

**DEPARTMENT OF AGRICULTURE****Forest Service**

RIN 0596-AB86

**National Environmental Policy Act Documentation Needed for Developing, Revising, or Amending Land Management Plans; Categorical Exclusion****AGENCY:** Forest Service, USDA.**ACTION:** Notice of proposed National Environmental Policy Act implementing procedures; request for comment.

**SUMMARY:** The Department of Agriculture, Forest Service, is requesting comment on a proposed revision to its procedures for implementing the National Environmental Policy Act (NEPA) and Council on Environmental Quality (CEQ) regulations. This proposed revision is being made to Forest Service Handbook 1909.15, Chapter 30, which describes categorical exclusions, that is, categories of actions that will not result in significant impacts on the human environment and which are therefore exempt from requirements to prepare further NEPA documentation absent extraordinary circumstances. The proposal would add one such category of actions to the agency's NEPA procedures for final decisions on proposals to develop, amend, or revise land management plans that are comprised of five components which are desired conditions, objectives, guidelines, suitability of areas, and special areas for a forest.

This proposal is being published in conjunction with the final Forest Service planning regulations published elsewhere in this part of today's **Federal Register**. Public comment is invited and will be considered in development of the final procedure.

**DATES:** Comments must be received in writing by March 7, 2005.

**ADDRESSES:** Send written comments by mail to: Content Analysis Team, ATTN: Planning CE, USDA Forest Service, P.O. Box 22777, Salt Lake City, UT 84122; by facsimile to 801-517-1015; or by e-mail at [planningce@fs.fed.us](mailto:planningce@fs.fed.us). Please note that the Forest Service will not be able to receive hand-delivered comments. If you intend to submit comments in batched e-mails from the same server, please be aware that electronic security safeguards on Forest Service and Department of Agriculture computer systems for prevention of commercial spamming may limit batched e-mail access. The Forest Service is interested in receiving all comments on this

proposed rule. Therefore, please call (801) 517-1020 to facilitate transfer of comments in batched e-mail messages. Comments may also be submitted via the World Wide Web/Internet Web site <http://www.regulations.gov>. Please note that all comments, including names and addresses when provided, will be placed in the record and will be available for public inspection and copying. The agency cannot confirm receipt of comments. Individuals wishing to inspect comments should call Jody Sutton at (801) 517-1023 to schedule an appointment.

**FOR FURTHER INFORMATION CONTACT:** Joe Carbone, USDA Forest Service, Ecosystem Management Coordination, (202) 205-0884. Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1-800-877-8339 between 8 a.m. and 4 p.m., Eastern Standard Time, Monday through Friday.

**SUPPLEMENTARY INFORMATION:****History of Land Management Planning and NEPA Compliance**

In developing this categorical exclusion the Forest Service took into account the experience it has gained over the past 25 years from developing, amending, and revising land management plans; the requirements of NEPA and the National Forest Management Act (NFMA), the Council on Environmental Quality (CEQ) regulations, and the recognition by the Supreme Court in *Ohio Forestry Ass'n v. Sierra Club* and *Norton v. Southern Utah Wilderness Alliance* regarding the nature of plans themselves. The Forest Service has concluded that land management plans, plan revisions, or plan amendments developed under the final Forest Service planning rule published elsewhere today's **Federal Register** comprised of five strategic components which do not approve projects or activities, do not individually or cumulatively result in significant effects on the human environment. The intended effect of this categorical exclusion is to facilitate efficient planning and timely development, amendment, or revision of land management plans.

The Forest Service's first planning rule published in 1979 required an environmental impact statement (EIS) for development of plans, significant amendments, and revisions. This requirement continued in the revised rule adopted in 1982. At the time, the Forest Service believed that a NEPA analysis and document prepared for a plan would suffice for making most project-level decisions. However, the

agency came to understand that this approach to complying with NEPA was impractical, inefficient, and frequently inaccurate. Over the course of implementing NFMA during the past 25 years, the agency has learned that environmental effects of projects and activities cannot be meaningfully evaluated without knowledge of the specific timing and location of the projects and activities.

At the time of plan approval, the Forest Service does not have detailed information about what projects and activities will be proposed over the expected 15 year life of a plan, how many projects will be approved, where they will be located, or how they will be designed. At the point of plan approval, the Forest Service can only speculate about the projects that may be proposed and budgeted and the natural events, such as fire, flood, insects, and disease that may occur that will make unanticipated projects necessary or force changes in the projects and the effects of projects that were contemplated. Indeed, the Forest Service has learned that over the life of a plan it must deal with the unexpected and will face numerous situations where analyses contained in the EISs that accompanied the plan can not be relied upon when considering specific projects and activities.

In the course of completing NEPA analyses and documentation on the first generation of NFMA plans, the Forest Service also became more aware of the difficulties of scale created by the size of the national forests and grasslands. The National Forest System includes 192 million acres, and individual planning units, such as the Tongass National Forest, may be as large as 17 million acres. These vast landscapes contain an enormous variety of different ecosystems which will respond differently to the same management practices. As the Committee of Scientists said on page 26 of the Committee of Scientists Report:

Because of the wide variation in site-specific practices and local environmental conditions (e.g., vegetation type, topography, geology, and soils) across a given national forest or rangeland, the direct and indirect effects of management practices may not always be well understood or easily predicted. (Committee of Scientists Report, March 15, 1999, U.S. Department of Agriculture, Washington, DC 193 p.)

Secretary Glickman named the Committee of Scientists (COS) on December 11, 1997. The charter for the COS states that the Committee's purpose is to provide scientific and technical advice to the Secretary of Agriculture and the Chief of the Forest on

improvements that can be made in the National Forest System Land and Resource Management Planning Process.

Forest Service experience confirmed the conclusion in the COS report, quoted above showing that it is usually infeasible to do meaningful environmental analysis for a national forest as a whole that is sufficiently site specific to allow projects to be carried out without further detailed NEPA analysis after the plan has been approved.

Even after completing an EIS for specific land management plans, the agency has found itself preparing much more extensive NEPA analysis and documentation for specific projects than it had anticipated when it adopted the 1979 and 1982 planning rules. Moreover, the extensive changes to conditions in the plan area that have occurred during the life of each plan, including unforeseen natural events such as fires and floods, have made it increasingly impractical to tier project-level NEPA analysis and documentation to the plan EIS. The requirements of the 1979 and 1982 planning rules that created an inefficient and ineffective system for complying with NEPA.

The 2000 planning rule continued to require an EIS for plan development or revision notwithstanding concerns raised by the Committee of Scientists. The Committee of Scientists said on page 117 of the Committee of Scientists Report:

Perhaps the most difficult problem is that the current EA/EIS process assumes a one-time decision. The very essence of small-landscape planning is an adaptive management approach, based upon monitoring and learning. Although small-landscape planning can more readily do real-time cumulative effects analysis \* \* \*, this kind of analysis is difficult to integrate with a one-time decision approach. Developing a decision disclosure and review process that is ongoing and uses monitoring information to adjust or change treatments and activities will need to be a high priority \* \* \*. (Committee of Scientists Report, March 15, 1999, U.S. Department of Agriculture, Washington, DC 193 p.)

In addition to concern about timely and accurate disclosure of environmental effects, the agency's experience with planning has demonstrated the need to clarify what plans, in fact, actually do. Neither the 1982 nor the 2000 planning rule clearly described or contrasted the differences between the effects of plans and the effects of projects and activities. This has been confusing to the public and agency employees. Plan components have not been applied or interpreted consistently throughout the agency, and

often have been characterized as final decisions or actions, rather than guidance for projects and activities over time.

The new 2004 planning rule (published elsewhere in today's **Federal Register**) clarifies that plans will generally be strategic rather than prescriptive in nature. Plans will have five principal components—desired conditions, objectives, guidelines, suitability of areas and special areas. These five components set aspirational goals and general guidance for land management. They provide flexibility in implementation based on changing conditions. They do not result in specific on-the-ground action.

Desired conditions are the social, economic, and ecological attributes toward which management of the land and resources of the plan area is to be directed. Desired conditions are long-term in nature and aspirational, but are neither commitments nor final decisions approving projects and activities.

Objectives are concise projections of intended outcomes of projects and activities to contribute to maintenance or achievement of desired conditions. Objectives are measurable and time-specific and, like desired conditions, are aspirational, but are neither commitments nor final decisions approving projects and activities.

Guidelines provide information and guidance for the design of projects and activities to help achieve objectives and desired conditions. Guidelines are not commitments or final decisions approving projects and activities.

Suitability of areas is the identification of the general suitability of an area in an NFS unit for a variety of uses. The identification of an area as generally suitable for a use or uses is neither a commitment nor a decision approving activities and uses.

Special areas are areas within the National Forest System designated because of their unique or special characteristics. The Responsible Official in approving a plan, plan amendment, or plan revision may designate special areas such as botanical areas or significant caves. Such designations are not final decisions approving projects and activities. Plans also may recognize special areas designated by statute or through a separate administrative process.

While plans will identify the general suitability of lands for various uses, they typically will not result in final decisions on suitable uses with accompanying environmental effects. Such decisions will occur, if appropriate, at the time of project approval. Plan objectives, guidelines,

suitable uses, and special area identifications will be designed to inform and guide projects and activities, so they will more effectively help to achieve the desired conditions.

Decisions approving actions with environmental effects that can be meaningfully evaluated typically will be made when projects or activities are designed and approved. In essence, a plan simply is a description of a vision for the future that, coupled with evaluation, provides a starting point for project and activity NEPA analysis. Therefore, approval of a plan, plan amendment, or plan revision typically will not have environmental effects that can be meaningfully evaluated at the time of the plan decision.

The formulation of plans under the final rule as strategic rather than prescriptive is further evident in the five components of plans under the final rule. As described above, none of the five components is intended to directly dictate on the ground decisions that have impacts on the environment. Rather, they provide for project and activity decisions.

#### **Statutory and Regulatory Direction and Case Law**

NFMA requires the Secretary of Agriculture to determine how to comply with NEPA during the course of NFMA planning. Section 106 (g)(1) of NFMA directs the Secretary to specify in land management regulations procedures to insure that plans are prepared in accordance with NEPA, including direction on when and for what plans an EIS is required (16 U.S.C. 1604 (g)(1)). The CEQ regulations direct Federal agencies to adopt procedures that designate major decision points for the agency's principal programs likely to have a significant effect on the human environment and to assure that the NEPA process corresponds with them (40 CFR 1505.1(b)).

Under NEPA and the CEQ regulations, an EIS is required for every report or recommendation on proposals for legislation and other major Federal actions significantly affecting the quality of the human environment (16 U.S.C. 4321 *et seq.*, 40 CFR 1502.3). The CEQ regulations explain that a "proposal" that can trigger the requirement for an EIS exists "at that stage in the development of an action when an agency subject to the Act has a goal and is actively preparing to make a decision on one or more alternative means of accomplishing that goal and the effects can be meaningfully evaluated" (40 CFR 1508.23).

CEQ regulations explain that "Federal actions" generally tend to fall within

several categories. Although these categories include adoption of formal agency plans within the definition of "Federal action", not all Federal actions are major Federal actions. As applied to the final rule, land management plans under the 2004 planning rule, as evidenced by their five components, are strategic and aspirational in nature and generally will not include decisions with on-the-ground effects that can be meaningfully evaluated and thus generally will not be "major Federal actions." During plan development, amendment or revision, the agency generally is not at the stage in National Forest planning of proposing actions to accomplish the goals in land management plans. Proposals for actions with effects that can be meaningfully evaluated, and which may be significant, generally are made at the project and activity stage. While a plan expresses desired conditions, goals, and objectives, the Forest Service does not actively prepare to make a decision on an action aimed at achieving desired conditions, goals, or objectives except in extraordinary circumstances, such as when the agency proposes projects and activities in connection with the plan adoption or revision. Thus, the decision to adopt, amend, or revise a plan is typically not the point in the decisionmaking process at which the agency is proposing an action likely to have a significant effect on the human environment.

The approach in this final rule is consistent with the nature of Forest Service land management plans acknowledged in *Ohio Forestry Ass'n v. Sierra Club*, 523 U.S. 726 (1998). In *Ohio Forestry*, the Supreme Court held that the timber management provisions of land management plans are tools for further agency planning and guide, but do not direct, future management. When considering the role of land management plans with respect to timber harvesting, the Supreme Court explained that:

Although the Plan sets logging goals, selects the areas of the forest that are suited to timber production, and determines which "probable methods of timber harvest" are appropriate, it does not itself authorize the cutting of any trees. Before the Forest Service can permit the logging, it must: (a) Propose a specific area in which logging will take place and the harvesting methods to be used; (b) ensure that the project is consistent with the Plan; (c) provide those affected by proposed logging notice and an opportunity to be heard; (d) conduct an environmental analysis pursuant to the National Environmental Policy Act of 1969, to evaluate the effects of the specific project and to contemplate alternatives; and (e) subsequently make a final decision to permit

logging, which affected persons may challenge in an administrative appeals process and in court.

The Supreme Court repeated its characterization of analogous plan decisions as strategic without any immediate on the ground impact in the recent *SUWA* decision: *Norton v. Southern Utah Wilderness Alliance*, 124 S. Ct. 2373, 2382 (2004). The Supreme Court again observed that "land use plans are a preliminary step in the overall process of managing public lands—'designed to guide and control future management actions and the development of subsequent, more detailed and limited scope plans for resources and uses.'" In addition, "a land use plan is not ordinarily the medium for affirmative decisions that implement the agency's 'project[ion]s'" (542 U.S. 13 (2004)).

Under the Final Rule, plans will continue to be strategic in nature, as described by the Supreme Court in *Ohio Forestry* and *SUWA*. As described above, the five elements of a plan under the planning rule do not authorize site-specific decisions, but rather characterize general future conditions and guidance for such decisions. Only in extraordinary circumstances will project and activity decisions be implemented at the time of a plan adoption or amendment.

In accordance with NFMA, NEPA, and the CEQ regulations, the final planning rule at 36 CFR part 219 *et seq.* will ensure that Forest Service NEPA analysis and documentation will be timed to coincide with meaningful stages in agency planning and decisionmaking. The planning rule emphasizes the clear distinction between the adoption or amendment of a plan with projects and activities having on-the-ground environmental effects. In the planning rule, the Department clarifies the nature of National Forest land management plans, and based on the nature of plans, specifies which plans, plan amendments and plan revisions may be categorically excluded from NEPA documentation and which may require an EIS or an EA.

Land management plans are strategic and aspirational in nature, a reality reinforced by the final planning rule. Absent extraordinary circumstances, plans under the new planning rule will not contain final decisions that approve projects and activities. Desired conditions and objectives are not commitments or final decisions approving projects and activities in the plan area. Guidelines, which are intended to provide guidance for project design and implementation, have no

influence until they are applied in a project or activity and are not commitments or decisions approving projects and activities. The identification of an area as generally suitable for a use is not a commitment or decision approving projects and activities. Any proposed use in an area identified as suitable for that use must be considered under agency NEPA procedures at the time of a project decision. Special areas may be designated by statute or through plan development, plan amendment, or plan revision or a separate administrative process under NEPA and other applicable laws.

When a project or activity is proposed in connection with a plan adoption, the agency will look at whether the project or activity itself warrants further NEPA analysis. Some proposed projects may themselves fall within another categorical exclusion. In other instances, the agency will examine the effect of the project on resource conditions, as it would in considering any other project, in deciding whether an EA or EIS is appropriate.

In summary, none of these plan components is permanent or final, in that all are subject to reconsideration and change through plan amendment or plan revision at any time and all provide flexibility to respond to on-the-ground conditions and changing circumstances. Should a Responsible Official nevertheless choose to include projects or activities within the context of a plan, plan revision, or plan amendment, extraordinary circumstances may be present such that an EIS or an EA may be required.

#### The Proposed Categorical Exclusion

The CEQ regulations (40 CFR parts 1500–1508) require that each agency establish specific criteria for and identification of three types of actions: (1) Those that normally require preparation of an environmental impact statement (EIS); (2) those that normally require the preparation of an environmental assessment (EA); and (3) those that normally do not require either an EA or EIS because they "do not individually or cumulatively have a significant effect on the human environment" (40 CFR 1508.4). Actions qualifying for this third type of action are defined as categorical exclusions because they do not individually or cumulatively have a significant impact on the human environment; therefore, neither an environmental assessment nor an environmental impact statement is required (40 CFR 1508.4).

A categorical exclusion is not an exemption from the requirements of

NEPA. Categorical exclusions are an essential part of NEPA that provide a categorical determination that certain actions do not result in significant impacts, eliminating the need for individual analyses and lengthier documentation for those actions.

CEQ regulations at 40 CFR 1500.4(p), 1507.3 and 1508.4 direct agencies to use categorical exclusions to define categories of actions which do not individually or cumulatively have a significant effect on the human environment and do not require the preparation of an environmental assessment or an environmental impact statement, thereby reducing excessive paperwork. Current Forest Service procedures for complying with and implementing NEPA are set out in Forest Service Handbook (FSH) 1909.15. Categorical exclusions are set forth in chapter 30 of the FSH. The categorical exclusion proposed in this notice would require four changes in the chapter 30.

1. A category would be added to section 31.2 that would allow development, amendment, and revision of plan components, or portions thereof, to be categorically excluded unless extraordinary circumstances exist.

2. A paragraph would be added to section 30.3 to define the extraordinary circumstances pertinent to the new category. It would specify that the inclusion of a project or activity decision in a plan component may constitute an extraordinary circumstance.

3. A paragraph would be added to section 30.3 to clarify that the extensive public participation requirements in the land management planning regulations at 36 CFR 219.9 are sufficient to satisfy the scoping requirements currently included in section 30.3.

4. A paragraph would be added to section 30.2 to clarify that the plan approval document required by the land management planning regulations at 36 CFR 219.7(c) is sufficient to satisfy the decision memo requirements of chapter 30.

The Department emphasizes that project or activity decisions are generally not appropriate for inclusion in a plan level document. Rather, experience has shown that including project and activity decisionmaking in planning has actually delayed the planning and project and activity processes without improving natural resource management or public participation. Thus, by sharpening the distinction between planning and project and activity decisions, the Department expects both better planning decisions and more useful and

timely environmental analysis for project and activity decisionmaking.

### Regulatory Certifications

#### *Environmental Impact*

This proposed categorical exclusion would add direction to guide employees in the USDA Forest Service regarding requirements for National Environmental Policy Act (NEPA) documentation for land management planning activities. The Council on Environmental Quality does not direct agencies to prepare a NEPA analysis or document before establishing agency procedures that supplement the CEQ regulations for implementing NEPA. Agencies are required to adopt NEPA procedures that establish specific criteria for, and identification of, three classes of actions: those that require preparation of an environmental impact statement; those that require preparation of an environmental assessment; and those that are categorically excluded from further NEPA review (40 CFR 1507.3(b)). Categorical exclusions are one part of those agency procedures, and therefore establishing categorical exclusions does not require preparation of a NEPA analysis or document. Agency NEPA procedures are internal procedural guidance to assist agencies in the fulfillment of agency responsibilities under NEPA, but are not the agency's final determination of what level of NEPA analysis is required for a particular proposed action. The requirements for establishing agency NEPA procedures are set forth at 40 CFR 1505.1 and 1507.3. The USDA Forest Service is providing an opportunity for public review and consulted with the Council on Environmental Quality during the development of this categorical exclusion. The determination that establishing categorical exclusions does not require NEPA analysis and documentation has been upheld in *Heartwood, Inc. v. U.S. Forest Service*, 73 F. Supp. 2d 962, 972–73 (S.D. Ill. 1999), *aff'd*, 230 F.3d 947, 954–55 (7th Cir. 2000).

#### *Regulatory Impact*

This proposed categorical exclusion has been reviewed under USDA procedures and Executive Order 12866, Regulatory Planning and Review. It has been determined that this is not an economically significant action. This action to issue agency direction 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 action will not interfere with an

action taken or planned by another agency. 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.

Moreover, the proposed categorical exclusion has been considered in light of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), and it is hereby certified that the proposed categorical exclusion will not have a significant economic impact on a substantial number of small entities as defined by the act because it will not impose record-keeping requirements on them; it will not affect their competitive position in relation to large entities; and will not affect their cash flow, liquidity, or ability to remain in the market.

#### *Federalism*

The agency has considered this proposed categorical exclusion under the requirements of Executive Order 13132, Federalism, and has concluded that it conforms with the federalism principles set out in this Executive Order; will not impose any compliance costs on the States; and will not have substantial direct effects on the States or the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, the agency has determined that no further assessment of federalism implications is necessary.

#### *Consultation and Coordination With Indian Tribal Governments*

Pursuant to Executive Order 13175 of November 6, 2000, "Consultation and Coordination with Indian Tribal Governments," the agency has assessed the impact of this categorical exclusion on Indian tribal governments and has determined that the categorical exclusion does not significantly or uniquely affect communities of Indian tribal governments. The categorical exclusion deals with requirements for National Environmental Policy Act (NEPA) documentation for land management planning activities and, as such, has no direct effect regarding the occupancy and use of NFS land.

The agency has also determined that this categorical exclusion does not impose substantial direct compliance cost on Indian tribal governments. This categorical exclusion does not mandate tribal participation in NFS planning. Rather, the agency planning rule, with which this categorical exclusion is associated, imposes 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 categorical exclusion has been analyzed in accordance with the principles and criteria contained in Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights, and it has been determined that the proposed categorical exclusion does not pose the risk of a taking of Constitutionally protected private property.

*Civil Justice Reform*

This categorical exclusion has been reviewed under Executive Order 12988 of February 7, 1996, "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 categorical exclusion. Nevertheless, in the event that such a conflict was to be identified, the categorical exclusion would preempt State or local laws or regulations found to be in conflict. However, in that case, (1) no retroactive effect would be given to this categorical exclusion; and (2) the categorical exclusion does not require the use of 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 categorical exclusion on State, local, and tribal governments and the private sector. This proposed categorical exclusion does not compel the expenditure of \$100 million or more by any State, local, or tribal government or anyone in the private sector. Therefore,

a statement under section 202 of the act is not required.

*Energy Effects*

This proposed categorical exclusion has been reviewed under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. It has been determined that this proposed categorical exclusion does not constitute a significant energy action as defined in the Executive order.

*Controlling Paperwork Burdens on the Public*

This proposed categorical exclusion does not contain any additional record keeping or reporting requirements or other information collection requirements as defined in 5 CFR part 1320 that are not already required by law or not already approved for use, and therefore, imposes no additional paperwork burden on the public. Accordingly, the review provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) and its implementing regulations at 5 CFR part 1320 do not apply.

Dated: December 22, 2004.

**Dale N. Bosworth,**  
*Chief.*

**Note:** The Forest Service organizes its directive system by alphanumeric codes and subject headings. Only those sections of the Forest Service Handbook that are the subject of this notice are set out here. Reviewers wishing to review the entire chapter 30 may obtain a copy electronically from the Forest Service's directives Web site on the World Wide Web/Internet at <http://www.fs.fed.us/im/directives/>.

**Forest Service Handbook**

*1909.15—Environmental Policy and Procedures Handbook*

Chapter 30—Categorical Exclusion From Documentation

\* \* \* \* \*

30.3—Policy

Redesignate existing paragraphs 3 and 4 as paragraphs 4 and 6 and add new paragraphs 3 and 5 as follows:

\* \* \* \* \*

3. Development, revision, or amendment of land management plans or components, or portions thereof, that propose projects or activities may constitute an extraordinary circumstance. The degree of the effect of the project or activity on resource conditions, rather than the mere presence of resource conditions, determines whether further analysis and documentation in an EA or EIS is required.

\* \* \* \* \*

5. If the proposed action is approval of a land management plan, plan amendment, or plan revision, the public participation requirements of 36 CFR 219.9 satisfy the scoping requirement of paragraph 4 of this section.

\* \* \* \* \*

31.2—Categories of Actions for Which a Project or Case File and Decision Memo Are Required

Add a new paragraph 16 as follows:

\* \* \* \* \*

16. Development, revision, or amendment of land management plan components, or portions thereof, pursuant to 36 CFR part 219 *et seq.*, except where extraordinary circumstances exist as defined in section 30.3 paragraph 3.

\* \* \* \* \*

32.2—Decision Memo Required

Add the following as a third unnumbered paragraph:

\* \* \* \* \*

If the proposed action is approval of a land management plan, plan amendment, or plan revision, the plan approval document required by 36 CFR 219.7(c) satisfies the decision memo requirements of this chapter.

\* \* \* \* \*

[FR Doc. 05-22 Filed 1-4-05; 8:45 am]

**BILLING CODE 3410-11-P**