guide the Forest Service in fulfilling its responsibilities for stewardship of the National Forest System to best meet the present and future needs of the American people. This concept is central to the planning vision. In contrast to the lengthy and non-regulatory exposition of §§ 219.1–219.5 of the 2000 rule, § 219.2 of this proposed rule concisely describes the nature of a land and resource management plan.

Proposed paragraph (b) is somewhat similar to § 219.2 of the 2000 rule in that it sets out principles on which that rule is based. Rather than dwelling on principles modifying the rules, however, paragraph (b) imposes core requirements for which the Responsible Official will be held accountable in plan development, amendment, or revision. While brief and concise, these requirements touch all the major principles covered in § 219.2 of the 2000 rule—-sustainability, use of science, consultation with government agencies and Tribes, public participation, interdisciplinary planning, and monitoring and evaluation.

Proposed paragraph (c) recognizes the role of plans in integrating the various statutory authorities applicable to National Forest System management. It also recognizes the Forest Service Directive System as the primary source of agency-wide management direction relevant to planning and management of National Forest System lands and resources. Planning is conducted in the context of the body of environmental laws, regulations, Executive orders, and policy. The plan itself does not generally repeat existing law, regulation, Executive order, or policy but rather interprets their requirements as they apply to the plan area.

Although the proposed rule does not explicitly address integrating statutory authorities, it does at § 219.1(a) identify the principal authorities applicable to National Forest System lands.

Paragraph (d) of proposed § 219.2 describes the force and effect of land and resource management plans, making clear that:

- These plans do not grant, withhold, or modify any contract, permit, authorization, or other legal instrument;
- These plans do not subject anyone to civil or criminal liability; and
- These plans create no legal rights.

This proposed paragraph better recognizes the programmatic nature of plans than the 2000 rule, and therefore, more accurately describes the nature of a land and resource management plan. Since a plan provides only the framework for management, a plan normally does not specifically authorize any ground-disturbing activities nor does it specifically commit funding or resources. Therefore, the analysis associated with a plan should be proportional to the level of decisions made in a plan. Also, a plan focuses on desired conditions. It zones the forest, grassland, or prairie into defined areas where activities could occur to help meet those desired conditions and sets out a program for monitoring progress toward desired conditions. This kind of plan can be supported by an analysis that evaluates, on a broad level, the areas' suitability for future potential activities.

The type of plan level analysis that the Forest Service has found most useful for developing a plan, and for project analysis thereafter, is baseline and general trend analysis, which gives as complete a picture of the forest or grassland as possible at one time and provides the best information of trends of natural processes and of uses in the plan area and surrounding lands. The Forest Service will continue such analyses in the planning process. The Forest Service believes that environmental analyses are most useful when done in the development of site-specific decisions that will execute on-the-ground management. More specifically, while a plan guides project implementation, extensive up-front effects disclosure is generally too speculative to be useful for project analysis. Thus, the opportunity to ''tier'' a project's NEPA analysis to a plan EIS, as provided in NEPA regulations (40 CFR 1502.20), is useful only for certain aspects of analysis and in practice has proven more theoretical than real. The Forest Service therefore intends to conduct most detailed analysis on the site-specific project level.

Plan management direction should be flexible and allow for adaptive management. Monitoring should not only measure progress toward desired conditions but also help measure the success of adaptive management strategies and actions.

A plan is generally a zoning document. It may allow for later, site-specific authorization of activities and may restrict activities in specific areas. There are different ways this zoning is applied depending on the type of existing or potential future activities. For example, a plan may allow transportation development or motorized use on some portions of the National Forest System unit, but not on others. Such a plan decision does not immediately authorize road construction, but rather identifies zones where road construction may occur in the future, based on an appropriate project-specific NEPA analysis, public involvement, and a future decision.

Another example of zoning-type direction in a plan is direction that would restrict motorized access in areas where it has been allowed in the past or that would restrict other recreation uses that are currently allowed. The plan itself does not normally execute the restriction. Rather, the restriction would have to be implemented with a subsequent process, such as a closure order or other instrument.

It must be recognized that a plan is not the final word deciding forever the fate of an area of land, determining that some actions will certainly occur and others never will occur, over all or part of the plan area. According to the Forest Service's vision of planning, plans can and should be dynamic documents, which can and should be reconsidered throughout their existence and readily amended when circumstances call for change.

In summary, the plan is a framework for future on-the-ground management decisions. Site-specific projects are proposed and developed within the constraints of the plan, and are subject to the National Environmental Policy Act and other applicable laws and regulations.

Proposed section 219.3—Levels of planning and planning authority. This section of the proposed rule identifies three levels of planning—national, regional, or unit (national forest, grassland, or prairie) level. As in the 2000 rule, the Forest, Grassland, or Prairie Supervisor is the Responsible Official for a land and resource management plan, unless the Regional Forester or the Chief chooses to act as the Responsible Official for a specific amendment or revision.

The key planning elements listed in § 219.3(d) of the 2000 rule are omitted from the proposed rule because they are unnecessary. Proposed § 219.5 provides direction on indicators or a need to amend or revise a plan. §§ 219.7–219.9 discuss the steps to develop a new plan or amend or revise a plan. § 219.10 discusses application of plan direction and § 219.11 provides for plan monitoring or evaluating plans. It is not necessary to summarize these planning elements in a single section. The 2000 rule § 219.3 key element number 7 is not needed because the proposed rule does not provide direction for site-specific decisions. Additionally, in contrast to the 2000 rule, § 219.3 in this proposed rule does not contain direction for site-specific actions. As noted previously, the focus of this proposed rule is the development, amendment, and revision of plans, not site-specific project planning. The Forest Service uses a staged decisionmaking process in which land and resource management plans establish the guidance that governs site-specific project planning and decisionmaking.

One new provision of § 219.3 is the recognition of the need to ensure that management direction for designated areas of experimental forests is consistent with the research being conducted and concurred in by the appropriate Station Director. The need for this direction emerged from review by Forest Service Research and Development employees.

Proposed section 219.4—Decisions embodied in plans. This proposed section, in paragraphs (a)(1)–(6), retain the five types of plan decisions found in the 2000 rule. Those decisions are ''desired conditions,'' ''objectives,'' ''standards,'' ''the identification and designation of suitable and unsuitable land uses,'' and ''the identification of requirements for monitoring and evaluation.'' For efficiency and clarity, § 219.26 of the 2000 rule, which governs identifying and designating suitable uses, has been incorporated into § 219.4 as proposed paragraph (a)(4). Overall, this section of the proposed rule is similar to § 219.7 of the 2000 rule, although reorganized in this proposal. The proposed rule, however, more explicitly tracks the National Forest Management Act (NFMA).

In proposed paragraph (a)(3) of section 219.4, the rule states ''Standards generally should be adaptable and assess performance measures.'' The following is an example of an adaptable standard that assesses performance measures: ''No pre-commercial thinning is allowed in lynx habitat unless at least three years of monitoring of snowshoe hares shows that hares are present and are not a limiting factor for lynx. In these cases, pre-commercial thinning may occur on no more than 20 percent of the hare habitat.''

Proposed paragraph (a)(3)(ii) of section 219.4 addresses maximum size openings. The 2000 rule does not provide for maximum size openings. As in the 1982 rule, the proposed rule reinstates this statutory requirement and uses the same maximum size limits, by forest cover type.

An additional required standard is added at § 219.4(a)(3)(vii) on the use and application of culmination of mean annual increment (CMAI). The addition of CMAI direction was added to the proposed rule in order to clarify how this NFMA requirement is to be applied because there has been some confusion in this area. This new requirement specifies that CMAI considerations apply only to regeneration harvest of even-aged tree stands on suitable lands that are harvested for timber production purposes. This section allows for exceptions to the application of CMAI to be made in the plan; for example, a plan could provide exceptions for wildlife openings or for fuel reduction or fuel breaks.

The 2000 rule provides that lands are not suited for a particular use if law, regulation, or Executive order would prohibit the use, if the use is incompatible with the mission or policies of the National Forest System, or if the use would involve substantial and permanent impairment of the productivity of the land. The proposed rule retains the 2000 rule's criteria concerning laws, regulations or Executive orders and the criteria concerning productivity of the land. However, the proposed rule changes the provision of § 219.7(d) of the 2000 rule in two ways. First, the proposed rule no longer uses the criteria of incompatibility with the mission or policies of the National Forest System, because this is so broad that it would not be a useful criterion for the Responsible Official to consider. Instead, the proposed rule adopts a much more explicit criterion to consider; that is, ''If agency resource management directives prohibit the use.'' Second, the proposed rule adds a criterion for determining if lands are not suited for a particular use: ''If the use is incompatible with the desired conditions as established for the plan.'' This criterion was added to clearly recognize that the decisions made in adopting a plan may result in prohibiting some uses on all or parts of a plan area. In addition, this proposed section adds a clarification in paragraph (b) that assessments, surveys, and similar efforts are not plan decisions nor do they constitute a proposed action. This regulatory finding is essential to avoid public and employee confusion about what is a plan decision and what is not.

Proposed section 219.5—Indicators of need to amend or revise a plan. This section focuses on emerging issues and new information as indicators of the need to amend or revise a plan. Paragraph (a) of this proposed section is very similar to paragraph (a) of § 219.4 of the 2000 rule in identifying a variety of sources from which issues or problems may come to be addressed in planning. However, proposed paragraph (a) differs from the 2000 rule in that the reference to evaluation of collaboratively developed landscape goals has been removed from this section because of confusion regarding the intent of this provision in the 2000 rule. The concept of collaboratively

developed landscape goals is addressed in this preamble in the discussion of proposed § 219.12—Collaboration, cooperation and consultation. Proposed § 219.5 retains the concept of engaging the public in development of desired conditions as a cornerstone of planning. Paragraph (a) of proposed § 219.5 also differs from the 2000 rule by including a specific requirement for obtaining inventory data, as required by NFMA.

The 1982 rule used the term ''issues'' many times, and issue identification was a cornerstone of how planning was done, but the 1982 rule was not specific concerning the sources from which an issue could arise, except that public participation was a key element of issue identification. In contrast, the 2000 rule specifies how issues originate and gives detailed description of the Responsible Official's consideration of issues.

Proposed paragraph (b)(1) lists factors the Responsible Official may use to determine if an issue or opportunity is timely. Like the 2000 rule, this section makes clear that the Responsible Official has full discretion to make this determination. The requirements in § 219.4(b)(2)(ii), (iii), (iv), (vi), and (vii) of the 2000 rule address the extent to which ''consideration'' of the issues relate to opportunities of the planning unit to contribute to various elements of resource protection and sustainability. The proposed rule does not include these specific criteria, because it may not be practicable to consider these criteria at the initial stage of planning. There is often a lack of information when issues arise, and it is not always known how the issues relate to the National Forest System unit's contribution to sustainability. For example, there may not be complete information early in the issue identification stage related to opportunities to contribute to recovery of threatened or endangered species. This consideration may not be appropriate or efficient to consider until later in the planning process when the best available science may be assembled, when better inventory data may become available, or when public involvement may help discover opportunities that were not earlier known.

This proposed section does not retain the provision at § 219.4(b)(2)(v) that the Responsible Official should consider the extent to which addressing an issue relates to the potential for negative environmental effects on minorities. Potential negative effects are most meaningfully identified and addressed in the analysis phase of planning. Executive Order 12898 and Departmental Regulation 43004–4 (1978) require the Forest Service to determine if proposed actions would create disproportionate adverse effects on minority populations and, if so, to mitigate those effects to the extent practicable. The Forest Service complies with these requirements through its NEPA procedures. Scoping, the process of accepting public comments on a proposed action, should indicate whether environmental justice issues exist and the social and economic effects analysis would display the depth and range of those impacts and possible mitigation. The agency affirms that any action it can affect that would cause a disproportionate adverse effect on minority populations would be addressed through a NEPA procedure, thus there would be no controllable effects that the agency would not disclose, analyze, and mitigate to the extent practicable.

Proposed paragraph (b)(2) of this section incorporates the intent of § 219.5 of the 2000 rule with regard to addressing information needs and requires the Responsible Official to keep information gathering within reasonable costs and timeframes. However, this proposed paragraph does not carry forward the detailed provisions of § 219.5 of the 2000 rule for conducting broad-scale assessments and local analysis. These provisions are considered unduly detailed and too inflexible to apply to all National Forest System units, which have a wide variety of issues and information needs as well as differences in budgets and staffing levels. Needed direction on what constitutes broad-scale assessments and local analyses and how the Responsible Official should develop and use this information is more appropriately described in the agency's Directive System.

Proposed paragraph (b)(2) makes clear that a decision to consider or not consider an issue or opportunity is not subject to administrative objection.

Proposed section 219.6—Compliance with National Environmental Policy Act. This proposed section is intended to replace § 219.6 of the 2000 rule, which defines proposed actions, requires compliance with Forest Service NEPA procedures, and ties scoping to issue development.

Applicability of NEPA. NFMA section 6(g)(1) requires the Secretary of Agriculture to specify ''procedures to insure that land management plans are prepared in accordance with'' NEPA, including ''direction on when and for what plans an environmental impact statement shall be prepared'' (16 U.S.C. 1604(g)(1)). Thus, NFMA provides the statutory authority for the Secretary to specify not only what should be included in a plan, but also when and how the documentation of NEPA compliance applies to the planning process. This includes determining whether a plan decision's NEPA compliance is to be documented in an EIS, an EA and FONSI, or whether a plan decision may be categorically excluded from NEPA documentation.

The proposed rule maintains the planning process requirements already familiar to the public. These include public notice, public involvement, analysis, public comment on the draft plan, and an objection process for contesting planning decisions. The proposed planning process is intended to be open to all stakeholders and well-informed regarding the environmental effects of the proposed plan and appropriate alternatives.

Plan analysis and documentation: The 2000 rule at section 219.9 requires documentation of a plan revision in an EIS and allows the Responsible Official to determine whether or not to prepare an EIS for a plan amendment. The proposed rule at section 219.6, in contrast, applies this authority in a different manner and outlines the environmental analysis and documentation requirements for revisions. An EIS at the planning stage will not be required if the decision to adopt a plan revision or amendment is not an action significantly affecting the quality of the human environment or if a component of a plan does not yet authorize an action that commits funding or resources that could have a significant effect on the quality of the human environment. In addition, all plans in revision were adopted with full EIS analysis. Therefore, where the existing EIS and subsequent plan and/or project level documentation have adequately evaluated the significance of plan direction, no further supplementation is required.

Plans that only establish goals, objectives, standards, land allocations, monitoring requirements, and desired resource conditions do not authorize site-specific implementing actions and would not be expected to have significant effects on the environment or effects that have not been previously addressed in prior NEPA documents. As noted above, the question with respect to NFMA planning is when and how—not whether—to follow NEPA where it applies. NFMA specifically authorizes the Secretary of Agriculture to decide how and when to do NEPA environmental analysis for National Forest System plans. The agency may, based on the implementation of the proposed rule, identify a category of

plan decisions that do not individually or cumulatively have significant effects and may be categorically excluded from NEPA documentation through a subsequent rule-making process. However, plan decisions including actions that may have significant effects on the human environment must analyze and describe those effects in a more detailed environmental document, including an EIS where relevant. The following examples illustrate this principle.

- A plan decision revising or amending a plan's desired conditions, objectives, and standards for rangeland conditions would not ordinarily be an action with significant environmental effects. However, plan direction substantially increasing or reducing livestock grazing on a part or all of the plan area would be an action requiring further NEPA documentation of the effects of such a decision prior to plan approval.
- Plan direction revising or amending a plan's desired vegetative conditions, objectives, and standards to achieve such conditions would not ordinarily be an action with significant environmental effects. However, if plan direction imposes a substantial change in vegetative conditions, such as conversion of vegetation type, or if the plan decision includes a specific project or set of projects to reach those desired conditions, then further NEPA documentation for those actions must occur prior to plan approval.
- A plan decision revising or amending a plan's objectives for travel management within the plan area would not ordinarily constitute an action with significant environmental effects. However, when such a plan decision would substantially modify ongoing uses within the plan area, then NEPA documentation would be required for that proposed action prior to plan approval.
- Plan direction that revises or amends goals and objectives for consumptive and non-consumptive National Forest water uses and for special use authorizations would not ordinarily be an action with significant environmental effects. However, if a plan would impose substantial new or changed by-pass flows on current special use authorizations for the diversion of water, then NEPA documentation of the effects of that proposed action would be required prior to plan approval.
- Plan direction that revises or amends goals and objectives for oil and gas leasing would not ordinarily be an action with significant environmental effects. However, when a plan specifies stipulations for oil and gas leasing which have not been previously analyzed, NEPA disclosure would be required prior to plan approval.

Plan and project analysis: In contrast to the 2000 rule, the proposed rule at § 219.6(b) requires the detail of analysis at the plan and project level to be proportional to the decisions proposed. The proposed rule requires plans to provide substantial baseline data and trend analysis, which can include the description of direct, indirect, and cumulative effects information at a broad scale appropriate to planning, while requiring more detailed fine-scale NEPA analysis, including the description of direct, indirect, and cumulative effects, to be conducted when a site-specific action at the project level is proposed to implement the plan. Experience has shown that site-specific NEPA analysis, based upon more general plan-level analysis, provides a more timely and accurate assessment of the effects of Forest Service management actions than could otherwise be projected under more hypothetical reasoning in more detailed NEPA analysis at the plan level.

The proposed rule requires plans to be based on substantial analysis of pertinent issues regardless of the level of NEPA analysis and documentation. These plan analyses would: (1) Serve to help the Responsible Official, the public, and others develop land allocations, standards, desired conditions, and other plan decisions; (2) help limit the effects of future projects by application of the plan allocations, standards, desired conditions, and other plan decisions; and (3) provide information useful for analyzing project effects.

For example, both options in proposed section 219.13, developed to ensure that the NFMA diversity requirements are met, require ecological analyses. Option 2 in this proposed rule contains very specific analytical requirements. It focuses ecological analyses at both ecosystem and species levels of ecological organization, requires analyses of diversity across multiple geographic areas and timeframes, and stresses the importance of analyses conducted over large geographic areas or long timeframes. Option 2 requires description of the influence of the ecological condition, structure, and land use history of the surrounding landscape, as well as of natural and human-induced disturbance regimes, and a discussion on how these factors influence a forest's or grassland's ability to achieve biological diversity objectives. These analyses are a key part of both the proposed planning rule and the analysis of the ecological effects of proposals for plan decisions. This analysis will also provide essential baseline and trend data that will inform the analysis of the direct and indirect effects of plan implementation at the project level.

Cumulative effects analysis: Cumulative effects analysis normally involves analysis both at the plan level and at the project level. Under the proposed rule, plan-level analysis would evaluate existing conditions and broad trends at the geographic scale of the plan area. For example, depending on applicable issues, plan analysis may examine habitats for wide-ranging species at various geographic scales and discuss trends for that habitat. Plan analysis may examine recreation use and trends near a community. Plan analysis may also examine the current distribution and likelihood of spread for noxious weeds and whether existing roads may serve as vectors for that spread.

Analysis for site-specific projects will provide additional information that, when combined with the plan-level analysis and monitoring information collected and maintained on the plan's monitoring requirements, would serve as a basis for evaluating the cumulative effects of projects carried out under the plan. For example, where plan analysis documents the quantity and quality of habitat that is available for a wide-ranging species, that plan-level analysis, combined with applicable monitoring data and other inventory information, can provide much of the information needed to describe the cumulative effects of project and other past, current, and reasonably foreseeable projects upon the habitat available for that species.

Likewise, if plan analysis indicates that a particular recreation use is high and increasing the risk of loss of a rare plant, then plan direction may require particular measures for rare plant protection near trails in the recreation use area and a closer and more detailed examination for cumulative effects analysis associated with recreation management decisions. If plan-level analysis indicates that uses of existing roads are contributing to the spread of noxious weeds, and monitoring indicates that open roads from nearby projects are contributing to the spread, the project-level cumulative effects analysis may be required to assess mitigation measures that may be needed to restrict travel for the area.

Project level NEPA compliance: As stated elsewhere in this preamble, agency guidelines on project-level planning are specified in FSM 1950 and

FSH 1909.15. Whether a proposed project is categorically excluded from NEPA documentation, or is considered in an EA or EIS depends upon whether that project would have a significant effect on the environment.

For those projects that the agency believes there may be significant effects, an EIS will be prepared to display those effects. Pursuant to the FSH requirements, EIS's are required for actions in certain circumstances, for example, herbicide application, or road construction in an inventoried roadless area. In addition, the Forest Service typically documents other types of projects in an EIS. For example, large timber sale projects are normally documented in an EIS. Another example of a type of project that may be documented in an EIS would be an approval of a plan of operation for a large hard-rock mining operation.

The reason to do an EA is to determine whether or not an EIS is necessary and to document agency NEPA compliance when an EIS is not necessary. The EA will briefly provide sufficient evidence and analysis for determining whether to prepare an EIS or to reach a finding of no significant impact for the proposed action.

Projects typically documented in an EA are those projects that, at the time of the proposal, the Forest Service believes will not have significant environmental effects. Examples of types of projects typically documented in an EA include smaller timber sale projects, road construction, campground construction, special use authorizations, and fuels reduction.

The FSH also lists categories of actions that are excluded from NEPA documentation because they do not individually or cumulatively have a significant effect on the human environment and have been found to have no such effect in procedures adopted by the agency in implementation of the regulations. Existing categories include road maintenance, administrative site maintenance, or trail construction.

Whether a project is documented in an EIS or an EA or whether it is categorically excluded from NEPA documentation, land and resource management plan analyses will provide critical baseline and trend data that will inform the site-specific analysis for the project. Project level NEPA documentation will analyze project effects as needed, depending on the nature of the project and the applicable issues, and known information. Project analyses will supplement and use monitoring data, pertinent assessments, inventories, research, and the plan analysis information. This plan analysis information will be available regardless of whether the plan is documented in an EA, EIS, or categorically excluded from NEPA documentation.

Categorical exclusion for planning: If this proposed rule is adopted, conforming changes would be required in FSH 1909.15, section 20.6. A new categorical exclusion pertaining to categories of plan decisions may be adopted for plan decisions that do not individually or cumulatively have a significant effects on the human environment and are found to have no such effect by the agency based on the implementation of this proposed rule. A separate **Federal Register** notice would be published to provide public notice of the proposed category and request for comment.

Public comment: The agency recognizes that the manner in which the proposed rule applies NEPA with respect to new plans, plan amendments, and plan revisions is a departure from the approach taken in the 2000 rule and the 1982 rule requiring an EIS for plan revisions, significant amendments, or new plans. This departure is based on the agency's extensive experience with land and resource management planning over the years. That experience indicates that attempting to draw precise conclusions about the environmental effects of plan direction is subject to analytical uncertainty and is ultimately of limited value for purposes of informed decision-making in compliance with NEPA. However, the agency recognizes that some level of NEPA documentation for plan direction is warranted, and that there may be substantial disagreement over the extent of NEPA analysis and documentation that is appropriate. With this proposed rule, the Forest Service is attempting to strike an appropriate balance between broad-scale plan-level analysis and finer-scale project-level analysis with sufficient inter-relationship between the two to ensure NEPA compliance for all decisions. Therefore, the Forest Service specifically requests comments and suggestions from the public regarding how the ''significance'' of land and resource management plan direction is applied in this proposed rule, what plan decisions authorize an action or commit funding or resources that could have a significant effect on the environment and the circumstances for which an EA or EIS for a plan would be appropriate.

It is useful to summarize the differences between elements of NEPA application in the 2000 rule and in this proposed rule. This summary consolidates discussion present in other parts of this preamble.

Type of NEPA documentation: The 2000 rule requires preparation of an EIS for a plan revision (36 CFR 219.9(d)). The proposed rule states plans may be categorically excluded from documentation in an EA or EIS when the Responsible Official determines that the action fits an established Categorical Exclusion category and no extraordinary circumstances are present.

Public involvement: The 2000 rule has detailed requirements on who should be involved in planning (§§ 219.13–219.17). The proposed rule has essentially the same requirements, although they are more succinctly stated. These requirements would still apply for plans categorically excluded from documentation in an EA or EIS.

The Forest Service will ensure that categorically excluding land and resource management plans from documentation in an EA or EIS does not result in an adverse or disproportionate effect on groups of people identified under Title VI of the Civil Rights Act, the Executive Order 12898—Environmental Justice or other civil rights laws, regulations, and orders. These identified groups include minorities, seniors, women, subsistence lifestyle populations, Tribes, and low income populations. By definition in NEPA, a categorical exclusion address only those actions which do not individually or cumulatively have a significant effect on the human environment and for which, therefore, neither an EA nor an EIS is required (40 CFR 1508.4). Pursuant to agency policy set out in Forest Service Handbook 1909.15, Chapter 10, the Responsible Official would still be required to identify potentially affected and interested agencies, organizations, and individuals during the planning process, regardless of which type of documentation is used. Additionally, specific Forest Service guidance on scoping under NEPA will still apply to categorical exclusions.

Issues: The 2000 rule has very detailed requirements for issue identification. The proposed rule does not. While the proposed rule would still require the Responsible Official to document a rationale for issue identification in the proposed rule, it is likely that this documentation would be briefer as he or she would not need to cross reference an extensive list of issue sources (refer to § 219.5 in this preamble). The requirements in the proposed rule for issue identification would still apply for plans categorically excluded from documentation in an EA or EIS.

Analysis: The 2000 rule contains very detailed requirements for what can be

termed ''analysis'' in §§ 219.5, 219.9, and 219.20–219.25. The proposed rule has much simpler requirements. In addition, as pointed out previously in this preamble, the agency has a vision of an analysis that is more proportional to the decisions being made and that the analysis will be much briefer. The number and complexity of requirements in the 2000 rule make it unlikely that a proportional analysis effort would be successful.

Alternatives: The 2000 rule does not directly address alternatives to consider in developing a new plan, revision, or amendment. This proposed rule also does not directly address alternatives, but the preamble does in the planning ''vision'' and signals the agency's intention to work toward consensus with the public with an expected result of fewer alternatives.

Neither the 2000 rule nor this proposed rule set out specific NEPA requirements in the planning regulation, in accordance with the desire not to repeat direction contained in law, regulation or Executive order.

Proposed section 219.7—Amending a plan. As with the 2000 rule, this section of the proposed rule characterizes an amendment to a plan as an addition to, the modification of, or the rescission of one or more of the plan decisions listed in § 219.4. As with the 2000 rule (at § 219.18(b)), paragraph (a) of this proposed section specifically excludes administrative corrections as amendments. Paragraph (b) of this proposed section identifies issues or opportunities as provided in § 219.5 as potential sources for plan amendments. Proposed paragraph (c) requires that the Responsible Official provide opportunities for consultation and collaboration as addressed in § 219.12 during plan amendment. The process to produce an amendment, including the identification of issues or opportunities, the use of applicable information, an effects analysis, and provisions for consultation opportunities for consultation are the same in the 2000 rule and the proposed rule. While the process steps are the same, the rules are organized differently. The 2000 rule lists all the steps for amendment in § 219.8, while the proposed rule addresses issues in § 219.5, use of applicable information in § 219.13, and effects analysis in § 219.6 by reference to NEPA. The two rules differ in the specific requirements to accomplish the steps in the amendment process. These differences are addressed in the discussion for those individual sections in this proposed rule.

Proposed paragraph (d) defines a significant amendment and requires a 90-day comment period for a draft proposed significant amendment, as referenced in § 219.6 and as required by NFMA, (16 U.S.C. 1604 (f) (4)).

Under the 1982 planning rule, when amending the plan, the Forest Service has to cope with two processes to determine significance for two different statutes. First, under NFMA, the Forest Service had to determine whether an amendment is a significant change to a plan. Even if an amendment was determined not to be a significant change to the plan, the amendment still required an EIS if it was determined under NEPA to be a major Federal action significantly affecting the quality of the human environment. This direction has proven confusing to agency personnel and to the public. The 2000 rule uses only the NEPA definition for significance. This proposed rule defines a ''significant amendment,'' as one that would have a significant affect on the quality of the human environment. The proposed rule also provides for a new category of interim amendments in § 219.7(f) to enable the agency to make more rapid adjustments to management direction when necessary, such as when a threatened or endangered species is newly listed or initially discovered to exist in a particular area. In fact, a rapid response to the needs of threatened or endangered species is the prime reason this category of amendment is included. In 1995, for example, the Southern Region of the Forest Service amended their plans to provide interim standards and guidelines for the federally listed red-cockaded woodpecker. This interim direction was to remain in effect up to three years until individual plans could be amended or revised with longer term direction.

An interim amendment would expedite needed amendments to a plan, while the agency initiates further analysis and decisionmaking for a permanent amendment. The proposed rule would establish a maximum duration of four years for an interim amendment; however, there are a number of alternative views on the duration and process for these interim amendments, and the agency would especially welcome public comment concerning their use.

Proposed section 219.8—Revising a plan. The proposed rule requires a description of the current management situation and an assessment of the adequacy of existing plan direction, a summary of timely and relevant issues to be addressed, and a summary of relevant information. The proposed rule requires consultation with federally recognized Indian Tribes, State and local governments and other Federal agencies and contains requirements for public notice of intent to revise a plan. These requirements are much simpler than either the 1982 or 2000 rules.

The 2000 rule and the proposed rule are fundamentally different with regard to the amount of information and analysis required to initiate a revision. At § 219.20 of the 2000 rule, the Responsible Official must develop or supplement extensive information to address ecosystem sustainability and must provide comparable information at § 219.21 to address social and economic sustainability.

To initiate a revision of a plan, § 219.9 of the 2000 rule established requirements related to collaboration; identification of issues; analyses and information; identification of special areas; identification of specific watersheds in need of protective or restoration measures; identification of lands classified as not suitable for timber production; identification of and evaluation of inventoried roadless and unroaded areas; and development of an estimate of anticipated outcomes for the next 15 years. Each of these requirements refers in turn to additional requirements elsewhere in the planning regulations. For example, paragraph (b)(4)of § 219.9 of the 200 rule states in order to begin the revision process, the Responsible Official must, ''Evaluate the effectiveness of the current plan in contributing to sustainability (§§ 219.20–219.21) based on the information, analyses, and requirements described in § 219.20 (a) and (b) and § 219.21 (a) and (b), and provide for an independent scientific peer review (§ 219.22) of the evaluation.''

As the agency launched the November 2000 rule, field-level planners and resource professionals expressed uncertainty about the degree and scope of analysis and information gathering required to initiate a plan revision. They also were concerned about the potential controversy that might be associated with a plan developed under these untested and unclear requirements. Also questioned was the appropriateness of and the agency's ability to conduct pre-revision analysis and presenting some of this information at the revision initiation stage. For example, identification of new proposals for special areas or wilderness recommendations benefit from public involvement and input, which is more fully developed later in the planning process, not at the pre-revision stage.

The agency supports sharing as much known information as possible with the public at the early stage of revision initiation, but it does not believe the

extensive information and analysis requirements of the 2000 rule are necessary. In fact, the extensive work required to initiate revision will create further delays in revision of plans.

Both the proposed rule and the 2000 rule address the statutory requirements for plan initiation; however, the 2000 rule includes more extensive direction on the revision process than does the proposed rule. Both also include public notice requirements. The 2000 rule includes a 45-day public comment period. The proposed rule does not include a specified comment period, although notice is required to invite comment. This proposed change would allow the Responsible Official to tailor the comment period for initiation of plan revision to the scope and complexity of planning issues and opportunities for the unit.

The proposed rule and 2000 rule have the same substantive requirement for a 90-day public comment period of a draft proposed revision.

Proposed section 219.9—Developing a new plan. This proposed section recognizes that, over time, additional units may be added to the National Forest System, such as occurred with the recently established Midewin Prairie in Illinois. Should Congress establish a new national forest, grassland, prairie, or other unit of the National Forest System, the Responsible Official must determine whether a separate plan is needed or whether an existing plan can be amended. If a new plan is needed, the Responsible Official must follow the requirements of this regulation. The 2000 rule did not address this issue.

Proposed section 219.10—Application of plan direction. Paragraph (a) of this proposed section addresses the statutory requirements of the NFMA (16 U.S.C. 1604(h)(3)(i)) that permits, contracts, and other legal instruments must be consistent with the applicable plan. This paragraph is similar to the provisions of the 2000 rule at § 219.10 requiring all site-specific project decisions, permits, contracts, and other authorizations to be consistent with the applicable plan, which is required by NFMA.

However, unlike the 2000 rule, this proposed paragraph adds a specific requirement that project decisions disclose the relationship of the project to the plan desired conditions. While all project decisions must be consistent with the plan, it is not practical to require each project decision to be in strict compliance with all aspects of a plan's desired conditions. Sometimes a project may have positive effects on one aspect of desired conditions and negative effects on another. It is also possible that a project may have short-term negative effects that relate to a specific desired condition, with predicted long-term positive effects. At other times a project may have neutral effects related to desired conditions. These examples illustrate the complexity of the relationship of a particular project to the desired conditions in a plan. The agency therefore, has chosen not to include a specific requirement that projects comply with the plan's desired conditions, but rather a requirement that the project decision disclose how the decision relates to the applicable plan desired conditions.

Also in contrast to the 2000 rule, this proposed paragraph specifically requires that a new plan, amendment, or revision decision document consider the effects of the plan on occupancy and use already authorized. This change is proposed to ensure that there will be an orderly transition when a new plan, amendment, or revision is authorized. This proposed section also acknowledges that modifications of instruments authorizing ongoing occupancy and use of the plan area necessary to make them consistent with the changes in the plan are subject to any valid existing rights.

Paragraph (b) of this proposed section provides that direction in plans undergoing amendment or revision would remain in effect until the Responsible Official signs a decision document for a new amendment or revision. This provision is the same as in § 219.10 of the 2000 rule.

Paragraph (c) of this proposed section makes clear that nothing in the rule itself requires a change of approved projects while new information is being assessed. This provision is proposed to clarify the effect of considering new information and fills a gap in both the 1982 rule and the 2000 rule.

Paragraph (d) of this proposed section retains the provisions of § 219.10 of the 2000 rule that lists options available to a Responsible Official when a proposal for a project or activity would not be consistent with plan direction.

Paragraph (e) of this proposed section recognizes the need for testing and research projects to gain information and knowledge that will assist the land manager. This paragraph makes clear that testing and research projects are subject to all applicable laws, regulations, and Executive orders and must be consistent with the plan. This is a new paragraph developed to acknowledge the important role of research in National Forest System land management and the role of NFS lands as sites for research. This provision also further strengthens the emphasis of this proposed rule on monitoring and evaluation.

Proposed section 219.11—Monitoring and evaluation. As at § 219.11 of the 2000 rule, this proposed section specifies that plans must include requirements for monitoring and evaluation, although this proposed rule does not refer to such requirements as a ''strategy.'' This proposed section provides direction on the purpose of monitoring and evaluation, the data sources that may be used, the coordination of monitoring that may occur, possible evaluation activities, and direction on record keeping. Paragraph (a) provides that the Responsible Official ensure that monitoring occurs and that monitoring methods may be adjusted without plan amendment or revision. As with the 2000 rule, monitoring could be conducted jointly with other interested parties such as other governmental agencies, Tribes, and scientific and academic organizations.

Paragraph (b) lists situations where evaluation may be used to determine, among other things: trend identification; information and analysis validation; use of performance measures to assess the effects of programs, projects, and activities; and the effectiveness of plan standards. Paragraph (c) of this proposed section would require information to be collected from any of a variety of sources to meet the monitoring requirements. Paragraph (d) requires findings and conclusions to be published annually in reports that are made available to the public.

At § 219.11(b), the 2000 rule requires that if there is a need for monitoring and evaluation of site-specific actions, decision documents must include a description of the monitoring and evaluation and the Responsible Official must determine that funding is adequate to conduct monitoring and evaluation before authorizing the site-specific project. This provision is not retained in the proposed rule which is limited to programmatic planning.

The monitoring and evaluation provisions of the proposed rule differ from the monitoring provisions of the 2000 rule, which impose far more detailed and specific requirements for monitoring characteristics of sustainability, ecological conditions, and populations of focal species/species-at-risk and for site-specific activities. Monitoring is very important, but given the testing and experimentation inherent in monitoring and evaluation, Responsible Officials need considerable flexibility to design monitoring strategies to fit local

situations. The specificity of the 2000 rule does not allow for such flexibility and discretion. To the extent that guidance is needed on who should do monitoring, how monitoring should be done, what monitoring should be done, and how monitoring information should be evaluated, that can best be provided through the agency's Directive System rather than specified in a rule.

For example, the detailed provisions in § 219.11(a)(1)(ii)(B) and (C) of the 2000 rule are being evaluated for issuance in the Forest Service Manual or Handbook. Some of these current regulatory requirements will be made optional in order to be responsive to variations in funding, staffing, and information needs among individual National Forest System units.

Other monitoring and evaluation provisions of the 2000 rule that are proposed to be removed from the rule are those for which there is no corresponding provision elsewhere in the proposed rule. Also, at § 219.23(c), the 2000 rule requires that scientists play a significant role in developing and evaluating monitoring strategies. The agency certainly believes use of science is important in monitoring and in evaluating results; however, the agency has determined upon review that the degree of required participation of Forest Service research scientists specified in the 2000 rule would overburden the Research and Development mission area of the Forest Service. Moreover, not every plan amendment or revision will require the same degree and intensity of scientific review.

Monitoring may take many forms and include different requirements for the understanding of science and involvement by scientists. Different types of monitoring require different levels of scientific rigor in their development and application. For example, if a plan has a standard to keep fences repaired and gates closed to aid with the restoration of certain degraded riparian systems, then monitoring to assess the ability of the managers to keep the fences standing and the gates closed requires little, if any, involvement of science. However, to assess if keeping the fences closed and gates repaired was an effective approach to reach the desired condition of a restored riparian system may well require development and application of particularly rigorous, scientifically valid monitoring protocols. The consistency evaluation process described in Section 219.14 would evaluate the likelihood that the designed monitoring plan would be able to determine the effectiveness of the action (keeping the gates closed and fences repaired) in achieving the objective of ecosystem restoration.

As this proposed rule was being developed, a great deal of internal discussion occurred regarding direction for, and decisions on, adaptive management and on whether the proposed rule needed to specifically address this concept. The term ''adaptive management'' has been used formally and informally within the agency to describe the process of continually adjusting management techniques in response to new information, knowledge, or technologies. The Forest Service recognizes that uncertainty and unknowns exist in the course of achieving any natural resource management goal. The adaptive management process relies on focused monitoring to measure success in achieving desired conditions and to determine if there is the need to make further changes in strategies and implementation. Whether such monitoring would be scientifically rigorous would depend on the resource, the use, and the specific situation.

The 2000 rule uses the term ''adaptive management,'' and explains adaptive management concepts and purposes, but it has no specific requirements for how the concept and purposes were to be carried out. Although the agency believes that adaptive management concepts are valid, the agency maintains that it is not necessary for the planning rule to specifically address these concepts beyond stating that measurement of adaptive management results is one of the purposes of monitoring and stating in § 219.4 that the need to provide adaptive management is one reason why plan standards should not be overly rigid.

A plan can allow for and address adaptive management without specific direction to do so in the planning rule. Essentially, there is no real difference between the 2000 rule and the proposed rule in the area of adaptive management. Under both rules, plans can include adaptive management strategies and methods in their direction.

In fact, both conceptually and operationally, adaptive management is integral to the planning process laid out in this proposed rule, and monitoring and evaluation represent a fundamental component of the adaptive management process, as was the case in the 2000 rule. In this context, an essential linkage exists between plan requirements for monitoring and evaluation, discussed previously, and those for the ecological component of sustainability, discussed later in this preamble under proposed section 219.13. The ecological information and analyses focused on assessing ecosystem and species diversity, as specified in proposed § 219.13(b)(1), contribute directly to adoption of plan decisions that provide for ecosystem and species diversity in the plan area within the multiple use objectives of the plan. Results of monitoring and evaluation are among the information and analyses that may contribute to the development of future plan decisions affecting diversity. Moreover, monitoring and evaluation provide an essential feedback loop to assess whether implementation of plan direction is producing progress toward attainment of desired conditions and plan objectives, as well as the basis for deciding whether plan direction should be modified or changed through plan amendments or revision.

As specified in § 219.11(a), data and other information pertinent to characteristics of ecosystem and species diversity, as determined relevant by the Responsible Official, should be included in the monitoring information to be collected. Evaluation of this information should reveal whether progress toward achievement of diversity objectives is being achieved, or whether plan direction or plan implementation must be changed. In this sense, and with specific reference to the ecological component of sustainability, monitoring and evaluation complete the essential feedback loop of adaptive management to assess whether plan direction is achieving the NFMA requirement that plans provide for diversity in a multiple use context. Monitoring and evaluation focused on the characteristics of diversity thus inform both the development of plan decisions and the decision to undertake plan amendments or revisions, thereby ensuring that adaptive management is an integral part of this revised planning rule.

Proposed section 219.12—Collaboration, cooperation, and consultation. This proposed section combines §§ 219.12 through 219.17 of the 2000 rule. Paragraph (a) of this section is similar to paragraph (a) of § 219.12 of the 2000 rule in requiring the Responsible Official to provide early and frequent opportunities for the public to participate in the planning process, using any of several specified roles, and to encourage such participation. Paragraphs (a)(1) and (a)(2) incorporate the provisions of §§ 219.13, 219.14, 219.16 and 219.17 of the 2000 rule which address engaging Federal agencies, State and local governments, interested individuals and

organizations, and private landowners in planning, and paragraph (a)(3) incorporates the provisions of § 219.15 of the 2000 rule, which address engaging federally recognized Tribes in planning.

The 2000 rule at § 219.12(b) requires Forest Service participation with others in efforts to cooperatively develop landscape goals. Although the cooperative development of landscape goals may be of value in some planning efforts, this specific activity should not be a requirement because it will not always be useful and may often be unachievable with participating groups. The proposed rule does not refer to collaboratively developed landscape goals; rather, at § 219.12(b), the proposed rule clarifies that the Responsible Official should consider participating in existing groups to address resource management issues within the community. The agency also feels that the list of objectives for collaboration in the 2000 rule are not necessary as they are more appropriately defined under existing law or through the collaboration process itself.

In contrast to the 2000 Rule at § 219.18, this proposed section on collaboration, cooperation, and consultation does not include a provision for requiring advisory committees. That provision requires that each national forest or grassland have access to an advisory committee. Having considered employee concerns over this provision, the agency now considers this provision to be inadvisable. There are many valid methods for effectively engaging the public. An advisory committee may be the most effective method in some circumstances, the least effective in others.

Each Forest, Grassland, or Prairie Supervisor currently has the option of requesting establishment of an advisory committee under the Federal Advisory Committee Act (FACA) and implementing regulations issued by the General Service Administration (GSA). The 2000 rule requires that each Forest or Grassland Supervisor have access to an advisory committee with knowledge of local conditions and issues. While the rule does not require each planning unit to have its own committee, many believe that the local conditions and issues requirement effectively require a separate committee for most planning units.

The costs of establishing and administering FACA committees is high in terms of Federal employee time and salaries to charter the committees, manage the nomination and selection process, and to set up meetings. There are also meeting facility costs as well as costs for reimbursement of committee members for their transportation, meals, and lodging. While these costs may well be justified to address issues for some planning units, they might be an unwise use of funds on other units. Also, the process for establishing committees can be a long one. The Act and implementing GSA regulations require substantial administrative work including drafting charters, nominating members, checking nominees' backgrounds, giving **Federal Register** notice, considering public input, and giving notice of the committee members selected. By law, committees must be re-chartered every two years.

Requiring most units to undertake the expenditure of time and funds for establishing and re-establishing FACA committees imposes a significant continuing administrative responsibility. Instead of mandating a ''one-size-fits-all'' national approach to public input, the agency believes that it is better to provide Responsible Officials flexibility to design public involvement strategies to best meet the local needs the most cost effective way.

In summary, the proposed rule reduces the amount of process-related descriptions of the public involvement processes. The agency's intention is to continue and support vigorous and active public interaction and involvement without mandating which process would most effectively support this interaction. Consequently, this proposed rule drops the non-substantive portions of the 2000 rule, such as detailed examples of how people, groups, and organizations can contribute to the planning effort.

Proposed section 219.13—Sustainability. This proposed section contains direction for how the specific social, economic, and ecological components of sustainability are to be applied. This section of the proposed rule replaces § 219.19 through § 219.21 of the 2000 rule. This proposed rule emphasizes the interconnection between the ecological, social, and economic components of sustainability and requires consideration of each in the planning process.

However, the proposed rule departs from the 2000 rule on several important points. Sustainability under this proposed rule is viewed as a single objective with interdependent social, economic, and ecological components. In contrast to the 2000 rule, this concept of sustainability is linked more closely to the MUSYA in that economic and social components are treated as interdependent with ecological aspects of sustainability, rather than as secondary considerations. This change in emphasis is not intended to downplay the importance of ecological sustainability or of maintaining the health and productivity of the land.

The proposed rule also affirms the commitment of the Forest Service to meet the NFMA requirement that plans provide for the diversity of plant and animal communities and tree species and retains the joint focus of the 2000 rule by considering and evaluating both ecosystem diversity and species diversity, in order to reach plan decisions that provide for diversity within the multiple use objectives of the plan.

The proposed rule addresses social and economic sustainability at § 219.13(a). Even though social and economic issues are different they are discussed together because both social and economic components of sustainability address the well-being of communities that are dependent on the National Forests. There are elements of analysis that have implications for both economic and social sustainability. For example, demographics (such as population, age, income, employment, home ownership, school, growth) have implications for both economic and social sustainability. Conversely, there are other elements of social and economic analysis that are clearly distinct. For example, a social analysis might help identify Native American use of medicinal plants to ensure the agency considers how these plants may be protected. A social analysis might also help identify what local people particularly value about National Forest System lands. An economic analysis might identify the interconnectedness between goods and services produced from NFS lands and the economy in surrounding communities in terms of employment and income; for example, the recreation use of NFS lands and service industries. To assess social and economic sustainability, the Forest Service proposes to require the Responsible Official to: (1) Identify values that interested and affected persons want to see sustained; (2) consider how human activities and social and economic conditions and trends affect NFS lands; (3) identify the benefits NFS lands provide; and (4) examine how land management decisions affect social and economic conditions.

The Forest Service understands that sustainable social and economic systems are very complex and that programmatic planning decisions form only a part of the environment in which these systems operate. The agency acknowledges that it cannot assure

sustainability of those systems. The Forest Service can, however, engage the public in planning, identify social and economic issues, and analyze the relationship of planning to social and economic systems, and, thereby, make positive contributions to communities. As stated in the preamble to proposed § 219.1, plans consider the uses of variable renewable resources within the context of multiple use so the resources of the NFS lands are utilized in a combination that will best meet the needs of the American people.

Paragraph (a) of § 219.13 of the proposed rule incorporates the social and economic components of sustainability in § 219.21 of the 2000 rule, but removes the many highly detailed, discretionary elements from the rule. This simplification is proposed in response to concerns that many of the detailed requirements of § 219.21 do not reflect the variety of social and economic issues that arise across the range of National Forest System lands; that available information may not be sufficient to meet these requirements; and that the required level of detail may not meet the needs of an agency whose administrative units vary in funding and staffing levels. Processes for conducting social and economic analysis are already in the agency's Directive System, are most appropriately located there, and are currently being revised and updated.

Two options for the ecological component of sustainability are included in paragraph (b) of § 219.13 of the proposed rule, which incorporates the intent of § 219.20 of the 2000 rule for the ecological component of sustainability. The National Forest Management Act (NFMA) (16 U.S.C. 1604 (g)(3)(b)) requires that plans provide for the diversity of plant and animal communities based on the suitability and capability of the land area, and where appropriate and to the extent practicable, provide for steps to preserve the diversity of tree species similar to that existing in the region controlled by the plan, within the multiple use objectives of the plan (referred to hereafter as the NFMA diversity requirement). There has been extensive, ongoing debate concerning how to meet the NFMA diversity requirement ever since the Act was passed. The proposed rule includes two distinct options for meeting the diversity requirement in § 219.13(b).

The first option in this proposed rule was developed by modifying the 2000 rule and establishes the viability of vertebrates and vascular plants well distributed within their ranges in the plan area as the primary basis for judging achievement of the NFMA diversity requirement. This first option significantly streamlines the 2000 rule by removing many of the prescriptive operational details and making other changes described in this preamble.

Drawing heavily on the expertise of its research scientists, the agency developed a second option on ecological sustainability that provides a clear alternative to Option 1. In Option 2, the primary basis for judging achievement of the NFMA diversity requirement is the requirement that plan decisions foster the maintenance and restoration of biological diversity in the plan area, at ecosystem and species levels, within the range of diversity characteristic of native ecosystems in the larger landscape within which the plan area is embedded.

In preparing two distinct options to meet the NFMA diversity requirement, the agency seeks to stimulate meaningful public discussion and input on this important topic so that the Secretary can make an informed choice at the final rule stage. To ensure that the agency has access to knowledgeable and diverse views on this topic, the Forest Service also plans to host a workshop of subject matter specialists in a variety of policy, management, and resource fields to discuss the strengths and shortcomings of the two proposed options, or variations of these options, for achieving the NFMA diversity requirement. Information regarding this workshop will be provided in a separate **Federal Register** notice.

Comparison to 2000 Planning Rule

Both options in the proposed rule are considerably streamlined and shorter as compared to § 219.20 of the 2000 rule. As discussed earlier in this preamble, the agency's review of the 2000 planning rule judged the section on the ecological component of sustainability to be needlessly complex and overly prescriptive and to lack the flexibility needed to tailor or adapt the required ecological information and analyses to the issues identified by the Responsible Official, the risks to ecological sustainability, and the availability of information relevant to the particular plan area. To respond to this criticism, most of the operational details of the analyses of ecosystem and species diversity in § 219.20(a)(1)(i)(A)–(E), § 219.20(a)(2)(i)(A)–(H), and § 219.20(a)(2)(ii)(A)–(D), as well as the qualifications regarding how plan decisions should be applied in § 219.20(b)(1)(i)–(v) and § 219.20(b)(2)(ii)–(iv), will be transferred, perhaps in modified form, to the Forest Service Directive System or to other technical guidance documents (*e.g.*, white papers), sometimes as requirements but more often as optional methods for the Responsible Official to consider and use as appropriate. Because this shift in approach to sustainability represents a major change from the 2000 rule and because the specific operational details as to how to provide for diversity of plant and animal communities and tree species represent a controversial topic, the agency has posted this preliminary draft material pertinent to both options on the World Wide Web/Internet and made these documents available at the address listed earlier in this document for consideration and review during the public comment period.

Several concepts that were essential features of the required ecological information and analyses in the 2000 rule are now treated as optional elements of the analyses and will be covered in the Directive System or other guidance documents. For example, neither of the diversity options specifically requires broad-scale assessments as did the 2000 rule, but each will make use of information from such assessments, where they represent the best science available, and as stepped down from the assessment area to the plan area. Similarly, neither option specifically requires that focal species be identified for the plan area and evaluated to provide insights concerning the ecological integrity of the larger ecological system with which they are associated. Again, however, both options permit such a use of focal species on an optional basis. Option 2, in particular, states that individual species may be identified for analysis in order to develop a more complete understanding of the condition and trends of ecosystems, which is conceptually equivalent to the manner in which focal species were a required element of the diversity analyses in the 2000 rule. As a final example, neither option specifically requires use of the concept of the range of variability under the natural disturbance regime of the current climatic period, but Option 1 identifies range of variability as being among the approaches that may be used to evaluate ecosystem diversity.

Both options also eliminate language concerning how plan decisions must address federally listed threatened and endangered species because consideration of federally listed species is integral to the consideration of diversity under either option and because the planning rule need not repeat existing requirements of law. The 2000 rule at § 219.20(b)(3) included requirements that plan decisions

promote the recovery of federally listed threatened and endangered species, provide for implementing conservation agreements, and address requirements and recommendations from biological opinions. These requirements are not included under either Option 1 or Option 2 of the proposed rule. The agency reaffirms its commitment to comply with provisions of the Endangered Species Act (ESA), including conducting programs for the conservation of endangered and threatened species consistent with the multiple use objectives of plans, but sees no reason to specify this in the rule itself. The ESA is among the relevant statutes listed under 219.2(c)(1).

Following adoption of a final new planning rule, and contingent on which diversity option is selected, the agency fully intends to develop detailed operational guidance on the means to implement the procedural requirements of the new planning rule, particularly with reference to procedures for meeting the NFMA diversity requirement. This will include detailed guidance in the agency Directive System, as well as ''white papers'' and other documents.

Option 1—§ 219.13(b) Ecological Component of Sustainability

Option 1 of the proposed rule is most similar to corresponding sections on ecological sustainability in the 2000 rule. In fact, Option 1 was developed from the 2000 rule by significantly streamlining the rule and eliminating significant amounts of procedural detail, as discussed earlier in this preamble. In this option, plan decisions would be developed to provide a high likelihood of supporting, over time, the viability of native and desired non-native vertebrates and vascular plants well distributed within their ranges in the plan area. This viability standard serves as the primary basis for judging achievement of the NFMA diversity requirement in Option 1. This option also contains an ecosystem diversity standard, so that plan decisions would be developed to provide measurable progress toward maintenance or restoration of ecological conditions that support the desired characteristics of ecosystem diversity. However, it is the species viability standard that will provide the clearest measure of achievement of the NFMA diversity requirement under Option 1.

Under this option of the proposed rule, analysis of the ecological component of sustainability follows a hierarchical, sequential approach. This option requires ecosystem diversity to be evaluated first, with the goal of ensuring that plan decisions provide measurable progress toward maintaining or restoring ecological conditions that support the diversity of plant and animal communities and tree species, and other characteristics of ecosystem diversity. Species diversity would be evaluated only after consideration of ecosystem diversity. This hierarchical, sequential approach is based on the assumption that conditions capable of supporting viability for most species are likely to be met through provisions for ecosystem diversity. Where this is not the case, species at risk would be identified and separate analyses of species diversity performed. This approach provides the Responsible Official flexible options for meeting the analytical requirements of Option 1 as the Responsible Official determines the scope and scale of the analysis. There are some required characteristics of ecosystem and species diversity and accompanying evaluation factors, although far fewer than in the 2000 rule. The Responsible Official is not limited to only those characteristics or analytical processes if other information or techniques are available or appropriate.

The desired conditions, objectives, standards, identification of suitable and unsuitable land uses, and any special designations and other management areas of a plan should provide the framework for management that would maintain or restore ecological conditions that the Responsible Official determines will provide a high likelihood of supporting, over time, the viability of native and desired non-native vertebrates and vascular plants well distributed within their ranges in the plan area. Note that ''high likelihood'' is not necessarily a statistical or mathematical determination. Rather, it is an application of expert agency judgment based on a reasonable review and consideration of available information.

Option 2—§ 219.13(b) Ecological Component of Sustainability

The second option for addressing the ecological component of sustainability was developed initially by agency research scientists to provide a clear and distinct alternative to Option 1. Several specific objectives or perspectives influenced development of Option 2, including: (1) Focus required ecological analyses, as well as the final management standard against which plan decisions are to be judged, at both ecosystem and species levels of ecological organization; (2) require analyses of diversity across multiple geographic areas and timeframes, and especially stress the importance of analyses conducted over large geographic areas or long timeframes; (3) emphasize the influence of the ecological condition, structure, and land use history of the surrounding landscape, as well as of natural and human-induced disturbance regimes, on the ability to manage NFS lands to achieve biological diversity objectives; and (4) require a more rigorous and structured set of analyses of diversity than contained in Option 1.

Option 2 focuses attention on the general objective of maintaining and restoring ecological conditions that provide for biological diversity in the plan area and on the more specific objective of maintaining and restoring ecosystem diversity within landscapes, and within the framework of larger-scale ecosystem analyses, of maintaining and restoring species diversity within ecosystems. In this sense, Option 2 adopts an explicitly hierarchical approach to analyses of biological diversity, as does Option 1.

Option 2 focuses attention directly on evaluating and maintaining biological diversity in the planning or assessment area. Biological diversity is an inclusive concept employed in the scientific and conservation literature to refer to the variety of living things together with their interactions and processes. It is defined at various levels of ecological organization, but especially three—genes, species, and ecosystems. The general concept of biological diversity incorporates the concept of the diversity of plant and animal communities and tree species as originally used in the language of the NFMA diversity requirement. However, the term ''biological diversity'' also reflects significant progress in the sciences of ecology and conservation biology over the past 20–25 years. Scientific progress in these fields has revealed substantial new information such as factors that regulate biological diversity and the relationship between biological diversity and ecosystem function and resilience. As a consequence, and consistent with progress in scientific knowledge and conservation practice, the overriding objective of the approach in Option 2 is to focus planning analyses on factors that foster the maintenance and restoration of biological diversity in the planning or assessment area, at both ecosystem and species levels of ecological organization.

Option 2 directs the Responsible Official, in the planning process, to follow and fully disclose results of a structured approach to considering and assessing biological diversity at two levels of ecological organization: ecosystem and species. Analyses of

biological diversity at these two levels should be tailored to the particular planning or assessment area, to the availability of information, to the issues identified in the planning process, and to the risks to ecological sustainability.

Consideration and evaluation of ecosystem diversity within the framework of biological diversity constitutes the core approach of Option 2 and is the primary focus of ecological information and analyses. Option 2 focuses attention on similar characteristics of ecosystem diversity as Option 1, but adds additional spatial attributes to the list of characteristics to be considered. Similarly, in addition to analyses specified in Option 1, Option 2 focuses evaluations on identification of unique or rare ecosystems and ecosystems at risk, specific threats to these systems, and measures required for their conservation or restoration.

In Option 2, consideration and evaluation of species diversity is a complementary approach that extends ecosystem analyses to provide a more complete understanding of the effects of past, current, and anticipated future management direction on biological diversity, including the status of species and the ecosystems in which they occur. This second option requires that species should be selected for evaluation to develop a more complete understanding of the condition and trends of ecosystems, or where substantive concerns exist regarding the continued persistence of the particular species within the planning or assessment area. In such cases, evaluations under Option 2 should identify specific threats to these species and specific measures required for their conservation or restoration.

In addition to the primary evaluations of biological diversity specified at ecosystem and species levels, Option 2 also requires three additional types of analyses of biological diversity at ecosystem and species levels. First, this option requires that biological diversity be evaluated across multiple geographic areas and time frames, especially over large areas and long time frames, to assess the dynamics of wide-ranging species and cumulative impacts of management actions on, among other factors, biological diversity. Second, Option 2 requires that impacts of natural and human disturbance regimes on biological diversity be evaluated, including consequences of altered disturbance regimes for diversity. Third, this second option requires evaluations of the effects of landscape context on biological diversity, where landscape context refers to the ecological condition, structure, and land use history of the planning or assessment area and effects on biological diversity. Of special interest in these evaluations are differences in ecological structure and condition between NFS lands and surrounding or interspersed ownerships and the consequence of such differences for options and opportunities to manage NFS lands to achieve biological diversity objectives at ecosystem and species levels.

In contrast to Option 1, Option 2 formulates a substantially different and more general biological diversity standard for judging achievement of the NFMA diversity requirement. Specifically, this option requires that plan decisions foster the maintenance and restoration of biological diversity in the plan area at both ecosystem and species levels within the range of biological diversity characteristic of native ecosystems in the surrounding landscape within which the plan area is embedded. When reaching plan decisions regarding biological diversity, Option 2 requires the Responsible Official to consider disturbance regimes and landscape context and the effects of these factors on options and opportunities to manage NFS lands in order to achieve biological diversity objectives.

The biological diversity standard embedded in Option 2 provides a degree of flexibility in managing NFS lands to achieve biological diversity objectives in a multiple use framework. However, this flexibility is clearly bounded. Some amount of change in the abundance, extent, and distribution of components of biological diversity at ecosystem and species levels is acceptable within the intent of fostering the maintenance and restoration of biological diversity in the plan area at ecosystem and species levels within the range of diversity characteristic of native ecosystems in the planning or assessment area. The loss of an ecosystem type or species from all or a significant portion of the plan area or a substantial reduction in abundance, extent, or distribution within all or a substantial portion of the plan area as a result of actions under the direct control of Forest Service land managers, however, is not consistent with, and thus outside the bounds of, the standard established for Option 2.

If Option 2 is selected for inclusion in a final rule, the agency will need to develop detailed guidance in the Directive System and other appropriate outlets (*e.g.*, white papers) regarding how to implement and apply the standard it contains for biological diversity. Determining whether this standard is being achieved and thus whether the NFMA diversity requirement is being met will require monitoring data that will allow an assessment as to whether amounts and components of diversity, at both ecosystem and species levels, are within the bounds or range of what would be expected of natural or native ecosystems located within the larger landscape in which the plan area is embedded. It will also require baseline information that allows clear determination of the range of ecosystem and species diversity that is reasonable to expect for native ecosystems in this larger landscape, relative to the characteristics of ecosystem and species diversity enumerated in Option 2. In this sense, this standard is conceptually similar to the ecosystem diversity standard referenced to the expected range of variability in the 2000 rule, but here it is applied at both ecosystem and species levels of ecological organization. As compared to the 2000 rule, this option explicitly recognizes the important effect that both landscape context and disturbance regimes can have on the ability to maintain or restore biological diversity within the range of diversity that is characteristic of native ecosystems in the surrounding landscape, especially when landscape structure and disturbance regimes have been significantly altered by past human activities.

In reaching plan decisions related to biological diversity, Option 2 requires the Responsible Official to consider the landscape context in which NFS lands exist and to use that information as a basis for identifying the special role and unique contributions of NFS lands for conserving and restoring biological diversity within the larger landscape in which the plan area exists.

Comparison of Option 1 and Option 2

For both options, the consideration and evaluation of diversity is important not only in order to meet the NFMA diversity requirement, but also because diversity is viewed in each option as an important indicator or surrogate for other important characteristics of ecosystems. In addition to diversity (diversity of plant and animal communities and tree species in Option 1, biological diversity in Option 2), both options define the ecological component of sustainability as including the productivity, health, and function of ecosystems and the quality of soil, water, and air resources. In relation to these characteristics of ecosystems, maintaining key ecological processes that are responsible for sustaining the functioning and resilience of ecosystems is of fundamental concern. However, it is difficult to observe or measure

ecological processes directly in a planning or management environment. Thus, information on the presence, distribution, abundance, and spatial relations of the biological and physical components of ecosystems is commonly used to make inferences with reference to ecological processes of interest. In this context, the maintenance and restoration of diversity, as evaluated in both Option 1 and Option 2, is considered to be the primary indicator of the maintenance of key ecological processes of ecosystems.

Both options maintain the agency's fundamental commitment to the conservation and restoration of ecosystems and species through implementation of the NFMA diversity requirement, but adopt different approaches to doing so. Option 1 establishes a clear viability standard as the primary basis for judging achievement of the NFMA diversity requirement, and as the basis against which to evaluate plan decisions. However, it also specifies a less detailed set of analyses, with much of the detail that was found in the 2000 rule to be moved to the Directive System as optional elements of the analysis. Option 2, in contrast, requires a more complete and robust set of analyses, but replaces the very specific viability standard of Option 1 with a more general biological diversity standard, at both ecosystem and species levels. This biological diversity standard, which is the basis in Option 2 for judging achievement of the NFMA diversity requirement requires that plan decisions foster biological diversity in the plan area within the range of diversity that is characteristic of native ecosystems within the landscape in which the plan area is embedded. In this sense, Option 2 is more like the 2000 rule in terms of specifying more detailed and complete analyses of diversity, whereas Option 1 is more like the 2000 rule in terms of establishing species viability as a primary standard for judging achievement of the NFMA diversity requirement.

Both options establish a hierarchical approach to analyses of ecosystem and species diversity, although Option 2 does so more explicitly in the rule language. Some of the comparable details of the relationship between analyses of ecosystem and species diversity in Option 1 have been moved to the Directive System. Both options focus first on analyses and achievement of ecosystem diversity, with attention to analyses of species diversity added to address the needs of species not met by attention to ecosystem diversity. Details of analyses of ecosystem diversity under the two options are similar. Option 2 adds several spatial attributes to the list of characteristics of ecosystem diversity to be considered, and it also gives greater explicit attention to analyses of rare and unique ecosystems and ecosystems at risk, but the differences between the two options in terms of ecosystem analyses are not large.

The two options differ more substantially in their approach to analyses at the species level than at the ecosystem level. Option 1 focuses analyses on species at risk, their habitat requirements, and threats placing them at risk. Option 2 places similar emphasis on requiring detailed analyses for particular species for which continued persistence within the planning or assessment area is a substantive concern. However, such analyses do not emphasize species of vertebrates and vascular plants as they do under Option 1. Option 2 specifies that species may be selected for analysis to address specific planning issues and to develop more complete understanding of the condition and trends of ecosystems. Unlike Option 1, it also includes community analyses to determine whether maintenance of ecosystem diversity is sufficient to maintain the existing pool of species within the planning or assessment area.

The above comments notwithstanding, the primary focus of analyses under Option 2 is at landscape and ecosystem levels of ecological organization. The primary intent of Option 2 is to complete analyses that lead to provisions for maintaining the broad-scale structure and condition of the landscape in the plan area and the identity, spatial arrangement, and characteristics of ecosystems within that landscape. Most analyses under Option 2 will concentrate on these outcomes. Option 2 does call for detailed analyses of individual species where significant concerns have been raised relative to continued persistence of particular species. Other types of species analyses specified in Option 2, however, are focused on ecosystems rather than on individual species. Community analyses seek to assure that provisions for maintaining ecosystem diversity will maintain the existing pool of species, and some individual species analyses seek to provide more detailed information regarding the condition and trends of ecosystems, similar to the focal species concept of the 2000 rule. Option 1 also requires a variety of ecosystem analyses, but it is less specific regarding a need for landscape scale analyses. Because Option 1 retains a clear species viability standard for vertebrates and vascular plants, it is likely that greater emphasis will be placed on analyses focused on species persistence or viability under this option than under Option 2. While both diversity options are explicitly hierarchical and call for species analyses following and within the framework provided by ecosystem analyses, it is likely that Option 2 would place greater emphasis on ecosystem and landscape level analyses than Option 1, while Option 1 would place greater emphasis on species level analyses than Option 2. However, the exact balance between ecosystem and landscape focused analyses and species focused analyses under either option will vary depending on the nature and condition of the plan area and the identified planning issues.

Option 2 specifies several additional types of ecological information and analyses that should be included in the approach to considering and evaluating biological diversity at ecosystem and species levels. Specifically, Option 2 requires that biological diversity be evaluated with respect to spatial and temporal scales and patterns, natural and human disturbance regimes, and landscape context. Similar details in Option 1 are optional and have been moved to the Directive System.

Option 2 emphasizes more strongly than Option 1 the critical role that landscape context plays in shaping planning decisions and evaluations of biological diversity. Landscape context refers to the ecological condition and structure of ecosystems and landscapes on National Forest System lands as compared with other surrounding and interspersed lands, as well as the land use history of the planning or assessment area (National Forest System and surrounding lands). Landscape context can play a very significant role in limiting or facilitating a land manager's options and opportunities to manage NFS lands to achieve biological diversity objectives. Option 2 requires explicit consideration of landscape context in reaching plan decisions affecting biological diversity.

Option 2 also focuses more explicit attention on addressing spatial scale and patterns, requires evaluations of biological diversity at multiple spatial scales as appropriate, and emphasizes the importance of analyses at large spatial scales, which may require coordination in planning across multiple National Forest System administrative units or Regions. In a similar manner, Option 2 routinely calls for analyses and evaluations of biological diversity at the spatial scale of the planning or assessment area, which is typically larger than the plan area and which includes other

surrounding and interspersed ownerships as appropriate. In contrast, Option 1 specifies analyses and evaluations of diversity at the spatial scale of the plan area.

As noted above, Option 2 does not establish species viability as the primary basis for judging achievement of the NFMA diversity requirement. However, viability analyses may be appropriate under Option 2 for select species for which substantive concerns have been identified regarding continued persistence within the planning or assessment area; such analyses represent a legitimate analytical approach for species at risk of extinction globally or extirpation from the planning or assessment area. Where such concerns exist for particular species, these concerns must be addressed in analyses of biological diversity. Thus, Option 2 recognizes that viability analyses or similar analyses are potentially useful tools. Recognizing limitations of such analyses, however, Option 2 does not prescribe a specific approach for viability analyses. It permits a flexible approach shaped by issues identified in the planning process and by the present state of conservation biology theory and practice. It also does not limit the species for which viability analyses might be appropriate. Species other than vertebrates and vascular plants might be selected for analysis based on specific concerns raised in the planning process.

One final attribute common to both diversity options is the fundamental importance of linking ecological information and analyses completed in the planning process to monitoring and adaptive management. Under the 1982 planning rule, planning has become a costly process that limits resources available for on-the-ground management and monitoring. Reviews of the 2000 rule concluded it would have resulted in even higher planning costs. Moreover, it has become increasingly clear that the agency's ability to forecast future ecological conditions is limited and characterized by considerable uncertainty. As a consequence, both diversity options envision transferring the investment in upfront ecological analyses as part of planning to on-the-ground management, rigorous and scientifically based monitoring of resource conditions with reference to progress in achieving desired conditions, careful evaluation of monitoring results, and adjustment of management direction in an adaptive management context. Thus, inherent in each option is the fundamental premise that planning must be placed more directly into the framework of plan implementation through adaptive management if it is to contribute to progress toward achievement of desired conditions and to sustaining the health and productivity of the land and its resources.

The following questions help define and frame the issues that must be resolved in developing any workable approach to providing for biological diversity in the planning process. The agency encourages those who wish to comment on the diversity options in the proposed rule to consider these questions in formulating their comments:

(1) What elements of biological diversity (*e.g.*, ecosystems, communities, processes, species or species groups, focal species, etc.) should be considered and evaluated in the forest planning process? At what levels of ecological organization (landscape, ecosystem, species, gene, etc.) should these elements be evaluated?

(2) Over what geographic areas and timeframes should diversity be evaluated?

(3) What is an appropriate management standard against which achievement of the NFMA diversity requirement should be judged (*e.g.*, population viability of select taxa or range of biological diversity of native ecosystems in the surrounding landscape)? What is an appropriate baseline or reference state or condition for this standard?

(4) In reaching decisions regarding achievement of the NFMA diversity requirement, how should the planning process consider and evaluate differences in current conditions between NFS lands (the plan area) and the surrounding landscape?

(5) How does a plan provide for diversity of plant and animal communities and tree species within the context of the multiple use objectives of the plan?

(6) What is the capability of the Forest Service to implement Option 1, Option 2, or variations of these options in order to provide for biological diversity in a multiple use context, given limitations of available information, personnel and financial resources?

Table II at the end of this document compares the key features contained in the ecological sustainability section of the 2000 rule with the two options for ecological sustainability in the proposed rule.

Proposed section 219.14—The consideration of science in planning. This section of the proposed rule combines § 219.22 through § 219.25 of the 2000 rule. The proposed rule retains the emphasis on the use of science in planning from the 2000 rule. However, the proposed rule differs from the 2000 rule by focusing on the use of science, rather than on scientists, in the planning process.

Section 219.14 of the proposed rule requires the use of independent peer reviews, science advisory boards, or other appropriate means to evaluate the consistency and application of science used in the planning process. Procedures for these methods will be provided in the agency's Directive System. Section 219.14 provides for a science consistency review process to determine whether scientific information of appropriate content, rigor, and applicability has been considered, evaluated, and synthesized in the documents that underlie the land management plan in a manner that keeps it consistent with that science. In its basic form, a science consistency review is used to evaluate whether a plan has:

- Considered and used the best available scientific information;
- Evaluated and disclosed the uncertainties of that scientific information;
- Evaluated and disclosed the consequences, substantial risks, and uncertainties from applying that scientific information to the proposed management alternatives; and
- Interpreted and applied that information reasonably and accurately.

The goal of the science consistency review is to produce a plan that meets these review criteria and to thus allow the Responsible Official to make a finding that a plan is consistent with available scientific information. The criteria apply to all aspects of the planning process, including the Responsible Official's delineation of the appropriate time frame and geographic extent of the analyses to be conducted, the analyses themselves, and the monitoring plan set up to evaluate the effectiveness of the on-the-ground management to meet the desired conditions in a plan. This science consistency review process encompasses relevant standards of the Data Quality Act concerning quality, objectivity, utility, and integrity of information used in science-related decisionmaking (Treasury and General Government Appropriations Act for Fiscal Year 2001 (Pub. L. 106–554, Sec. 515)).

Both the 2000 rule and the proposed rule require that the Responsible Official ensure that science is considered, correctly interpreted, and applied in planning, and that incomplete or unavailable information,

scientific uncertainty, and risk be evaluated and disclosed. When conducted independently, this evaluation and disclosure of uncertainty and risk provide a crosscheck to an appropriate interpretation and application of science and help to clarify the limitations of the information base, which informs plan decisions. The 2000 and proposed rules are substantively the same in their overall goals of achieving consistent use of scientific information. They differ in that the 2000 rule provides many requirements on how this goal was to be met; the proposed rule does not. The agency will place needed technical detail that provides ''how-to'' direction in its Directive System. For example, although the 2000 rule provides flexibility for when independent scientific peer reviews should occur, the rule also provides technical detail about how scientific peer reviews should be conducted. This level of detail is not necessary or appropriate for a rule, but the agency will need to provide guidance to its employees on how various scientific reviews may be conducted.

The 2000 rule at § 219.23 requires specific involvement by the Research and Development (R&D) mission area of the Forest Service in broad-scale assessments. As stated in the explanation of § 219.5, the proposed rule does not require that level of assessment, so it does not address who should be involved.

The 2000 rule at § 219.23(c) requires use of scientists to design and evaluate monitoring strategies and requires an independent, scientific peer review of plan monitoring on at least a biennial basis.

The agency often needs scientific expertise in monitoring; however, there are certain types of monitoring where the need for direct scientific expertise is quite limited. For example, monitoring may include surveys of road condition to determine if drainage structures are working properly, or it may involve continuation of use of long-standing inventories such as the Christmas bird count. Thus, monitoring does not always need scientific expertise applied to its design, evaluation, and review. The agency believes that the Responsible Official should be able to determine the appropriate level of involvement of scientists in designing and evaluating monitoring as well as in reviewing monitoring plans. The science review process will clarify if this involvement is at the appropriate level, given the issues involved.

The proposed rule retains the requirement that the Responsible Official document that the new plan, plan amendment, or revision was developed using the best available science in a manner that keeps the plan consistent with that science. In contrast to the 2000 rule, this proposed rule is explicit that the determination of best available science must be made in the context of the issues being considered in a plan development, amendment or revision. These proposed changes will ensure that the Responsible Official uses the best available science pertinent to the resource uses and conditions being addressed in a plan. Again, the science review process will provide an important cross-check on the Responsible Official's appropriate use of science.

There are terms related to science that are used in the 2000 rule and the proposed rule that require additional explanation and context. One term is ''uncertainty'' as used in the context of scientific uncertainty. If there are uncertainties associated with plan decisions that utilize scientific information, then those uncertainties must be described.

Another term requiring additional explanation is ''risk'' as used in the context of scientific risk. If there are known risks associated with plan decisions, then those risks must be described. Risk arises from uncertainty in science, from assumptions made in analysis, from occurrences such as catastrophic events, and from trade-offs made in development of the plan. Trade-offs occur when a Responsible Official decides to accept negative impacts to one resource in order to achieve benefits for another resource.

For example, a plan may have a desired condition for streams that includes components of shading, nutrient loading, reduction of sedimentation, and the recruitment of large organic debris to the stream. Science may show that a 100-foot buffer strip prohibiting harvest of trees is optimum to reduce sedimentation in streams. However, science may also show that the trees in that 100-foot buffer should be of a certain size to optimize shading, nutrient loading, and large organic debris to the stream. Allowing thinning within buffer strips may be desirable, depending upon specific stand characteristics, to achieve a stand structure that better meets the desired condition for streams. The Responsible Official may trade off the short term risk of higher sedimentation rates associated with thinning trees for achieving the desired outcomes of shading, nutrient loading, and recruitment of large organic debris in the long term. This risk should be evaluated and disclosed by the Responsible Official.

Substantial risk also occurs when the aggregate sources of risk result in the likelihood that the desired resource or output condition cannot be achieved. For example, in the situation described previously, a large catastrophic fire may cause additional sedimentation, resulting in an inability to achieve the desired condition. This aggregate risk of allowing thinning and potential impacts from catastrophic fire must be evaluated and disclosed.

Appropriate interpretation of science depends upon the applicability of scientific information to the relevant planning issue. For example, if one assumes that there is an issue regarding the growth of Douglas-fir at high elevations on a forest and there is a study on the growth of Douglas-fir at low elevation, that study may be available and relevant to the extent that it relates to the same species of tree, but it could not be correctly interpreted to say that the results of the low elevation study were indicative of high elevation growth. Appropriate interpretation also involves using all of the relevant information, not just selecting part of that information. When the results of two studies relevant to an issue suggest somewhat different outcomes, uncertainty associated with science arises and the risk associated with decisions based on that science may increase. In such cases, the uncertainty in that science needs to be evaluated and disclosed.

The reviews of the 2000 rule indicate that the Forest Service is not likely to have the resources necessary to involve scientists to the degree required by the 2000 rule. Also, there is not necessarily a need for rigorous scientific reviews when levels of anticipated actions are expected to be low with fewer environmental consequences within the control of the agency. Changing the focus from the role of scientists to the appropriate use of science makes the proposed rule more practical and realistic.

The 2000 rule at § 219.23 requires the establishment of science advisory boards and provides that the Responsible Official may use a science advisory board. Again, the agency believes that there is no need in the planning rule to require one specific method to ensure that the best available science is used appropriately. Some may claim that the agency is reducing its emphasis on the use of good science because of the reduction of the many specific detailed requirements on how best to obtain and use the best available science in the proposed rule. The

agency strongly supports the use of science in planning, but believes that the detailed requirements of the 2000 rule added an unnecessary level of bureaucracy and cost to planning.

Proposed section 219.15—Special designations. This section of the proposed rule is very similar to the provisions of § 219.27 of the 2000 rule. In cases where the Congress has made special designations, the planning objective is to provide management direction according to Congressional intent. In other cases, Responsible Officials have the authority to make special designations through the planning process. This section of the proposed rule would also retain the requirement that inventoried roadless areas be evaluated and considered for recommendation as potential wilderness areas during the plan revision process. This section would also retain the provision of the 2000 rule to allow such roadless and wilderness evaluations and recommendations at other times by a plan amendment. The two rules mainly differ primarily in the examples for the different categories of specially designated areas.

Proposed section 219.16—Determination of lands available for timber harvest and suitable for timber production. This section of the proposed rule meets the statutory requirements of the NFMA and retains the intent of § 219.28 of the 2000 rule with one exception. For lands where timber may be harvested for timber production purposes, the 2000 rule at § 219.28(b) requires that not only must these lands be available, capable of being harvested without damage to other resources, and capable of regeneration, but that the analysis must show that the costs of timber production are justified by ecological, social, or economic benefits. This requirement goes far beyond the statutory language of NFMA, and a concern has developed within the agency about how this justification would be developed and documented. Therefore, the proposed rule does not retain this portion of the 2000 rule. Instead, the Responsible Official must consider physical, ecological, economic, social, and other pertinent factors when establishing timber production in a plan for any lands not identified in paragraph (a) of § 219.16.

This proposed section retains the same three categories as § 219.28 of the 2000 rule and retains the requirement that plans identify lands where timber may not be harvested, lands where timber may be harvested with an objective of timber production, and lands where timber may be harvested or cut for the purpose of meeting other multiple use resource management objectives. This section also provides some examples of these other multiple use objectives.

Proposed section 219.16 addresses only the suitability of lands for timber production. Suitability for other purposes is addressed at § 219.4(a)(4) of the proposed rule.

Proposed section 219.17—Limitation on timber harvest. This section of the proposed rule meets the statutory requirements of NFMA and retains the intent of § 219.29 of the 2000 rule with two important changes. The 2000 rule requires the calculation of long-term sustained yield to include all lands where timber may be harvested. Under the proposed rule, the calculation of long-term sustained yield would apply only to those lands where timber production would be a management objective. The intent of estimating long-term sustained yield of potential timber harvest is to ensure that lands where timber production is a management objective can continue to produce sustained levels of harvest in the future. Therefore, it is not reasonable or necessary to calculate sustained yield from lands that are not allocated to that purpose. It is also very difficult to accurately estimate harvest levels when timber is harvested for such purposes as wildlife openings, because these types of harvests are not normally planned on a scheduled basis. Also, in cases such as development of fuel breaks or meadow restoration, it is not desirable to reforest harvested lands, and in these cases, calculation of long-term sustained yield is not logical. In other words, it is not necessary to calculate yield if reforestation and later growth and harvest are not desired.

In addition, the 1982 rule established at § 219.27—Management direction, allowable sale quantity (ASQ) as the quantity of timber that may be sold from the area of suitable land covered by the forest plan for a period specified by the plan. Neither the 2000 rule, nor this proposed rule provides for allowable sale quantity, and in contrast, uses long-term sustained yield as the upper limit of timber that may be harvested during the planning period. This change was made in the 2000 rule and is continued in the proposed rule, primarily because the sustained yield requirement is adequate, and dropping the requirement that planning establish an ASQ reduces the risk of misperception that ASQ is a target to be achieved, rather than a limit to harvest.

In the 2000 rule at § 219.29(a), if a unit has less than 200,000 acres of forested lands, two or more forests may be combined for the purpose of estimating the amount of timber that could be sold annually on a sustained-yield basis. This provision is covered in § 219.17(a) of this proposed rule. It is similar to the provision in the 2000 rule, except that the 200,000-acre unit size is not cited because it is already included in NFMA. The proposed rule also clarifies that the limitation on timber harvest in § 219.17(b) is to be applied on a decadal basis.

Proposed section 219.18—Plan documentation, maintenance, and availability. This section of the proposed rule would retain the requirements of § 219.31 of the 2000 rule for availability of planning records and for establishing a provision for administrative corrections to planning documents that would not be decisions under NEPA. Paragraph (a) of this proposed section also would supercede § 219.30 of the 2000 rule. Like that section, proposed paragraph (a) would provide a description of a plan, but would remove the detailed provisions of § 219.30(a) through (e) of the 2000 rule which requires a summary of the plan, a display of public uses, plan decisions, and a display of actions and outcomes, including projected implementation schedules. The rationale for the simplification in the proposed rule is that much of the information required in the 2000 rule is unnecessarily prescriptive, is already located in the planning record which is readily available, or is already provided for by other means. The 2000 rule requires a summary of the plan and contains considerable detail about what this summary should contain. The agency believes that it is not necessary to provide the Responsible Official detailed instructions about how to summarize a plan. For example, the 2000 rule requires, as part of the summary, a display of public uses. The proposed planning rule at § 219.4 already addresses suitability of certain lands for certain uses. In another example, the 2000 rule requires a display of actions and outcomes. This requirement is already outlined in Forest Service Handbook 1905.15 which requires making available a quarterly schedule of proposed actions that may undergo environmental analysis and documentation, so there is no need to have a separate process to display anticipated projects.

Proposed section 219.19—Objections to new plans, plan amendments or plan revisions. This section of the proposed rule differs from other sections of this rule in that it provides essential detail for the procedures necessary to initiate and carry out the objection process. The

Committee of Scientists, in their 1999 report, recommended that the Forest Service seek to harmonize its administrative appeal process with those of other Federal agencies. Accordingly, the 2000 rule adopted an objection process that provides for a pre-decisional objection opportunity instead of a post decision administrative appeal. The proposed rule modifies the objection process and models it more closely on the protest process used by the Bureau of Land Management (BLM) (found at 43 CFR part 1600). The proposed rule adopts the BLM regulatory approach with some necessary modifications to recognize the different organizational structure of the Forest Service.

The proposed rule differs from the 2000 rule in the following specific ways. The proposed rule does not require publication of objections received. Unlike the 2000 rule, the proposed rule includes specific requirements that the content of the public notice announcing a new plan, amendment, or revision be made for public review and subject to pre-decisional objection process. The 2000 rule does not limit who can file an objection. The proposed rule does not allow other Federal entities to file an objection, because there are other avenues for Federal agencies to work together to resolve concerns. This exclusion of Federal agencies is a long-standing procedure of Forest Service administrative appeal provisions at 36 CFR parts 215 and 251, Subpart C. The Forest Service is required to involve other Federal agencies, at Section 219.12. The proposed objection process, like that in the 2000 rule, is intended primarily other governments, such as federally recognized Indian Tribes, States, and counties, and for the public. Neither the appeal process in the 1982 rule nor the proposed objection process is suitable to resolve concerns between sister agencies in the executive branch. The Forest Service anticipates that other agencies will be able to resolve most planning concerns informally. Where it is anticipated that there may be concerns that are not easily resolved by planners and other agency personnel, various techniques such as establishments of Memorandums of Understanding or local working agreements may be used. Some agencies also have regulatory authority; for example, EPA has review authority pursuant to section 309 of the Clean Air Act. These techniques and authorities are successfully being used now and will continue to be used in the future.

The two rules are similar in what must be in an objection, but the proposed rule, unlike the 2000 rule, specifically requires that an objector provide an explanation of why the objector believes that the environmental disclosure documents and proposed final documents are inconsistent with law, regulation, Executive order, or policy and any recommendations for change. The proposed rule drops the requirement of the 2000 rule that objectors describe their participation in the planning process and provide relevant documents submitted during the process. The 2000 rule allows objectors to request meetings with a Reviewing Officer. The proposed rule does not address meetings, because although nothing prevents an objector from requesting meetings, the agency does not want to set up expectations that meetings should be requested, or that those requests would be granted in every case. The agency has learned that meetings are helpful in many cases, but not in all, and the Forest Service would like to provide flexibility to the Reviewing Officer to work through the review process in an effective manner. The proposed rule also drops the provisions for inclusion of ''interested persons'' in the meetings between the Forest Service and the objectors. This change occurred in the proposed rule because meetings are not specifically addressed and also so that the objection process would more closely mirror the BLM process, which does not provide for involvement of interested persons.

Proposed section 219.20—Appeals of plan amendments in site-specific project decisions. This proposed section makes clear that the administrative review process established in 36 CFR 215.7(a) applies to site-specific project decisions that include non-significant plan amendments, rather than subjecting such decisions to the objection process for new plans and revisions.

Proposed section 219.21—Notice of plan decisions and effective dates. At paragraph (a), this section of the proposed rule provides direction on where public notification of decisions for new plans, amendments, and revisions is to occur. Proposed paragraph (b) provides that new plans, significant amendments, and plan revisions are effective 30 days after notice of the plan decisions has been published. This proposed paragraph also provides that decisions for nonsignificant amendments are effective immediately. This new section of the proposed rule fills a void in the 2000 rule.

Proposed section 219.22—Transition. This section of the proposed rule is a modification of the transitional procedures of § 219.35 of the 2000 rule. The proposed rule does not explicitly require use of science for implementing and amending existing plans during the transition period, as provided in the 2000 rule at § 219.35(a), because use of science is adequately addressed through an interdisciplinary team approach without specific procedural requirements. The proposed rule does not address lands not suited for timber production in the same manner as the 2000 rule at § 219.35(c). The agency believes that the 1982 rule requirement adequately responded to NFMA and has incorporated similar language from the 1982 rule into the proposed rule.

The proposed rule would remove the provisions for site-specific decisions at § 219.35(d) of the 2000 rule because these decisions are explicitly excluded from the proposed rule. The provisions in the 2000 rule for removal of regional guides (§ 219.35(e)) and establishment of a revision schedule (§ 219.35(g)) are not included in this proposal because the regional guides have already been removed.

The transition requirements for monitoring reports at § 219.35(f) of the 2000 rule are dropped from the proposed rule, because it is acceptable for the monitoring done under the 1982 rule to continue until the plans are completed under the proposed rule. The proposed transition includes the option to continue any amendments or revisions that were initiated under the 1982 rule or to adjust the process to follow this proposed regulation or parts thereof. The Department issued an interim final rule on May 20, 2002, to extend until a new revised planning rule is adopted, the date by which all plan amendments or revisions must be in compliance with the 2000 rule (67 FR 35431).

Proposed section 219.23—Definitions. This section sets out the special terms used in this proposed rule and their definitions. Some definitions are the same as those in the 2000 rule. These are: ''Diversity of plant and animal communities,'' ''ecological conditions,'' ''major vegetation types,'' ''native species,'' ''species viability,'' and ''successional stages.''

Some terms found in § 219.36 of the 2000 rule are not included because they are not used in the proposed rule or their meanings are self-evident. These are: ''Candidate species,'' ''conservation agreement,'' ''current climatic period,'' ''desired condition,'' ''ecological sustainability,'' ''ecosystem composition,'' ''ecosystem processes,'' ''focal species,'' ''inherently rare species,'' ''productive capacity of ecological systems,'' ''reference landscapes,'' ''undeveloped areas,'' and ''unroaded areas.''

The terms included in this proposed rule that were not used in the 2000 rule are: ''Biological diversity,'' ''culmination of mean annual increment,'' ''cultural/heritage resources,'' ''disturbance regime,'' ''ecosystem diversity,'' ''energy resources,'' ''environmental disclosure document,'' ''federally recognized Indian Tribe,'' ''forest land,'' ''health,'' ''high likelihood of viability,'' ''mean annual increment,'' ''newspaper(s) of record,'' ''plan,'' ''planning area,'' ''productivity,'' ''science consistency,'' ''species diversity,'' ''species persistence,'' ''timber harvest,'' ''visitor opportunities,'' and ''wilderness.''

The following explains changes to definitions that are used in this proposed rule and in the 2000 rule.

1. The definition of ''adaptive management'' is slightly changed for clarity. Also, the 2000 rule discusses the role of adaptive management in sustainability, while the proposed rule discusses the role of adaptive management in terms of efficiency and responsiveness of management.

2. The definition of ''assessment or analysis area'' is changed in the proposed rule by dropping analysis area and defining assessment areas. Assessment areas are larger than planning areas and typically involve multiple ownerships.

3. The definition of ''desired non-native species'' is changed in the proposed rule to improve clarity and to make sure the definition is consistent with each of the diversity options and also with the new definition of species.

4. The definition of ''ecosystem structure'' is changed in the proposed rule to refer to the arrangements and relationships among ecosystem components. This broadened the definition to encompass all of the aspects of structure that are of importance in both of the proposed rule's options for ecological sustainability.

5. The definition in the 2000 rule for ''Forest Service NEPA procedures'' is shorter and is now identified as ''NEPA procedures'' in the proposed rule, but contains no substantive changes.

6. The definition for ''inventoried roadless areas'' is substantially changed. The 2000 rule includes specific criteria for consideration of roadless areas identified as those in the November 2000 Roadless Area Conservation Final Environmental Impact Statement, Volume 2. The proposed rule does address criteria for roadless area consideration and does not limit areas to be considered from the November 2000 Roadless Area Conservation maps. The proposed rule allows information from a variety of sources.

7. The definition of ''native species'' is changed in the proposed rule to improve clarity and to make sure the definition is consistent with each of the diversity options and also with the new definition of species.

8. The definition for ''plan area'' is not substantially changed, but is broadened in the proposed rule to make clear that a plan area may have more than one Responsible Official.

9. The definition for ''range of natural variability'' is retained except that the term ''current climatic period'' is dropped because of considerable disagreement and confusion regarding the identification and use of this time period.

10. The definition of ''Responsible Official'' is changed in the proposed rule to conform it with changes made to other sections of the rule and to reflect that the proposed rule addresses only forest planning and not project level decisions.

11. The definition of ''species'' is changed in the proposed rule to make clear the distinction between the two diversity options in terms of which species may be considered in forest planning.

12. The definition for ''species-at-risk'' in the proposed rule removes references to species that may, but are not required to, be on the list and removes references to ''focal species,'' a term not used in the proposed rule.

13. The definition of ''timber production'' is changed in the proposed rule by dropping the reasons for harvest.

Conclusion

This proposed planning rule has been prepared by the Forest Service at the direction of the Office of the Secretary of Agriculture to address problems identified through a Departmental review of the 2000 planning rule. That review focused on the agency's ability to implement the 2000 rule. The concerns identified in the review centered on confusing text contained the 2000 rule as well as on the extensive resources, primarily funding and skilled personnel, that would be required to adequately implement the various new planning concepts and requirements of the 2000 rule.

The intended effects of the proposed rule are to simplify, clarify, and otherwise improve the planning process and to enable the Forest Service to more efficiently implement an improved planning process while retaining the key concepts of the 2000 rule for sustainability, collaboration, monitoring and evaluation, and the use of science. The proposed rule is substantially shorter than the 2000 rule as it removes highly procedural and technical instructions more appropriate for the agency's Directive System. Grounded in both law and practical experience, the proposed rule affirms forest health and sustainability as the overall goal for management of National Forest System lands.

Written comments are requested and will be considered in adoption of a final rule. Reviewers should note that greater weight will be given to original, substantive comments than to form letters, check-off lists, pre-printed post cards, petitions, or similar duplicative materials.

Regulatory Certifications

Regulatory Impact

This proposed rule has been reviewed under USDA procedures and Executive Order 12866 on Regulatory Planning and Review. It has been determined that this is not an economically significant rule. This rule will not have an annual effect of $100 million or more on the economy nor adversely affect productivity, competition, jobs, the environment, public health or safety, nor State or local governments. This rule will not interfere with an action taken or planned by another agency nor raise new legal or policy issues. Finally, this action 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 planning and decisionmaking, this proposed rule has been designated as significant and, therefore is subject to Office of Management and Budget review under Executive Order 12866.

Two studies investigating the costs of land and resource management planning are associated with the proposed rule: (1) A cost-benefit analysis addressing the comparative costs and benefits of the 1982, 2000, and proposed rules, and (2) a comprehensive assessment of the estimated costs of the 2000 and proposed rules.

For the cost-benefit analysis, the cost estimates were developed for planning activities under the 1982 rule with the assistance of Headquarters, Regional, and Forest level planning specialists, using cost data for plan revisions recently completed based on planning as currently practiced under the 1982 rule. These costs were included in a report to the House and Senate Committees on Appropriations entitled, ''Forest Service Land and Resource Management Planning: The Status of

Activities,'' dated January 31, 2002. The costs contained in this report, however, only included planning costs at the forest or grassland level. They did not include the costs incurred at other organizational levels. The cost-benefit analysis relied on results from the costing study to approximate the likely costs of regional office, contracts, and science support to forests or grasslands under the 1982 regulation. An empirical estimate of the per plan cost of resolving appeals under the 1982 regulation was also made.

The results of the 2002 NFMA Costing study were used to estimate the costs associated with planning activities under the 2000 regulation and this proposed 2002 rule. The costing study used a business modeling process and is the most comprehensive study on Forest Service planning costs ever conducted. It identifies and directly compares major cost centers for both the 2000 regulation and this proposed 2002 rule and includes field validation of the estimates by agency planners and interdisciplinary specialists who participate in planning.

The cost-benefit analysis prepared on this proposal focuses on key activities in land and resource management planning for which costs can be estimated under the 1982 rule, the existing 2000 rule, and the proposed rule. The key activities include regional guides, collaboration, science support, effects analysis for the 2000 and proposed rule, and ''revise plan'' for the 1982 rule, evaluation of sustainability and diversity, and the resolution of disputes over plan decisions. The cost-benefit analysis compares the costs and benefits for these activities with practices under the 1982 planning rule. This proposed rule would reduce costs by eliminating regional guides, shortening the length of the planning process, and providing the Responsible Official with more discretion to decide how to conduct the planning process.

Based on costs that can be quantified, this proposed rule is estimated to save an average $1.1 million annually compared to the expected costs under the 1982 rule. Cost savings under the proposed rule are estimated to be about $27.7 million per year compared to the 2000 rule. The discounted value of the cost savings over the 15-year planning horizon is estimated to be $8.6 million for the proposed rule when compared to the 1982 regulation and approximately $240 million when compared to the 2000 regulation.

As noted in the cost-benefit analysis for the proposed rule, the NFMA costing study assumed traditional application of plan analysis. It also did not take into consideration possible savings if a plan revision analysis was categorically excluded or documented in an Environmental Assessment, rather than an Environmental Impact Statement. Both these areas of potential savings could be substantial. In addition to the analysis of the costs and benefits of this proposed rule, this rule has also been considered in light of the Regulatory Flexibility Act, as amended (5 U.S.C. 601 *et seq.*), and it has been determined that this action will not have a significant economic impact on a substantial number of small entities as defined by that Act. Therefore, a regulatory flexibility analysis is not required for this rule. The rule imposes no requirements on either small or large entities. Rather, the rule sets out the process the Forest Service will follow in planning for the management of the National Forest System. The rule should provide opportunities for small businesses to become involved in national forest, grassland, and prairie plan decisions. Moreover, by streamlining the planning process, small businesses should see more timely decisions that affect outputs of products and services. The recognition of the Multiple-Use Sustained-Yield Act and how it affects the social and economic components of sustainability should provide for better balancing of conflicting impacts and issues.

Environmental Impacts

An environmental assessment was prepared for the 2000 rule. This assessment was not required by law, regulation, or agency policy; however, the agency elected to prepare the extra documentation at that time to ensure that no procedural defects might occur. In the case of this proposed rule, the agency proposes to categorically exclude this action, because it is clearly within an established category, there are no extraordinary circumstances related to the action, and this approach will further the agency's efforts to streamline process. The agency invites public comments on environmental effects of the proposed rule.

This proposed rule would establish the administrative procedures and requirements to guide developing, amending, and revising National Forest System land and resource management plans. As such, the proposed rule has no direct and immediate effects regarding the occupancy and actual use of National Forest System land. Rather, the environmental effects of this proposed rule will not be known until specific plans are created, amended, or revised under the rule. Section 31.1b of Forest Service Handbook 1909.15 (57 FR 43168; September 18, 1992) excludes from documentation in an environmental assessment or impact statement ''rules, regulations, or policies to establish Service-wide administrative procedures, program processes, or instruction.'' The action of ''establishing procedures for amending or revising Forest Land and Resource Management Plans' is specifically listed as one of the examples of this category. There are no extraordinary circumstances related to this action. Although an environmental assessment will not be prepared, the agency has prepared a cost-benefit analysis and a Civil Rights Impact Analysis (CRIA), because as discussed previously in this section, the Office of Management and Budget has determined that this rule is otherwise significant. Both the cost-benefit analysis and the CRIA may be found on the World Wide Web/Internet at the address listed earlier in this document.

Energy Effects

This proposed rule has been reviewed under Executive Order 13211 of May 18, 2001, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. It has been determined that this rule does not constitute a significant energy action as defined in the Executive order. Procedural in nature, this proposed rule would guide the development, amendment, and revision of National Forest System land and resource management plans. These plans are programmatic documents that set the standards and other parameters for making future project-level resource management decisions. As such, these plans will address access requirements associated with energy exploration and development within the framework of multiple use, sustained-yield management of the surface resources of the NFS lands. These plans may designate major rights-of-way corridors for utility transmission lines, pipelines, and water canals. The effects of these plans on energy supply, distribution, or use are, of necessity, considered on a case-by-case basis as plan amendments or revisions are proposed and adopted. Consistent with the Executive order, direction to incorporate consideration of energy supply, distribution, and use in the planning process will be included in the agency's administrative directives for implementing the proposed rule, notice of which will be given at the time of adoption of a final rule.

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 included in § 219.19 of the proposed rule for the objection process were previously approved by the Office of Management and Budget and assigned control number 0596–0158, expiring on October 31, 2003, under the 2000 rule.

This proposed rule retains the objection process established in the 2000 rule but simplifies it. The proposed rule removes the requirements for interested parties, publication of objections, and formal requests for meetings (36 CFR 219.32). These changes would result in a minor reduction in the burden hours from the collection of information that would be insignificant to the total 12,100 annual hours requested by the agency.

Federalism

The agency has considered this proposed rule under the requirements of Executive Order 12875, Government Partnerships, and Executive Order 13132, Federalism. The agency has made a preliminary assessment that the rule conforms with the Federalism principles set out in these Executive orders; 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, or on the distribution of power and responsibilities among the various levels of government.

In addition, the agency has reviewed the consultation requirements under Executive Order 13132, which calls for enhanced consultation with State and local governmental officials and emphasizes increased sensitivity to their concerns. Section 219.8 of this proposed rule shows sensitivity to federalism concerns by requiring the Responsible Official to provide opportunities for involvement of State and local governments in the planning process. In the spirit of these requirements, the agency has consulted with the Western Governors' Association and the National Association of Counties to obtain their views on a preliminary draft of this proposed rule. The Western Governors' Association supported the general approach to create a rule that works and placed importance on the quality of collaboration for implementation. Agency representatives also contacted the International City and County Managers Association, National Conference of State Legislators, The Council of State Governments, Natural Resources Committee of the National Governors Association, U.S. Conference of Mayors, and the National League of Cities to share information about the proposed planning rule prior to the publication of this proposed rule. Based on comments received on this proposed rule in response to this notice, the agency will determine if any additional consultation will be needed with State and local governments prior to adopting a final rule.

Consultation With Tribal Governments

Pursuant to Executive Order 13084, Consultation and Coordination with Indian Tribal governments, the agency has assessed the impact of this action on Indian Tribal governments and has determined that the proposed rule does not significantly or uniquely affect communities of Indian Tribal governments. The proposed rule deals with the administrative procedures to guide the development, amendment, and revision of National Forest System land and resource management plans and, as such, has no direct effect regarding the occupancy and actual use of National Forest System land. At § 219.8, the proposed rule requires consultation with federally recognized Tribes when planning.

The agency has also determined that this action does not impose substantial direct compliance cost on Indian Tribal governments. This proposed rule does not mandate Tribal participation in National Forest System planning. Rather, the rules impose an obligation on Forest Service officials to consult early with Tribal governments and to work cooperatively with them where planning issues affect Tribal interests.

No Takings Implications

This proposed rule has been analyzed in accordance with the principles and criteria contained in Executive Order 12630, and it has been determined that the rule does not pose the risk of a taking of Constitutionally-protected private property. This proposed rule only modifies the administrative process for amending and revising land and resource management plans for National Forests, Grasslands, and Prairies.

Civil Justice Reform

This proposed rule has been reviewed 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 a conflict were to be identified, the proposed 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 proposed rule; and (2) the Department would not require the parties to use administrative proceedings before parties may 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), which the President signed into law on March 22, 1995, the agency has assessed the effects of this proposed rule on State, local, and Tribal governments and the private sector. This 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 section 202 of the act is not required.

List of Subjects in 36 CFR Part 219

Administrative practice and procedure, Environmental impact statements, Indians, Intergovernmental relations, Forest and forest products, National forests, Natural resources, Reporting and recordkeeping requirements, Science and technology.

Therefore, for the reasons set forth in the preamble, it is proposed to revise Part 219 of Title 36 of the Code of Federal Regulations to read as follows:

PART 219—PLANNING

Subpart A—National Forest System Planning for Land and Resource Management Plans

Sec.
219.1 Purpose and applicability.
219.2 Nature and scope of a land and resource management plan.
219.3 Levels of planning and planning authority.
219.4 Decisions embodied in plans.
219.5 Indicators of need to amend or revise a plan.
219.6 Compliance with National Environmental Policy Act.
219.7 Amending a plan.
219.8 Revising a plan.
219.9 Developing a new plan.
219.10 Application of plan direction.
219.11 Monitoring and evaluation.
219.12 Collaboration, cooperation, and consultation.
219.13 Sustainability.
219.14 The consideration of science in planning.
219.15 Special designations.
219.16 Determination of lands available for timber harvest and suitable for timber production.
219.17 Limitation on timber harvest.
219.18 Plan documentation, maintenance, and availability.
219.19 Objections to amendments or revisions of plans.
219.20 Appeals of plan amendments in site-specific project decisions.
219.21 Notice of plan decisions and effective dates.

219.22 Transition.
219.23 Definitions.

Subpart B—[Reserved]

Authority: 5 U.S.C. 301; and Secs. 6 and 15, 90 Stat. 2949, 2952, 2958 (16 U.S.C. 1604, 1613).

§ 219.1 Purpose and applicability.

(a) The rules of this subpart set forth a process for establishing, amending, and revising land and resource management plans for the National Forest System as required by the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act (16 U.S.C. 1600 *et seq.*). This subpart is based on the principle that planning occurs over multiple time frames and various geographic areas and is a continuous process that reveals when and where plan decisions need to be adjusted. These rules also identify the nature and scope of decisions made in a land and resource management plan and define the required elements of a plan. The provisions of this regulation are applicable to all units of the National Forest System as defined by 16 U.S.C. 1609 or subsequent statute.

(b) Consistent with the Multiple-Use Sustained-Yield Act of 1960, the overall goal of managing the National Forest System is to sustain in perpetuity the productivity of the land and the multiple use of its renewable resources. Management of renewable resources is to be in the combination that will best meet the needs of the American people. Achieving sustainability is essential to providing multiple uses over time. Thus, National Forest System management focuses on maintaining or restoring the health of the land in order to provide a sustainable flow of uses, values, benefits, products, services, and visitor opportunities.

§ 219.2 Nature and scope of a land and resource management plan.

(a) *Fundamental purpose of a plan.* A land and resource management plan (also referred to as a plan) establishes the desired conditions to be achieved through the management of the lands and various renewable resources of the National Forest System. A plan guides the Forest Service in fulfilling its responsibilities for stewardship of the National Forest System to best meet the needs of the American people.

(b) *Requirements.* The Responsible Official is responsible for ensuring that the planning process and the plan meet the following requirements:

(1) Planning must address issues at the appropriate time frames and geographic scales using the best available science and other knowledge and information. Analysis shall be proportional to the decisions to be made in a plan and shall focus broadly on the environmental baseline and trends in order to provide information to help develop a plan.

(2) Planning must be conducted using an interdisciplinary, collaborative approach.

(3) Consultation with States and local governments, Federal agencies, and federally recognized Indian Tribes must occur early and often in the development of an initial plan or subsequent amendment or revision.

(4) The planning process must provide opportunities for the interested public, both organizations and individuals, to participate in planning to guide the stewardship of their national forests, grasslands, and prairies, and other units of the National Forest System.

(5) A plan must provide for uses, benefits, products, services, and visitor opportunities that are appropriate to and consistent with the multiple use objectives outlined in the plan.

(6) A plan must address the social, economic, and ecological components of sustainability for the land and resources within the plan area, consistent with the Multiple-Use Sustained-Yield Act of 1960 and with the NFMA diversity requirement that plans provide for the diversity of plant and animal communities and tree species consistent with the multiple-use objectives of the plan.

(7) A plan must identify the monitoring and evaluation necessary to assess the achievement of desired conditions and to indicate whether direction in the plan should be modified, as necessary, to address new issues, new information, and changed conditions.

(8) The management direction in a plan should reflect the limits and likely variability of agency budgets.

(c) *Integration of authorities.* Plans integrate the requirements of statutes, Executive orders, regulations, and agency policy that apply to the lands and resources of the National Forest System.

(1) Statutory authorities related to planning and management of the National Forest System include the Organic Administration Act of 1897, as amended (16 U.S.C. 473 *et seq.*); the Multiple-Use Sustained-Yield Act of 1960 (16 U.S.C. 528 *et seq.*); the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*); the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*); 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.*); Wilderness Act (16 U.S.C. 1131 *et seq.*); Clean Air Act (42 U.S.C. 7401 *et seq.*); Clean Water Act of 1948, as amended by the Federal Water Pollution Control Act Amendments of 1977 and the Water Quality Act of 1987 and other laws (33 U.S.C. 1251 *et seq.* 1323 *et seq.*); and other relevant laws.

(2) Agency-wide management policy and procedure relevant to planning and resource management are issued through the Forest Service Directive System (36 CFR 200.4).

(d) *Force and effect of plans.* A land and resource management plan prepared under this subpart is strategic and programmatic in nature. A plan provides guidance and direction applicable to future site-specific projects and activities. Plans also may restrict some activities or establish other requirements applicable to particular areas. The direction in a plan does not normally create, authorize, or execute any ground-disturbing activity. A plan, in and of itself, does not grant, withhold, or modify any contract, permit, or other legal instrument, does not subject anyone to civil or criminal liability, and creates no legal rights.

§ 219.3 Levels of planning and planning authority.

(a) The Chief of the Forest Service is responsible for national planning, such as preparation of the Forest Service Strategic Plan required under the Government Performance and Results Act of 1993 (5 U.S.C. 306; 31 U.S.C. 1115–1119; 31 U.S.C. 9703–9704) which is integrated with the requirements of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976 (16 U.S.C. 1600 *et seq.*). The Strategic Plan establishes goals, outcomes, performance measures, and strategies that apply to management of the National Forest System as well as to the other Forest Service mission areas.

(b) The National Forest, Grassland, or Prairie Supervisor is the Responsible Official for development and adoption of a new land and resource management plan for lands under the responsibility of the Supervisor, as well as for amendment or revision of a plan, unless a Regional Forester, the Chief, or the Secretary chooses to act as the Responsible Official for a specific plan, amendment, or revision.

(c) A Regional Forester, the Chief, or the Secretary may amend or revise multiple plans, where social, economic, or ecological issues or opportunities occur on more than one national forest,

grassland, prairie, or other comparable unit and a single, comprehensive planning effort is determined to be the most efficient and effective approach to addressing issues or opportunities. Where National Forest System lands are adjacent, two or more Responsible Officials may undertake joint planning that concludes with each official signing the decision document(s).

(d) Management direction in plans for areas designated as experimental forests must be consistent with the research activity being conducted on these areas and concurred with by the associated Station Director.

§ 219.4 Decisions embodied in plans.

(a) A plan constitutes the programmatic management direction for all or part of a plan area (§ 219.23) and embodies the following decisions:

(1) *Desired conditions.* A plan must describe the desired conditions toward which management of the lands and resources of the plan area is to be directed. Identification of desired conditions is a primary focus of a plan.

(2) *Objectives.* A plan must establish objectives intended to contribute to the achievement of desired conditions. Objectives, which are concise statements of measurable, time-specific outcomes, are pursued through the implementation of programs, projects, and other on-the-ground activities within the plan area.

(3) *Standards.* A plan must establish standards that state the permissions or limitations applicable to land uses and management actions within the plan area. Standards are measurable requirements that are explicitly identified in a plan as ''standards.'' Standards are established to achieve the desired conditions and objectives of a plan and to comply with applicable laws, regulations, Executive orders, and agency directives. In establishment of standards, the Responsible Official must identify, consider, and address special conditions or situations involving hazards to the various resources. Standards generally should be adaptable and assess performance measures. A plan shall include but not be limited to the following standards:

(i) Limitations on even-aged timber harvest methods including provisions to require harvest in a manner consistent with the protection of soil, watershed, fish, wildlife, recreation, and aesthetic resources and the regeneration of the timber resource, including requirements that even-aged harvest may occur only upon a finding that it is appropriate and that clearcutting may occur only upon a finding that it is the optimum method to meet the objectives and requirements of the plan;

(ii) Maximum size openings created by timber harvest according to geographic areas, forest types, or other suitable classifications for areas to be cut in one regeneration harvest operation. This limit may be less than, but will not exceed, 60 acres for the Douglas-fir forest type of California, Oregon, and Washington; 80 acres for the southern yellow pine types of Alabama, Arkansas, Georgia, Florida, Louisiana, Mississippi, North Carolina, South Carolina, Oklahoma, and Texas; 100 acres for the hemlock-sitka spruce forest type of coastal Alaska; and 40 acres for all other forest types. These size opening limits shall include provisions to exceed the established limits after appropriate public notice and review by the officer one level above the Responsible Official provided that such limits shall not apply to the size of areas harvested as a result of natural catastrophic conditions such as fire, insect and disease attack, or windstorm;

(iii) Requirements for achieving aesthetic objectives, including requirements that cut blocks, patches, or strips that are shaped and blended to the extent practicable with the natural terrain;

(iv) Requirements for maintaining or restoring ecological conditions that support desired characteristics of ecosystem and species diversity in order to, within the multiple use objectives of the plan, provide for the diversity of plant and animal communities based on the suitability and capability of the plan area and, where appropriate and to the degree practicable, provide for steps to preserve the diversity of tree species similar to that existing in the plan area;

(v) Requirements for maintaining or restoring soil and water resources, including protection for streams, streambanks, shorelines, lakes, wetlands, and other bodies of water from detrimental changes in water temperatures, blockages of water courses, and deposits of sediment, when management activities are likely to seriously and adversely affect water conditions on fish habitat;

(vi) Requirements that timber harvest projects be considered through interdisciplinary review, assessing the potential environmental, biological, aesthetic, engineering, and economic impacts on the sale area, as well as the consistency of the sale with the multiple use of the general area, and that the harvesting system used is not selected primarily because it will give the greatest dollar return or the greatest unit output of timber; and

(vii) Requirements for assuring that even-aged stands of trees scheduled for harvest during the planning period have generally reached culmination of mean annual increment of growth. This requirement applies only to regeneration harvest of even-aged stands on lands identified as suitable for timber production and where timber production is a management objective.

(A) The culmination of mean annual increment of growth requirement does not apply to cutting for experimental or research purposes; to non-regeneration harvests, such as thinning or other stand improvement measures; to management of uneven-aged stands or to stands under uneven-aged silvicultural systems; and to salvage or sanitation harvesting of timber stands which are substantially damaged by fire, windthrow, or other catastrophe, or which are in imminent danger from insect or disease attack.

(B) A plan must identify categories of activities that are exceptions to the culmination of mean annual increment if necessary to meet resource objectives, such as wildlife habitat enhancement, visual enhancement, or riparian area improvement. Exceptions to the culmination of mean annual increment requirement and the reasons for these exceptions must be specifically disclosed during the public participation process for a plan.

(4) *Identification of suitable and unsuitable land uses.* National Forest System lands are generally suitable for a variety of uses such as outdoor recreation, livestock grazing, timber harvest (§ 219.16), energy resource development, mining activities, watershed restoration, cultural and heritage interpretation, and other uses. Rather than determine the suitability of all lands for all uses, a plan should assume that all lands are potentially suitable for a variety of uses except when specific areas are identified and determined not to be suited for one or more uses. A plan must identify National Forest System lands as not suited for a certain use under any of the following circumstances:

(i) If law, regulation, or Executive order prohibits that use;

(ii) If agency resource management directives prohibit the use;

(iii) If the use would result in substantial and permanent impairment of the productivity of the land or renewable resources; or

(iv) If the use is incompatible with the desired conditions established for all or part of the plan area.

(5) *Special designations and other management areas.* Consistent with § 219.15 of this subpart, a plan may

designate specific areas for special management or provide direction for managing previously established special areas such as wilderness, national trails, national monuments, and national recreation areas. Additionally, a plan may establish and provide direction for other types of management areas.

(6) *Monitoring and evaluation requirements.* Each plan must establish monitoring and evaluation requirements, including the establishment of performance measures, in accordance with § 219.11. The primary focus of monitoring is to measure the maintenance of, or progress toward, desired conditions through establishment and assessment of performance measures. The information and conclusions that emerge from monitoring and evaluation provide an important basis for determining whether there is a need to change a plan. Essential components of the monitoring and evaluation process are data collection, analysis, data storage, interpretation of the analyses, and reporting of the results.

(b) Assessments, surveys, analyses, monitoring results, and other studies are not plan decisions nor do they constitute agency proposed or final actions.

§ 219.5 Indicators of need to amend or revise a plan.

The Responsible Official may propose to amend or revise a plan based on the consideration of issues or opportunities.

(a) *Origination of issues or opportunities.* Issues or opportunities may originate from a variety of sources. These may include inventories, user surveys, assessments, analyses, monitoring and evaluation results, and collaborative activities and discussions with those interested in National Forest System management, as well as proposals made by individuals, organizations, Tribes, or government entities. Disturbance events such as floods, wind, fire, and insect infestation may create conditions that require modification of plan direction. New regulations or laws also may necessitate amendment or revision of a plan. Each Responsible Official must obtain appropriate inventory data on the various renewable resources and soil and water, including pertinent maps, graphic material, and explanatory aids.

(b) *Consideration of issues and opportunities.* (1) When an issue or opportunity arises, the Responsible Official has the discretion to determine whether and to what extent the matter is appropriate and timely for consideration in a proposed amendment or revision. Factors that the Responsible Official may weigh to determine whether consideration of an issue or opportunity is appropriate and timely include, but are not limited to, the following:

(i) The scientific basis and merit of available information and analyses, including the results of monitoring and evaluation;

(ii) The scope, complexity, intensity, and geographic scale of the issue or opportunity;

(iii) Statutory requirements or valid existing rights; and

(iv) Organizational and available resources, including current and likely Forest Service budgets.

(2) If the Responsible Official determines that an issue or opportunity should be addressed in an amendment or revision, the Responsible Official should review the best available science and other relevant knowledge and information as part of the planning process. Whenever possible, the Responsible Official should use existing information to address issues or opportunities. However, new information or a supplemental or new inventory, assessment, or analysis may be developed as appropriate to the scope, timeframe, and geographic extent of an issue or opportunity, provided that additional information can be obtained at a reasonable cost and in a timely manner. A decision whether or not to consider an issue or opportunity is not subject to objection under this subpart.

§ 219.6 Compliance with National Environmental Policy Act.

(a) The Responsible Official must comply with NEPA procedures (§ 219.23) and incorporate them as necessary and appropriate throughout the planning process. The Responsible Official must determine how NEPA applies in the development of a new plan, plan amendment, or plan revision. The Responsible Official shall ensure that the level of NEPA analysis for planning is proportional to the decisions being made.

(b) If the Responsible Official determines that a new plan, plan amendment, or plan revision, or a component thereof, would be an action significantly affecting the quality of the human environment, or authorizes an action that commits funding or resources that could have a significant effect on the quality of the human environment, then an environmental impact statement would be required. A new plan, plan amendment, or plan revision may be categorically excluded from documentation in an Environmental Assessment or Environmental Impact Statement as provided in agency NEPA procedures.

§ 219.7 Amending a plan.

(a) A plan may be amended to add, modify, or rescind one or more of the plan decisions described in § 219.4. As provided for in § 219.18, administrative corrections and additions are not amendments.

(b) An amendment arises from consideration of issues or opportunities and a determination of a need to change a plan as described in § 219.5.

(c) During the amendment process, the Responsible Official must provide opportunities for consultation and collaboration as required by § 219.12 of this subpart.

(d) A plan amendment for which an EIS is prepared is a significant amendment. The Responsible Official must publish a Notice of Intent to prepare an EIS in the **Federal Register** and provide a 90-day comment period on a draft proposed significant amendment and accompanying Draft EIS.

(e) The Responsible Official must give prior notice of the opportunity to object to any proposed amendment and any associated final environmental disclosure documents that are subject to the objection process established at § 219.19 of this subpart.

(f) An interim amendment may be used to establish plan direction of limited duration as follows:

(1) Only a Regional Forester or a higher level official may be the Responsible Official for an interim amendment;

(2) An interim amendment must specify the duration of the amendment, which is not to exceed four years. An amendment may be renewed in accordance with procedures in § 219.7(f)(3);

(3) The Responsible Official shall notify the public in newspaper(s) of record, and allow public comment, before an interim amendment is renewed beyond the four year period; and

(4) An interim amendment is not subject to the objection process of § 219.19.

§ 219.8 Revising a plan.

(a) *Initiating revision.* Unless otherwise provided by law, a plan must be revised at least every 15 years, or a plan must be revised sooner if a Responsible Official determines that conditions within the plan area have significantly changed.

(1) To initiate the plan revision process, the Responsible Official must prepare the following:

(i) A description of the current management situation for the plan area and an analysis of existing plan direction;

(ii) A summary of issues or opportunities that the Responsible Official determines to be appropriate and timely for consideration (§ 219.5); and

(iii) A summary of any current and new information relevant to the issues or opportunities determined appropriate for consideration.

(2) Using the description prepared under paragraph (a)(1)(i) of this section and the summaries prepared under paragraphs (a)(1)(ii) and (iii) of this section, the Responsible Official must consult with Federally recognized Indian Tribes, State and local governments, and other Federal agencies in conformance with § 219.12 of this subpart.

(b) *Public notice to revise a plan.* After completion of the requirements of paragraph (a) of this section, the Responsible Official must give notice of the initiation of a plan revision. If an EIS is to be prepared, then a Notice of Intent to prepare an EIS must be published in the **Federal Register**. If an EIS is not to be prepared, a notice of initiation of the revision must be published in the newspaper(s) of record. The notice must inform the public of the availability of the documentation listed in paragraph (a) of this section; include a summary of the identified issues and opportunities; invite the public to comment on these issues and opportunities and to identify any other issues and opportunities that they feel should be addressed during revision; include an estimated schedule for the revision process; and specify the time available and process for the public to submit comments.

(c) *Notice of availability of draft proposed revision.* The Responsible Official must provide a 90-day comment period on a draft proposed revised plan and any accompanying environmental disclosure documents. A notice of the availability of the proposed draft revision must be provided as follows:

(1) For any revision for which the Chief or the Secretary is the Responsible Official or for which an environmental impact statement is prepared, notice of the proposed draft revision and availability of the DEIS must be published in the **Federal Register**.

(2) For all other revisions, notice of the availability of the proposed draft revision, specifics regarding the time available, and process for comments must be published in newspaper(s) of record (§ 219.23).

(d) *Notice of objection process.* Before the Responsible Official approves a revised plan, the Responsible Official must give notice that the proposed final revised plan and any final environmental disclosure documents are subject to the objection process at § 219.19 of this subpart.

§ 219.9 Developing a new plan.

(a) If Congress establishes a new National Forest, Grassland, Prairie, or other comparable unit of the National Forest System, the Regional Forester must determine if the unit requires a separate plan or if an existing plan can be amended or revised to apply to the lands within the new unit.

(b) If the Regional Forester determines that a separate plan is required for a new unit of the National Forest System, the Responsible Official for the new unit must develop and approve a plan that establishes the desired conditions, objectives, standards, any special management areas, and monitoring and evaluation requirements and that identifies any suitable or unsuitable land uses within the plan area as provided in § 219.4 of this subpart. The Responsible Official shall initiate and conduct planning and conduct government-to-government consultation and public involvement as provided in §§ 219.8, 219.12, and all other applicable sections of this subpart.

§ 219.10 Application of plan direction.

(a) *Application of a new plan, plan amendment, or plan revision to existing authorizations and approved projects and to project decisions issued after the approval of the plan or amendment.* Permits, contracts, and other instruments authorizing the use and occupancy of National Forest System lands must be consistent with the standards in the plan for that unit. New project decisions must disclose the relationship of the project to applicable plan desired conditions. When changes are proposed to a plan, the Responsible Official must take into consideration the possible effects of the proposed changes on occupancy and use currently authorized through permits, contracts, or other instruments. The decision document accompanying a new plan, plan amendment, or plan revision must address the application of new plan direction to ongoing activities or uses authorized by existing permits, contracts, or other instruments. Any modifications of permits, contracts, or other instruments authorizing occupancy and use of the plan area necessary to make them consistent with the plan as developed, amended, or revised are subject to valid existing rights. Such modifications should be made as soon as practicable following development, amendment, or revision of the plan.

(b) *Application of plan direction during amendment or revision process.* Direction in a plan remains in effect until that direction is changed through amendment or revision.

(c) *Application of plan direction to approved projects in light of new information.* Nothing in this subpart requires deferral, suspension, or modification of approved projects while new information is being assessed. Approved projects are those for which a Responsible Official has signed a decision document.

(d) *Amendments made through site-specific project decisions.* If a proposed site-specific project or action would not be consistent with the standards of the plan (§ 219.4), the Responsible Official may, subject to valid existing rights, take one of the following steps:

(1) Modify the proposed site-specific project or action to make it consistent with the plan;

(2) Reject the proposal; or

(3) As part of the project decision, amend the plan to modify one or more standards or to exempt application of one or more standards to the project or action to allow for its implementation.

(e) *Testing and research.* Management of National Forest System lands and resources should provide the land manager a continuous flow of new information and knowledge. Testing and research projects are integral to gaining this information and knowledge. Projects proposed to test assumptions, management methodologies, or other aspects of resource management must comply with all applicable laws and regulations and must be consistent with the plan standards. Where a research or testing project would not be consistent with plan standards, paragraph (d) of this section applies.

§ 219.11 Monitoring and evaluation.

Monitoring and evaluation should assess, over appropriate timeframes and geographic areas and at a reasonable cost, the effects of activities on achievement of desired conditions and objectives of a plan, the results of adaptive management, and, as provided in § 219.4, contribute to determining whether a plan needs to be changed or whether plan implementation needs to be adjusted.

(a) *Monitoring requirements.* The Responsible Official must ensure the timely collection of information needed to meet the monitoring requirements of a plan as well as the interpretation and evaluation of monitoring information.

Monitoring information should include, but not be limited to, data and other information pertinent to characteristics of ecosystem and species diversity, as determined relevant by the Responsible Official.

(1) *Changes in monitoring methods.* Monitoring methods may be changed in response to new information or changed circumstances without plan amendment or revision.

(2) *Coordination of monitoring.* To the extent practicable, monitoring may be conducted jointly with other Federal agencies, federally recognized Indian Tribes, State and local governments, scientific and academic communities, and others.

(b) *Evaluation requirements.* Evaluation includes, but is not limited to, such activities as:

(1) Identifying trends and conditions;

(2) Validating information and analyses used to adopt, amend, or revise a plan;

(3) Assessing, through the use of identified performance measures and other methods, the effects of programs, projects, and activities in achieving the desired conditions and objectives for the plan; and

(4) Determining the effectiveness of plan standards.

(c) *Data sources.* Data also may come from a variety of sources, including other Federal agencies, Indian Tribes, State and local governments, scientific and academic institutions, and others. Monitoring data also may come from project analysis, surveys, inventories, administrative studies, and research.

(d) *Records and reporting.* Findings and conclusions from monitoring and evaluation must be disclosed annually and made available to the public. The disclosure should summarize the monitoring results for the year; present significant findings and conclusions, if any; discuss implications for current and future management of the administrative unit; and describe actions taken or planned in response to findings made in previous reports. While the monitoring and evaluation disclosure shall be produced annually, specific monitoring items and evaluation of specific resources or conditions may occur at other intervals.

§ 219.12 Collaboration, cooperation, and consultation.

The Responsible Official must use an interdisciplinary, collaborative approach to planning by engaging the skills and interests of appropriate combinations of Forest Service staff, consultants, contractors, other Federal agencies, federally recognized Indian Tribes, State or local governments, or other interested or affected communities, groups, or persons, consistent with applicable laws.

(a) *Providing opportunities for collaboration in Forest Service planning.* The Responsible Official must provide early and frequent opportunities for individuals and entities to participate openly and meaningfully in the planning process, taking into account the discrete and diverse roles, jurisdictions, and responsibilities of interested and affected agencies, organizations, groups, and individuals. The Responsible Official shall determine the methods and timing of opportunities to participate in the planning process.

(1) *Engaging interested individuals and organizations.* The Responsible Official must provide for and encourage participation by interested individuals and organizations, including private landowners whose lands are within, adjacent to, or otherwise affected by management actions on National Forest System lands.

(2) *Engaging State and local governments and Federal agencies.* The Responsible Official must provide opportunities for the coordination of Forest Service natural resource management planning efforts with those of other land management agencies. The Responsible Official also must meet with and provide early opportunities for other government agencies to be involved in the planning process for National Forest System lands. During the planning process, the Responsible Official should seek assistance, where appropriate, from other State, local government, and Federal agencies and scientific and academic institutions to help address management issues or opportunities.

(3) *Engaging Indian Tribes.* The Forest Service shares in the Federal Government's overall trust responsibility for federally recognized Indian Tribes. The Responsible Official must consult with and invite federally recognized Indian Tribes to participate in the planning process and also provide opportunity for coordinated planning efforts. In working with federally recognized Indian Tribes, the Responsible Official must honor the government-to-government relationship between Tribes and the Federal Government.

(b) *Forest Service participation in other planning efforts.* When appropriate, the Responsible Official should consider participating with existing groups organized for public purposes in their land and resource management planning efforts.

§ 219.13 Sustainability.

Consistent with the Multiple-Use Sustained-Yield Act of 1960 (MUSYA), the Responsible Official must ensure that the plan provides for desired conditions, objectives, standards, special area recommendations, and monitoring based upon consideration of the three interdependent components of sustainability: Social, economic, and ecological. A plan by itself cannot ensure sustainability but provides an overall framework to guide on-the-ground management. Sustaining the productivity of the land and its renewable resources is achievable only by the continuous and dynamic process of planning, implementing projects under the plan, monitoring, adapting management as a result of monitoring, and where necessary and appropriate, amending or revising the plan or modifying proposed site-specific projects to meet the desired conditions.

(a) *Social and economic components of sustainability.* To understand the social and economic contributions that National Forest System lands presently make and may make in the future, the Responsible Official must consider and assess economic and social information at relevant timeframes and geographic areas as appropriate to the issues. Social and economic information may be obtained from others or developed and analyzed through assessments, analyses, inventories, monitoring results, or other methods. In assessing social and economic conditions and trends relevant to the issues being addressed through plan development, amendment, or revision, the Responsible Official should:

(1) Engage and participate with interested and affected parties to identify the values they want to see sustained and the benefits they accrue from National Forest System lands;

(2) Consider how human activities and social and economic conditions and trends affect the ecological component of sustainability on and around National Forest System lands, and how people can contribute to maintaining and restoring the health of National Forest System lands; and

(3) Gather and analyze social and economic information to assess, at the appropriate timeframes and geographic scales, how land management has affected and may affect the contribution of National Forest System lands to social and economic systems. This includes identifying the benefits National Forest System lands provide; analyzing conditions and trends of social and economic systems; and analyzing the relationships between

people and the national forests, grasslands, and prairies.

Option 1 for Paragraph (b)

(b) *Ecological component of sustainability.* The ecological component of sustainability includes, but is not limited to, the following elements: The productivity, health, and function of ecosystems; the diversity of plant and animal communities and tree species; and the quality of soil, water, and air resources. As part of planning, the Responsible Official must follow a hierarchical, sequential approach to consider and assess both ecosystem diversity and species diversity. Ecosystem diversity should be considered and evaluated first, leading to development of plan direction that provides for the needs of most species of plants and animals. Where the needs of particular species, species assemblages, or other species groupings are not likely to be met through plan direction for ecosystem diversity, species diversity should be considered and evaluated for these species, species assemblages, or other species groupings. Consideration and evaluation of ecosystem and species diversity includes development and analysis of information over relevant timeframes and geographic areas as determined by the Responsible Official.

(1) *Ecological information and analyses.* Analyses of ecosystem and species diversity should be proportional to the issues identified by the Responsible Official, risks to ecological sustainability, and availability of information relevant to the plan area. Information and analyses may be identified, obtained, or developed through a variety of methods, including assessments, analyses, and monitoring. The ecological information and analyses must include the following components:

(i) *Consideration and evaluation of ecosystem diversity.* Characteristics and evaluation of ecosystem diversity should be identified and completed at the scope and scale determined to be appropriate by the Responsible Official. Evaluations should describe the contribution of National Forest System lands to ecosystem diversity within the area of analysis.

(A) *Characteristics of ecosystem diversity.* Characteristics of ecosystem diversity include, but are not limited to, a description of composition (such as major vegetation types, rare communities, aquatic systems, and riparian systems); structure, including successional stages; principal ecological processes, including historic and current disturbance regimes; and soil, water, and air resources within the area of analysis.

(B) *Evaluation of ecosystem diversity.* Evaluations of ecosystem diversity should include the status of the characteristics of ecosystem diversity identified in paragraph (b)(1)(i)(A) of this section; a description of the historic and current effects of human activities on characteristics of ecosystem diversity; risks to ecosystem health; an evaluation of water and air quality and soil productivity; and an estimation of current and foreseeable future consumptive and non-consumptive National Forest System water needs and the quantity and quality of water needed to support those uses.

(ii) *Consideration and evaluation of species diversity.* Characteristics and evaluation of species diversity should be identified and completed at the scope and scale determined to be appropriate by the Responsible Official. Evaluations should describe the contribution of National Forest System lands to species diversity within the area of analysis.

(A) *Characteristics of species diversity.* Characteristics of species diversity include, but are not limited to, the known number and identity of plant and animal species within the area of analysis, and the status, distribution, and geographic ranges of plant and animal species within the area of analysis. Species, species assemblages, or other species groupings may be used to characterize species diversity.

(B) *Evaluation of species diversity.* Evaluations of species diversity should identify species-at-risk, their habitat requirements, and threats placing them at risk, based on current conditions and trends and management direction. The level of detail of the analyses performed should be proportional to the issues identified by the Responsible Official and the associated risk to species viability. Evaluations should include assessments of risk to species viability and identification of ecological conditions capable of supporting species viability over time. Where little information is available for particular species, assessments may be qualitative. The assessment evaluations may be simplified by the use of groups of species or species that serve as surrogates for evaluating species diversity.

(2) *Plan decisions.* The Responsible Official must provide for the diversity of plant and animal communities and tree species within the plan area consistent with the multiple use objectives of the plan while sustaining the productivity of the land. When developing plan decisions, the Responsible Official must consider the information and analyses described in paragraph (b)(1) of this section. The following requirements apply over relevant timeframes and geographic areas that the Responsible Official determines to be appropriate:

(i) *Ecosystem diversity.* Plan decisions should provide for measurable progress toward the maintenance or restoration of ecological conditions that will support the diversity of plant and animal communities and tree species and other characteristics of ecosystem diversity. A variety of approaches may be used, such as conservation strategies designed for one or a group of species-at-risk, or management practices that emulate effects of natural disturbance regimes or result in characteristics of ecosystem diversity within the range of variability expected to occur under current disturbance regimes.

(ii) *Species diversity.* Plan decisions should provide for ecological conditions that the Responsible Official determines provide a high likelihood of supporting over time the viability of native and desired non-native vertebrates and vascular plants well distributed within their ranges in the plan area. When assessing ''high-likelihood'' and ''well distributed,'' the Responsible Official shall consider factors under agency authority and relative to species life history and distribution within the plan area. Where conditions capable of supporting viability for particular species or species groups are not likely to be met through provisions for ecosystem diversity, specific plan objectives or standards should be developed for those species or species groupings.

Option 2 for Paragraph (b)

(b) *Ecological component of sustainability.* The ecological component of sustainability includes, but is not limited to, the following elements: The productivity, health, and function of ecosystems; biological diversity at ecosystem and species levels; and the quality of soil, water, and air resources. As part of the planning process, the Responsible Official must ensure that the hierarchical approach described in paragraph (b)(1) of this section is followed to consider and assess biological diversity at two levels of ecological organization, ecosystem and species. Consideration and evaluation of ecosystem diversity constitutes the core approach and is the primary focus of ecological information and analyses. Consideration and evaluation of species diversity is a complementary approach that extends ecosystem analyses to address specific planning issues. Biological diversity should be considered and evaluated

over appropriate timeframes and geographic areas as determined by the Responsible Official. Assessments of biological diversity at ecosystem and species levels should address effects of natural and human disturbances and of the ecological condition, structure, and land use history of the planning or assessment area.

(1) *Ecological information and analyses.* Analyses of biological diversity at ecosystem and species levels should be proportional to the issues identified by the Responsible Official, risks to ecological sustainability, and availability of information relevant to the planning or assessment area. Information and analyses may be identified, obtained, or developed through a variety of methods, including assessments, analyses, and monitoring and, where appropriate, should extend to the larger landscape in which the plan area is embedded. Ecological information and analyses must be based upon an assessment of the components described in the following paragraphs and tailored to the particular planning or assessment area and the specific issues identified in the planning process:

(i) *Consideration and evaluation of ecosystem diversity.* Characteristics and evaluation of ecosystem diversity should be identified and completed over timeframes and geographic areas determined to be appropriate by the Responsible Official. Analyses should describe and assess the contributions of National Forest System lands to ecosystem diversity in the planning or assessment area.

(A) *Characteristics of ecosystem diversity.* Characteristics of ecosystems that should be considered within the planning or assessment area include, but are not limited to: ecological composition, structure, and processes; spatial extent, distribution, and relations; geology and landforms; and soil, water, and air resources.

(B) *Evaluation of ecosystem diversity.* Evaluations of ecosystem diversity should identify ecosystems in the planning or assessment area and characterize their ecological structure, composition, processes, and spatial relations.

(*1*) Analyses should evaluate the status of the characteristics of ecosystem diversity identified in paragraph (b)(1)(i)(A) of this section and risks or threats to these characteristics, including impacts of past, current, and anticipated management direction on ecosystem diversity.

(*2*) Analyses should evaluate the condition and quality of water and air resources, the condition of stream networks and channels and of watersheds, and the quality and productivity of soils, and should estimate current and foreseeable future consumptive and non-consumptive National Forest System water needs and the quantity and quality of water needed to support those uses.

(*3*) Evaluations should identify unique areas, including rare ecosystems, compositional or structural elements, and ecosystems at risk, specific risks or threats to these areas, and measures required for their conservation or restoration.

(ii) *Consideration and evaluation of species diversity.* Characteristics and evaluation of species diversity should be identified and completed over timeframes and geographic areas determined to be appropriate by the Responsible Official. Analyses should describe and assess the contributions of National Forest System lands to species diversity in the planning or assessment area. Analyses of species and species groups should be undertaken to provide a more complete understanding of impacts of past, current, and anticipated management direction on biological diversity, including the status of species and the ecosystems in which they occur. In a hierarchical context, species analyses should be conducted within the framework of, and should incorporate information from, larger-scale ecosystem analyses.

(A) *Characteristics of species diversity.* Characteristics of species diversity that should be considered within the planning or assessment area include, but are not limited to, the composition and richness (number of species) of the existing pool of species and the abundance, distribution, geographic range, and status of individual species chosen for analysis.

(B) *Evaluation of species diversity.* Individual species should be identified for evaluation to address a particular planning issue, to develop a more complete understanding of the condition and trends of ecosystems, or where substantive concerns exist regarding the continued persistence of the particular species within the planning or assessment area. Evaluations of species diversity should be conducted along two tracks with related purposes. Community analyses should determine whether maintenance of ecosystem diversity is sufficient to maintain the existing pool of species within the planning or assessment area. Individual species analyses should evaluate impacts of past, current, and anticipated management direction on individual species selected for analysis.

(*1*) Evaluations should identify species or species groups found within the planning or assessment area, including native and non-native species, and, where feasible, compile information on species status, spatial distribution, geographic range, abundance, and population trends.

(*2*) Evaluations should analyze the composition and distribution of communities and species assemblages across the planning or assessment area; examine relations of community or assemblage measures to underlying biophysical conditions, with particular attention to attributes affected by management actions; and analyze impacts of past, current, and anticipated management direction on individual species selected for analysis.

(*3*) Evaluations must identify species for which substantive evidence exists that continued persistence in the planning or assessment area is at risk, specific risks or threats to these species, and measures required for their conservation or restoration.

(iii) *Further analyses of biological diversity.* In addition to the information and analyses identified in paragraphs (b)(1)(i) and (ii) of this section, the following additional information and analyses should be included in the approach to considering and assessing biological diversity at ecosystem and species levels.

(A) *Consideration and evaluation of spatial and temporal scales and patterns.* Biological diversity at ecosystem and species levels should be evaluated across multiple timeframes and geographic areas. The Responsible Official should follow a spatially explicit approach to assessments of biological diversity, by considering such factors as abundance, extent, patch size, distribution, and interspersion of ecosystems and species populations over time and by focusing on specific landscape features as well as their sizes, shapes, and spatial relationships. Where appropriate, detailed analyses should be conducted over large geographic areas and long timeframes, which extend beyond the plan area and planning time horizon of specific National Forest System administrative units. Analyses at these large scales are appropriate for evaluating dynamics of wide-ranging species and cumulative impacts of management actions on biological diversity. Evaluations of biological diversity over large geographic areas should be coordinated across multiple National Forest System administrative units.

(B) *Consideration and evaluation of disturbance regimes.* The Responsible Official should consider and evaluate

impacts of disturbance regimes, natural and human-induced, on biological diversity at ecosystem and species levels over appropriate geographic areas and timeframes. Evaluation of disturbance regimes should help clarify the land manager's opportunities and options for achieving biological diversity objectives. Analyses should characterize current and recent disturbance regimes in terms of spatial extent and distribution, periodicity, type, and intensity and should evaluate impacts on biological diversity in the planning or assessment area. Evaluations should consider impacts of past, current, and anticipated management direction on disturbance regimes and consequences of altered disturbance regimes for biological diversity in the planning or assessment area.

(C) *Consideration and evaluation of landscape context.* The Responsible Official should consider and evaluate the landscape context for assessments of biological diversity at ecosystem and species levels. Analyses of landscape context should evaluate and characterize the ecological condition, structure, and land use history of the planning or assessment area and evaluate effects on biological diversity. Analyses also should consider and evaluate differences in the ecological condition and spatial structure of ecosystems and landscapes between National Forest System lands and adjacent ownerships. Based on these differences, the Responsible Official should identify and evaluate options for and any special role of National Forest System lands to contribute to maintenance or restoration of biological diversity in the planning or assessment area, especially unique or rare elements of biological diversity, as well as factors that would limit options and opportunities for managing National Forest System lands to achieve biological diversity objectives.

(2) *Plan decisions.* The Responsible Official must provide for biological diversity at ecosystem and species levels within the plan area consistent with the multiple use objectives of the plan while sustaining the productivity of the land. When developing plan decisions, the Responsible Official must consider the limits of agency authorities and must consider and fully disclose results of the ecological information and analyses described in paragraphs (b)(1)(i) through (iii) of this section. The following requirements apply over relevant timeframes and geographic areas that the Responsible Official determines to be appropriate:

(i) *Biological diversity.* Plan decisions, to the extent feasible, should foster the maintenance or restoration of biological diversity in the plan area, at ecosystem and species levels, within the range of biological diversity characteristic of native ecosystems within the larger landscape in which the plan area is embedded. In reaching plan decisions, the Responsible Official should consider current and recent disturbance regimes as well as the ecological condition, structure, and land use history of the planning or assessment area, and effects of these factors on options and opportunities to manage National Forest System lands to achieve biological diversity objectives.

(ii) *Contributions of NFS lands.* When reaching plan decisions, the Responsible Official must identify and evaluate the special role and unique contributions of National Forest System lands in maintaining and restoring biological diversity within the larger landscape in which the plan area is embedded.

§ 219.14 The consideration of science in planning.

(a) Decisions embodied in a plan must be consistent with the best available science. As part of the planning record, the Responsible Official must:

(1) Demonstrate how the planning process considered and made use of the best available science within the context of the issues being considered;

(2) Evaluate and disclose any substantial uncertainties in that science;

(3) Evaluate and disclose substantial risks associated with plan decisions based on that science; and

(4) Validate that the science was appropriately interpreted and applied.

(b) To meet the requirements of paragraph (a) of this section, the Responsible Official must use independent peer review, a science advisory board, or other appropriate means to evaluate the consistency and application of science used in the planning process.

§ 219.15 Special designations.

(a) A plan is the mechanism by which the Responsible Official may allocate specific areas to special designations and recommend areas for special designation by higher-level authorities. The plan also provides management direction for specially designated areas and areas recommended for special designation within the plan area.

(b) Special designations are areas within the National Forest System that are identified for their unique or special characteristics and include the following:

(1) *Congressionally designated areas.* Congressionally designated areas may include, but are not limited to, wilderness, wild and scenic rivers, national trails, scenic areas, recreation areas, and national monuments.

(2) *Administratively designated areas.* These areas include, but are not limited to, geological areas, significant caves, botanical areas, cultural/heritage areas, research natural areas, and scenic byways.

(3) *Inventoried roadless areas.* Unless otherwise provided by law, inventoried roadless areas within the National Forest System must be evaluated and considered for recommendation as potential wilderness areas during the initial plan development or the plan revision process. As part of this evaluation, the Responsible Official must review and validate the maps of inventoried roadless areas within the plan area or adjust them as necessary and appropriate. The Responsible Official also may evaluate these areas at other times as determined appropriate.

§ 219.16 Determination of lands available for timber harvest and suitable for timber production.

(a) *Lands not suitable for timber production.* The plan must identify lands within the plan area not suitable for timber production. These lands include, but are not limited to the following:

(1) Land that is not forest land (as defined at § 219.23);

(2) Land where technology is not available for conducting timber harvest without causing irreversible damage to soil, slope, or other watershed conditions or substantial and permanent impairment of the productivity of the land;

(3) Lands where there is no reasonable assurance that such lands can be adequately restocked within 5 years after final regeneration harvest;

(4) Lands where timber production would violate statute, Executive order, regulation, or agency directives;

(5) Those lands that have been withdrawn from timber production by the Secretary of Agriculture or the Chief of the Forest Service; and

(6) Lands where timber production would not be justified after considering physical, ecological, social, economic, and other pertinent factors. However, lands not suited for timber production may be available for timber harvest pursuant to paragraph (c) of this section.

(b) *Lands suitable for timber production.* After considering physical, ecological, social, economic, and other pertinent factors to the extent feasible, a Responsible Official may establish

timber production as an objective in a plan for any lands not identified in paragraph (a) of this section. The Responsible Official must review lands not suited for timber production at least once every 10 years, or as otherwise prescribed by law, to determine their suitability for timber production. As a result of this 10-year review, timber production may be established as a plan objective for any lands found to be suitable for such purpose through amendment or revision of the plan.

(c) *Lands where trees may be harvested for multiple use values other than timber production.* Designation of lands as unsuitable for timber production does not preclude the harvest of trees for other multiple use values. Except for lands described at (a)(2) of this section, trees may be harvested to create temporary or permanent openings for wildlife habitat improvement; to establish fuel breaks or reduce fuels; to create vistas; to enhance recreation use; to manage cultural/heritage sites; to salvage dead or dying trees; or to achieve other multiple use purposes not related to timber production.

§ 219.17 Limitation on timber harvest.

(a) *Estimate of the long-term sustained-yield capacity.* The Responsible Official must estimate the amount of timber that could be harvested annually in perpetuity on a sustained-yield basis from National Forest System lands identified as suitable for timber production (§ 219.16(b)). This estimate must be based on the yield of timber that could be harvested consistent with achievement of objectives or desired conditions in the applicable plan and a specified management intensity consistent with these multiple use objectives. Increased harvest levels may be based on intensified management practices, such as reforestation, thinning, and tree improvement if such practices justify increasing the harvests in accordance with the Multiple-Use Sustained-Yield Act. Such estimates of yield shall be adjusted downward if anticipated practices are not successfully implemented to achieve objectives or desired conditions. The Responsible Official may combine one or more administrative units, or parts of administrative units, for the purpose of estimating the amount of timber that could be harvested annually on a sustained-yield basis.

(b) *Limitation on timber harvest.* Within any decade, the Responsible Official must limit the average annual quantity of timber sold during that decade from the lands identified as suitable for timber production to a quantity equal to or less than that estimated in paragraph (a) of this section.

(c) *Exceptions to limitations of timber harvest.* The Responsible Official may sell timber from areas that are substantially and adversely affected by fire, wind, or other events, or for which there is an imminent threat from insects or disease, and may either substitute such timber for timber that would otherwise be sold or, if not feasible, sell such timber over and above the limit established in paragraph (b) of this section. If departure from the quantity of timber established in paragraph (b) of this section is necessary to meet overall multiple use objectives of the plan, the requirements in 16 U.S.C. 1611 must be followed.

§ 219.18 Plan documentation, maintenance, and availability.

(a) *Plan description.* A plan is a set of documents that integrates and displays the desired conditions, objectives, standards, and other management direction that apply to a unit of the National Forest System. Included among the documents in a plan are text, maps, tables, charts, and other information relevant to how the plan area is to be managed. Other records considered or created during the planning process, such as the science review (§ 219.14), are not part of the plan, but these records must be made available for public review as provided in paragraph (c) of this section.

(b) *Maintenance of the plan.* The following administrative corrections and additions may be made at any time, are not plan amendments or revisions, and do not require public notice or the preparation of an environmental document under NEPA procedures:

(1) Corrections and updates of data and maps;

(2) Corrections of typographical errors or other non-substantive changes; and

(3) Changes in monitoring methods (§ 219.11).

(c) *Availability of planning documents.* Each National Forest, Grassland, or Prairie Supervisor must maintain a complete set of the planning documents that constitute the plan for the unit. The planning records must be available to the public during the planning process as well as after adoption of a plan, plan amendment, or revision.

§ 219.19 Objections to new plans, plan amendments, or plan revisions.

(a) *Exceptions.* Before approving a new plan, plan amendment, or plan revision, the Responsible Official shall provide the public, both individuals and entities, at least 30 calendar days for pre-decisional review of a proposed plan, amendment, or revision. Where an EIS or EA is prepared, the FEIS or EA shall also be made available for review. Written objections to a proposed plan, amendment, or revision may be submitted to the Reviewing Officer, except as follows:

(1) When an amendment is made in conjunction with a site-specific project decision as provided in § 219.20;

(2) When the amendment is an interim amendment as provided in § 219.7;

(3) When the entity is a Federal agency; or

(4) When the Responsible Official for the decision is the Secretary of Agriculture.

(b) *Public notice of the objection period.* Public notice of the availability of a proposed plan, amendment, or revision and the objection period must be provided as follows:

(1) For any proposed plan, amendment, or revision for which the Chief or the Secretary is the Responsible Official, the notice must be published in the **Federal Register**.

(2) For all other proposed plans, amendments, or revisions, legal notice must be published in newspaper(s) of record as defined in § 219.23 of this subpart.

(c) *Content of public notice of the objection.* Public notice of the opportunity to file objections and of the objection period published pursuant to this section must include the following:

(1) A concise identification of the proposed plan, amendment, or revision;

(2) The name, title, and address of the Responsible Official;

(3) Information on the availability of the proposed plan, amendment, or revision and the final environmental disclosure document, if any;

(4) Identification of when the objection period begins (the day following the notice's publication) and the date the objection period ends; and

(5) The name of the Reviewing Officer and the addresses where an objection must be sent.

(d) *Submitting objections.* (1) Except as provided in paragraph (a) of this section, any person or non-Federal entity may submit written objections regarding a proposed plan, amendment, or revision to the Reviewing Official. Only original substantive comments that meet objection content requirements set out in paragraph (d)(2) of this section will be accepted. Form letters, check-off lists, pre-printed post cards, or similar duplicative materials will not be accepted as objections. Objections that

are mailed must be postmarked no later than the last day of the specified time period. Objections that are submitted by any means other than U.S. mail must be received by the Reviewing Official within the time period described in the public notice. When the objection period would expire on a Saturday, Sunday, or Federal holiday, the time is extended to the end of the next Federal working day. No other extension of the time period may be granted.

(2) An objection must contain the following:

(i) The name, mailing address, and if possible, telephone number of the objector. Where an objection is filed by an organization or other entity on behalf of multiple objectors, the objection must indicate the representative contact, who will notify the other objectors of the objection response and any other written correspondence related to the objection that may occur;

(ii) An identification of the specific proposed plan, amendment, or revision that is the subject of the objection; and

(iii) A concise statement explaining how the environmental disclosure documents, if any, and proposed plan, amendment, or revision are inconsistent with law, regulation, Executive order, or policy and any recommendations for change.

(e) *Responding to objections.* (1) The Reviewing Officer must review the objections and relevant information to determine whether or not the proposed plan, amendment, or revision and any accompanying environmental disclosure documentation, if any, are consistent with law, regulation, Executive order, or policy with respect to the issue(s) raised in the objection. In conducting a review under this section, the Reviewing Official may discuss the objection with the Responsible Official or the objectors. The Reviewing Officer may render one response to multiple objections. The Reviewing Officer's response must be in writing and must be sent to the objecting party by certified mail, return receipt requested, and to the Responsible Official.

(2) If the Reviewing Officer concludes that the proposed plan, amendment, or revision and accompanying environmental disclosure documents, if any, are consistent with law, regulation, Executive order, and policy, the Responsible Official may proceed to make a decision.

(3) If the Reviewing Officer concludes that the proposed plan, amendment, or revision, and accompanying environmental disclosure documents, if any, are not consistent with law, regulation, Executive order, and policy, in whole or in part, the Reviewing Officer must describe what further action is required by the Responsible Official prior to approving the new plan, amendment, or revision. Upon approval of the plan, amendment, or revision, no further objection is available.

(f) *Use of other administrative review processes.* Where the Forest Service is a participant in a multi-Federal agency effort that is subject to objection under this part, the Responsible Official may waive the objection procedures of this part 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 to provide a joint response to those who file for administrative review of the multi-agency effort.

(g) *Compliance with the Paperwork Reduction Act.* The information collection requirements associated with submitting an objection have been approved by the Office of Management and Budget and assigned control number 0596–0158.

§ 219.20 Appeals of plan amendments in site-specific project decisions.

If a plan amendment is made in conjunction with a site-specific decision, a person may appeal the plan amendment and the site-specific decision only as described in 36 CFR 215.7(a).

§ 219.21 Notice of plan decisions and effective dates.

(a) *Notice of decision.* Following approval of a plan, amendment, or revision the Responsible Official must provide notice of the decision in the newspaper(s) of record (§ 219.23), or, if the Chief or Secretary is the Responsible Official, in the **Federal Register**, and by other appropriate means, as needed.

(b) *Effective date.* A new plan, significant plan amendment, or revised plan is effective 30 days after publication of notice of the decision. Any other amendment is effective immediately upon publication of notice of the decision.

§ 219.22 Transition.

(a) For the purposes of this paragraph, the reference to a new plan, amendment, or revision initiated before the effective date of this rule, means that the agency has issued a Notice of Intent or other public notice announcing the commencement of a plan amendment or revision as provided for in the Council on Environmental Quality regulations at 40 CFR 1501.7 or in Forest Service Handbook 1909.15, Environmental Policy and Procedures Handbook, section 11.

(b) Until 90 days after the effective date of this rule, a Responsible Official may elect to initiate an amendment, continue an amendment or a revision under the planning regulations in effect prior to November 9, 2000, or the Responsible Official may conform the amendment or revision process to the provisions of this subpart.

(c) For new plans, amendments, or revisions initiated under the November 2000 rule, the Responsible Official must adjust the planning process to conform to this subpart.

(d) In conforming a previously initiated planning process to the requirements of this subpart, the Responsible Official is not required to halt the process and start over. Rather, the Responsible Official should integrate the requirements of this subpart into the future steps and procedures of plan development, amendment, or revision process.

(e) The Responsible Official shall give notice of how the planning process will be adjusted to conform to the requirements of this subpart in the newspaper(s) of record.

§ 219.23 Definitions.

Definitions of the special terms used in this subpart are set out in alphabetical order in this section:

Adaptive management: An approach to natural resource management where actions are designed and executed and effects are monitored for the purpose of learning and adjusting future management actions, which improves the efficiency and responsiveness of management.

Assessment area: A geographic area within which ecosystems or their components or processes are analyzed. An assessment area may include multiple ownerships and is typically much larger than a planning area.

Biological diversity: A general and inclusive concept that refers to the variety of living things together with their interactions and processes. Biological diversity is defined at various levels of ecological organization, but especially three: genes, species, and ecosystems. In the context of land and resource management planning, attention is focused specifically on the diversity of ecosystems within landscapes and of species within ecosystems.

Culmination of mean annual increment: The age in the growth cycle of an even-aged stand at which the mean annual increment for volume of wood is at a maximum. Mean annual increment shall be based on expected

growth of stands, according to intensities and utilization standards assumed in the forest plan or its supporting document. Mean annual increment shall be expressed in cubic measure.

Cultural/Heritage resources: Archeological, historic, or architectural sites, structures, places, objects, ideas, traditions, etc. identified by field inventory, historical documentation, or evidence that are of importance to specified social or heritage groups and/or scientific and management endeavors.

Desired non-native species: Those species of plants or animals that are not indigenous to an area but are highly valued for social, cultural, economic, or ecological reasons.

Disturbance regime: Actions, functions, or events that influence or maintain the structure, composition, or function of terrestrial or aquatic ecosystems. Natural disturbances include, among others, drought, floods, wind, fires, insects, and pathogens. Human-caused effects include, among others, actions such as recreational use, livestock grazing, mining, road construction, timber harvest, and the introduction of exotic species.

Diversity of plant and animal communities and tree species: The distribution and relative abundance or extent of plant and animal communities and their component species, including tree species, occurring within an area.

Ecological conditions: Components of the biological and physical environment that can affect the diversity of plant and animal communities and tree species, including species viability, and the productive capacity of ecological systems. These could include the abundance and distribution of aquatic and terrestrial habitats, roads and other structural developments, human uses, and invasive and exotic species.

Ecosystem diversity: The variety and relative extent of ecosystem types, including their composition, structure, and processes, within all or part of a planning area.

Ecosystem structure: The horizontal, vertical, and numerical arrangement and relationships among the components of ecosystems. Possessing both physical and biological aspects, structure is the result of interactions among species and with the physical environment.

Energy resources: Renewable energy resources include biomass, hydropower, wind, solar and geothermal, and non-renewable energy resources include coal, oil and gas, and coal bed methane.

Environmental disclosure document: Environmental assessment, environmental impact statement, finding of no significant impact and notice of intent.

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

Forest land: Land at least 10 percent occupied by forest trees of any size or formerly having had such tree cover and not currently developed for nonforest 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 clearing of any width.

Health: A condition wherein a forest, grassland, or prairie has the capacity across the landscape for renewal, for recovery from a wide range of disturbances, and for retention of its ecological resilience while meeting current and future needs of people for desired levels of values, uses, products, and services.

High likelihood of viability: Habitats are of sufficient quality, distribution, and abundance to allow species populations to be well-distributed and interactive and to have a high probability of persisting over multiple generations (within the bounds of the life history of the species and the capability of the landscape) within the plan area. The focus is on providing habitat for species resilience, long-term survival over multiple generations, and long-term adaptability.

Inventoried roadless areas: Areas identified in a set of inventoried roadless area maps, contained in Forest Service records, or any subsequent update or revision of those maps.

Major vegetation types: Plant communities, which are typically named after dominant plant species that are characteristic of the macroclimate and geology of the region or sub-region.

Mean annual increment: The total increment of a stand (standing crop plus thinning) up to a given age divided by that age.

Native species: Species indigenous to the plan, planning or assessment area.

NEPA procedures: The term used to refer to the requirements of 40 CFR parts 1500 through 1508, as supplemented by Forest Service NEPA directives issued in Forest Service Manual Chapter 1950 and Forest Service Handbook 1909.15, which implement the National Environmental Policy Act of 1969.

Newspaper(s) of record: Those principal newspapers of general circulation annually identified and published in the **Federal Register** by each Regional Forester to be used for publishing notices as required by 36 CFR 215.5.

Plan: A plan is a repository that integrates and displays the desired conditions, objectives, standards, and other plan decisions that apply to a unit of the National Forest System. The plan also contains maps and other information relevant to how the plan area is to be managed.

Plan area: The geographic area of National Forest System administered lands covered by an individual plan and subject to the programmatic direction of a plan. The area may include all or part of one or more administrative units and may be administered by one or more Responsible Officials. The Responsible Official's decision is only for the plan area.

Planning area: The geographic area considered during analysis and development of one or more plans. A planning area is typically larger than a plan area but smaller than an assessment area.

Productivity: Use of this term is derived from the MUSYA and subsequent statutes, which require that NFS lands be administered to provide various renewable resources (recreation, range, timber, watershed, wildlife, and fish) without impairment of the productivity of the land. In this context, productivity means the capacity of NFS lands and the ecological systems thereon to provide the various renewable resources in certain amounts over time. In this sense, it is an ecological term, not an economic one.

Range of variability: The expected range of variation in ecosystem composition and structure that would be expected under current natural disturbance regimes. These regimes include the type, frequency, severity, and magnitude of disturbance in the absence of fire suppression and extensive commodity extraction.

Research Natural Areas: An area in as near a natural condition as possible, which exemplifies typical or unique vegetation and associated biotic, soil, geologic, and aquatic resources. The area is set aside to preserve a representative sample of an ecological community primarily for scientific and educational purposes.

Responsible Official: The Official with the authority and responsibility to oversee the planning process and to make plan decisions.

Reviewing Officer: The supervisor of the Responsible Official who is proposing adoption of a new plan, plan amendment, or revision.

Species: For purposes of this rule, potentially any member of the currently accepted and scientifically defined kingdoms of organisms, which is described as a species in a peer-reviewed scientific publication. The term ''species,'' as identified here, includes all species listed under the Endangered Species Act as threatened, endangered, candidate, or proposed for listing by the U.S. Fish and Wildlife Service or National Marine Fisheries Service. Under diversity Option 1, with the exception of species-at-risk, consideration of species under this rule is explicitly limited to vertebrates and vascular plants. Under diversity Option 2, species may include any described species belonging to any of the defined kingdoms of organisms.

Species-at-risk: Federally listed endangered, threatened, candidate, and proposed species and other species for which loss of viability, including reduction in distribution or abundance, is a concern within the plan area.

Species diversity: The variation in the number and relative abundance of species within all or part of a planning area.

Species persistence: The likelihood that a species will continue to exist or occur within a geographic area of interest and over a defined period of time as a functioning member of the species pool of that area. In the context of land management planning, species persistence is the likelihood that actions or factors under the direct control of land managers will not directly cause the extinction, globally or locally within the planning or assessment area, of a species of interest, or will not cause the density or total population size of that species to decline to such a low level that the risk of extinction due to factors outside the control of the land manager, including chance events, is deemed to be unacceptably high.

Species viability: A species consisting of self-sustaining and interacting populations that are well distributed through the species' range. Self-sustaining populations are those that are sufficiently abundant and have sufficient diversity to display the array of life history strategies and forms to provide for their long-term persistence and adaptability over multiple generations.

Successional stages: The different structural and compositional phases of vegetation development of forests and grasslands that occur over time following disturbances that kill, remove, or reduce vegetation and include the major developmental or seral stages that occur within a particular environment.

Timber harvest: The removal of trees for wood fiber utilization.

Timber production: The sustained long-term management, harvest and regeneration of trees for wood fiber utilization. For purposes of this regulation, the term timber production includes the production of fuel wood and wood for other products.

Visitor opportunities: The spectrum of settings, landscapes, scenery, facilities, services, access points, information, learning-based recreation, wildlife, natural features, cultural and heritage sites, etc. that are available for National Forest System visitors to use and enjoy.

Wilderness: Any area of land designated by Congress as part of the National Wilderness Preservation System that was established in the Wilderness Act of 1964 (16 U.S.C. 1131–1136, section 2(c)).

Dated: November 26, 2002.

Dale N. Bosworth,

Chief.

Note: The following tables will not appear in the Code of Federal Regulations.

TABLE I.—SECTION-BY-SECTION COMPARISON OF THE 2000 RULE WITH THE PROPOSED RULE

2000 Rule	Proposed rule
§ 219.1 Purpose	§ 219.1 Purpose and Applicability.
§ 219.1 Purpose	§ 219.2 Nature and scope of a land and resource management plan.
§ 219.3 Overview.	
§ 219.2 Principles	§ 219.2 Nature and scope of a land and resource management plan.
§ 219.3 Overview.	§ 219.3 Levels of planning and planning authority.
§ 219.4 Identification and consideration of issues	§ 219.5 Indicators of need to amend or revise a plan.
§ 219.5 Information development and interpretation	§ 219.5 Indicators of need to amend or revise a plan.
§ 219.6 Proposed actions	§ 219.4 Decisions embodied in plans.
§ 219.7 Plan decisions	§ 219.4 Decision embodied in plans
	§ 219.6 Compliance with National Environmental Policy Act.
§ 219.8 Amendment	§ 219.7 Amending a plan.
§ 219.9 Revision	§ 219.8 Revising a plan
	§ 219.9 Developing a new plan.
§ 219.10 Site-specific decisions	§ 219.10 Application of plan direction.
§ 219.11 Monitoring and evaluation for adaptive management	§ 219.11 Monitoring and evaluation.
§ 219.12 Collaboration and cooperatively developed landscape goals	§ 219.12 Collaboration, cooperation, and consultation.
§ 219.13 Coordination among federal agencies	§ 219.12 Collaboration, cooperation, and consultation.
§ 219.14 Involvement of state and local governments	§ 219.12 Collaboration, cooperation, and consultation.
§ 219.15 Interaction with American Indian Tribes and Alaska Natives	§ 219.12 Collaboration, cooperation, and consultation.
§ 219.16 Relationships with interested individuals and organizations	§ 219.12 Collaboration, cooperation, and consultation.
§ 219.17 Interaction with private landowners	§ 219.12 Collaboration, cooperation, and consultation.
§ 219.18 Role of advisory committees.	Removed.
§ 219.19 Ecological, social, and economic sustainability	§ 219.13 Sustainability.
§ 219.20 Ecological sustainability.	§ 219.13 Sustainability.
§ 219.21 Social and economic sustainability	§ 219.13 Sustainability.
§ 219.22 The overall role of science in planning	§ 219.14 The consideration of science in planning.
§ 219.23 The role of science in assessments, analysis, and monitoring	§ 219.14 The consideration of science in planning.
§ 219.24 Science consistency evaluations	§ 219.14 The consideration of science in planning.
§ 219.25 Science advisory boards	§ 219.14 The consideration of science in planning.
§ 219.26 Identifying and designating suitable uses	§ 219.4 Decisions embodied in plans.

TABLE I.—SECTION-BY-SECTION COMPARISON OF THE 2000 RULE WITH THE PROPOSED RULE—Continued

2000 Rule	Proposed rule
§ 219.27 Special designations	§ 219.15 Special designations.
§ 219.28 Determination of land suitable for timber harvest	§ 219.16 Determination of lands available for timber harvest and suitable for timber production.
§ 219.29 Limitation on timber harvest.	§ 219.17 Limitation on timber harvest.
§ 219.30 Plan documentation.	Removed.
§ 219.31 Maintenance of the plan and planning records	§ 219.18 Plan documentation, maintenance, and availability.
§ 219.32 Objections to amendments or revisions	§ 219.19 Objections to new plans, plan amendments, or plan revisions.
§ 219.33 Appeals of site-specific decisions	§ 219.20 Appeals of plan amendments in site-specific project decisions.
§ 219.34 Applicability	§ 219.1 Purpose and applicability § 219.21 Notice of plan decisions and effective dates.
§ 219.35 Transition	§ 219.22 Transition.
§ 219.36 Definitions	§ 219.23 Definitions.

Table II - Side-by-Side Comparison of Options for Ecological Sustainability

2000 Rule	2002 Proposed Rule- 219.13(b) Option 1	2002 Proposed Rule- 219.13(b) Option 2
§219.19 Ecological, social, and economic sustainability. Sustainability, composed of interdependent ecological, social and economic elements, embodies the Multiple Use Sustained-Yield Act of 1960 (16 U.S.C. 528 et seq.).	**§219.13 Sustainability.** Same as 2000 rule	**§219.13 Sustainability.** Same as 2000 rule
The first priority for stewardship of the national forests and grasslands is to maintain or restore ecological sustainability to provide a sustainable flow of uses, values, products, and services from these lands.	Does not recognize ecological sustainability as a stand-alone entity. Recognizes sustainability as having three interdependent components: social, economic, and ecological.	Same as 2002 Option 1
§219.20 Ecological sustainability. Ensure that plans provide for maintenance or restoration of ecosystems at appropriate spatial and temporal scales to be determined by the Responsible Official.	**§219.13 (b) Ecological component of sustainability.** The ecological component of sustainability includes, but is not limited to, the following elements: the productivity, health, and function of ecosystems; the diversity of plant and animal communities and tree species; and the quality of soil, water, and air resources. As part of planning, the Responsible Official must follow a hierarchical, sequential approach to consider and assess ecosystem and species diversity. Provides flexibility for Responsible Official to determine appropriate methods.	**§219.13 (b) Ecological component of sustainability.** The ecological component of sustainability includes, but is not limited to, the following elements: the productivity, health, and function of ecosystems; biological diversity at ecosystem and species levels; and the quality of soil, water, and air resources. As part of the planning process, the Responsible Official must ensure that a hierarchical approach is followed to consider and assess biological diversity at two levels of ecological organization, ecosystem and species. Assessments of biological diversity at ecosystem and species levels should address effects of natural and human disturbances and of the ecological condition, structure, and land use history of the planning or assessment area.
§219.20(a) Ecological information and analyses. Ecosystem diversity and species diversity are components of ecological sustainability.	**§219.13(b)(1) Ecological information and analyses.** Analyses of ecosystem and species diversity should be proportional to the issues identified by the Responsible Official, risks to ecological sustainability, and availability of information relevant to the plan area. Information and analyses may be identified, obtained, or developed through a variety of methods, including assessments, analyses, and monitoring.	**§219.13(b)(1) Ecological information and analyses.** Analyses of biological diversity at ecosystem and species levels should be proportional to the issues identified by the Responsible Official, risks to ecological sustainability, and availability of information relevant to the planning or assessment area. Information and analyses may be identified, obtained, or developed through a variety of methods, including assessments, analyses, and monitoring, and where appropriate should extend to the larger landscape in which the plan area is embedded. Ecological information and analyses must be based upon an assessment of two main components, ecosystem diversity and species diversity, and additional analyses

2000 Rule	2002 Proposed Rule- 219.13(b) Option 1	2002 Proposed Rule- 219.13(b) Option 2
		considering three factors, spatial and temporal scales and patterns, disturbance regimes, and landscape context.
The planning process must include the development and analysis of information regarding these components at a variety of spatial and temporal scales.	Consideration and evaluation of ecosystem and species diversity includes development and analysis of information over relevant timeframes and geographic areas as determined by the Responsible Official.	Biological diversity should be considered and evaluated over appropriate timeframes and geographic areas as determined by the Responsible Official.
(1) Characteristics of ecosystem and species diversity. Characteristics of ecosystem and species diversity must be identified for assessing and monitoring ecological sustainability.	**(1)(i) Consideration and evaluation of ecosystem diversity.** Ecosystem diversity should be considered and evaluated first, leading to development of plan direction that provides for the needs of most species of plants and animals. Characteristics and evaluation of ecosystem diversity should be identified and completed at the scope and scale determined to be appropriate by the Responsible Official. Evaluations should describe the contribution of NFS lands to ecosystem diversity within the area of analysis.	**(1)(i) Consideration and evaluation of ecosystem diversity.** Consideration and evaluation of ecosystem diversity constitutes the core approach and is the primary focus of ecological information and analysis. Characteristics and evaluation of ecosystem diversity should be identified and completed over timeframes and geographic areas determined to be appropriate by the Responsible Official. Analyses should describe and assess the contributions of NFS lands to ecosystem diversity in the planning or assessment area.
(i) Ecosystem diversity. Characteristics of ecosystem diversity include, but are not limited to: **(A)** Major vegetation types **(B)** Water resources **(C)** Soil resources **(D)** Air resources and	**(1)(i)(A) Characteristics of ecosystem diversity.** Characteristics of ecosystems include, but are not limited to, a description of composition, structure, and processes; and soil, air, and water resources within the area of analysis.	**(1)(i)(A) Characteristics of ecosystem diversity.** Characteristics of ecosystems that should be considered within the planning or assessment area include, but are not limited to, ecological structure, composition, and processes; spatial extent, distribution, and relations; geology and landforms; and soil, water, and air resources.
(E) Focal species: focal species that provide insights to the larger ecological systems with which they are associated.	Addresses species-at-risk and native and desired non-native vertebrates and vascular plants.	Species may be selected for analysis to develop more complete understanding of condition and trends of ecosystems.

2000 Rule	2002 Proposed Rule- 219.13(b) Option 1	2002 Proposed Rule- 219.13(b) Option 2
ii) Species diversity. Characteristics of species diversity include, but are not limited to, the number, distribution, and geographic ranges of plant and animal species, including focal species and species-at-risk that serve as surrogate measures of species diversity. Species-at-risk and focal species must be identified for the plan area.	**(1)(ii) Consideration and evaluation of species diversity.** Where the needs of particular species, species assemblages, or other species groupings not likely to be met through plan direction for ecosystem diversity, species diversity should be considered and evaluated. Characteristics and evaluation of species diversity should be identified and completed at the scope and scale determined to be appropriate by the Responsible Official. Evaluations should describe the contribution of NFS lands to species diversity within the area of analysis.	**(1)(ii) Consideration and evaluation of species diversity.** Consideration and evaluation of species diversity is a complementary approach that extends ecosystem analyses to address specific planning issues. Characteristics and evaluation of evaluation of ecosystem diversity should be identified and completed over timeframes and geographic areas determined to be appropriate by the Responsible Official. Analyses should describe and assess the contributions of NFS lands to ecosystem diversity in the planning or assessment area. Analyses of species and species groups should be undertaken to provide a more complete understanding of impacts of past, current, and anticipated management direction on biological diversity, including the status of species and the ecosystems in which they occur. In a hierarchical context, species analyses should be conducted within the framework of, and should incorporate information from, larger-scale ecosystem analyses.
	(1)(ii)(A) Characteristics of species diversity. Similar to 2000 rule, except there is no requirement for identifying focal species. Species, species assemblages, or other species groups may be used to characterize species diversity.	**(1)(ii)(A) Characteristics of species diversity.** Characteristics of species diversity include, but are not limited to, the composition and richness (number of species) of the existing pool of species, and the abundance, distribution, geographic range, and status of individual species chosen for analysis.
(2) Evaluation of ecological sustainability. Evaluations of ecological sustainability must be conducted at the scope and scale determined by the Responsible Official to be appropriate.	Evaluations must be conducted at the scope and scale determined by the Responsible Official to be appropriate to the issues being addressed in the planning process.	Evaluations of ecological sustainability should be tailored to the particular planning or assessment area and the issues identified in the planning process.
(i) Evaluation of ecosystem diversity. **(A) Information about focal species.**	**(1)(i)(B) Evaluation of ecosystem diversity.** No specific requirement for focal species.	**(1)(i)(B) Evaluation of ecosystem diversity.** No specific requirement for focal species, but species may be selected for analysis to develop a more complete understanding of the condition and trends of ecosystems.
(B) A description of the biological and physical properties of the ecosystem.	An evaluation of water and air quality and soil productivity.	Analyses should evaluate the condition and quality of water and air resources, the condition of stream networks and channels and of watersheds, and the quality and productivity of soils.

2000 Rule	2002 Proposed Rule- 219.13(b) Option 1	2002 Proposed Rule- 219.13(b) Option 2
(C) A description of the principal ecological processes occurring at the spatial and temporal scales. Descriptions must include disturbance regimes of the current climatic period.	Evaluations of ecosystem diversity should include the status of the characteristics of ecosystem diversity in (1)(i)(A) of this section, and risks to ecosystem health. Includes disturbance regimes but does not reference the climatic period.	Evaluations of ecosystem diversity should identify ecosystems in the planning or assessment area and characterize their ecological structure, composition, processes, and spatial relations.
(D) A description of the effects of human activities on ecosystem diversity.	A description of the historic and current effects of human activities on the characteristics of ecosystem diversity.	Analyses should evaluate the status of the characteristics of ecosystem diversity identified in (1)(i)(A) of this section and risks or threats to these characteristics, including impacts of past, current, and anticipated management direction on ecosystem diversity. Evaluations should identify unique areas, including rare ecosystems, compositional or structural elements, and ecosystems at risk, specific risks or threats to these areas, and measures required for their conservation or restoration.
(E) An estimation of the range of variability of the characteristics of ecosystem diversity.	No requirement to establish range of variability.	No requirement to establish range of variability, but must be able to identify and describe the range of biological diversity characteristic of native ecosystems within the larger landscape in which the plan area is embedded.
(F) An evaluation of the effects of air quality on ecological systems including water.	No specific requirement - the need to evaluate effects of air quality on ecological systems driven by identified issues.	Same as 2002 Option 1
(G) An estimation of current and foreseeable future Forest Service consumptive and non-consumptive water uses.	An estimation of current and foreseeable future consumptive and non-consumptive National Forest System water needs, and the quantity and quality of water needed to support those uses.	Analyses should estimate current and foreseeable future consumptive and non-consumptive National Forest System water needs, and the quantity and quality of water needed to support those uses.
(H) An identification of reference landscapes.	No requirement for identifying reference landscapes.	No requirement for identifying reference landscapes.
(ii) Evaluations of species diversity. Evaluations of species diversity must include, as appropriate, assessments of the risks to species viability.	**(1)(ii)(B) Evaluation of species diversity.** Evaluations of species diversity should identify species-at-risk, their habitat requirements, and threats placing them at risk, based on current conditions and trends and management direction.	**(1)(ii)(B) Evaluation of species diversity.** Individual species should be identified for evaluation to address a particular planning issue, to develop a more complete understanding of the condition and trends of ecosystems, or where substantive concerns exist regarding the continued persistence of the particular species within the planning or assessment area. Evaluations of species diversity should be conducted along two complementary tracks with related purposes. Community analyses should determine whether maintenance of ecosystem diversity is sufficient to maintain the existing pool of species within the

2000 Rule	2002 Proposed Rule- 219.13(b) Option 1	2002 Proposed Rule- 219.13(b) Option 2
		planning or assessment area.
(A) The viability of each species listed under the Endangered Species Act as threatened, endangered, candidate, and proposed species must be assessed. Individual species assessments must be used for these species.	Evaluations should include assessments of risk to species viability and identification of ecological conditions capable of supporting species viability over time.	Individual species analyses should evaluate impacts of past, current, and anticipated management direction on individual species selected for analysis.
(B) For all other species, including other species-at-risk and those species for which there is little information, a variety of approaches may be used.	The level of detail of the analyses performed should be proportional to the issues identified by the Responsible Official and the associated risk to species viability.	Evaluations should identify species or species groups found within the planning or assessment area, including native and non-native species, and, where feasible, compile information on species status, spatial distribution, geographic range, abundance, and population trends.
(C) Except as provided in paragraph (A), assessments of functional, taxonomic, or habitat groups rather than individual species may be appropriate.	The assessment evaluations may be simplified by the use of groups of species or species that serve as surrogates for evaluating species diversity.	Evaluations should analyze the composition and distribution of communities and species assemblages across the planning or assessment area; examine relations of community or assemblage measures to underlying biophysical conditions, with particular attention to attributes affected by management actions; and analyze impacts of past, current, and anticipated management direction on individual species selected for analysis.
(D) In analyzing viability, species assessments may rely on general conservation principles and expert opinion.	Where little information is available for particular species, assessments may be qualitative.	Evaluations must identify species for which substantive evidence exists that continued persistence in the planning or assessment area is at risk, specific risks or threats to these species, and measures required for their conservation or restoration.
No specific section on this topic. Included in other parts of the required evaluations.	No specific section on this topic. Included in other parts of the required evaluations.	**(1)(iii) Further analyses of biological diversity.** In addition to the information and analyses identified in (b)(1)(i)-(ii) of this section, the following additional information and analyses should be included in the approach to considering and assessing biological diversity. **(1)(iii)(A) Consideration and evaluation of spatial and temporal scales and patterns.** Biological diversity should be evaluated across multiple timeframes and geographic areas.
No specific section on this topic. Included in other parts of the required evaluations.	No specific section on this topic. Included in other parts of the required evaluations.	The Responsible Official should follow a spatially explicit approach to assessments of biological diversity, by considering such factors as abundance, extent, patch size, distribution, and interspersion of ecosystems and species populations over time, and by focusing on specific landscape features as well

2000 Rule	2002 Proposed Rule- 219.13(b) Option 1	2002 Proposed Rule- 219.13(b) Option 2
		as their sizes, shapes, and spatial relationships.
No specific section on this topic. Included in other parts of the required evaluations.	No specific section on this topic. Included in other parts of the required evaluations.	Where appropriate, detailed analyses should be conducted over large geographic areas and long time frames. Analyses at these large scales are appropriate for evaluating dynamics of wide-ranging species and cumulative impacts of management actions on biological diversity. Evaluations of biological diversity over large geographic areas should be coordinated across multiple National Forest System administrative units.
No specific section on this topic. Included in other parts of the required evaluations.	No specific section on this topic. Included in other parts of the required evaluations.	**(1)(iii)(B) Consideration and evaluation of disturbance regimes.** The Responsible Official should consider and evaluate impacts of disturbance regimes, natural and human-induced, on biological diversity at ecosystem and species levels over appropriate geographic areas and timeframes. Evaluation of disturbance regimes should help clarify the land manager's opportunities and options for achieving biological diversity objectives.
No specific section on this topic. Included in other parts of the required evaluations.	No specific section on this topic. Included in other parts of the required evaluations.	Analyses should characterize current and recent disturbance regimes in terms of spatial extent and distribution, periodicity, type, and intensity and should evaluate impacts on biological diversity in the planning or assessment area. Evaluations should consider impacts of past, current, and anticipated management direction on disturbance regimes and consequences of altered disturbance regimes for biological diversity in the planning or assessment area.
No specific section on this topic. Included in other parts of the required evaluations.	No specific section on this topic. Included in other parts of the required evaluations.	**(1)(iii)(C) Consideration and evaluation of landscape context.** The Responsible Official should evaluate the landscape context for assessments of biological diversity at ecosystem and species levels. Analyses of landscape context should evaluate and characterize the ecological condition, structure, and land use history of the planning or assessment area, and evaluate effects on biological diversity.
No specific section on this topic. Included in other parts of the required evaluations.	No specific section on this topic. Included in other parts of the required evaluations.	Analyses should consider and evaluate differences in the ecological condition and spatial structure of ecosystems and landscapes between National Forest System lands and adjacent ownerships. Based on these differences, the Responsible Official should identify and evaluate options for and any special role of National Forest System

2000 Rule	2002 Proposed Rule- 219.13(b) Option 1	2002 Proposed Rule- 219.13(b) Option 2
		lands to contribute to maintenance or restoration of biological diversity in the planning or assessment area, as well as factors that would limit options and opportunities for managing NFS lands to achieve biological diversity objectives.
(b) Plan decisions. When making plan decisions that will affect ecological sustainability, the Responsible Official must use the information developed under §219.20 (a) The following requirements must apply at the spatial and temporal scales that the Responsible Official determines to be appropriate to the plan decision:	**§219.13 (b)(2) Plan decisions.** The Responsible Official must provide for the diversity of plant and animal communities and tree species within the plan area consistent with the multiple use objectives of the plan while sustaining the productivity of the land. When developing plan decisions, the Responsible Official must consider the information and analyses described in (b)(1) of this section. The following requirements apply over relevant timeframes and geographic areas that the Responsible Official determines to be appropriate:	**§219.13 (b)(2) Plan decisions.** The Responsible Official must provide for biological diversity at ecosystem and species levels within the plan area consistent with the multiple use objectives of the plan while sustaining the productivity of the land. When developing plan decisions, the Responsible Official must consider the limits of agency authorities, and must consider and fully disclose results of the ecological information and analyses described in (b)(1)(i)-(iii) of this section. The following requirements apply over the relevant timeframes and geographic areas that the Responsible Official determines to be appropriate:
No specific section on this topic.	No specific section on this topic.	**(2)(i) Biological diversity.** Plan decisions, to the extent feasible, should foster the maintenance or restoration of biological diversity in the plan area, within the range of biological diversity characteristic of native ecosystems within the larger landscape in which the plan area is embedded. In reaching plan decisions, the Responsible Official should consider current and recent disturbance regimes as well as the ecological condition, structure, and land use history of the planning or assessment area, and effects of these factors on options and opportunities to manage NFS lands to achieve biological diversity objectives.
No specific section on this topic.	No specific section on this topic.	**(2)(ii) Contributions of NFS lands.** When reaching plan decisions, the Responsible Official must identify and evaluate the special role of and unique contributions of NFS lands in maintaining and restoring biological diversity within the larger landscape in which the plan area is embedded.
Provides for a two part plan decision - one for ecosystem diversity and one for species viability.	Same as 2000 Rule.	Provides for one integrated decision on biological diversity.
(1) Ecosystem Diversity. Plan decisions affecting ecosystem diversity must provide for maintenance or restoration of the characteristics of ecosystem	**(2)(i) Ecosystem diversity.** Plan decisions should provide for measurable progress toward the maintenance or restoration of ecological conditions that will	See above – §219.13(b)(2); ecosystem diversity is an integral component of biological diversity. Use of the range of variability is not specified, but may be used if appropriate.

2000 Rule	2002 Proposed Rule- 219.13(b) Option 1	2002 Proposed Rule- 219.13(b) Option 2
composition and structure within the range of variability that would be expected to occur under natural disturbance regimes of the current climatic period in accordance with (i) through (v).	support the diversity of plant and animal communities and tree species and other characteristics of ecosystem diversity. A variety of approaches may be used, such as conservation strategies designed for one or a group of species-at-risk, or management practices that emulate effects of natural disturbance regimes or result in characteristics of ecosystem diversity within the range of variability expected to occur under the current disturbance regimes.	
Provisions (i), (ii), (iii), (iv), (v)	Forest Service Directives as appropriate	Forest Service Directives as appropriate
(2) Species diversity. (i) Plan decisions affecting species diversity must provide for ecological conditions that the Responsible Official determines provide a high likelihood that those conditions are capable of supporting over time the viability of native and desired non-native species well distributed throughout their ranges within the plan area, except as provided in (ii) - (iv).	**(2)(ii) Species diversity.** Plan decisions should provide for ecological conditions that the Responsible Official determines provide a high likelihood of supporting over time the viability of native and desired non-native vertebrates and vascular plants well distributed within their ranges in the plan area. When assessing "high-likelihood" and "well distributed," consider factors under agency authority and relative to species life history and distribution within the plan area. Where conditions capable of supporting viability for particular species or species groups are not likely to be met through provisions for ecosystem diversity, specific plan objectives or standards should be developed for those species or species groupings.	See above – §219.13(b)(2); species diversity is an integral component of biological diversity.
Exceptions (ii), (iii), (iv)	Forest Service Directives as appropriate	Forest Service Directives as appropriate
219.20(b)(3) Federally listed threatened and endangered species. **(i)** Plan decisions must provide for implementing actions in conservation agreements with the Fish and Wildlife Service or the National Marine Fisheries Service that provide a basis for not needing to list a species.	See above – 219.13(b)(2)(ii); recovery of federally listed species is an integral component of species diversity. Endangered Species Act requirements are not restated in the proposed rule.	See above – 219.13(b)(2)(i); recovery of federally listed species is an integral component of biological diversity. Endangered Species Act requirements are not restated in the proposed rule.
(ii) Plan decisions must include, at the scale determined by the Responsible Official to be appropriate to the plan decision, reasonable and prudent measures and associated terms and conditions contained in final biological opinions. Plan decision documents must provide a rationale for adoption or		

2000 Rule	2002 Proposed Rule- 219.13(b) Option 1	2002 Proposed Rule- 219.13(b) Option 2
rejection of discretionary conservation recommendations contained in final biological opinions.		

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DEPARTMENT OF AGRICULTURE

Forest Service

36 CFR Part 219

RIN 0596–AAB86

National Forest System Land and Resource Management Planning; Diversity Options Workshop

AGENCY: Forest Service, USDA.

ACTION: Proposed rule; notice of workshop.

SUMMARY: Elsewhere in this part of today's **Federal Register**, the Forest Service is publishing a proposed rule to revise the land and resource management planning process for National Forest System lands. As part of that rule, the agency is proposing two options that would fulfill the statutory requirements of the National Forest Management Act that forest plans provide for the diversity of plant and animal communities consistent with the multiple-use objectives of the land and resource management plan. To provide further comment on the diversity options presented in the proposed rule, the agency will hold a Diversity Options Workshop, scheduled for February 18–20, 2003, in the general Washington, DC area. The agency will invite up to 80 persons who represent a variety of interests, expertise, backgrounds, and perspectives to participate in the workshop. The agency hereby requests nominations of persons to invite to the workshop.

DATES: The workshop is scheduled for February 18–20, 2003, in the general Washington, DC area. The workshop begins the evening of February 18, 2003, and an evening session may also be held on February 19, 2003. The workshop is scheduled to adjourn at 3:30 p.m. on February 20, 2003. Nominations for the workshop must be received no later than January 6, 2003.

ADDRESSES: The agency has contracted with the Meridian Institute to plan, organize, and facilitate the workshop. It is strongly suggested that nominations be submitted electronically via the Internet at *www.merid.org/diversityoptions.* Those wishing to submit nominations by other means must contact the Meridian Institute at (202) 354–6450 for further instructions.

FOR FURTHER INFORMATION CONTACT: Questions regarding the workshop should be directed to Shawn Walker, Meridian Institute, (202) 354–6450 or at *shawnwalker@merid.org.* Questions regarding the proposed rule should be directed to Jody Sutton, Content Analysis Team Program Coordinator, Forest Service at (801) 517–1023.

SUPPLEMENTARY INFORMATION: The workshop will address scientifically sound and practical forest planning approaches to implementing the statutory requirements of the National Forest Management Act (NFMA) with respect to diversity as well as the advantages and disadvantages of the two proposed diversity options or variations of these options. The two proposed diversity options are presented in the proposed land and resource management planning rule published elsewhere in this part of today's **Federal Register**. The discussion and information generated by workshop participants will aid the Forest Service in determining how to meet the diversity requirements of the NFMA. The workshop is designed for participants to remain on site to encourage informal discussions as well as attendance at the planned plenary and breakout sessions.

Selection Process

Workshop participants will be selected and invited through an open nomination process. Both self-nominations and nominations of others will be accepted from anyone wishing to submit a nomination based on the criteria described below.

- Balanced representation of interests among the selected participants to include highly qualified individuals from the variety of scientific disciplines relevant to a discussion of the diversity options; and
- Balanced representation of individuals from a diversity of geographic regions and circumstances who have practical experience in the land and resource management planning process and plan implementation.

To assist in evaluating the nomination process the following information on nominees would be helpful:

1. Background/Expertise
   a. Scientific or technical expertise
   b. Legal or policy experience with diversity of plant and animal communities
   c. Direct experience with the land and resource planning process and plan implementation
2. Relevant Affiliations
   a. Government
   b. Industry Sectors
   c. Non-Governmental Organizations
   d. Other
3. Geographic Location of Relevant Work Experience: Local, State, Regional (eastern U.S., western U.S., etc.), or National
4. Scope of Work: Local, State, Regional, or National

Conclusion

The agency invites nomination of qualified persons to attend the Diversity Options Workshop described in this notice. Both self-nominations and nominations of others for the workshop will be accepted and will be reviewed using the preceding participant selection criteria.

Dated: November 27, 2002.

Sally D. Collins,

Associate Chief.

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