(1) The biological opinion does not conclude that the incremental step would violate section 7(a)(2);
(2) The Federal agency continues consultation with respect to the entire action and obtains biological opinions, as required, for each incremental step;
(3) The Federal agency fulfills its continuing obligation to obtain sufficient data upon which to base the final biological opinion on the entire action;
(4) The incremental step does not violate section 7(d) of the Act concerning irreversible or irretrievable commitment of resources; and
(5) There is a reasonable likelihood that the entire action will not violate section 7(a)(2) of the Act.

Termination of consultation. (1) Formal consultation is terminated with the issuance of the biological opinion.
(2) If during any stage of consultation a Federal agency determines that its proposed action is not likely to occur, the consultation may be terminated by written notice to the Service.
(3) If during any stage of consultation a Federal agency determines, with the concurrence of the Director, that its proposed action is not likely to adversely affect any listed species or critical habitat, the consultation is terminated.

Subpart C—Counterpart Regulations for Implementing the National Fire Plan

SOURCE: 68 FR 68264, Dec. 8, 2003, unless otherwise noted.

§ 402.30 Definitions.
The definitions in §402.02 are applicable to this subpart. In addition, the following definitions are applicable only to this subpart.

Action Agency refers to the Department of Agriculture Forest Service (FS) or the Department of the Interior Bureau of Indian Affairs (BIA), Bureau of Land Management (BLM), Fish and Wildlife Service (FWS), or National Park Service (NPS).

Alternative Consultation Agreement (ACA) is the agreement described in §402.33 of this subpart.

Fire Plan Project is an action determined by the Action Agency to be within the scope of the NFP as defined in this section.

National Fire Plan (NFP) is the September 8, 2000, report to the President from the Departments of the Interior and Agriculture entitled “Managing the Impact of Wildfire on Communities and the Environment” outlining a new