



# Federal Register

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**Tuesday,  
January 31, 2006**

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**Part II**

## **Department of Agriculture**

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**Forest Service**

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**National Forest System Land Management  
Planning Directives; Notice**

**DEPARTMENT OF AGRICULTURE****Forest Service****RIN 0596-AC02****National Forest System Land Management Planning Directives****AGENCY:** Forest Service, USDA.**ACTION:** Notice of issuance of agency final directives.

**SUMMARY:** The Forest Service is issuing ten (10) final directives to Forest Service Manuals 1900 and 1920 and Forest Service Handbook 1909.12; chapters zero code, 10, 20, 30, 40, 50, 60, and 80. These directives establish procedures and responsibilities for implementing national forest land management planning regulations at 36 CFR part 219, subpart A, published in the **Federal Register** on January 5, 2005 (70 FR 1023). These directives provide consistent overall guidance to Forest Service line officers and employees in developing, amending, or revising land management plans for units of the National Forest System.

**DATES:** These directives are effective January 31, 2006.

**ADDRESSES:** Copies of the directives are available on the World Wide Web/Internet at <http://www.fs.fed.us/emc/nfma/index> or on a compact disc (CD). Copies of the directives on a CD can be obtained by contacting Regis Terney by e-mail ([rterney@fs.fed.us](mailto:rterney@fs.fed.us)), by phone at 1-866-235-6652 or 202-205-0895, or by mail at Regis Terney, USDA Forest Service, Mailstop 1104, EMC, 3 Central, 1400 Independence Avenue, SW., Washington, DC 20050-1104.

**FOR FURTHER INFORMATION CONTACT:** Regis Terney, Planning Specialist, Ecosystem Management Coordination Staff (202) 205-0895.

**SUPPLEMENTARY INFORMATION:****Background**

On January 5, 2005, the Department adopted final planning regulations for the National Forest System (NFS) at 36 CFR Part 219, subpart A (70 FR 1023) (also referred to as the 2005 planning rule). The 2005 planning rule provides broad programmatic direction in developing and carrying out land management planning. The rule explicitly directs the Chief of the Forest Service to establish planning procedures in the Forest Service directives system (36 CFR 219.1(c)).

The Forest Service directives consist of the Forest Service Manual (FSM) and the Forest Service Handbook (FSH), which contain the agency's policies, practices, and procedures and serve as

the primary basis for the internal management and control of programs and administrative direction to Forest Service employees. The directives for all agency programs are set out on the World Wide Web/Internet at <http://www.fs.fed.us/im/directives>.

Generally, the FSM contains legal authorities, objectives, policies, responsibilities, instructions, and guidance needed on a continuing basis by Forest Service line officers and primary staff to plan and execute programs and activities, while the FSH is generally the principal source of specialized guidance and instruction for carrying out the policies, objectives, and responsibilities contained in the FSM.

**Need for Direction**

Procedural and technical details associated with implementing the 2005 planning rule are needed by NFS units to begin consistent plan amendments or revisions across all NFS units to prevent confusion and to improve public involvement and decisionmaking associated with developing, amending, or revising a land management plan.

**Public Participation**

On March 23, 2005, the Forest Service issued 12 interim directives to FSM 1330, 1900, and 1920 and FSH 1909.12 asking for public comment. This notice of issuance involves final amendments for those interim directives, except for FSM 1330 and FSH 1909.12, chapters 70 and 90. FSM 1330 and FSH 1909.12, chapters 70 and 90 will be issued separately.

Comments were submitted by mail, facsimile, and electronically. During the 90-day comment period (ending on June 21, 2005), the agency received 365 original responses and 8,727 copies of one form letter. These responses were analyzed by the Content Analysis Group and documented in a Content Analysis Report. Of the 365 original responses, the Forest Service received responses from 324 individuals and 41 organizations, of which 150 were letters, 214 were forms of various types, and 1 resolution. The Forest Service received responses from 49 states as well as from the District of Columbia, Puerto Rico, Army Post Office/Fleet Post Office, and foreign nations.

**Response to Comments***Overview*

In response to comments, the Forest Service made substantive changes to the interim directives issued on March 23, 2005, by decreasing the length approximately 25 percent and reorganizing the text. This was accomplished primarily by:

1. Reviewing direction to remove redundancies.
2. Questioning the need for the direction.
3. Discussing major topics once.
4. Using more cross-referencing.
5. Removing detailed exhibits from the final directives and placing, at a later date, more useful exhibits in technical guides on the Technical Information for Planning Site (TIPS) Web site at <http://www.fs.fed.us/TIPS>.
6. Moving detail about plan components, planning process, monitoring, sustainability, and science from FSM 1920 to the Forest Service Handbook (FSH) 1909.12.
7. Moving all information about the objections process from FSM 1926 of the interim directives to FSH 1909.12, chapter 50.

In addition, the Forest Service moved the previous content of FSM 1922 to FSM 1926. Forest Service Manual 1926 now provides procedures to revise or amend plans using provisions of the planning regulations in effect before November 9, 2000 (1982 planning rule) for those Responsible Officials that choose to continue using those procedures in accord with 36 CFR 219.14. The Forest Service moved FSM 1922 because many readers confused the procedures for the 2005 planning rule with the procedures for using the 1982 planning rule.

*Key Issues*

## Decisionmaking Process

## Laws

*Comment:* The Forest Service should comply with all applicable laws and with Executive Order 13352.

*Response:* Forest Service Manual (FSM) 1901.1 identifies the laws setting forth the requirements for Forest Service planning, while other applicable authorities are discussed at FSM 1011. In addition, Responsible Officials are required to comply with applicable laws in development, revision, amendment, and implementation of plans (70 FR 1034, Jan. 5, 2005).

Executive Order (E.O.) 13352 provides that specific Federal agencies, including the USDA, should implement laws relating to the environment and natural resources in a manner that promotes cooperative conservation and emphasizes local participation in Federal decisionmaking. The public participation requirements from the 2005 planning rule (36 CFR 219.9) and the directives (FSM 1921.61 and FSH 1909.12, sec. 30) ensure that the interested public, state agencies, and local governments have the opportunity to participate. The Forest Service

believes that the 2005 planning rule and the Forest Service directives are consistent with E.O. 13352.

#### State Participation

*Comment:* The Forest Service should ensure that states play a meaningful role in the planning process. This should include encouraging states to establish a state governing body, chartered by that state, with the authority to create general forest policies and produce a state guidance document for the management of Federal forestlands. This could define a state's position on the niche that Federal forestlands play in the state, clarify state expectations, and build support for Federal land management plans with State and local constituents.

*Response:* The Forest Service agrees that states should play a meaningful role in the planning process, including a role in defining the niche that National Forest System lands play in each state. The 2005 planning rule (36 CFR 219.9) and directives (FSM 1921.61) encourage that role. The Responsible Officials will work with state officials to jointly agree on the type and amount of participation. The Forest Service does not believe that a specific approach to state involvement should be identified in the directives because the state should decide what specific approach may be appropriate for them.

#### Cooperating Agency

*Comment:* The Forest Service should provide local and state agencies the option of cooperating agency status for developing amendments or plan revisions.

*Response:* Under Council on Environmental Quality regulations for implementing the National Environmental Policy Act of 1969 (NEPA); cooperating agency status is appropriate for other Federal, State, or local governments when they have jurisdiction by law or special knowledge about the action being addressed in a NEPA analysis (40 CFR 1501.6). When other Federal, State, or local governments have jurisdiction by law or special knowledge about the action being addressed, the Responsible Official is encouraged to work with other State and local governments to determine if cooperating agency status is the most appropriate way for them to be involved. State and local governments contacted when the Forest Service is preparing a plan, plan amendment or plan revision are encouraged to identify their special expertise and/or jurisdiction by law to assist the local Responsible Official in determining appropriate designations as

cooperating agencies. The Forest Service believes that the local Responsible Official is most able to determine how to involve state and local governments.

#### Governor's Consistency Review

*Comment:* The Forest Service should add language to the FSM and create a process for state review of land management plans similar to the Governor's Consistency Review statutes created under the Federal Land Policy and Management Act (FLPMA).

*Response:* The National Forest Management Act of 1976 (NFMA) does not have a requirement equivalent to the FLPMA requirement for a governor's consistency review. The Forest Service believes that the collaborative processes in the 2005 planning rule and the Forest Service directives, along with the potential for cooperating agency status when the Responsible Official and a state concludes this to be appropriate, will provide for meaningful State involvement in the planning process. The Forest Service believes that early state involvement, such as identifying a need for change and developing plan components, will be more beneficial to the Forest Service and the states than will a consistency review late in the planning process. States will also be invited to comment on proposed plans during the 90-day comment period.

#### National Association of State Foresters

*Comment:* The Forest Service should coordinate with the National Association of State Foresters on planning, monitoring, and assessments.

*Response:* The Forest Service encourages the National Association of State Foresters to participate in Forest Service planning at all levels.

#### Comment Period

*Comment:* The Forest Service should add 60 days to the comment period.

*Response:* In past planning efforts, a 90-day public comment period on a proposed plan or plan revision has proved adequate. Historically, the Forest Service has extended comment periods where circumstances about a specific planning effort have merited an extension. The 2005 planning rule does not preclude extending the comment period when needed.

#### Framework of Directives

##### Need for Regulations

*Comment:* The Forest Service should address NFMA's requirement in the Code of Federal Regulations and not in the Forest Service Directives System.

*Response:* The Forest Service interprets NFMA to afford the Forest Service discretion to provide policy

guidance through regulations or the Forest Service directives. Final regulations for implementing the NFMA were published in the **Federal Register**, January 5, 2005 (70 FR 1022). Those regulations provide that guidance in addition to that provided in the directives will be provided in the directives. Directives are available at <http://www.fs.fed.us/im/directives>.

#### Requirements and Content

*Comment:* The Forest Service should have standards rather than weak guidelines, which allow too much discretion.

*Response:* The decision to use guidelines rather than standards was made in the 2005 planning rule because the standards, as used previously in land management plans, proved too restrictive. The directives provide clarification about how guidelines should be written (FSH 1909.12, sec. 11.3). The Forest Service believes that guidelines will provide the necessary sideboards for designing projects and authorizing activities, while allowing line officers needed discretion to address site-specific situations.

*Comment:* The Forest Service should create directives that are inclusive of all direction needed by the planners rather than awaiting white papers or technical guides.

*Response:* The directives strive to provide the guidance needed to develop, revise, and amend plans. However, specific methods and analytical tools based on new information and changing technologies are expected to develop rapidly as the Forest Service gains experience carrying out the new planning and environmental management system processes. The Forest Service believes that using technical guides will allow more rapid response to these changes; such as, better examples of desired conditions, objectives, and associated monitoring programs, than could occur if all detailed planning techniques were placed in the directives.

#### National Direction

*Comment:* The Forest Service should adopt a system with limited national direction for forest planners on complying with national legal mandates.

*Response:* The 2005 planning rule and the Forest Service directives for implementing that rule are intended to provide the necessary guidance essential to ensure quality plans are developed without unduly limiting local innovation in the process and the plan content.

### Plan Consistency

*Comment:* The Forest Service should provide guidance to ensure consistency among Forests.

*Response:* It is the responsibility of the Regional Foresters (FSM 1921.04a) to coordinate planning between units in the region and between regions where units adjoin. The directives provide a framework for developing, revising, and amending plans; while allowing components of plans to adapt to local situations.

### Project Information

*Comment:* The Forest Service should provide complete and accurate information about projects. It is unclear how much explanation of possible project schedules and locations will occur in the plan.

*Response:* Plans are intended to be strategic documents, providing limited or no information on schedules and locations of projects. Each plan will list proposed and possible actions anticipated to provide an array of opportunities or resource management programs (FSH 1909.12, sec. 11.2) and a planned timber sale program, including proportion of probable harvest methods (FSH 1909.12, sec. 65.4). Project disclosure comes at the project planning level.

### Cumulative Effects

*Comment:* The Forest Service should include requirements for cumulative effects analysis in the Forest Service directives.

*Response:* Cumulative effects analysis occurs as a part of project-level planning in accord with NEPA (FSM 1950, FSH 1909.15) rather than through forest planning. The comprehensive evaluation report (FSH 1909.12, sec. 24.2), is intended to help provide context for project-level cumulative effects analyses. The comprehensive evaluation report will be updated at least every 5 years.

### Length and Clarity of Directives

*Comment:* The Forest Service should shorten the length of the Forest Service directives. The sheer length of the directives makes them difficult to absorb. However, some respondents thought that the Forest Service should acknowledge that all sections of the Forest Service directives are incomplete, conceptual, ambiguous, and lack guidance about how concepts may be evaluated or applied and thought they should be clearer and more consistent.

*Response:* The final directives have been reduced approximately 25% from the interim directives to improve clarity and remove inconsistencies identified

by respondents. More guidance on methods will be available in technical guides.

### Guideline Description

*Comment:* The Forest Service should acknowledge that the statement "Direction that compels us to do action is not appropriate" (FSH 1909.12, sec. 12.23b) is an inappropriate statement. Another respondent stated that the directives system is not a substitute for plan direction (FSH 1909.12, sec. 12.11, para. 3, item 3).

*Response:* Although it has been reworded to provide clarity, the concept that guidelines should not be written to force action remains unchanged. Guidelines are intended to guide implementing actions, not cause actions to occur. The description of guidelines has been moved to FSH 1909.12, section 11.13 in the final directives.

The directives system is not a substitute for plan direction. It would be redundant to repeat in the plan guidelines or technical design specifications what already exists in law, regulation, or agency directives. Where appropriate, these are referenced in a plan rather than repeated.

### Legal Considerations

#### Litigation

*Comment:* The Forest Service should acknowledge that the 2005 planning rule is being litigated and use of the directives could be found invalid.

*Response:* The Forest Service recognizes the potential implications from ongoing litigation of the 2005 planning rule; however, these implications are outside the scope of the directives.

#### Plan Implementation

*Comment:* The Forest Service should include stipulations in the Forest Service directives that allow the public to challenge the agency in court if it fails to live up to a plan.

*Response:* The Forest Service is committed to designing and carrying out activities consistent with plans. Administrative procedures are in place that allow the public appeal (36 CFR 215) or object (36 CFR 218) to certain management actions.

#### Consistency With NFMA

*Comment:* The Forest Service should ensure that the directives are in accord with NFMA, including the act's biodiversity requirements.

*Response:* The Forest Service believes that the 2005 planning rule, and the Forest Service directives for carrying out that rule, are consistent with the requirements of NFMA. The Forest and

Rangeland Renewable Resources Planning Act of 1974 (RPA), as amended by NFMA, calls for plans to provide for diversity of plant and animal communities based on the suitability and capability of the specific land area (RPA, sec. 6(g)(3)(B)). The 2005 planning rule (36 CFR 219.10(b)) provides for sustaining ecological systems by maintaining ecosystem diversity and species diversity. The Forest Service directives provide added guidance in FSM 1921.73 and FSH 1909.12, section 43, to provide for diversity of plant and animal communities.

#### National Trails System Act

*Comment:* The Forest Service should specifically list the National Trails System Act in the Forest Services directives as an applicable law.

*Response:* Forest Service Manual 1920.11 identifies statutory authorities relevant to planning and references other applicable authorities found in FSM 1011, including the National Trails System Act.

#### Forest Planning

#### Forest Planning Versus Project Planning

*Comment:* The directives should acknowledge the increased role for project planning and provide guidance about how forest and project planning will link together. The interim directive's discussion of plan to project evaluation is too generic; for example, when in the process would cumulative effects on watershed be evaluated?

*Response:* Forest Service Handbook 1909.12 sets up procedures for developing, revising, and amending plans, as needed, to carry out the planning rule. The rule at 36 CFR 219.2(c) specifies that not one of the requirements of the rule apply to projects except as specifically provided. The final directives at FSH 1909.12, section 29, address how potential projects are identified and the finding that the project is consistent with the plan. Project analysis is discussed in detail in FSH 1909.15; agency procedures for compliance with NEPA. These directives and Council on Environmental Quality regulations at 40 CFR 1500 to 1508 guide the environmental analysis for projects, including analysis of cumulative effects. Although the Forest Service expects that plan development, revision, and amendment will usually be categorically excluded, the comprehensive evaluation report will help set the context for project level analysis.

### Need for Change

*Comment:* The general premise that plan revisions will address only those parts of plans needing change and the premise that the new planning regulations and directives provide a new paradigm for planning are in conflict. The emphasis should be on a need for change.

*Response:* Forest Service Handbook 1909.12, sections 24 and 25, outline an adaptive management framework for annual and comprehensive evaluations. An important result of these evaluations is to determine the need for change in the plan or in monitoring requirements. The 2005 planning rule significantly improves the process for plan development, revision, and amendment so that the attention of the Forest Service and the public can focus on only those items that appear to need change. The Forest Service does not see this as a conflict in the two premises.

### Adaptive Management Practices

*Comment:* An adaptive management approach will enable the Forest Service to keep up with the best available science and to better respond to changing conditions.

*Response:* The Forest Service agrees. An adaptive management framework is a cornerstone for the 2005 planning rule and the final directives.

### Mandatory Standards

*Concern:* The Forest Service should continue to call for plans to contain mandatory, environmentally protective standards. Without quantitative, measurable, performance standards the plans will lack commitment, because performance cannot be measured or verified. Guidelines do not serve this purpose because deviations can be made as individual projects are designed. This defeats establishing a certain "minimum" natural resource protection. This makes plans meaningless and circumvents the NFMA requirement to adopt plans and carry out projects consistent with those plans (16 U.S.C., sec. 1604). This, and other attempts to increase leeway for the Forest Service, does not make sense given the agency's historical lack of accountability.

*Response:* The 2005 planning rule does not include standards as a plan component. The preamble to the proposed rule and the response to comments for the final rule state the reason for using guidelines. Conditions on the ground are variable and the Forest Service believes that mandatory standards are too restrictive. Guidelines allow more flexibility for making adjustments based on site-specific

conditions. The guidelines in plans are expected to be measurable. Guidelines should be written with inherent latitude and flexibility to carry out projects and activities so that adjustment is seldom an issue. However, if adjustment of guidelines is necessary, the project analysis and decision document must articulate the reasons for adjusting the guidelines.

### Forest Management Prescription

*Comment:* Forest management prescriptions should be used to set performance standards and ensure needed protections and desired conditions. An example is the Appalachian Trail, which is now has specific management prescriptions in eight national forest plans, ensuring consistent administration of the trail.

*Response:* Forest Service Handbook 1909.12, section 11.1 specifically states that plan components may be developed for areas in units; usually called management areas or geographic areas. Nothing in the final directives prohibits the continued use of management areas; as for example, those used by several national forests to provide consistent management guidance for the Appalachian Trail. The Forest Service believes that plan components; including desired conditions, guidelines, and suitability of areas will provide the needed framework for providing desired experiences, conditions, and protections.

### Plan Amendments

*Comment:* The Forest Service should not allow a plan to be amended through site-specific project decisions because this discretion would be abused, used mainly to make easier commodity development, or would evade the rigorous cumulative effects analysis requirements intended by NEPA.

*Response:* Forest Service Handbook 1909.12, section 25.4 and 35 CFR 219.8(e) provide that the plan can be amended through approval of a project or activity. This type of amendment would be considered along with considering whether the project should be modified or rejected entirely if the Responsible Official decides the project is not consistent with the plan. Conditions on the land are highly variable and the provision for amendments through projects is an important aspect making plans adaptable and workable. Documentation of the reason for the plan amendment would be included with the project documentation. Amendments through projects may be considered for a variety of projects, not just those that would produce commodities. NEPA

compliance at project level is unchanged.

### Management and Geographic Areas

*Comment:* The Forest Service should not call for plans to contain management and geographic areas.

*Response:* Forest Service Handbook 1909.12, section 11.1 does not call for management and geographic areas. It is permissive in that a unit could use one, both, or neither.

### Minimum Components

*Comment:* The Forest Service should ensure that plans identify the minimum components and commitments needed to manage multiple uses on a sustainable basis and to maintain ecological integrity of forest lands. Forest Service Manual 1921.11 states that plan components should be realistic and achievable, reflecting the unit's anticipated budget, staffing and technical capability. Budget levels should not dictate whether an adequate plan is prepared to reach missions and objectives.

*Response:* Plans must provide for biological diversity and address the ecological, economic, and social parts of sustainability as required by the 2005 planning rule (36 CFR 219.10 and FSH 1909.12, ch. 40). Past plans have included desired conditions and objectives that could not be reached. Having unrealistic plan components does not enhance sustainability, but does cause considerable frustration and the feeling that promises were broken. The Forest Service believes that the provisions of FSM 1921.11 are important and will lead to a much clearer focus on setting priorities for plan implementation. These plan components can always be adjusted if more resources become available.

### National Strategic Plan

*Comment:* The Forest Service should establish a national framework of goals and objectives in its Strategic Plan designed around key outputs mandated through Congressional direction. Lack of a consistent framework may cause confusion and lead to many different frameworks for developing land management plans. There is an inherent tension between providing consistency between plans and providing flexibility in the plans to address circumstances that are unique to individual forests.

*Response:* The Forest Service's National Strategic Plan sets up goals, objectives, performance measures, and strategies for management of the NFS mission areas (36 CFR 219.2(a)). Specific performance measures are identified. The Strategic Plan

establishes a national vision, based on the Resource Planning Act assessment and the 127 land management plans for forests, grasslands, and prairies (FSM 1906.11(b)). The Regional Foresters are required to ensure use of the Forest Service National Strategic Plan as a context for developing or refining desired conditions (FSM 1921.04(a)). The Forest Service agrees that there should be a link between unit plans and the National Strategic Plan. This link is addressed in the directives. The link works both ways, with the unit plans considering national goals and objectives and the National Strategic Plan considering the plans of each unit.

#### Plan Set of Documents

*Comment:* The Forest Service should include in the plan set of documents any material that may have been used to formulate the management plan.

*Response:* The plan set of documents details that were in FSH 1909.12, chapter 50 have been removed from the directives and placed in a technical guide on the Technical Information for Planning Site (TIPS) Web site at <http://www.fs.fed.us/TIPS>. The Forest Service believes that detailed guidance and procedures for the plan set of documents and the planning record are more appropriate for a technical guide. The description of the plan set of documents is in the planning rule at 36 CFR 219.7(a)(1). The plan set of documents is not limited to only those things listed in the rule. The Forest Service believes the documents included should be clearly relevant to plan development and components and should be limited to final documents.

#### Options

*Comment:* There is no guarantee that the Forest Service will consider options. Not considering options may be illegal.

*Response:* Forest Service Handbook 1909.12, section 25.32 discusses considering options to proposed changes in plan components. Options may not be required for some proposed changes that are limited in scope or if there are no choices to the proposal, such as amendments needed to put into effect conservation strategies for federally-listed threatened or endangered species. Options can be used as a valuable part of the collaborative approach to plan amendment, revision, or development. Options would be developed with public input and would look at a range of potential plan components. Options would not be needed for those components of a proposed plan where the public is in agreement with the proposal. The Forest Service believes

that this iterative and collaborative approach will be useful, but should be used only where feasible options are available. There are no legal requirements that would mandate options be considered every time the plan is changed.

#### Legal Problems

*Comment:* The Forest Service should consider legal problems that will arise from a planning process that is too casual, especially if the directives are not binding.

*Response:* The planning rule and directives establish a planning process and provides a framework that complies with NFMA. As Responsible Officials develop, revise, or amend plans they are constrained and guided by a large body of law, regulation, and policy, as well as, public participation and oversight to ensure full legal compliance.

#### Multilevel Planning

*Comment:* The directives description of multilevel planning is inconsistent with the planning rule. The rule is for plan development only and discussion of considering cumulative effects from projects is not appropriate.

*Response:* The description of the Forest Service planning process has been moved to FSM 1906. Reference to cumulative effects from projects during the comprehensive evaluations has been deleted, although the Forest Service does believe that comprehensive evaluations should use available data from several sources and some information developed during project development and implementation will be useful.

#### Supreme Court Decisions

*Comment:* The Forest Service should not try to extend the Supreme Court decisions in *Ohio Forestry and Norton v. Southern Utah Wilderness Association (SUWA)* to forest planning. The questions addressed in these cases do not address the questions of the 2005 planning rule and directives about whether an environmental assessment (EA) or an environmental impact statement (EIS) is required for preparation of a programmatic plan.

*Response:* The explanation for this approach to compliance with NEPA is discussed in detail in the preamble to the final 2005 planning rule (70 FR 1034, Jan. 5, 2005). Many factors, besides the Supreme Court decisions cited, led to the approach in the final rule and directives.

#### Desired Conditions

*Comment:* The directives should give added guidance on how to describe and

select desired conditions from an ecological standpoint. Historical conditions or range of variability may not be a suitable guide. The directives should include how climatic, cultural and historical changes have and will influence desired conditions.

*Response:* A technical guide will be available on the Technical Information for Planning Site (TIPS) Web site at <http://www.fs.fed.us/TIPS>. The range of variation under historic disturbance regimes is an important context; however, additional direction on how to develop desired conditions is found in FSH 1909.12, chapter 40.

*Comment:* Desired conditions should have an expanded role as a key plan component.

*Response:* Plan components are discussed in FSH 1909.12, section 11. The Forest Service agrees that desired conditions are a key plan component. Other components such as objectives, guidelines, and suitable uses must be developed consistent with moving toward or maintaining desired conditions.

*Comment:* The Forest Service should have an appropriate focus of desired conditions, whether on ecological, social or economic elements. Desired conditions should focus on vegetation conditions with general statements on the contribution to a range of recreation uses and contributions to economies through commodity production. Desired conditions should include considerable detail on social and economic elements, such as sense of remoteness, cultural heritage, and how ecosystem management will address human-related issues.

*Response:* Desired conditions describe ecological, social, and economic attributes and should be integrated to consider the needs of all relevant resources, ongoing activities, and natural processes (FSH 1909.12, sec. 11.11). The statements of desired conditions will vary considerably from unit to unit based on conditions and public wants. Some statements of desired conditions may focus more on vegetation conditions while others focus on social and economic conditions and contributions. It would be inappropriate for the directives to prescribe an emphasis that would be used on every unit.

#### Realistic Objectives

*Comment:* The Forest Service should develop realistic desired conditions that can be maintained under expected budgets besides developing realistic objectives for the plan period. Desired conditions should be changed to produce more revenue if adequate

funding is not received to maintain desired conditions.

*Response:* The Forest Service agrees that all plan components should be realistic and achievable. They should show the unit's anticipated budget levels, staffing, and capability for the plan period (FSM 1921.11). Through annual and comprehensive evaluations during plan implementation, the Forest Service may identify the need to adjust plan components that appear to be unrealistic. Adjustments in plan components would not always produce more revenue for plan implementation, as annual budgets are largely dependent on Congressional appropriations.

#### Monitoring

*Comment:* The Forest Service should use monitoring as a tool to identify information that may improve land productivity or provide alternative means of meeting desired conditions.

*Response:* The Forest Service believes that the primary purpose of monitoring is to find out whether plan implementation is reaching plan objectives and desired conditions. The Forest Service agrees that monitoring the effects of management activities on the productivity of the land is important. Monitoring may trigger the need to look for alternative means of meeting the desired conditions.

#### Measurable, Quantitative Criteria

*Comment:* To be a legitimate plan, it must include measurable, quantitative criteria for goals and objectives, including desired conditions, and make an affirmative commitment to reaching those results. Desired conditions are the foundation of a plan. A document lacking affirmative commitments to reaching goals, desired conditions, and objectives is not a plan.

*Response:* The Forest Service agrees that desired conditions and objectives should be measurable. If monitoring and plan evaluation identify that desired conditions cannot be reached, the plan should be amended or revised (FSH 1909.12, sec. 11.11). The Forest Service intends to carry out projects and activities to maintain or make progress toward desired conditions and objectives. However, because there is uncertainty, the Forest Service believes plans are aspirational.

#### Role of Responsible Official

*Comment:* The Forest Service should clarify who is the Responsible Official.

*Response:* "Responsible Official" is defined in the definitions section of the planning rule (36 CFR 219.16). The Responsible Official is the official with the authority and responsibility to

oversee the planning process and to approve plans, plan amendments, and plan revisions. The Responsible Official for plan development, revision, and amendment is the forest, grassland, or prairie supervisor (FSM 1921.04(b)).

*Comment:* The Responsible Official should be given more flexibility to respond to scientific advancements and threats from invasive species, disease, or wildfire. Another respondent was concerned that Responsible Officials have too much discretion and that the directives should include safeguards against abuse.

*Response:* The Forest Service believes that the authority and discretion for plan amendment, revision, and development provided by the 2005 planning rule and the directives is appropriate. The planning process is greatly streamlined, specifically with the intent of improving Forest Service capability to adapt to changing conditions and new information.

Although there is greater discretion, the decisions of the Responsible Official are constrained and guided by a large body of law, regulation, and policy, as well as public and agency participation and oversight.

*Comment:* The Forest Service should clarify the discretion of the Responsible Official to set the scope and applicability for project decision amendments so that every time a project was inconsistent with the plan, the Responsible Official would not be able to amend the plan to allow that project to go ahead; making the plan meaningless.

*Response:* The discussion of amendments through project decisions is now set out at FSH 1909.12, section 25.4. The Forest Service has clarified that the Responsible Official may limit the scope and applicability of the plan amendment to apply only to the project or activity area. It is important to understand that these amendments would not exempt the project or activity from plan compliance, but would adjust plan components in response to more site-specific information gained through the project analysis. There is no way to find out in advance how often the option of amending a plan will be used; however, the directives advise that plans should be monitored to identify if there is a need for change over all or part of the plan area.

#### Role of Science in Planning

*Comment:* The Forest Service should require the use of the best available science in forest planning. The role of science must not be diminished to just "one aspect of decisionmaking," an

aspect superseded by "competing use demands," for example.

*Response:* In FSM 1921.81, the Forest Service describes the steps required to ensure that the best available science is taken into account. In FSH 1909.12, section 41.1 direction was added about the scope, timing, and other aspects of a review. Forest Service Handbook 1909.12, section 41.22, table 3, lays out the many steps in developing a plan and suggests appropriate reviews for each step.

#### Wildlife Conservation

*Comment:* Science needs to be a major factor; monitoring and regulations need to be in place to keep a natural balance and conserve our wildlife, endangered species and their important habitats.

*Response:* The Forest Service concurs that science is a major factor in decisionmaking. As written, the directives tie monitoring and science together.

#### Identification of Best Available Science

*Comment:* The evaluation and determination of what science constitutes the best available science should be conducted by people with the appropriate scientific knowledge and background.

*Response:* In response to comments, direction has been added to FSH 1909.12, section 41.23 that describes the qualifications of the reviewers. Forest Service Handbook 1909.12, section 41.1 provides more direction.

#### Consistency in the Use of Science

*Comment:* The Forest Service should be consistent in its use of science. Under the directives, some forests will have plans based on top-notch scientific review, others will not.

*Response:* To ensure consistency and quality, FSM 1921.8 and FSH 1909.12, section 41 provide direction on how to take into account science. FSH 1909.12, section 41 emphasizes that the level of review must be commensurate with the controversy, uncertainty, or risk associated with the planning activity. To always require a type or scale of review means the same review would be done on all planning efforts regardless of the complexity or scope. The Responsible Official needs the flexibility to conduct a review that is appropriate to the issue being reviewed.

#### Definition of Best Available Science

*Comment:* The Forest Service should require the Responsible Official to define the "best available science." How will this be done? Again, the directives contain no direction for the responsible officials.

*Response:* Forest Service Manual (FSM) 1921.85 states, “the Responsible Official shall conduct timely and substantive reviews of the science applied during the planning process.” Best available science cannot be described in a directive, but can be taken into account by using appropriate procedures. A four-step discovery process for best available science, modified in the final directives, is described in FSM 1921.81. When the four-step process is followed and an appropriate review is conducted the best available science should be taken into account and properly influence plan components. Forest Service Handbook 1909.12, section 41.23 requires that reviewers be independent of the plan development and implementation process.

#### Responsible Official Discretion

*Comment:* The Forest Service should limit how cost influences the appropriate science determinations that are left to the Responsible Official.

*Response:* The Forest Service believes that the direction found in FSM 1921.8 and FSH 1909.12, section 41 provides enough direction to Responsible Officials regarding the role of science and properly directs the Responsible Official to consider cost in assessing how to best apply science in the planning effort. The Responsible Official is required to disclose how best available science was taken into account.

#### Scientific Data From Citizen Groups

*Comment:* The Forest Service should consider scientifically sound data provided by citizen groups. Citizen groups frequently contribute scientifically sound data and analysis that counters and balances the often pro-resource harvesting plans promoted by Forest Service employees.

*Response:* The Forest Service agrees that citizen groups need to have meaningful participation in the planning process. The input of citizens can influence the application of science. The methods for gathering and considering citizen input are addressed in the directives under collaboration (FSM 1921.6 and FSH 1909.12, sec. 30).

#### Define “Other Appropriate Means”

*Comment:* The Forest Service should define the phrase “other appropriate means” as used in the Forest Service directives to describe how the Responsible Official documents that science was appropriately interpreted and applied in the planning process.

*Response:* The final directives identify four levels of review and

address when and how to use them in FSH 1909.12, section 41.

#### Use of Systematic Evidence Review

*Comment:* The Forest Service should consider a system of gathering and synthesizing scientific information that is similar to the “Systematic Evidence Review,” a system used by the medical profession to gather information for clinical practice guidelines.

*Response:* The Forest Service believes that the method described in FSM 1921.81 represents the state-of-the-art for science review for natural resource management, (U.S. Department of Agriculture, Forest Service. 2003. Science Consistency Reviews: A Primer for Application. FS-771. Washington, DC: U.S. Department of Agriculture, Forest Service. 9 p. U.S. Department of Agriculture, Forest Service. 2003. The Science Consistency Review: A Tool to Evaluate the Use of Scientific Information in Land Management Decisionmaking. FS-772. Washington, DC: U.S. Department of Agriculture, Forest Service. 32 p.).

#### Public Participation and Collaboration Public Input

*Comment:* The Forest Service should provide more opportunity for public input to the planning process to decrease litigation, make the process more democratic, comply with NFMA, ensure resource protection, ensure an appropriate range of alternatives, and determine the extent of plan revisions.

*Response:* Public participation in land management planning is required under NFMA (16 U.S.C. 1604(d)) and the Forest Service will continue to fulfill its obligations to involve the public in meaningful ways. The NFMA stresses public review of plans and revisions while allowing other participation. The Forest Service believes the agency directives are a better reflection of public and agency interest in an open process that includes collaborative ways of working together rather than methods that are more formal. Not everyone wants to participate or provide input the same way. The Forest Service believes Responsible Officials should have the discretion to design processes that meet participant and agency needs and; as appropriate, go beyond public review and public meetings. The directives (FSH 1909.12, sec. 31.4) provide Responsible Officials with the discretion to select the most current and suitable activities for meeting requirements; yet, they require those officials to involve the public in specific planning activities, including evaluating whether need for changing the plan

exists, setting up the basis for that need, developing plan components, designing the monitoring program, and conducting regular comprehensive evaluations. These expectations go beyond land management planning and into the activities of public land management.

#### Public Scrutiny of Plan Documents

*Comment:* The interim directives left open the possibility that public scrutiny of some plan documents might not occur, specifically referring to public involvement and scrutiny of management review documents and annual monitoring reports.

*Response:* Responsible Officials should make publicly available information developed as part of the planning process (FSM 1921.65). Legal considerations, such as the Privacy Act or the FOIA, can impose limits on certain disclosures affected by those considerations. The section in the interim directives about management review has been removed. The directives, FSH 1909.12, section 31.5, now clarify the expectation that public participation will occur in identifying the need for change. Also, Responsible Officials have the discretion to involve interested and willing members of the public in agency work, including the work of annual monitoring. The Forest Service’s long history of working with the public to do the work of responsible and adaptive public land management will continue.

#### Roles of Line Officers

*Comment:* The interim directives referred to line officers playing a variety of roles (FSM 1921.61 in the ID) during a collaborative process and it was unclear whether this referred just to roles or to some implied detail of the intended public participation process.

*Response:* The past reference has been removed because it did not provide direction to agency officials and was, therefore, confusing to readers.

#### Decision Responsibility

*Comment:* The interim directives were unclear about whether the agency has ultimate responsibility for planning decisions, specifically referring to interim direction about shared leadership as a goal of public participation and collaboration.

*Response:* In NFMA, Congress has charged the Forest Service with the responsibility and authority to manage lands in agency jurisdiction and has made the agency solely accountable for the results of that management. Even so, the agency is committed to exercising its responsibility with the help of willing and interested individuals, groups,



tribes, state and local governments, agencies, and other partners. The Forest Service agrees that the phrase shared leadership was unclear. The goal is to build better plans using principles that increase our ability to put into effect, evaluate, and adapt those plans by working with others who are willing to participate.

#### Responding to Specific Public Comments

*Comment:* Agency responses to public comments should address every comment individually, rather than by grouping similar comments, because salient points are often missed when grouping occurs.

*Response:* Forest Service Handbook 1909.12, section 25.34 addresses agency response to public comments. The Forest Service believes that the directives provide Responsible Officials with appropriate discretion to respond to individual comments when salient points merit such a response while responding to groupings of similar comments when a common salient point is evident. The emphasis is on concise responses to salient points that substantively improve the land management plan components or that differ from or support the Responsible Official's reason for approving the plan.

#### Collaboration Aspirations

*Comment:* The interim direction about collaboration contained vague and poorly defined aspirations that may negatively affect agency aspirations for collaboration, in part by stressing a bureaucratically centered approach to collaboration.

*Response:* The Forest Service agrees that the directives are not the only mechanism by which the agency will realize its goal of collaborative public land management and that aspirations, while needed, are not enough. The directives set up the goal of building better plans using public participation and collaboration activities; clarify the Responsible Official's discretion about timing and methods of those activities; and set up agency policy for public participation in land management planning. The principles the agency will follow when meeting this goal include building and maintaining working relationships, trust, and collaborative capacity; encouraging a shared understanding of values, concerns, roles, and the responsibilities of all participants; and other principles found in FSH 1909.12, section 31.2. The Forest Service believes that this goal and these principles are an important part of realizing the agency's goal of collaborative public land management.

#### Define Collaborative Process

*Comment:* A clearly defined collaborative process is needed to ensure uniformity, consistency, and enforceable standards. Some respondents commented that Forest Supervisors could go ahead unilaterally and not involve the public at key points. Others commented that a measure of effectiveness is needed and that consultation with social scientists should occur when developing that measure. Lastly, a respondent commented that the term "vision" and the phrase "strategy development" need definition for public participation and collaboration.

*Response:* The Forest Service believes that the goal of collaborative public land management is best served by defining principles of public participation and collaboration; defining the plan components and planning activities that public participation and collaboration must address; and providing Responsible Officials with the discretion to tailor timing and methods to meet those mandates. The Forest Service believes that a uniform and consistent process is inappropriate for collaborative public land management because such a process is autocratic and therefore, is not collaborative. Such a process would not allow participants to help tailor the process to meet their needs and agency mandates. Yet, the directives establish that Responsible Officials, most often Forest Supervisors, must involve the public in specific planning activities; including, identifying whether any need to change the plan exists, developing plan components, designing of the plan monitoring program, and updating of comprehensive evaluations. At times, a series of public meetings may be appropriate. At other times, other methods will be appropriate. Evidence of responsiveness to the established principles should show the effectiveness of the timing and methods chosen by the Responsible Official. The Forest Service agrees that the term "vision" and the phrase "strategy development" were unclear and has removed those terms from the FSH 1909.12, chapter 30 regarding public participation and collaboration.

#### Keeping Interested Participants Involved

*Comment:* The directives on public participation and collaboration need clearer direction about how to keep interested participants involved and not disenfranchised.

*Response:* The Forest Service agrees that keeping interested participants

engaged in the planning process is crucial to a successful plan. The Forest Service believes the principles established in FSH 1909.12, chapter 30, reaffirm keeping interested participants involved by building, earning, and maintaining the working relationships, trust, and collaborative capacity. The agency will work with partners to disseminate existing techniques for accomplishing this goal and will develop more materials as needed.

#### Separate Topics

*Comment:* Separation of the topics of public participation and collaboration is needed because public participation is mandated by law or regulation, while collaboration is not, and collaboration is a subset of public participation.

*Response:* The Forest Service must use a collaborative and participatory planning process to comply with NFMA and its implementing regulations in 36 CFR part 219. The Forest Service believes that collaborative activities are an important form of public participation during planning efforts and believes that collaborative activities extend beyond planning efforts. By treating these topics together, the Forest Service believes that better plans will result.

#### Consider Landowner Desires

*Comment:* The Forest Service should require Responsible Officials to consider landowner desires when setting up plan components because discretionary guidance is inconsistent with other references to collaboration.

*Response:* In agency direction, the verb "should" requires compliance except for justifiable reasons (FSM 1110). The Forest Service regulations require Responsible Officials to involve the public in developing plan components (36 CFR 219.9). The directives require Responsible Officials to strive to identify and notify potentially interested individuals, including landowners, and provide opportunities to engage in setting up plan components (FSM 1921.62). The directives also require Responsible Officials to involve the public in setting up plan components (FSH 1909.12, sec. 31.5). The Forest Service believes this direction requires consideration of landowner desires as part of the participatory and collaborative process of identifying desired social, ecological, and economic conditions.

#### Notification

*Comment:* The Forest Service should publish all plan amendments in the **Federal Register**.

*Response:* Public notification procedures for plan amendments are specified in the 2005 planning rule, 36 CFR 219.9(b)(2), and are not modified by the planning directives.

#### National Environmental Policy Act (NEPA)

##### Environmental Impact Statement (EIS)

*Comment:* The Forest Service should continue to do EISs including developing alternatives for planning.

*Response:* The Forest Service has 25 years of experience developing, amending, and revising plans under the requirements of NEPA. Based on that experience, and the recognition by the Supreme Court in *Ohio Forestry Ass'n v. Sierra Club* and *Norton v. Southern Utah Wilderness Alliance* about plans themselves, the Forest Service believes that land management plans, plan revisions, or plan amendments developed under the 2005 planning rule, and that do not approve projects or activities, do not individually or cumulatively result in significant effects on the human environment. For these reasons, the Forest Service believes that continuing the practice of developing EISs for plans is not needed.

##### Public Participation

*Comment:* Public participation opportunities should be provided consistent with the requirements of NEPA.

*Response:* The intent of the 2005 planning rule and the Forest Service directives is that public participation in the planning process be open and meaningful. The Forest Service believes that calling for frequent and collaborative public involvement in the planning process (FSM 1921.61, FSH 1909.12, sec. 30) will allow the views and values of the public to be better shown in plans than has historically occurred following the public involvement procedures specified by NEPA.

##### Cumulative Effects

*Comment:* Planning should give citizens information about the cumulative effects of various forest uses.

*Response:* The comprehensive evaluation report (CER) (FSM 1921.2, FSH 1090.12, sec. 24.2), while not considered a cumulative effects analysis, is intended to provide context for understanding the effects of various forest uses and activities. Because the CER is to be updated at least every 5 years its value in providing this context should be retained. Cumulative effects will be reviewed and disclosed during NEPA compliance at the project level.

##### Options Proposed by the Public

*Comment:* Forest Supervisors should be required to consider plan options that conservationists and others propose.

*Response:* Plan components, including options for plan components, are required to be developed with public input and input from other agencies (FSH 1909.12, sec. 25.32b).

##### Categorical Exclusion (CE)

*Comment:* The Forest Service should not categorically exclude (CE) plans from NEPA requirements or allow the exclusion of public participation in the planning process.

*Response:* Under the Council on Environmental Quality procedures for carrying out NEPA, categorical exclusion of a proposed action from documentation in an environmental impact statement (EIS) or environmental assessment (EA) is one way of complying with NEPA requirements (40 CFR 1500.4(p), 1501.4(a), 1508.4). The Council on Environmental Quality regulations specifically authorize Federal agencies (40 CFR 1507.3(b)) to identify classes of actions that normally do not call for either an EIS or an EA. The Forest Service believes that adoption of a plan falls into this class of actions because it does not result in specific on-the-ground action; and therefore, does not result in effects that can be analyzed (40 CFR 1508.23). The 2005 planning rule and Forest Service directives make open and meaningful public participation a central land management planning responsibility of the Responsible Official (FSH 1909.12, sec. 30). The Forest Service requested public comment on the proposal planning CE by notice in the **Federal Register** on January 5, 2005. The comment period closed on March 7, 2005.

##### Scientific Input

*Comment:* Amending and revising plans using CEs would unfairly and unwisely restrict scientists from providing important feedback to the government about natural resources.

*Response:* The public involvement processes under the 2005 planning rule and Forest Service directives are intended to involve all interested members of the public, along with other agencies, states and tribes.

##### Project Analysis

*Comment:* The Forest Service should clarify whether either an EIS or EA will be needed for each project.

*Response:* Any proposed action carrying out a plan developed under the 2005 planning rule (70 CFR part 1039)

will be subject to Forest Service NEPA procedures at the time of the project decision, except in those rare instances when a project decision is made in a plan and that decision is supported by an EIS or EA assessment. Determination of the type of NEPA analysis and documentation will be made using Forest Service procedures found in FSM 1950 and FSH 1909.15 based on the characteristics of the individual actions proposed.

##### NEPA Compliance for Directives

*Comment:* The Forest Service should develop permanent planning directives through a process that complies with NEPA.

*Response:* The Forest Service directives have been developed in compliance with NEPA procedures. Forest Service NEPA procedures (FSH 1909.15, sec. 31.12, category 2), which were developed in consultation with the Council on Environmental Quality pursuant to Title 40, Code of Federal Regulations, Part 1507.3—Protection of the Environment, Council on Environmental Quality, Agency procedures, allow Service-wide policies to be categorically excluded from documentation in an EIS or EA. Developing Forest Service directives fits that category.

##### NEPA Handbook

*Comment:* The Forest Service should delete all references to NEPA in favor of directing planners to the NEPA handbook for the specifics of NEPA compliance.

*Response:* This change has been made in the final directives.

##### Adaptive Management Process

*Comment:* The Forest Service should clarify the stages at which the adaptive management process undergoes NEPA compliance.

*Response:* NEPA analysis occurs at the project level.

##### NEPA Application

*Comment:* The Forest Service should clarify whether FSM 1922 applies NEPA at the Forest planning level or the local project level for land management planning using planning regulations before November 9, 2000.

*Response:* Forest Service Manual 1926.04b clarifies that planning under the regulations in effect before November 9, 2000, calls for compliance with NEPA procedures found in FSH 1909.15. Forest Service Handbook 1909.15 identifies the NEPA requirements for project decisions.

## Project EISs

*Comment:* The Forest Service should call for EISs for individual projects and not for land management plans.

*Response:* The intent of the 2005 planning rule and Forest Service directives is to use EISs for plans only when the plan decision includes projects otherwise needing an EIS. Individual projects will include NEPA documentation consistent with the requirements of FSH 1909.15. The documentation (EIS, EA, or CE) will depend on the specific proposal.

## NEPA Compliance and Public Participation

*Comment:* The NFMA requires the Forest Service to meet NEPA requirements for public participation and that those requirements include an iterative process of developing alternatives, soliciting and responding to public comments, and consideration of proposals from non-agency sources.

*Response:* NFMA directs the Forest Service to specify procedures to ensure that the agency prepares land management plans in accordance with NEPA (16 U.S.C. 1604(g)(1)). NEPA directs the Forest Service and other Federal agencies to make environmental information available to the public before decisions occur and to encourage public involvement in decisions that affect the quality of the human environment. The directives set up procedures that ensure the agency prepares plans in accordance with NEPA, make information available to the public before decisions occur, and encourage public involvement in decisions and in implementing those decisions. The directives also maintain agency responsibility to consider and respond to public comments and to provide environmental information before decisions occur. And the directives set up the expectation that the planning process and the plans will be adaptive and, therefore, iterative so that the agency and the public work to develop plan components in a way that seeks continual improvement.

## Objections

### Objection Process

*Comment:* The Forest Service should ensure that objections made by the public are reviewed and that the reviewing officer responds point-by-point and accepts e-mailed objections.

*Response:* Requirements of the objection process have been moved from FSM 1926 to the FSH 1909.12, chapter 50. Although not requiring a "point-by-point" response, FSH 1909.12, section 51.31 calls for the Reviewing Official to

"provide a response on any remaining issues, including the basis of the response \* \* \*" This requirement ensures that objection issues are addressed by the Reviewing Official but does not require that the response be exhaustive to make prompt resolution of objections easier based on the requirements of the final rule. The final directives require acceptance of e-mailed objections (FSH 1909.12, sec. 51.13e).

### Standing To Object

*Comment:* The Forest Service should make participation in the objection process open only to those parties that have provided prior written comment and limit the issues to those raised during the comment period.

*Response:* The objection process is established in Title 36, Code of Federal Regulations, part 219.13—and detailed in FSH 1909.12, chapter 50. Eligibility to file objections is based upon having participated in the planning process through submission of at least one written comment as an individual. A group may submit comments, but that does not establish eligibility for all members of that group. The final directives do not limit objection issues to those already submitted during prior comment opportunities. A proposed plan, amendment, or revision released for the objection period might provoke new responses from interested parties that have participated throughout the planning process. Limiting objection issues to past issues unnecessarily constrains opportunities for new ideas or fresh perspectives to be raised through objection that might improve the final plan.

### Administrative Appeal

*Comment:* The Forest Service should provide provisions for administrative appeal or judicial review of objections in the Forest Service directives because any person, regardless of whether they submitted comments, has standing to file an objection or judicial review.

*Response:* The objection process under the planning rule and directives replaces an administrative appeals process previously set out at 36 CFR part 217. The directives do not address the availability of judicial review, which will be governed by generally applicable legal principles.

## NEPA

*Comment:* The Forest Service should ensure that the objection process in the Forest Service directives is compliant with NEPA that actively and aggressively calls for public

involvement, usually on a national scale.

*Response:* The new planning rule and directives provide extensive opportunity for public participation that exceeds requirement for public participation under NEPA. See the Preamble to the 2005 planning rule (70 FR 1034, Jan. 5, 2005) for more extensive discussion of the relation between the 2005 planning rule and NEPA.

### Extensions

*Comment:* The Forest Service should allow extensions to the objection time period because a 30-day objection period is too short.

*Response:* The final directives retain the requirement of a 30-day objection period with no time extension. The final rule is clear in its intent to promote prompt resolution of objections through specific time frame requirements while fostering collaboration to resolve objection issues. Collaboration throughout the planning process is expected to keep the public participants in the process informed so that when a proposed plan, amendment, or revision is released for the objection period, 30 days would be enough to review and submit a timely objection.

### Time Limit for Reviewing Officer

*Comment:* The Forest Service should provide a time limit for the Reviewing Officer to respond to an objection.

*Response:* No time limit is required in the final directives for the Reviewing Officer except to "promptly render a written response to the objection" (36 CFR 219.13(c)). Unlike the administrative appeals process, in which revised plans could go into effect after the record of decision was signed, but before plan appeals were decided, the Reviewing Officer and Responsible Official have an incentive to resolve objections promptly because the plan, amendment, or revision cannot be approved until objections are resolved.

### Collaborative Process

*Comment:* The Forest Service should keep the objection process separate from the collaborative process.

*Response:* The final rule and directives require that parties to the objection must have submitted written comments before the objection period (36 CFR 219.13(a)). A collaborative effort to resolve objection issues is encouraged.

### Mandatory Conflict Resolution

*Comment:* The Forest Service should make collaboration mandatory for resolving conflicts during the objection

process and clarify how it will be carried out.

*Response:* The objection process is mandatory before approval of all proposed plans, amendments, and revisions (36 CFR 219.13(a)). Collaboration may be used to resolve objection issues through an effort between the Reviewing Officer, the Responsible Official, and the objector(s). The means of resolving objections is left to the Reviewing Officer to decide (FSH 1909.12, sec. 50.47)).

### Social, Ecological, and Economic Sustainability

#### General Concerns

##### Sustainability

*Comment:* The Forest Service should focus on conservation and restoration of ecosystem diversity and provide standards in the directives so that the Responsible Official will include meaningful provisions for sustainability in the plan.

*Response:* Explanation of the goal of ecological sustainability is provided in FSM 1921.73. Although that section does not provide strict standards for ecological sustainability, it does provide the Responsible Official enough direction to establish a framework that will make appropriate contributions to ecological sustainability. Specific provisions in the plan will be found during plan development with public involvement.

##### Sustainability

*Comment:* The Forest Service should add a section to the Forest Service directives that explains how to blend the three parts of sustainability together rather than focusing solely on the ecological aspects of sustainability.

*Response:* Plans must combine the parts of sustainability because social and economic conditions affect, and are affected by, ecological conditions, and also ecological conditions affect, and are affected by, social and economic conditions. Plans are also required to set up plan components, especially desired conditions, in response to connections among the Forest and social, economic, and ecological systems. Integrating these three facets of the environment is a new and challenging task for Forest Service land management planning. The manner of integration is, in the first instance, left to the discretion of the Responsible Officer. Placing more specific direction in the Forest Service directives is inappropriate at this time. Specific recommendations about how to carry out integration employing best available science will be found on the TIPS (Technical Information for Planning Site

at <http://www.fs.fed.us/TIPS>) as forests gain knowledge and experience about how to do the integration.

##### Sustainability

*Comment:* The Forest Service should base its assessment of sustainability on properly functioning, ecological conditions and not social or economic conditions.

*Response:* The Forest Service believes sustainability results from the interaction of social, economic, and ecological conditions. The assessment of ecological sustainability is based on the range of variation wherever adequate information is available. This approach is widely recognized in scientific literature. Proper functioning condition (PFC) is an assessment tool that was developed for riparian systems. Although PFC has seen some application to broader forest communities, there is stronger scientific support for use of the range of variation.

##### Evaluating the Elements of Sustainability

*Comment:* Productivity is conspicuously missing from the evaluation criteria.

*Response:* Forest Service Handbook 1909.12, section 43.26 refers to the provision of "ecological conditions" for species. In the 2005 planning rule, "ecological conditions" are defined as "components of the biological and physical environment that can affect diversity of plant and animal communities and the *productive capacity* of ecological systems" (emphasis added). Also, one of the characteristics of ecosystem diversity listed in FSH 1909.12, section 43.12 is basic soil productivity.

##### Properly Functioning Ecological Condition

*Comment:* All forest units should be maintained in a properly functioning ecological condition to provide a gauge when uses being applied to the unit are not sustainable. This should be assessed by comparing exploited forest units to "control" units.

*Response:* Using the range of variability as context for sustainability has considerable scientific support. "Control" units are introduced in FSH 1909.12, section 43.13 using the term "reference areas".

##### Sustainability Monitoring

*Comment:* Chapter 40 provides guidance for socioeconomic monitoring, but no guidance for ecological sustainability monitoring. The Forest Service should consider providing more specific guidance for ecological

sustainability monitoring into its handbook.

*Response:* Guidance for monitoring of sustainability is provided in FSH 1909.12, section 12.

##### Ecosystem Diversity Characteristics

*Comment:* The Forest Service should revise its list of ecosystem diversity characteristics in chapter 40 of its handbook because the current list is too prescriptive.

*Response:* The characteristics displayed in FSH 1909.12, section 43.12, exhibit 01 are clearly labeled as examples and not characteristics for which analysis is required. Therefore, the list isn't prescriptive and will serve as an aid to help find those characteristics that are appropriate for a given local situation.

##### Risk Assessment

*Comment:* Expand chapter 40 to include the risk assessment process to determine the long-term impacts of untreated forest fuel conditions on social, economic, and ecological sustainability.

*Response:* Forest Service Handbook 1909.12, section 43.14a provides guidance for use of a risk assessment process for all characteristics of ecosystem diversity including those that would be impacted by forest fuels.

##### Diversity of Plant and Animal Communities

*Comment:* Directives should ensure that national forests provide a diversity of plant and animal communities by making the ecological sustainability provisions mandatory.

*Response:* Forest Service Handbook 1909.12, section 43.1 directs that the assessment of ecosystem diversity "inform \* \* \* the development of plan components through the establishment of desired conditions, objectives, guidelines, and suitability determinations." The Responsible Official has to show that the plan developed in accordance with these objectives satisfies the NFMA requirement to provide for a diversity of plant and animal communities.

##### Trend Analysis

*Comment:* The Forest Service should require forest planners to conduct trend analyses that evaluate the social, economic, and ecological impacts from the lack of actions on forest vegetation, the risk of catastrophic wildfires, soil movement, and the impact of these and related ecological factors on the local communities.

*Response:* While the directives do not explicitly direct examination of trends

from lack of action, direction added in several places suggests this examination. In FSH 1909.12, section 43.1 the Responsible Official is directed to compare natural variation of ecosystem characteristics to projected future conditions. Forest Service Handbook 1909.12, section 43.14 calls for the development information about current conditions of the selected ecosystem diversity characteristics, and projecting future trends of those characteristics under existing plan guidance. These projected future conditions cannot be interpreted to be limited to lands getting management activities. For social and economic trends, FSH 1909.12, section 42.21 directs the Responsible Official to evaluate changing conditions that may affect relevant economic indicators and social systems. Changing conditions are subject to this evaluation, whether the result of activity or lack of activity.

*Comment:* The Forest Service should acknowledge that the Service directives give Responsible Officials conflicting guidance about trend analysis. The directives say that trend analysis is at the discretion of the Responsible Official but then gives duties.

*Response:* The directives have been changed in several places to clarify the requirements for trend analysis (FSH 1909.12, sec. 24.23). Forest Service Handbook 1909.12, section 43.1 and FSH 1909.12, section 43.14 direct the Responsible Official to look at trends in ecological conditions. Forest Service Handbook 1909.12, section 42.21 gives guidance on evaluating trends that effect social and economic sustainability. The details of methods of evaluation are left to the Responsible Official's discretion.

#### Range of Variation

*Comment:* The Forest Service should caution against using range of variation to justify management toward typical system equilibrium; disclimaxes, disturbance states, or a prevalence of early successional stages to increase short-term yield.

*Response:* The directives are clear that the intent of evaluating ecosystem diversity is to "determine possible risks to the sustainability of ecosystem diversity over time, determine the potential contribution of National Forest System (NFS) lands to ecosystem diversity of the larger landscape, and determine needed change" (FSM 1921.73a). The directives also caution that "there may be ecological, social, or economic reasons for identifying desired conditions that are outside the range of variation and the range of desired conditions may be narrower than the range of variation" (FSH

1909.12, sec. 43.13). The directives stipulate that "The range of variation for an ecosystem characteristic is most comprehensively described by a frequency distribution for conditions experienced by that characteristic over time, including the areal extent of those conditions" (FSH 1909.12, sec. 43.13). The directives note that "In general, the likelihood of negative outcomes is greater for those ecosystem characteristics whose condition show greater departure from the range of variation" (FSH 1909.12, sec. 43.14a) and finally stipulate that the Responsible Official should "describe the ecological reason for the plan components based on evaluating ecosystem diversity" (FSH 1909.12, sec. 43.14a).

In summary, the directives provide guidance to the Responsible Official to: (1) Consider the range of variation on NFS lands in the larger landscape; (2) consider the full range of variation and the frequency with which various conditions occurred; (3) consider all facets of ecological, economic, and social sustainability, and not just range of variation, when setting up desired conditions; (4) estimate risk resulting from departure from range of variation; and (5) show the ecological reason for plan components. Use of range of variation information to simply justify maximum timber yields would not be consistent with this direction.

#### Economic Considerations

##### Fire Condition Class

*Comment:* The Forest Service should note fire condition class information in assessing current conditions as called for in section 43.14 of its handbook. Forest planners should evaluate the social, economic, and ecological implications of current forest fuel conditions because they create future risks to air quality and the quality and quantity of forage and water.

*Response:* Forest fuel condition is one of many forest conditions that planners may evaluate for their contribution to or potential risk to sustainability. Fire Regime Condition Class information was added to exhibit 01 of FSH 1909.12, section 43.12. On forests where risks from fuel conditions are significant, they will be addressed in the planning process.

##### Historic Range of Variation

*Comment:* The Forest Service should drop the references to, and analysis of, historic range of variation in the guidance documents and create a process that truly balances social, economic, and ecological sustainability

goals because using historic range of variation as a benchmark or guideline will preclude balancing environmental goals with social and economic goals.

*Response:* Using the range of variability as a context for setting up plan components is not inconsistent with reaching an appropriate balance of social, economic, and ecological sustainability. The directives are careful to stipulate that range of variability should be used as a context for evaluating current and desired conditions, but do not always become desired conditions themselves. The directives further acknowledge that there may be ecological, social, and economic reasons for setting up desired conditions that are outside the range of variability and that it may be impossible in many cases to recreate the range of variability.

#### Social and Economic Elements

*Comment:* The ecological section is very prescriptive in the type and source of information planners can use while the social and economic elements are much more generic directing the planners to use "best available information."

*Response:* The difference in detail between the social and economic sustainability section and the ecological sustainability section can be traced to a difference in wording employed by the final rule. While it is the goal of the plan to contribute to the sustainability of social and economic systems in a general sense, the plan must provide a framework to contribute to sustaining native ecological systems by providing ecological conditions to support diversity of native plant and animal species in the plan area (70 FR 1059, Jan. 5, 2005). This creates a greater responsibility for addressing ecological sustainability in the land management planning process and requires more detailed guidance in the directives.

#### Social and Economic Sustainability

*Comment:* The Forest Service should acknowledge that it is not the purpose of the NFS or Federal lands to guarantee economic and social sustainability or economic gain to businesses and local economies.

*Response:* Plans are not required to guarantee social and economic sustainability, but rather are required to contribute to social and economic systems. There is clear recognition in the rule and directives that social and economic sustainability cannot stand on its own and is inextricably linked to ecologic sustainability. The Multiple-Use Sustained Yield Act (MUSYA) authorizes and directs the Secretary to

develop and administer the resources for multiple-use and the sustained yield of the several products and services that are obtained from management of the surface resources. The Forest Service views sustainability under the proposed and final rule as a single objective with interrelated and interdependent social, economic, and ecological elements. This concept of sustainability is linked closely to MUSYA in that economic and social elements are treated as interrelated and interdependent with ecological elements of sustainability.

#### Budgets

*Comment:* The Forest Service should remove the many references throughout the Forest Service directives that constrain the planning process based on anticipated budgets because plans should be aspirational and unconstrained by financial considerations when addressing desired future conditions.

*Response:* Forest Service Handbook 1909.12, section 11 states that plan objectives should be based on budgets and other assumptions that are realistic expectations for the next 15 years. The same section also states that the Responsible Official is responsible for adapting the plan to respond to changing situations and for developing budgets and projects that implement the plan's components. The Forest Service believes these guidelines represent a reasonable and prudent approach when developing a plan that can be implemented. The comprehensive evaluations, required every 5 years, will allow for reconsidering the effects of budget constraints on plan implementation. Contributions to the sustainability of social, economic, and ecological systems are limited by agency authorities, budget, and the capability of the plan area (36 CFR 219.10).

#### Ecosystem Health

*Comment:* The Forest Service should not give economic considerations the same weight as ecosystem health because sustained productivity requires a functioning ecosystem.

*Response:* The final rule and directives recognize that economic, social, and ecological sustainability are interrelated and that a plan must integrate the elements of sustainability. Any relative weighting is done during the collaborative process of developing desired conditions.

#### Forest Level Assessment

*Comment:* The Forest Service should consider creating a national forest level assessment of the agency's capability to annually and cumulatively meet the

goals of each plan as part of the budget preparation and review process.

*Response:* During the collaborative process, it is anticipated that this type of information will be shared and weighed by all interested parties, though no specific direction for this is offered in the directives. The final rule states that contributions to the sustainability of social, economic, and ecological systems are limited by agency authorities, budget, and the capability of the plan area (36 CFR 219.10).

#### Disclose Financial Expenditures

*Comment:* The Forest Service should disclose all financial expenditures to the general public.

*Response:* This information is available in the annual "Forest Service Performance and Accountability Report" which can be viewed at <http://www.fs.fed.us.gov/publications>.

#### Cumulative Economic Impacts

*Comment:* The Forest Service should include the cumulative economic impacts in every forest planning document, including a three-year cumulative impact study.

*Response:* In the past, job and income effects have not often been expressed in terms of cumulative impacts over time. Increased public participation and collaboration should produce plans that provide interested parties with more of the information they require. Cumulative effects analysis will be done during project level NEPA analysis, as appropriate. These issues are also addressed during the development of the Allotment Management Plan for each range allotment on NFS units.

#### Role of Timber

*Comment:* The Forest Service should acknowledge in the Forest Service directives the potential role of timber in contributing to economic and social sustainability.

*Response:* Forest Service Handbook 1909.12, chapter 60 requires the Responsible Official to take into account all elements of sustainability (social, economic, and ecological) and follow the public participation process for plan development, plan amendment, or plan revision to involve the public in this analysis of timber harvesting. During this part of the planning process, the contribution of timber harvest and production will be considered when appropriate (FSH 1909.12, ch. 60).

#### Contributing to Sustainability

*Comment:* The Forest Service should expand the Forest Service directives to include a section on how to contribute to social and economic sustainability

similar to the instruction on contributing to ecological sustainability.

*Response:* In FSH 1909.12, section 42.21, "Evaluation Guidelines" states for economic systems, consider opportunities to, such as employment, income, capital, housing, and fiscal health for important economic units. These economic units may include the contribution of payments to states and local governments.

#### Business Management Evaluation

*Comment:* The Forest Service should require a business management evaluation as part of the sustainability evaluation, which carefully reviews costs and revenues and how these factors can be changed and improved. Forest planners should identify all the revenues generated from a national forest, the source of those revenues, and how those revenues are expected to change over time as part of the economic review.

*Response:* Discretion is left to the Responsible Official to decide how detailed the evaluation needs to be. The rigor of analysis used in assessing social, economic, and ecological systems should be proportional to the level of risk to those systems and to the degree to which past, present, and projected conditions in the plan area contribute to that risk. A business analysis could be an important part of this assessment if deemed appropriate by the Responsible Official.

#### Cost Increase

*Comment:* The Forest Service should acknowledge that under the new planning system the costs will increase perhaps 80–90 percent because of the contraction of forest planning and the increased responsibility for project planning.

*Response:* Before the 2005 planning rule was released, the Forest Service did a benefit/cost analysis that showed that the cost of the new rule is expected to be similar to that of the 1982 planning rule. Experience with applying the 2005 planning rule will give more information on relative costs.

#### Economic and Social Costs

*Comment:* The Forest Service should acknowledge that the economic and social costs of forest planning are borne by the people at the state and local level.

*Response:* The 2005 planning rule addresses this problem by requiring that social and economic sustainability are taken into account as well as basing the planning process on collaboration. Further direction is provided in the Forest Service directives (FSH 1919.12,

sec. 42). Local constituencies will have an important opportunity to have their voices and concerns heard throughout the planning process.

#### Economic Impact of Timber Sales

*Comment:* The Forest Service should consider the economic impact that timber sales have on the state of Michigan's economic well-being.

*Response:* This is exactly the type of local concern that is addressed through collaboration. As part of planning process, the Responsible Official is required to involve the public in developing and updating the comprehensive evaluation report, establishing the components of the plan, and designing the monitoring program. For example, collaboration is used to describe distinctive roles and contributions that the planning unit has to the ecological system and the human community.

#### Domestic Livestock

*Comment:* The Forest Service should be required to produce accurate data on domestic livestock management to document the need for change. There should be a built-in allowance for the increase in animal units when monitoring to show that range.

*Response:* The monitoring strategy for a plan is developed collaboratively: "As part of planning process, the Responsible Official shall involve the public in developing and updating the comprehensive evaluation report, establishing the components of the plan, and designing the monitoring program" (36 CFR 219.9(a)). Therefore, if the Forest Service proposes a project to develop an inventoried roadless area, the environmental analysis must look at whether to develop the area or not, not just alternative ways of developing the area.

#### Species Protection

##### Species

*Comment:* The Forest Service should admit that there is a drastic decline in the strength of regulations for species protection, including the removal of the viability requirement. There should be more protection for rare species, regionally sensitive species, species-of-concern in State Comprehensive Wildlife Strategies, and species listed as threatened and endangered by states. Restrictive criteria for identifying species-of-concern and relying on ecosystem provisions to provide for species and species diversity should be removed. Requirements for enhancement of fish populations, increasing protection provisions, increasing the number of species

identified for protection, monitoring populations, and broadening current species protection provisions to prevent decline of species making them eligible for endangered species listing should be included in the directives.

*Response:* The 2005 planning rule and directives are explicitly designed to provide for ecological sustainability through the combination of ecosystem diversity and species diversity approaches. The new rule addresses a much broader range of species than the 1982 planning rule; plant species, invertebrates and lichens are included besides vertebrates. Species-of-concern will be identified based on NatureServe rankings, but identifying species-of-interest will consider many sources including those listed by states as threatened or endangered and those identified in state comprehensive plans as species of conservation concern. The primary purpose for identifying species-of-concern is to put in place provisions that will contribute to keeping those species from being listed as threatened or endangered. The combined criteria for species-of-concern and species-of-interest should lead to identification of all species for which there are legitimate conservation concerns. Particularly, criterion five for species-of-interest (FSH 1909.12, sec. 43.22c), which directs identifying "additional species that valid, existing information indicates are of regional or local conservation concern due to factors that may include significant threats to populations or habitat, declining trends in populations or habitat, rarity, or restricted ranges." Species for which there are no conservation concerns should be adequately conserved through the ecosystem diversity approach.

The directives are not as prescriptive as the viability requirement was, but under the 2005 planning rule and directives, the enhancement of conditions for fish and wildlife populations is the expected outcome of new plans.

##### Populations

*Comment:* The Forest Service should collect data about species populations and trend data for at least some species-of-concern, species-of-interest and other species because implementing plan components for species diversity described in FSH 1909.12, section 43.25, will need information about the populations, trends, and distributions of certain species. These species should be monitored over the life of the plan or until they are no longer of concern or interest to assess whether plan components conserve species.

*Response:* The 2005 planning rule and directives do not anticipate gathering population data for developing a plan. Nor do they specify the types of data that will be needed for implementation of plans or contain prescriptive requirements for monitoring on any resource. It is possible that more data on populations of some species may be needed during plan implementation. The types and amount of data needed will be determined by the Responsible Official taking into account best available science.

The rule and directives require that monitoring questions be articulated revolving primarily around desired conditions and the degree to which they are being achieved. Priority will be given to monitoring questions that address desired conditions for which there is "a high degree of uncertainty associated with management assumptions" (FSH 1909.12, sec. 12.1). Species populations may be identified for monitoring through this process.

##### Species Diversity

*Comment:* The Forest Service should clarify the intent of the Forest Service directives' species diversity sections to show the direction provided in the regulations and focus on biological diversity at the landscape and ecosystem level. There are several sections in the handbook and manual that suggests that the past approach of providing for individual species remains.

*Response:* The 2005 planning rule sets up the requirement that Responsible Officials provide for diversity of plant and animal communities using an approach that addresses ecosystem diversity and species diversity (36 CFR 219.10). The rule stipulates that the species diversity approach is to be used when the components set up through ecosystem diversity need to be supplemented to provide appropriate ecological conditions for listed species, species-of-concern, and species-of-interest. The provisions in the directives are a direct reflection of this approach to providing for diversity of plant and animal communities.

##### Diversity of Plant and Animal Communities

*Comment:* The Forest Service should make its handbook consistent with the law by aligning provisions to focus on diversity of plant and animal communities rather than species diversity.

*Response:* Forest Service Handbook 1909.12, section 61 has been re-drafted to address vegetation management requirements at the project level. The



role of land management planning and sustainability is addressed in FSH 1909.12, chapter 40. The planning rule lists two criteria for sustaining ecological systems; ecosystem diversity and species diversity. These criteria are consistent with the requirements of NFMA.

#### Sustainability

*Comment:* The Forest Service should include various discussions in section 61.7 of the Forest Service directives to provide a sustainable and functioning ecological condition.

*Response:* Forest Service Handbook 1909.12, section 61 has been revised to address vegetation management requirements at the project level. The role of land management planning and sustainability is addressed in FSH 1909.12, chapter 40.

#### Species Viability

*Comment:* The Forest Service should not repeal the NFMA's species viability requirement because the viability requirement provides a way to accurately assess species population numbers and will prevent species from being listed as endangered species. One respondent thought it was unclear whether the viable population standard, as it exists now, would be included in the desired conditions component using the new rule.

*Response:* The viability standard will no longer be used. But, the directives require that national forests and grasslands continue to: (1) Identify listed species, species-of-concern, and species-of-interest; (2) collect available data and information for the species including population data; (3) develop management direction for the species; and (4) assess the effects of management direction. Elimination of the viability requirement was a decision made with publication of the 2005 planning rule. The directives reflect that decision. The following points were made about the viability provision when the rule was published:

"The species viability requirement was not adopted for several reasons. First, the Forest Service's experience under the 1982 planning rule has been that ensuring species viability is not always possible. For example, viability of some species on NFS lands may not be achievable because of species specific distribution patterns (such as a species on the extreme and fluctuating edge of its natural range), or when the reasons for species decline are caused by factors outside the control of the agency (such as habitat change in South America causing decline of some Neotropical birds), or when the land lacks the capability to support species (such as a drought affecting fish habitat). Second, the number of recognized species present on the

units of the NFS is very large. It is clearly impractical to analyze all species and past attempts to analyze the full suite of species by way of groups, surrogates, and representatives have had mixed success in practice. Third, focus on the viability requirement has often diverted attention and resources away from an ecosystem approach to land management that, in the Department's view, is the most efficient and effective way to manage for the broadest range of species with the few resources available for the task."

#### Populations

*Comment:* The Forest Service should include enforceable requirements in the Forest Service directives to analyze and monitor wildlife populations and health of species with determinations on trends. Nowhere in the directives, is there a requirement to monitor populations of species.

*Response:* The 2005 planning rule and resulting directives do not contain prescriptive requirements for monitoring of any resource. Rather they require that monitoring questions be addressed in the context of desired conditions and the degree to which they are being achieved. Priority will be given to monitoring questions that address desired conditions for which there is "a high degree of uncertainty associated with management assumptions" (FSH 1909.12, sec. 12.1). Species populations may be identified for monitoring through this process.

#### Management Indicator Species (MIS)

*Comment:* The Forest Service should continue to use MIS as a tool for evaluating the effects of land management activities because analysis of habitat and individual species data are needed to maintain species diversity.

*Response:* The concept of MIS was not included in the 2005 planning rule, except for transition provisions at 36 CFR 219.14, because recent scientific evidence identified flaws in the MIS concept. The concept of MIS was that population trends for certain species that were monitored could represent trends for other species. Through time, this was found not to be the case.

#### Genetic Diversity

*Comment:* The Forest Service should conserve genetic diversity at the population level with decisions being made at the individual national forest level.

*Response:* It is the intent that decisions about species conservation under NFMA will be made on individual national forests and will address genetic diversity when needed.

#### Habitat Viability

*Comment:* The Forest Service should not adopt habitat viability as its framework to protect biodiversity under NFMA because determining the population viability of individual species calls for data on the population's status.

*Response:* Forest Service Handbook 1909.12, section 43.26 requires that the connection between habitat conditions and species consequences be assessed as part of evaluating the effects of plan components on species. This assessment would be based on existing information. Also, FSH 1909.12, section 43.23 calls for identifying critical information that is essential to management for species diversity and is currently lacking. Collection of that information should become a high priority of monitoring programs.

#### Wildlife Corridors

*Comment:* The Forest Service should have a broader ecological plan focusing on connectivity and wildlife corridors.

*Response:* Forest Service Handbook 1909.12, section 43.25 describes plan components for species diversity that would address the whole range of issues associated with species conservation including habitat connectivity.

#### State Strategies

*Comment:* The Forest Service should include specific language in the manual and handbook encouraging consultation with State Comprehensive Wildlife Conservation Strategies to reduce potentially duplicative planning efforts.

*Response:* Forest Service Handbook 1909.12, section 43.22c directs that species identified as conservation concerns in the State Comprehensive Wildlife Strategies be considered for identification as species-of-interest. Directions to consult would not be appropriate because the timing of Forest Service and state planning efforts are not likely to coincide; however, we do direct the Responsible Official to take into account State Comprehensive Wildlife Strategies and we encourage the Responsible Official to participate in ongoing planning efforts where NFS lands are found (FSH 1909.12, ch. 30).

#### Altered Systems

*Comment:* In FSH 1909.12, section 43.1 it states "where systems are highly altered, a species conservation plan focus may be more appropriate." We are concerned that some would argue or litigate that the entire NFS is highly altered and therefore the entire NFS should be subjected to a species conservation plan focus.



*Response:* This section has been rewritten and the example cited in this comment is no longer present.

#### Previous Rule No Longer Applies

*Comment:* The Forest Service should clarify provisions in its handbook to better focus on biological diversity at the landscape and ecosystem level and reinstate language from the September 29, 2004, "Interpretative Rule" explaining the meaning of the "Use of Best Available Science in Implementing Land Management Plans" to make it clear that the 1982 and 2000 planning rules no longer apply to projects. Some people have insisted that the 1982 planning rule required population counts before approving projects and activities.

*Response:* The Forest Service has clarified provisions for ecosystem diversity and species diversity in FSH 1909.12. The Forest Service does not need to reinstate the Interpretative Rule. The previous planning regulations are no longer in effect. However, the 2005 planning rule allows Responsible Officials to continue to use the provisions of the planning regulations in effect before November 9, 2000, to develop, amend, or revise land management plans in specific cases (36 CFR 219.14). The 2005 planning rule explicitly states, "site-specific monitoring or surveying of a proposed project or activity area is not required" (36 CFR 219.14(f)).

#### Endangered Species Act (ESA)

*Comment:* The Forest Service should clearly state in the Forest Service directives the Endangered Species Act-related requirements for forest planners or delete these references because provisions constraining forest planning to advance conserving of species is unlawfully limiting the agency's discretion to manage for multiple uses.

*Response:* Forest Service Handbook 1909.12 does not increase the habitat values for the conservation, recovery, or improvement of listed species, or increase the benefits for ESA listed species. Direction in the handbook will allow the Forest Service to contribute to reaching the purposes and requirements of the ESA and NFMA for species and ecosystem conservation, while also contributing to society's demand for other resources.

#### Species-Specific Management

*Comment:* The Forest Service should amend the directives to clearly state that species-specific management should be tried only when the maintenance or creation of that species' habitat is defined as a desired condition

consistent with multiple-use objectives and identified desired future conditions.

*Response:* Forest Service Manual 1921.73 states that species-specific direction will be developed only when needed to supplement direction for ecosystem diversity to provide appropriate ecological conditions for listed species, species-of-concern, and species-of-interest. This intent is reiterated in FSH 1909.12, section 43.21. Forest Service Handbook 1909.12, sections 43.22b and 43.22c set up that species-of-concern are identified because management actions may be needed to prevent listing under the ESA. Species-of-interest are identified because the Responsible Official finds that management actions are needed to reach ecological or other multiple-use objectives. This clearly satisfies the concern that species specific direction will only be established when needed to reach desired conditions. Forest Service Handbook 1909.12, section 43.25 further sets up that plan components developed for species diversity will be consistent with the limits of agency authorities, the capability of the plan area, and multiple-use objectives.

#### Late Successional Habitats

*Comment:* The Forest Service should give priority to late successional forests. In the Eastern United States, much of the landscape is in private ownership and because of land-use patterns; much of the private land is in an early- to mid-successional stage. But Public lands in the Eastern United States offer a chance to promote late successional habitats and species.

*Response:* Evaluations of ecological sustainability are intended to consider national forests and grasslands in relation to other lands. Forest Service Manual 1921.73a directs the Responsible Official to use evaluations to determine the potential contribution of national forests and grasslands to ecosystem diversity of the larger landscape. Forest Service Handbook 1909.12, section 43.11 sets up that the area of analysis for ecosystem diversity will generally include non-National Forest System lands to consider broad-scale conditions and trends. These national directives do not set up which components of ecosystem diversity will be stressed in the plans of a particular region relying instead on the unit-specific analysis to help determine that emphasis.

#### Self-Sustaining Populations

*Comment:* The Forest Service should clarify the Forest Service's directives' approach to conserving species-of-concern because the phrase

"contributing to" self-sustaining populations is vague and indirect.

*Response:* The agency uses the phrase "contribute" recognizing that NFS lands may not be enough to maintain self-sustaining populations of those species that are distributed across lands of many ownerships.

#### Criteria for Species-of-Concern

*Comment:* Clarify the criteria for recognizing species-of-concern to clearly state that evidence must exist (either scientific reports or expert opinion) that the species will continue to decline under the plan.

*Response:* Species-of-concern will be identified using explicit criteria about their ranking on NatureServe and their listing status under the Endangered Species Act. Once identified, these species will be screened to see if they need further consideration in the planning process. They may be dropped from further consideration if they are considered secure in the plan area, are not affected by management, or there is too little information about them to complete a credible assessment.

#### Identifying Species

*Comment:* The Forest Service should direct forest planners to identify species-of concern and species-of-interest based on the best available scientific information because a lack of information should not be a justification for listing a species-of-interest or species-of-concern. The directives should provide greater discretion to agency decision makers and limit species-specific action.

*Response:* The Responsible Official must take into account best available science throughout the planning process. Also, FSH 1909.12, section 43.22d states that only species for which there is adequate knowledge to complete a credible assessment will be carried forward in the planning process.

#### Increase Conservation of Species

*Comment:* The Forest Service should clearly state that plans do not need to include provisions that increase conserving of species-of-concern and species-of-interest.

*Response:* No such caveat is needed because there is nothing in the directives that suggests that conservation will be increased.

#### Sensitive Species

*Comment:* The Forest Service should clarify how species-of-concern and species-of-interest encompass or do not encompass sensitive species because all of the species that the Regional Foresters designate as sensitive in their

respective regions must be considered in planning for the affected forests.

*Response:* The criteria for species-of-concern and species-of-interest are listed in FSH 1909.12, section 43.22. The wildlife directives governing the identification of sensitive species are subject to change because they were based on the viability requirement from the 1982 planning rule. Since those directives may now change, they are not cited in the Forest Service directives. However, the criteria for species-of-concern or species-of-interest are similar to the criteria generally used for developing the existing regional lists of sensitive species.

#### Criteria for Listing

*Comment:* The Forest Service should consider adding more criteria for listing species-of-interest because forest planners will find many common species that are ranked S1 or S2 on NatureServe or are listed as threatened or endangered by the states.

*Response:* Forest Service Handbook 1909.12, section 43.22c recognizes that species ranked S1 and S2 and state-listed species may not be of concern in a particular plan area and so suggests additional criteria that should be applied before species are identified as species-of-interest.

#### State-Listed Species

*Comment:* The Forest Service should consider listing species that meet the criteria for species-of-interest as species-of-concern instead to ensure the continued existence of important ecosystem components such as native plant and wildlife species. The Forest Service should treat state-listed species in a similar fashion to federally listed species in the Forest Service directives.

*Response:* In general, species that require the highest levels of conservation attention are those that meet the criteria for species-of-concern. The directives recognize that other species, those fitting the criteria for species-of-interest, may also require specific management considerations. Identification of species-of-concern and species-of-interest is only the first step in determining what plan components will be developed for species. Through the processes of information collection, evaluation of species status including risk factors, and evaluation of plan components, the Responsible Official will determine appropriate contributions of the national forest or grassland to ecological conditions needed to meet objectives for the species. If plan components are needed on the national forest or grassland to avoid the need to list species, they will

be identified through this process regardless of the initial identification of a species as being of concern or of interest.

#### Endangered Species

*Comment:* The Forest Service should ensure that endangered species, species-of-concern, and species-of-interest are sufficiently protected. In addition, all species that might be listed as endangered or threatened should be identified as species-of-concern in order to avoid the need to list them. Additionally, the genetic viability of species should be protected in order to maintain biodiversity.

*Response:* Through the processes of identifying species-of-concern and species-of-interest information collection, evaluation of species status including risk factors, and evaluation of plan components, the Responsible Official will determine appropriate contributions of the national forest or grassland to ecological conditions needed to meet objectives for the species, including genetic viability, as appropriate. If plan components are needed on the national forest or grassland to avoid the need to list species, they will be identified through this process.

#### Ecological Community

*Comment:* The Forest Service should base species diversity on the overall composition and diversity of species within an ecological community rather than basing it predominately on single species management approaches revolving around specially identified species.

*Response:* The hierarchical approach using ecosystem diversity and species diversity is intended to provide for the overall composition and diversity of species. Plan components established for ecosystem diversity should provide for populations of the majority of species. The species diversity approach then provides a check for those species for which additional plan components may be needed.

#### Population Data

*Comment:* The Forest Service should obtain population and trend data for at least some species-of-concern, species-of-interest, and other species. These species should be monitored over the life of the plan or until they are no longer of concern or interest to assess whether plan components conserve species.

*Response:* The 2005 planning rule and directives do not contain prescriptive requirements for monitoring of any resource. Rather, they require that

monitoring questions be addressed through desired conditions and the degree to which they are being achieved. Priority will be given to monitoring questions that address desired conditions for which there is "a high degree of uncertainty associated with management assumptions" (FSH 1909.12, sec. 12.1). Species populations may be identified for monitoring through this process.

#### Non-Discretionary Wording

*Comment:* The Forest Service should make the consideration of endangered species, species-of-concern, and species-of-interest non-discretionary.

*Response:* While there is some discretion in the wording for species diversity in the directives, the following steps are generally required: (1) Identify listed species, species-of-concern and species-of-interest; (2) collect available data and information for the species including an assessment of risk factors; (3) develop plan components for the species as necessary; and (4) assess the potential outcomes of plan components. These steps, combined with the ecosystem diversity approach, should provide for significant consideration of species that require conservation attention.

#### Enforceable Standards

*Comment:* The Forest Service should provide enforceable standards and use more than one data source when determining which species to protect. Without enforceable standards, there is no way for the public or other branches of the government to hold the Forest Service accountable for protecting species and their habitats.

*Response:* The Forest Service is accountable for federally-listed species under the Endangered Species Act and accountable for diversity of plant and animal species under the provisions of NFMA. That accountability is not changed by the directives.

While there is some dependence on NatureServe for identifying species-of-concern and species-of-interest, numerous other sources are listed in the directives including State Comprehensive Wildlife Strategies, the U.S. Fish and Wildlife Service Birds of Conservation Concern Priority List, state lists of threatened and endangered species, and other sources of valid information indicating significant threats to a species population or habitat.

#### Federally Listed Species

*Comment:* The Forest Service should require Responsible Officials to contribute to conserving federally listed

species so as not to present a possible conflict with the Endangered Species Act, section 7(a)(1).

*Response:* Forest Service Manual 1921.76c states that “plan components for federally-listed species must comply with requirements and procedures of the Endangered Species Act and should, as appropriate, implement approved recovery plans and/or address threats identified in listing decisions.”

#### Surrogate Species

*Comment:* The Forest Service should clearly identify the criteria for identifying surrogate species in section 43.24 of its handbook and how this tool is to be used in the forest planning process because if workable guidelines for forest planners cannot be developed, then this section should be deleted.

*Response:* As with any other approach used in NFMA planning, species grouping and the selection of surrogates must take into account the best available science and applicable portions of the Data Quality Act (44 U.S.C. 3516). An approach that does not satisfy these criteria would not be used.

#### Risk Levels

*Comment:* The Forest Service should clarify how Responsible Officials will determine that information is valid and sufficient to indicate risk levels to species.

*Response:* Determinations of Responsible Officials will consider best available science and meet applicable Data Quality Act (44 U.S.C. 3516) standards regarding public acknowledgement of known data quality. Responsible Officials will take into account best available science and known risk levels when indicating risk levels to species (FSH 1909.12, sec. 41).

#### NatureServe

*Comment:* The Forest Service should not rely on NatureServe as the sole source for species-of-concern designations. Concerns about NatureServe related to: (1) Frequency with which the ratings are updated; (2) public access to the data used in determining the rankings; (3) consistency of ranking across states; (4) use of only global rankings instead of global and national rankings to determine species-of-concern; and (5) failure of NatureServe to recognize some taxonomic units that could be listable.

*Response:* The intent of the directives is to provide an independent and objective means of prioritizing species for conservation. The most comprehensive source of this information is the network of state

natural heritage programs that make up the NatureServe network.

Although it is the best source of data available, the NatureServe ranking system is not perfect. Imperfections in the NatureServe database were one of the reasons for establishing the species-of-interest category. Species that are not ranked or are locally rare (rather than globally rare) may be identified as species-of-interest, resulting in the establishment of appropriate plan components. Species and other taxonomic units that are listed and proposed under the Endangered Species Act will be identified for establishment of appropriate plan components regardless of their NatureServe ranking.

NatureServe ranks are “categorical,” not continuous data, and so cannot have associated errors. However, NatureServe has a system for identifying uncertainty in ranks. Also, a summary of the reasons for each rank is presented with the species comprehensive report on the NatureServe explorer Web site. Those who are interested in details that are more specific can contact their local state natural heritage program to see all of the data that was used to establish a rank.

#### Monitoring and Evaluation

##### Monitoring Movement Toward Objectives

*Comment:* The Forest Service should have monitoring programs that will allow it to adjust its management actions so that it can meet long-term objectives and respond to the unexpected.

*Response:* Forest Service Manual 1921.5 requires that monitoring provide data and information to evaluate progress toward meeting objectives and desired conditions. Forest Service Handbook 1909.12, section 12, calls for designing a monitoring program that provides a basis for continuing improvement, focuses on key desired conditions, and recognizes the need to monitor management assumptions that have a high degree of uncertainty.

##### Accountability and Performance-Based Standards

*Comment:* The directives should include added requirements for accountability and performance-based standards including details of what would be monitored and how this monitoring would be done.

*Response:* The directives require the monitoring program to identify key questions and performance measures (FSM 1921.5). Forest Service Handbook 1909.12, section 12.2, provides for performance measures as a basis for

accountability. These performance measures are tied to near-term objectives and long-term desired conditions. Annual evaluation reports and 5-year comprehensive evaluation reports are to be used to summarize and evaluate the results of monitoring as a means of identifying needed plan adjustments. The Forest Service believes that these requirements are enough for inclusion in the monitoring program, with monitoring details included in the Monitoring Guide and Annual Monitoring Workplan (FSH 1909.12, sec. 12.3).

#### State Goals for Federal Lands

*Comment:* Monitoring reviews should include feedback on the accomplishment of state goals defined for Federal lands. The Forest Service should coordinate plan monitoring with a few state-wide indicators of sustainability that can assess whether the state governing body’s goals and objectives are being met.

*Response:* The Forest Service encourages state participation in planning. Forest Service Manual 1921.62 identifies the value of planning collaboratively with the public and other agencies. The roles of the public and other agencies are more clearly described in FSH 1909.12, chapter 30. State involvement during these collaborative efforts is intended to ensure that state goals are appropriately considered in plan components and the associated monitoring program.

#### Specific Monitoring Requirements

*Comment:* The Forest Service directives should provide more specific monitoring guidance designed to measure and maintain ecological sustainability, including things such as: monitoring of key potential natural vegetation types; desired conditions and objectives contributing to sustainability; key ecological attributes of each potential vegetation type and species; and performance measures for each ecological attribute.

*Response:* The guidance for developing, putting into effect, and documenting a monitoring program is intended to provide a monitoring framework applicable to all plans (FSM 1921.5 and FSH 1909.12, sec. 12). The specific details for each monitoring program are not identified in the directives because the Forest Service believes it is necessary to tailor these details to show unit-specific situations.

#### Implementation, Effectiveness, and Validation Monitoring

*Comment:* The Environmental Protection Agency suggested that the

directives include more direction for monitoring; specifically, that monitoring be conducted on 3 levels— implementation, effectiveness, and validation—during the 3-year transition period for putting into effect the 2005 planning rule.

*Response:* During the transition period and until plans are revised or amended to be consistent with the 2005 planning rule, monitoring will be conducted consistent with existing monitoring requirements, many of which specifically address implementation, effectiveness, and validation monitoring. The 2005 planning rule and directives stress monitoring of plan components, specifically to find out if actions taken during plan implementation are reaching plan objectives and moving the unit toward desired conditions. Although not specifically addressed in the directives, monitoring plan implementation and the effectiveness of implementation actions are required to meet monitoring program requirements. Validation monitoring is considered to be a research need and will be done outside the plan monitoring program.

#### Public Involvement

*Comment:* The Forest Service should clarify which members of the public will be invited and how they will be involved in designing the monitoring program. This should include coordination and consultation with the public, state governments, and so on in developing and revising monitoring programs.

*Response:* Involvement of the public in monitoring program design is required by the 2005 planning rule (36 CFR 219.9(a)) and is discussed in the directives (FSM 1921.5 and FSH 1909.12, sec. 12). But, the specifics of how this involvement is to occur and who will be involved cannot be appropriately determined in the directives. The Forest Service believes that these details are best addressed by the Responsible Official for individual planning efforts.

#### Monitoring Partnerships

*Comment:* The Forest Service should support state partnerships in collecting and assessing monitoring data used for annual evaluation reports and comprehensive evaluation reports.

*Response:* Forest Service Handbook 1909.12, section 12.2 recognizes the value of selecting performance measures with agency partners to make easier monitoring across all landownerships.

#### Montreal Process Criteria and Indicators

*Comment:* The Forest Service should use the Montreal Process Criteria and Indicators as a framework for monitoring efforts.

*Response:* The Forest Service has invested substantial energy in assessing the applicability of the Montreal Process Criteria and Indicators along with other international and national approaches and commitments to sustainable development such as the Santiago Declaration, the Rio Declaration on Environment and Development, and the Ottawa Local Unit Criteria and Indicators Development (LUCID) Test (Monitoring for Forest Management Unit Scale Sustainability: The Local Unit Criteria and Indicators Development (LUCID) Test Technical Edition, USDA Forest Service, Inventory and Monitoring Institute Report No. 4, October 2002). Although using criteria and indicators have value and are being used in some plan revision efforts; the Forest Service concluded that the Montreal Process Criteria and Indicators were not applicable at the forest scale.

#### Monitoring Responsibility

*Comment:* The Forest Service should not leave monitoring of logging impacts to independent Forest Supervisor's discretion.

*Response:* The Forest Service agrees that the plan monitoring program should be developed with public participation and has directed Responsible Officials to do so.

#### New Information

*Comment:* The Forest Service should use monitoring to identify information not contemplated in plan development that could lead to new systems that improve land productivity or meet desired conditions in another way.

*Response:* The 2005 planning rule requires monitoring to determine the effects of management on the productivity of the land. The final directives on monitoring show the need to monitor key desired conditions and objectives besides those about land productivity and that monitoring take into account the best available science.

#### Funding

*Comment:* The Forest Service should increase funding for its fish and wildlife monitoring programs.

*Response:* The Forest Service expects that the reduced cost of planning under the 2005 planning rule will permit better funding of monitoring. The priorities for funding monitoring by program area will depend on individual forest monitoring programs tied to key desired conditions and objectives.

#### State Guidance

*Comment:* The Forest Service should incorporate state guidance into management reviews where available.

*Response:* Reviews are conducted, based on monitoring results and evaluations, to help determine if there is a need to amend or revise the plan (FSH 1909.12, sec. 24). Where state guidance is shown in a plan component being monitored or evaluated, this guidance will be considered during reviews.

#### Comprehensive Evaluation Report

*Comment:* The Forest Service should specify in the planning directives what media will be used to make the annual and five-year comprehensive evaluation reports available to the public.

*Response:* The comprehensive evaluation report is a part of the plan set of documents. This may be available to the public in various forms. The Forest Service does not believe that it is appropriate to specify one national approach given the diversity of audiences interested in planning.

#### Comprehensive Evaluation Report Content

*Comment:* The Forest Service should require that the comprehensive evaluation report contain a thorough compilation and description of baseline data about ecological system types and species.

*Response:* Comprehensive evaluation reports are described in FSM 1921.2. Added details on their content are found in FSH 1909.12, sections 13.1, 24.2, and 43.1. In combination, these sections provide for inclusion of a wide range of ecological data and analysis in the report, including trend analysis for key social, economic, and ecological resources (FSH 1909.12, sec. 24.23).

#### Alternatives

*Comment:* The Forest Service should consider having the comprehensive evaluation report require the Forest Supervisor to consider alternatives and their impacts in detail.

*Response:* Based on more than 20 years of experience doing planning EISs, including many fully-developed alternatives, the Forest Service has concluded that it will be more efficient to consider options for specific plan components than to continue developing full alternatives. These options are discussed in FSH 1909.12, section 25.32b. This is shown in the rule and in the final directives.

*Comment:* Monitoring program of work. The Forest Service should delete from the Forest Service directives the provision establishing a monitoring team and a formal process for setting up

an annual program of work and instead require a comprehensive evaluation report be finished on a five-year schedule.

*Response:* The provision dealing with the establishment of a monitoring team has been removed from the directives. The Forest Service believes that defining an annual program of work (FSH 1909.12, sec. 12.3) is needed to ensure that annual monitoring priorities are identified and done consistently with available resources. Comprehensive evaluation reports are required every 5 years.

#### Environmental Management System (EMS)

*Comment:* The Forest Service should provide more direction to carry out EMS including the relation of EMS to land management planning, the role the public plays in EMS, the types of information needed for EMS, the types of audits to be done, and how the Forest Service will use an international standard.

*Response:* Confusion is understandable given the lack of EMS experience in the Forest Service, many agency partners, and other interested parties. Based on roughly one year of EMS field experience with qualified consultants, the agency has changed many parts of the EMS directives, mainly by simplifying and clarifying direction. Forest Service Manual 1331 will address EMS authorities, objectives, policies, and responsibilities. The EMS direction about land management planning is in FSM 1921.9. The Forest Service is likely to provide added EMS guidance through a technical guide or other means as more experience is gained.

*Comment:* The Forest Service should not use EMS or the ISO standard for EMS because it is not applicable to national forest management, the public lacks access to the standard, and the standard would preclude public participation.

*Response:* The Forest Service is committed to using ISO 14001 under the 2005 planning rule and believes that EMS can be applied to the national forests in a way that will contribute to quality management. The ISO 14001 standard is available for public review in all Forest Service offices. EMS documentation will be available to the public.

#### Role of Public and States

*Comment:* The Forest Service should clarify the roles of the public and the states in EMS development and implementation.

*Response:* The Forest Service believes that public and state involvement in EMS development and implementation will be beneficial, but that no direction on this involvement is needed besides that already in FSM 1921.61 and FSH 1909.12, chapter 30. The Forest Service intends to use the existing public and state involvement direction to inform EMS implementation without directing EMS-specific roles.

#### Management Review

*Comment:* The Forest Service should provide "management review" direction in the directives to provide consistency across the national forests.

*Response:* The ISO 14001 standard provides direction for management reviews and the Forest Service believes that no added direction is required at this time.

#### EMS Terms

*Comment:* The Forest Service should clarify confusion over terms used in EMS with terms used in planning, especially the "independent audit" definition.

*Response:* The Forest Service recognizes that in some instances planning and EMS use similar terms with slightly different meanings. Applying the definitions in the ISO 14001 standard to EMS will be needed to conform to the standard, but this should not hinder the agency's ability to use different definitions in planning. As the agency gains more EMS experience, clarification can be given about how EMS terms relate to planning terms. Definitions have been added to FSM 1331 specific to Forest Service EMS policies and procedures (administrative unit, facility, and independent second-party EMS audit). The definition "independent audit" has been changed to be consistent with USDA's definition of independent audit.

#### Independent Audits

*Comment:* The Forest Service should explain how they will use independent EMS audits and certification boards.

*Response:* The Forest Service is preparing for internal audits according to ISO 14001 and is also looking at options to meet USDA guidance for independent audits. This is an area where added guidance may be developed as the Forest Service gains experience in EMS.

#### Planning and EMS

*Comment:* The Forest Service directives should clarify the relation between the plans and the EMS and should use an ISO 14001 EMS template

for communicating guidelines to Forest Service units.

*Response:* Forest Service units are sharing templates and examples as they are developed; however, because an EMS is a continuous improvement process, the Forest Service does not expect to have EMS templates in the directives. Planning direction and guidance about EMS are found in FSM 1921.9; however, in the final directives the agency has only retained information about EMS establishment requirements under the 2005 planning rule and has maintained minimum direction on the relation of the EMS to the land management plan. As the agency gains more experience with EMS, more direction can be added.

#### Monitoring Data

*Comment:* The Forest Service should set up regional centers at regional land-grant universities or research stations to serve as repositories for monitoring data and the results of EMS reviews.

*Response:* The Forest Service has implemented a corporate database, the Natural Resource Information System (NRIS), which the agency intends to use to store monitoring data common to many Forest Service units. The Forest Service believes that storing data with one consistent corporate approach is efficient and will best serve members of the public interested in viewing that data. It is unknown how the results of EMS reviews will be stored or made available to the public.

#### Timber Management

##### General Concerns

*Comment:* The Forest Service should make the Forest Service directives about timber management less discretionary.

*Response:* The direction provided in the Forest Service manual and handbook must comply with all the applicable natural resource laws, including the NFMA. The NFMA sets up the benchmarks for ecological, social, and economic sustainability that the agency must meet in managing national forests. The law also gives the Secretary of Agriculture the discretion to determine how best to carry out these statutory mandates. The directive system is used by the agency to reiterate and, when needed, provide more specific explanations, procedures, and guidance in the framework provided by the statute for use by field units. The Forest Service believes that the directives provide the appropriate amount of discretion.

#### Forest Land

*Comment:* The Forest Service must change section 62.21a of its handbook to

revise the description of what is forest land to avoid erroneous calculations.

*Response:* The description and calculation methods for determination of forest lands outlined in this section are consistent with NFMA and the 2005 planning rule. Forest land's definition remains unchanged from the 1982 planning rule. The combination of forest inventory data, detailed aerial photos, extensive on-the-ground knowledge, and experience ensures that the assessment of National Forest System land meeting the definition of "forest land" is accurate for land management planning purposes.

#### Rotation Age

*Comment:* The Forest Service should explain its reason for changing "rotation age's" definition to an "age range due to the need to 'meet the needs of other resources'" because forest management literature has always referred to "forest rotation" as a precise, fixed stand harvest age expressed in years.

*Response:* The definition and use of "rotation age" in the directives is consistent with the meaning of the term as used by the Society of American Foresters. "Rotation age" at the plan level is a range of ages based on local forest types and growing conditions, rather than a precise age that can be assigned broadly across a national forest. The Society of American Forester's definition refers to rotation age at the stand level. By definition, a specific and precise rotation age can only be determined at the individual stand level.

#### Invasive Species

*Comment:* The Forest Service should direct planners to identify and address invasive species rather than native and non-native ecosystems to avoid litigation.

*Response:* In response to comments, the Forest Service has removed references to native and non-native ecosystems from FSH 1909.12, chapter 60.

#### Suitability Determinations

*Comment:* The Forest Service should explain its reason for deferring key planning decisions until project level analysis. This may be used to reclassify unsuitable lands as suitable. The Forest Service should amend the project level analysis directive to include explicit criteria for acceptance or rejection of a project. Key planning decisions should be made at the initial planning level or project level analysis must be clearly developed.

*Response:* Lands that are classified as "generally suitable for timber harvest or

timber production" in the land management plan are continually evaluated during project level implementation of the plan and may be identified as unsuitable at that stage. General suitability for various uses will be found at the plan level using criteria identified in the plan set of documents. Project level analysis is the decision level where "irreversible and irretrievable commitments of resources" are made. Project level analysis must follow the NEPA process. The NEPA process is clearly developed and defined (FSM 1950 and FSH 1909.15). The data used for project level analysis is more site specific and ensures that a better resource management decision will be made than at the forest-wide strategic planning level. For these reasons, determining final timber suitability must be made at the project level. If the Responsible Official finds that the project or activity is inconsistent with the general suitability identification, the plan should be amended.

#### Unsuitable Timber Lands

*Comment:* The Forest Service should make sure that enough areas will continue to be identified and designated as "unsuitable for timber production" by reviewing plan documents at least every ten years to see if changes have occurred that make it necessary to remove lands from the "suitable for timber production" group and by removing lands identified as "unsuitable for timber production" from the timber land base for ten years as required by NFMA.

*Response:* Guidance on identifying lands not suitable for timber production and the review of those determinations are found in FSM 1920.12c and FSH 1909.12, section 62.3. Guidance includes the NFMA (16 U.S.C. 1604(k)) requirement to review lands not suited for timber production every 10 years. Lands that are classified as "generally suitable for timber harvest or timber production" in the land management plan are continually evaluated during project level implementation of the plan and may be identified as unsuitable at that stage. Forest Service Handbook 1909.12, chapter 60 has been modified to clearly define lands generally suited for timber production and "other lands" where harvests may occur for other objectives. The clear identification of "other lands" called for in the directives more explicitly defines lands that may receive "salvage sales or sales necessitated to protect other multiple-use values" as allowed by 16 U.S.C. 1604(k).

*Comment:* The Forest Service should consider that the process for designating lands as unsuitable for timber harvest is circular and the definition of "unsuitable lands" contains no criteria determining unsuitability as required by NFMA. Lands unsuitable for timber should not be found by residual calculation only after the suitable timber lands are identified. NFMA requires that unsuitable lands be identified first. Why were new terms "generally suitable" and "actually suitable" created? These terms are not mentioned or authorized by NFMA.

*Response:* Substantial changes were made to the draft FSH 1909.12, chapter 60 to clarify and define the suitability determination process. Forest Service Handbook 1909.12, section 62.1 lists the general categories of lands not suitable for timber harvest as outlined in Title 36, Code of Federal Regulations, section 219.12—Suitable uses and provisions required by NFMA. The Secretary has discretion under the act to determine how best to develop suitability determination criteria. The criteria in these general categories are developed at the forest level considering the specific physical, biological, and economic elements under 16 U.S.C. 1604(k).

NFMA (16 U.S.C. 1604(k)) does not specify that unsuitable lands be identified first; it simply directs the Secretary to identify unsuitable lands. Identification of the suitability of lands for timber harvest and timber production at the land management plan level is a general determination made for planning purposes; therefore, the term "generally suitable" and "generally unsuitable" are used. The final suitability determination is made at the project level.

#### Generally and Actually Suitable

*Comment:* The Forest Service should explain the reason for creating the new terms, "generally suitable" and "actually suitable" in the Forest Service directives' guidance for designation of timber lands. These terms are not mentioned or authorized by NFMA.

*Response:* Forest Service Handbook 1909.12, section 62 has been revised to clarify the suitability process. Identification of the suitability of lands for timber harvest and timber production at the land management plan level is a general determination made for planning purposes; therefore, use of the terms "generally suitable" and "generally unsuitable." The final directives do not use the term, actually-suitable. The decision on suitability of lands for a specific use is appropriately made at the site-specific project level. The NFMA recognizes that the

suitability of lands for timber harvest will change by directing the Secretary to review suitability determinations every ten years. The act also gives the Secretary discretion about the most appropriate method for determining suitability.

#### Below-Cost Timber Sales

*Comment:* The Forest Service should set out a process for identifying lands where the costs of timber production and road construction are unlikely to be covered by future receipts. These lands should be deemed unsuitable and off-limits to timber harvest to meet the goal of limiting below-cost timber sales. The Forest Service should explain its reason for ending all economic tests for determining whether lands are unsuitable for timber harvest.

*Response:* The NFMA (16 U.S.C. 1604(k)) does specify that economics is one factor to be considered in identifying lands not suited for timber production. In response to comments, FSH 1909.12, section 62.21 includes added direction on the role of economics in suitability determinations. Timber harvest on lands deemed not suited for timber production in the land management plan is explicitly allowed by NFMA (16 U.S.C. 1604(k)) for salvage and for other multiple-use purposes. The NFMA does not prohibit harvest when costs exceed revenues.

#### Classes of Suitable Timber Lands

*Comment:* The Forest Service should not create two classes of suitable timber lands because it dramatically and artificially expands the suitable timber base and projected timber sale levels.

*Response:* The NFMA requires identifying lands suitable for timber production. The NFMA also allows timber harvest on lands identified as unsuitable for timber production. The definitions section of the directives, FSH 1909.12, section 60.5 provides an explanation of the differences between these two activities. The interim directives were written to explicitly recognize the lands where harvest is permitted by the NFMA on lands identified as unsuitable for timber production. The lands suitable for timber harvest are lands where timber harvest is a tool that may be used to meet ecological goals, such as restoration of appropriate fire regimes, but commercial harvest is not a primary goal for the area. Both types of land are considered when estimating the Timber Sale Program Quantity for the plan. Setting up the added group of lands suitable for timber harvest identifies added lands where harvest may occur

but does not dramatically increase timber sale quantity.

#### Harvest and Reforestation Guidelines Timber Sale Volume

*Comment:* The Forest Service should not require specific timber volume objectives to be specified in plans because timber sale volume is not an independent objective.

*Response:* Land management plans are required to identify objectives (36 CFR 219.7 (a)(2)(ii)). Objectives are described as follows: "Objectives are concise projections of measurable, time-specific intended outcomes. The objectives for a plan are the means of measuring progress toward achieving or maintaining desired conditions." The NFMA (16 U.S.C. 1604(e)(2), 1604(f)(2), 16 U.S.C. 1611) requires that a land management plan must provide timber management projections; however, there is no specific requirement to identify timber sale volume as a plan objective.

#### Even-Aged Management

*Comment:* The Forest Service should stop practicing even-aged management of timber.

*Response:* Even-aged management is a legitimate, silvicultural practice that may be used to create or maintain healthy forested landscapes. Forest Service Handbook 1909.12, section 64.5 outlines the requirements for ensuring that clear-cutting is the best silvicultural technique and that other even-aged cuts, such as shelter wood harvest are appropriate. This guidance complies with the NFMA (16 U.S.C. 1604(g)(3)(F)(i)).

#### Clearcuts

*Comment:* The Forest Service should revise the Forest Service directives to include standards that limit the size of clearcuts, protect streams from logging, ensure prompt reforestation, restrict the annual rate of cutting, and determine what land is economically suitable for timber production.

*Response:* Maximum size limits for even-aged harvest systems are addressed in FSM 1921.12e; protection of streams in FSM 1921.12a, paragraph 3; reforestation requirements in FSM 1921.12g; harvest rates in FSM 1921.12d; and suitability determinations in FSM 1921.12c. More detailed guidance is found in FSH 1909.12, chapter 60 for even-aged harvest, reforestation and stocking requirements, suitability determinations, calculation of long-term sustained yield, and calculation of timber sale program quantities. Detailed direction on watershed protection and management may be found in FSM 2520.

#### Even-Aged Regeneration Harvest

*Comment:* The Forest Service should clarify its guidelines of maximum size limits for even-aged regeneration harvest to allow the public to comment.

*Response:* Public review of proposals to exceed maximum harvest size limits is required by 16 U.S.C. 1609(g)(3)(F)(iv). Forest Service Manual 1921.12e establishes the size limitations for individual harvest units. Added guidance on size limitations may be in the plan and subject to public notice and comment. Projects often contain many individual harvest units. Project size will vary depending on local conditions and considerations. The environmental analysis conducted for each project, as required by the NEPA, provides individuals and organizations the opportunity to provide input on issues of concern to them.

#### Culmination of Mean Annual Increment

*Comment:* The Forest Service should apply the culmination of mean annual increment requirement to uneven-aged stands that are being managed to produce wood fiber and to ensure that stands reach their optimum economic value.

*Response:* By definition, uneven-aged management harvests are regulated by specifying the number or proportion of trees of particular sizes to retain in each area, thereby maintaining a planned distribution of size classes (FSH 1909.12, sec. 60.5). Application of culmination of mean increment uneven-aged management would not be a sound silvicultural practice (16 U.S.C. 1609(m)).

*Comment:* The Forest Service should provide a more specific reason than "for the use of sound silviculture" when allowing departures from harvesting of stands at the culmination of mean annual increment.

*Response:* The phrase "culmination of mean annual increment" is taken directly from the NFMA. The NFMA authorizes the Secretary to set up standards to ensure that stands of trees have generally reached the culmination of mean annual increment provided the standards do not preclude using sound silvicultural practices.

#### Projected Trends

*Comment:* The Forest Service should provide more specific direction to forest planners in describing "projected trends of future forest ecological conditions" and "projected vegetative and other environmental changes."

*Response:* Trend analysis is described at FSH 1909.12, section 24.23. Forest Service Manual 1921.7 provides general



guidance on sustainability. Changes were also made to FSH 1909.12, section 65.4 to better address projected trends.

#### Environmental Policy Statement

*Comment:* The Forest Service should clarify and revise section 61 of its handbook to address various goals and provide a foundation for national forests to develop their environmental policy statement.

*Response:* Forest Service Handbook 1909.12, section 61 has been redrafted to address vegetation management requirements at the project level. The role of land management planning and sustainability is addressed in FSH 1909.12, chapter 40. Requirements for the environmental policy are addressed in ISO 14001 and FSM 1330.

#### Size of Timber Cuts

*Comment:* The Forest Service should modify its provision for size of timber cuts to stipulate that they should exceed maximum size limits only where such exception is consistent with sustainable use and ecological considerations.

*Response:* Exceptions to the size limits as described in FSM 1921.12a and 1921.12e are subject to environmental analysis and documentation as required by the NFMA and must comply with the long-term sustainability desired conditions and objectives established in that unit's land management plan.

#### Catastrophic Events

*Comment:* The Forest Service should amend its handbook's provisions for restoration of areas deforested by catastrophic events to include reasonable assurances of adequate restocking.

*Response:* The policy direction on reforestation in FSH 1909.12, chapter 60 of the interim directives has been removed as it is redundant to FSM 2470. The agency policy on reforestation has not changed and is founded in the NFMA, section 3(d)(1) that states, "It is the policy of the Congress that all forested lands in the NFS be maintained in appropriate forest cover \* \* \* in accordance with land management plans." Land management plans may address the degree to which reforestation is required after catastrophic events.

#### Volume Trends

*Comment:* The Forest Service should display volume trends using Forest Inventory and Analysis data.

*Response:* Changes were made to the exhibits in FSH 1909.12, section 65.6 to better display volume trends.

#### Averages

*Comment:* The Forest Service should provide more direction on when using an average would be more desirable than using field-developed inventory information.

*Response:* Forest Service Handbook 1909.12, section 63.4 has been reorganized to address this topic. This section provides direction on calculating conversions for saw timber, small roundwood, and biomass.

#### Forest Plan Amendment

*Comment:* The Forest Service should provide direction in section 63 of its handbook on when a plan amendment would be required or reference applicable sections of the FSM.

*Response:* Direction on plan amendments is found in FSM 1921.3 and FSH 1909.12, chapter 20. The Responsible Official must determine whether changed conditions or other issues require a plan amendment.

#### Evaluation Reports

*Comment:* The Forest Service should direct planners to cite the report, "The Scientific Basis for Silvicultural and Management Decisions in the NFS (Forest Service General Technical Report (GTR) WO-55)," rather than requiring evaluation reports.

*Response:* Forest Service Handbook 1909.12, chapter 60 has been reorganized so that this topic is now discussed in section 65.4. Forest Service GTR WO-55 is useful as a general reference but is not detailed enough for use at the plan level.

#### Long Term Sustained Yield

##### Definition of Long Term Sustained Yield (LTSY)

*Comment:* The Forest Service should not use lands not suited for timber production for calculating the Long Term Sustained Yield Capacity (LTSYC) because it will be difficult to estimate timber harvests for objectives other than timber production. Harvests for other objectives will cause them to be sporadic and uneven. The LTSY and Timber Sale Program Quantity (TSPQ) are calculated from different land bases, allowing excessive harvesting on lands suitable for timber production.

*Response:* Forest Service Handbook 1909.12, chapter 60 has been modified to clearly define lands generally suited for timber production and "other lands" where harvests may occur for other objectives. The chapter has also been changed to require that the LTSY and TSPQ be calculated separately for those two classes of lands. Calculating the LTSY from lands generally suited for

timber production is the same as the calculation used under the 1982 planning rule. The practice of calculating the LTSY on unsuitable lands is new. The Forest Service agrees it will be more difficult to make reliable estimates of the LTSYC and TSPQ from lands where timber harvest is a by-product of reaching other goals. The Forest Service believes these difficulties can be addressed when experience is obtained. Added guidance to the field may be needed later to show the results of that experience.

#### Harvesting Below the LTSYC

*Comment:* The Forest Service violates NFMA because they do not require a decade-end reconciliation of harvest with sustained yield limits. There are no cases where harvesting above the calculated LTSYC would be consistent with multiple-use objectives. More detailed direction is needed to spell out the few circumstances under which a departure is permitted because the language guiding the Responsible Official in considering departures is too weak. The amount of timber harvest permitted is artificially inflated by allowing departures and by calculating LTSYC from all lands where timber harvest can occur. The directives allow departures to continue indefinitely, making the LTSY limit meaningless.

*Response:* The term "departure" used in relation to the Long Term Sustained Yield Capacity (LTSYC) has been replaced with the more descriptive phrase "planned harvest exceeding the LTSYC". Specific direction addressing planned harvests that exceed the LTSYC is now found in FSH 1909.12, section 63.5. Planned harvests that exceed the LTSYC are permitted by 16 U.S.C. 1611. This statute does not require a decade-end reconciliation of harvest with the sustained yield limit. Forest Service Handbook 1909.12, section 63.4 requires the Responsible Official to meet specific criteria, take into account all the parts of sustainability, and involve the public when considering a planned harvest that exceeds the LTSYC. Harvests exceeding the LTSYC are reconciled during revision of the plan.

In response to public comment, the directives have been modified so that the relation between the TSPQ and the LTSYC must be considered separately on lands suitable for timber production and "other lands" where harvests may occur. This separate assessment should address concerns that harvest levels will be artificially inflated.

Restoration activities being undertaken now and in the near future are examples where short-term timber harvest levels may exceed the LTSYC.



Many areas have stand densities that are much higher than historical levels creating greater fire risk. Timber harvest treatments may be used on these lands to reduce fuels and reach a desired stand density. Future fuel reduction treatments on these lands may be a combination of small harvests and controlled burns, making the long-term harvest levels lower than short-term harvest levels.

#### Wilderness and Roadless Areas

##### Wilderness Recommendations

*Comment:* The Forest Service should recommend all roadless areas to Congress for permanent protection through wilderness designation.

*Response:* The agency will do an evaluation of inventoried roadless areas for possible recommendation for wilderness designation during revision of a land management plan. The outcome of that evaluation will determine which areas are administratively recommended for wilderness designation by Congress.

##### Public Support

*Comment:* The Forest Service must consider that the public has expressed overwhelming support for roadless area conservation when determining how the roadless areas will be managed.

*Response:* Responsible Officials will consider all appropriate public input when revising land management plans. It is appropriate for the Responsible Official to develop plan components; such as, desired conditions, to protect roadless character for lands not recommended for wilderness.

##### Contiguous Roadless Areas

*Comment:* The Forest Service should inventory all roadless areas contiguous to existing wilderness as one area because that was the will of Congress.

*Response:* It would not be appropriate to combine many separated roadless and undeveloped areas and consider them as one area when determining their suitability for the inventory of potential wilderness. Each area is potentially unique and must demonstrate characteristics that make it suitable for wilderness.

##### Protection of Roadless Areas

*Comment:* The Forest Service should use the protective safeguards and exceptions in the roadless rule as the baseline for protecting roadless areas.

*Response:* The Roadless Areas Conservation Rule was withdrawn and replaced by the State Petitioning rule on May 13, 2005. The directives for plan revision and amendment are directed toward the inventory and evaluation of

roadless areas rather than their protection. Consideration of wilderness suitability is inherent in land management planning. Unless otherwise provided by law, all roadless, undeveloped areas that satisfy the definition of wilderness found in section 2(c) of the Wilderness Act of 1964 are evaluated and considered for recommendation as potential wilderness areas during plan development or revision. Management of those inventoried roadless areas is subject to the land management planning process, which includes collaboration with and involvement by all interested parties.

##### RARE I and II

*Comment:* The Forest Service should explain the current status of the Roadless Area Review and Evaluation (RARE) I and II studies.

*Response:* In 1972, the agency undertook an inventory and evaluation of all undeveloped areas in the NFS that could be considered for possible inclusion in the National Wilderness Preservation System (NWPS). This first roadless area review and evaluation, later called RARE I, concluded in October of 1973 with the selection of 274 wilderness study areas containing 12.3 million acres. These selections were made from an inventory of 1,449 areas containing 56 million acres. The reviews of these study areas were to be completed in the planning process.

In 1977, concerns were expressed that the planning process might be too slow for completing timely reviews for the 274 study areas. There were also concerns that some areas might have been overlooked and that RARE I did not adequately inventory the national grasslands or the eastern national forests. In response to these concerns, the Secretary started RARE II. RARE II was finished in January of 1979 and identified 2,919 areas containing just over 62 million acres; recommended that 15 million acres be added to the NWPS, 36 million acres be allocated to non-wilderness uses, and about 11 million acres be placed into a further planning category.

In June of 1979, the state of California began a lawsuit challenging the RARE II decision to designate inventoried roadless areas in the state as non-wilderness. The U.S. District Court and the Ninth Circuit Court of Appeals agreed that the RARE II Final Environmental Impact Statement (FEIS) did not comply with the requirements of NEPA.

Following the Ninth Circuit's decision in 1982, the planning regulations were revised in 1983 to require evaluating inventoried roadless areas for

wilderness potential in land management planning. The planning regulation allowed the agency to maintain discretion over developing inventoried roadless areas after a land management plan was finished. Subsequent court decisions supported the concept that non-wilderness multiple-use management prescriptions assigned to inventoried roadless areas in land management plans are permissive rather than a mandate or commitment to development because the "no action" alternative still exists for these areas. Environmental analysis and NEPA documents, for site-specific project proposals in inventoried roadless areas assigned to non-wilderness management prescriptions, must look at whether to develop, not just how to develop.

##### Areas Previously Released by Congress

*Comment:* The directives should clearly note in FSM 1923 that areas released from wilderness consideration by Congress in past wilderness bills will not be included as potential wilderness areas.

*Response:* In the 1982 planning regulations, as amended, and the current 2005 planning regulations, there is a requirement to consider and evaluate, unless otherwise provided by law, all NFS lands possessing wilderness characteristics for recommendation as potential wilderness areas during the development or revision of a land management plan (36 CFR 219.7(a)(5)(ii)). The policy statement in FSM 1923 reiterates this requirement: "Unless otherwise provided by law, all roadless, undeveloped areas that satisfy the definition of wilderness found in section 2(c) of the Wilderness Act of 1964 shall be evaluated and considered for recommendation as potential wilderness areas during plan development or revision." Although wording varies to some degree in the various wilderness bills, this wording usually considers these areas being subject to wilderness reviews during the plan revision process.

##### Roadless Rule

*Comment:* The Forest Service should restore the roadless rule.

*Response:* On July 14, 2003, the U.S. District Court for the District of Wyoming found the roadless rule to be unlawful and ordered that the rule "be permanently enjoined." On May 13, 2005, USDA promulgated a new rule at 36 CFR part 294 entitled "State Petitions for Inventoried Roadless Area Management." This new rule establishes a petitioning process that will provide Governors with an opportunity to seek establishment of or adjustment to

management requirements for NFS inventoried roadless areas in their states. This opportunity for submitting state petitions is available until November 13, 2006. If a petition is accepted by the Secretary of Agriculture, the Forest Service will work cooperatively with the state to propose a state-specific rule that will address the provisions of the petition. A proposed rule will be accompanied by the appropriate NEPA documentation and made available for public review and comment. Following evaluation and consideration of all public comments, the Secretary can then promulgate the state-specific rule for the management of inventoried roadless areas in that state.

#### Protect Roadless Areas

*Comment:* The Forest Service should protect roadless areas.

*Response:* Evaluating inventoried roadless areas for their wilderness potential, and the management of inventoried roadless areas not recommended for wilderness, takes place in the land management planning process that includes collaboration with and involvement of interested parties. Also, the United States Department of Agriculture promulgated the state petitions for Inventoried Roadless Area Management Rule on May 13, 2005, that established a petition process that provides Governors with an opportunity to seek establishment of or adjustment to land management requirements for NFS inventoried roadless areas in their states through a state-specific rulemaking.

#### Wild and Scenic Rivers

##### Review of Potential Rivers

*Comment:* The Forest Service should require a review of potential wild and scenic rivers during all forest plan revisions.

*Response:* The final directives retain revisiting a wild and scenic river evaluation as changed circumstances warrant. Previously, a systematic inventory conducted to find eligible rivers or a comprehensive administrative unit-wide suitability study must have been documented in the planning record.

##### Evaluation Factors

*Comment:* The Forest Service should stress certain topics in the Forest Service directives' Wild and Scenic Rivers section including consideration of adjacent wetlands and estuaries/coastal zones, current condition of riparian and adjacent forest, catastrophic events, invasive species, the role of active management (vs. restrictions) to help maintain or

enhance designations, and compatibility with other unique land allocations.

*Response:* The final directives retain a detailed discussion of factors to consider in evaluating the suitability of an eligible river for inclusion in the National Wild and Scenic Rivers System (National System) in FSH 1909.12, section 82.41. These factors include the potential uses of land and water that would be enhanced, foreclosed, or curtailed by designation. Consideration of current conditions, including other land allocations, is also a part of eligibility as described in FSH 1909.12, sections 82.14 and 82.14a.

##### Hydrology

*Comment:* The Forest Service should consider unique or exemplary hydrology as a primary criterion for Wild and Scenic River designation.

*Response:* The final directives retain hydrology as an example of "other similar values" for which a river may be found eligible (FSH 1909.12, sec. 82.14a, para.7).

##### Native Species

*Comment:* The Forest Service should stress natural/native species, habitat diversity, and avoiding the spread of invasive species in Wild and Scenic River areas.

*Response:* The final directives retain emphasis on resident/anadromous fish populations, indigenous wildlife species, and various aspects of associated habitat, including diversity, in determining whether such values are "outstandingly remarkable" (FSH 1909.12, sec. 82.14a, paras. 4 and 5). Botany may also be evaluated as an "outstandingly remarkable" value; including emphasis on native species/plant communities and habitat diversity.

##### Corridor Widths

*Comment:* The Forest Service should justify the one-quarter mile boundary. It seems arbitrary, especially when the role of topography is not acknowledged. Also, there is no mention of key wetlands, oxbows, estuaries, and so on, as part of study area.

*Response:* For a legislatively mandated study, Congress established in section 4(d) of the Wild and Scenic Rivers Act a boundary of one-quarter mile from the ordinary high water mark on each side of the river. The final directives retain a minimum boundary of one-quarter mile with the added guidance that such a boundary "may include adjacent areas needed to protect the resources or facilitate management of the river area" (FSH 1909.12, sec. 81.3).

##### River System or Basin Integrity

*Comment:* While holistic, watershed-based management strategy seems appropriate, a vague and undefined suitability factor like "the contribution to river system or basin integrity" provides little or no understanding and focus for decisions.

*Response:* The final directives retain "contribution to river system or basin integrity" as one of the factors that may be used to evaluate the suitability of an eligible river for the National Forest System. Input from organizations and individuals familiar with specific river resources should be sought to define factors like the contribution to river system or basin integrity.

##### Benefits From Designation

*Comment:* The Forest Service should explain whether the wild and scenic river evaluation required in the Forest Service directives would include a disclosure of positive outcomes expected from specific management components of wild and scenic designation.

*Response:* The final directives retain direction from section 4(a) of the Wild and Scenic Rivers Act; for example, to address the reasonably potential uses of the land and water that would be enhanced, foreclosed, or curtailed with designation. Such analysis would include the positive benefits to land and water from designation. The final directives retain providing "guidelines as integral parts of the alternative" (FSH 1909.12, sec. 83.24).

##### Vegetation Management and Roads

*Comment:* The Forest Service should consider that while limiting access roads and tree/vegetation cutting in areas eligible for wild and scenic river status may be suitable for that designation, it may also significantly increase the risk of losing key values that contributed to the designation.

*Response:* The final directives retain the ability to use a range of vegetation management and timber harvest practices in scenic and recreational river corridors provided these practices protect, restore, or enhance the river environment. Cutting of trees and other vegetation is not permitted in wild river corridors except "when needed \* \* \* protect the environment, including wildfire suppression."

##### Fish and Wildlife Habitat Projects

*Comment:* The Forest Service should provide more specific guidance in the Forest Service directives Wild and Scenic Rivers section in regard to authorized and prohibited fish and wildlife habitat management projects.

*Response:* The final directives retain existing guidance for evaluating wildlife and fish projects in addition to the requirement to evaluate any part of such project that has potential to affect the river's free-flowing character as a water resources project.

#### Projects To Control Non-Native Species

*Comment:* Evaluating fish and wildlife habitat management projects, such as impoundments intended to prevent non-native or invasive species from migrating upstream as water resources projects may prevent or preclude activities needed to protect or restore native species.

*Response:* The Wild and Scenic Rivers Act has a three-fold purpose: protecting and enhancing a river's free-flowing character, its water quality, and its "outstandingly remarkable" values. Free-flowing is defined broadly in the act as "flowing in natural condition without impoundment, diversion, straightening, riprapping or other modification of the waterway." The final directives retain guidance to evaluate any part of a wildlife or fish project that has potential to affect a river's free-flowing character as water resources projects, consistent with the act. This requirement is not an automatic prohibition of in-stream wildlife or fish projects.

#### Condition Classes

*Comment:* The Forest Service should consider revising the Forest Service directives on wild and scenic river evaluation to add a requirement to assess and disclose the current anticipated "condition classes" of the riparian and adjacent forest to such major influences as wildfires, insects, and diseases.

*Response:* The final directives retain a detailed discussion of factors to consider in evaluating the suitability of an eligible river for inclusion in the National Forest System in FSH 1909.12, section 82.41. These factors include the potential uses of land and water that would be enhanced, foreclosed, or curtailed by designation.

#### Environmental and Heritage Preservation

##### Environmental Protection

*Comment:* The Forest Service should protect our environment for the benefit of future generations, protect animal and plant species, protect water resources, prevent global warming, protect from oil and logging interests, protect the air supply including visibility, and provide recreational opportunities.

*Response:* The Forest Service is mandated by many statutes to protect and manage the NFS for multiple-use values. The Forest Service directives allow all these important environmental issues to be considered during the forest planning process as the Responsible Official deems appropriate.

*Comment:* The Forest Service should start thinking in terms of habitat restoration and high rise dwellings to alleviate the pressure on wildlife.

*Response:* Habitat restoration is certainly a management option that can be considered during the forest planning process. High rise dwellings are not in the scope of Forest Service directives.

*Comment:* The Forest Service should support developing alternative sources of power and building materials.

*Response:* These issues are outside the scope of the Forest Service directives. The Forest Service and United States Department of Agriculture did evaluate the potential for renewable energy development on NFS lands. The technical report titled, Assessing the Potential for Renewable Energy on National Forest System Lands, written by R. Karsteadt, D. Dahle, D. Heimiller and T. Nealon can be viewed at <http://www.osti.gov/bridge> or paper copies are available for sale from the U.S. Department of Commerce, National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161, telephone 865-576-8401, FAX 865-576-5728 or e-mail mail to: [reports@adonis.osti.gov](mailto:reports@adonis.osti.gov).

*Comment:* The Forest Service should protect heritage resources because the National Historic Preservation Act of 1966 requires it.

*Response:* The comment is correct and the Forest Service is legally mandated to protect heritage resources on NFS lands by the National Historic Preservation Act and a host of other statutes and Executive orders.

#### Resource Extraction

*Comment:* The Forest Service should stop oil and gas extraction and tree harvesting on NFS Lands. Others think that the Forest Service should maintain an even balance between resource extraction and protection of wild areas. One respondent stated that all historical improvements should be disclosed along with their cost and who paid for them. Some respondents believed that industries are being allowed to profit from the national forests at a cost that will be borne by future generations.

*Response:* The Forest Service directives guide planning for the management of the NFS. The many legal authorities governing the Forest Service's management of NFS lands

require it to consider resource extraction and timber harvesting among the multiple uses to which those lands are subject.

#### Mineral Extraction Activities

*Comment:* The Forest Service should not allow the economic benefits of mineral extraction activities to outweigh environmental concerns.

*Response:* Forest Service Handbook 1909.12, section 13.13d is in accord with the Federal Land Policy and Management Act of 1976 (FLPMA). Under FLPMA, multiple-use includes Federal energy and mineral resources underlying NFS lands. Exploration and production of those resources is considered one of the "principle or major uses" under FLPMA which, under section 202(e)(1) of that act, are to be given special consideration in the planning process.

#### Fire Management

*Comment:* The Forest Service should thin and maintain the forest floor to properly manage fires to reduce the risk of catastrophic fires. Other respondents claim that thinning to reduce fuels will not promote public safety.

*Response:* The Forest Service directives offer no specific guidance on management activities that should or should not be used to address catastrophic fires. However, the planning rule and the directives require that management activities be monitored for their effectiveness in reaching the objectives and desired conditions stated in the plan.

#### Transportation

*Comment:* The Forest Service should designate "no motor vehicle" areas and reclaim existing roads. Others think the Forest Service should stop subsidizing construction of roads for logging, mining, and energy interests. One respondent commented that the directives should contain a provision for "no new road of any kind."

*Response:* The Forest Service disagrees that the directives should contain explicit direction on road management. The directives are intended to provide guidance on planning. This guidance directs the Responsible Official to consider some of the issues raised by the respondents when developing desired conditions, objectives, and guidelines for transportation.

#### Water Resources Management

##### Water Quality Data

*Comment:* The Forest Service should be cautious when using water quality limited stream data generated by the

U.S. Environmental Protection Agency (EPA).

*Response:* The Forest Service will use the best available data and use that data consistent with the requirements of the Data Quality Act (35 U.S.C. 3516).

#### Watershed Planning

*Comment:* The Forest Service should carry out intermediate watershed planning.

*Response:* The Department of Agriculture along with several other Departments and Agencies developed a *Unified Federal Policy for a Watershed Approach to Federal Land and Resource Management* (65 FR 62566, Oct. 18, 2000). This policy requires that a science-based approach be used for watershed assessments. The information generated during the assessments will become part of the basis for identifying management opportunities and priorities and for developing alternatives to protect or restore watersheds. The Forest Service has developed a science-based approach and has documented the procedures (Ecosystem Analysis at the Watershed Scale, Federal Guide for Watershed Analysis Version 2.2, August 1995) available at the Northwest Forest Plan Information Center and Library (<http://www.reo.gov/library>). Currently, each national forest conducts at least one watershed assessment a year dependent on funding availability. Information from these assessments may be used in the comprehensive evaluation.

#### Water Rights

*Comment:* The Forest Service should be more careful when addressing ownership of water rights.

*Response:* The Responsible Official is directed to identify the method used to identify the unit's non-consumptive water needs, and the options available to support the states' water allocation process (FSH 1909.12, sec. 13.11c).

#### Recreation Management

##### Trails

*Comment:* The Forest Service should make trails open and accessible to the public. It would be reasonable to fund forests that are used rather than those that are closed to the public.

*Response:* The Forest Service directives do not restrict trail use by the public.

##### Appalachian Trail

*Comment:* The Forest Service should identify the Appalachian National Scenic Trail as a special management or geographic area under the Forest Service directives. This will help to define this as a special area with legislative

designation and improve the chances for protection and consistent management across administrative boundaries.

*Response:* Special areas such as the Congressionally-designated Appalachian National Scenic Trail are addressed under FSM 1921.02b, Special Area Designations. Forests are required to recognize that these areas are nationally important and that the plan provides appropriate guidance to protect, maintain, and enhance the values associated with these areas. Special areas will be described in the vision document as desired conditions. These desired conditions may be written for geographic conditions such as the Appalachian Trail that traverses several national forests in the East. The desired conditions describe the ecological, economic, and social attributes that characterize the outcome of land management and the Appalachian Trail.

*Comment:* The Forest Service should determine the suitability of land for various resources, not just timber production because NFMA requires it. Suitability for recreational use of off-road vehicles is especially needed because off-road vehicle abuse damages the environment.

*Response:* Off-road vehicle use is addressed separately in 36 CFR parts 212, 251, 261, and 295, Travel Management; Designated Routes and Areas for Motor Vehicle Use issued on November 9, 2005. Section 212.55 specifically addresses *Criteria for designation of roads, trails, and areas*. Due to the complex nature of this management issue, such choices and evaluations are best made at the local level, with full involvement of Federal, tribal, state, and local governments, motorized and non-motorized users, and other interested parties, as provided for in the 2005 planning rule. Forest Service directives for this rule have not been developed at this time.

#### Lands Management

##### Land Acquisition

*Comment:* The Forest Service should put more emphasis on better management of existing lands rather than on land acquisition. The Federal government cannot afford to care for what it has let alone buy more. Jobs are cutout and these are jobs that are justified for forest management. This is either due to lack of funding or they are following projects such as the "Wildlands Project" where a primitive setting is desired. This ideology is not practical in the 21st century and will prove to be a loss of resources for future generations.

*Response:* Land acquisition is an important program for conserving resources that might not be protected if not federally owned. The Forest Service directives do provide some general guidelines for considering land acquisitions during the planning process at FSH 1909.12, section 13.13g. Land acquisition is considered a viable management option for the NFS and is authorized by several statutes. More detailed policy and guidelines can be found in FSM 5420, Land Purchases and Donations and FSH 5409.13, Land Acquisition Handbook.

#### Special Areas

*Comment:* The Forest Service should consider designating special areas and clarify who has the authority to designate such areas including recreational, wildlife, scenic, paleontological, and other areas not listed at FSM 1921. The directives should clarify who has the authority to designate such areas not just botanical and geologic.

*Response:* FSM 1921, exhibit 01 issued in interim directive 1920–2005–2 has been moved to FSH 1909.12, section 11.15. The exhibit contains examples of some special areas that may be considered during the planning process. The exhibit is not a comprehensive list.

#### Content of Directives

The following is an overview of what the directives contain related to land management planning.

#### Forest Service Manual (FSM)

##### *FSM 1900—Planning—Chapter Zero Code*

In general, the zero code sections of the directive coding scheme are used to identify general instructions, such as authority, objectives, and policy that apply to all subsequent direction within the section where the zero code is set out. The final directive changes definitions and other changes to be consistent with the 2005 planning rule. The final directive establishes policy that analysis should be appropriate to the decision being made and the risks associated with that decision, and that planning should be done in a reasonable manner, at reasonable costs, and in a reasonable amount of time.

##### *FSM Chapter 1920—Land Management Planning*

##### FSM 1920.2—Objectives

The final directive revises objectives to reflect the principles of the National Forest Management Act of 1976 (NFMA)

and to update sustainability wording consistent with the 2005 planning rule.

#### FSM 1920.3—Policy

The final directive adds that the responsible official must conduct sustainability evaluations within an area large enough to consider broad-scale factors and trends over large landscapes when plans are prepared or revised.

#### FSM 1920.4—Responsibility

The final directive reserves the authority to the Chief to approve the schedule of plan revisions at FSM 1920.41.

#### FSM 1921—Land Management Planning Under the 2005 Planning Rule

The final directive changes the caption from “Regional Planning” to “Land Management Planning Under the 2005 planning rule.” Forest Service Manual 1921.03 adds policy that project or activity decisions should not be included in plans. Forest Service Manual 1921.04 adds responsibilities for Regional Foresters and Forest Supervisors. Forest Service Manual 1921.1 includes direction on plan requirements and vegetation management requirements from the National Forest Management Act.

Forest Service Manual 1921.12 adds a section on National Forest Management Act requirements. Forest Service Manual 1921.12a adds requirements for timber management in carrying out projects and activities. Forest Service Manual 1921.12b adds requirements for vegetation management guidance in land management plans. Forest Service Manual 1921.12c adds requirements for identifying lands not suitable for timber production with re-evaluation to occur every ten years. Forest Service Manual 1921.12d adds requirements for estimating long-term sustained-yield capacity (LTSYC) and limitations on timber harvest on “lands generally suitable for timber harvest” to be equal to or less than the LTSYC. Also, adds exceptions to these limits of timber harvest and requirements for timber management projections. Forest Service Manual 1921.12e adds requirements for guidelines of maximum size limits for even-aged regeneration harvest. Forest Service Manual 1921.12f adds requirements for culmination of mean annual increment (CMAI) of growth and even-aged regeneration harvest and clarifies when the CMAI concept does not apply. Forest Service Manual 1921.12g adds requirements for plan guidance on restocking.

Forest Service Manual 1921.2 includes direction on plan evaluations. Forest Service Manual 1921.21 requires

the Responsible Official to review evaluations and determine if changes are needed in plan components. Forest Service Manual 1921.3 describes the Responsible Official’s discretion to determine the need for change in plan components and the need for a plan amendment or plan revision. Forest Service Manual 1921.4 describes plan implementation and FSM 1921.5 describes plan monitoring. Forest Service Manual 1921.6 describes public participation and collaboration requirements.

Forest Service Manual 1921.7 describes social and economic evaluation, civil rights and environmental justice compliance, ecological evaluation, ecosystem diversity, species diversity, and plan components for sustainability. The final directive establishes at FSM 1921.73 that the rigor of analysis should be proportional to the level of risk to ecosystems and species. A key requirement at FSM 1921.77c states that for species-of-concern, the plan should provide for appropriate ecological conditions that are of appropriate quality, distribution, and abundance to allow species populations to be well distributed and interactive, within the bounds of the life history, distribution, and natural population fluctuations of the species within the capability of the landscape and consistent with multiple-use objectives.

Forest Service Manual 1921.8 describes the role of science in planning, including uncertainty, review, and documentation. Forest Service Manual 1921.9 provides that an environmental management system (EMS) must be established for each National Forest System (NFS) unit developing, revising, and amending plans under 36 CFR 219.5 and 36 CFR 219.14 and include the scope of the unit’s activities, products, and services implementing the plan.

#### FSM 1922—Backcountry and Primitive Areas

This section establishes a reserved code for backcountry and primitive areas for issuances of an interim directive or field supplementation.

#### FSM 1923—Wilderness Evaluation

At FSM 1923, guidance is added on what areas should be subject to evaluation based on direction from the 1982 planning rule. Responsibilities are added for the forest, grassland, or prairie supervisor. Guidance is added on when a legislative environmental impact statement is required. Minor changes are made to text to agree with the 2005 planning rule.

#### FSM 1924—Wild and Scenic River Evaluation

At FSM 1924, policy is added to complete legislatively mandated studies within a specified study period and to clarify conditions under which previous river studies may need to be revisited. A responsibility is added for the Regional Forester to prepare legislative proposals for river proposals and one was added for forest, grassland, or prairie supervisor to approve management direction for rivers found eligible or recommended for designation.

#### FSM 1925—Management of Inventoried Roadless Areas

This section provides a cross-reference to another interim directive (id 1920–2004–1) on inventoried roadless areas, which became effective on July 16, 2004.

#### FSM 1926—Land Management Planning Using Planning Regulations in Effect Before November 9, 2000

Previous direction on FSM 1922 has been moved to FSM 1926. There are editorial changes from the previous text at FSM 1922 to be consistent with the 2005 planning rule. The caption is changed from “Forest Planning” to “Land Management Planning Using Planning Regulations in Effect before November 9, 2000.”

#### Forest Service Handbook (FSH)

##### *FSH 1909.12—Land Management Planning Handbook*

The final directive to this handbook includes a change from a one-digit chapter coding scheme to a two-digit coding scheme; for example, chapter 2 becomes chapter 20. The current direction in chapters 1, 2, 3, 4, 5, and 6 is removed in its entirety and those chapters, with two-digit coding, are revised to be consistent with the 2005 planning rule at 36 CFR part 219. Chapter 80 (formerly chapter 8) and the zero code chapter contain changes to assure consistency with the 2005 planning rule.

##### *Chapter 10—Land Management Plan*

This chapter provides direction on what constitutes a plan and direction on consideration of individual resources. Section 11 describes: (1) Desired conditions, (2) guidelines, (3) identification of areas generally suitable for various uses, (4) guidance for special conditions (5) objectives, (6) proposed and possible actions, (7) plan consistency, and (8) special areas and documentation. Section 12 includes guidance on the monitoring questions,

performance measures. Section 13 includes guidance on consideration of various resources during the planning process, including air, water, fire, recreation, heritage resources, minerals, range, travel management, and land use.

#### *Chapter 20—The Adaptive Planning Process*

This chapter provides guidance on the adaptive planning process and includes procedural steps for amending and revising plans. Section 24 describes how to review and evaluate a plan and provides guidance on evaluation report content and format. Section 25 describes how to amend or revise a plan. Section 28 describes content for the approval document for plan development, plan amendment, or plan revision. Section 29 describes the application of plan direction to projects.

#### *Chapter 30—Public Participation and Collaboration*

This chapter provides guidance on public participation and collaboration.

#### *Chapter 40—Science and Sustainability*

This chapter provides guidance on science and sustainability. Section 41 provides direction on science reviews and discusses purposes of a review, levels of review, review strategy, and identification of reviewers. Section 42 describes social and economic sustainability and provides a framework for social and economic evaluation. Section 43 describes ecological sustainability and describes how to analyze ecosystem diversity and species diversity.

#### *Ecosystem Diversity and Analysis*

The steps in the ecosystem diversity analysis include:

- a. Selecting the appropriate scales;
- b. Identifying the characteristics of ecosystem diversity that will be the focus of the analysis;
- c. Developing information on the range of variation;
- d. Describing the current condition of the selected characteristics;
- e. Describing the current condition and trend of the selected characteristics of ecosystem diversity;
- f. Evaluating the status of ecosystem diversity;
- g. Describing risks to selected characteristics of ecosystem diversity; and
- h. Developing plan components for ecosystem diversity.

#### *Species Diversity Analysis*

The steps in the species diversity analysis include:

- a. Establishing the ecosystem context for species;

- b. Identifying listed species, species-of-concern, and species-of-interest;

- c. Screening species-of-concern and species-of-interest for further consideration in the planning process;

- d. Collecting information;

- e. Identifying species groups/surrogate species for analysis and management; and

- f. Developing additional plan components for species diversity if needed.

Section 43.22b provides guidance to responsible officials in identifying species-of-concern and species-of-interest. For instance, it states that the responsible official may identify species with ranks of G–1 through G–3 on the NatureServe ranking system as species-of-concern. Additionally, section 43.22c specifies how responsible officials may review species with the ranks of S–1, S–2, N1, or N2 on the NatureServe ranking system for potential species-of-interest. Species-of-interest may include hunted, fished, and other species identified cooperatively with state fish and wildlife agencies consistent with the Sikes Act.

#### *Chapter 50—Objection Process*

This chapter provides guidance for the pre-decisional objection process, including guidance on: computation of periods, evidence of timely filing, lead objector, dismissal of objections, timeframes for resolving objections, response of reviewing officials, and maintaining records.

#### *Chapter 60—Forest Vegetation Resource Planning*

This chapter adds guidance on timber and forest vegetation resource planning, including guidance on identifying lands generally suitable for timber production, suitability determinations at the project level, and long-term sustained-yield capacity.

#### *Chapter 80—Wild and Scenic River Evaluation*

This chapter revises terminology, such as the term “study report” to “study report/applicable NEPA document” and updates terminology, such as, “management prescriptions” to “management direction,” and so forth. In addition, chapter 80 provides more explicit guidance for the Wild and Scenic Rivers (WSRs) study process that is consistent with a November 21, 1996, memorandum to Regional Foresters from the Directors, Ecosystem Management Coordination and Recreation, Heritage, and Wilderness Resources Staffs, Washington Office, with the U.S. Department of Agriculture-U.S. Department of the

Interior Guidelines, and with the river study direction of other Federal agencies. These changes strengthen and reinforce the linkage of the river study process to land management planning.

#### **Regulatory Certifications**

##### *Environmental Impact*

These final directives provide the detailed direction to agency employees necessary to carry out the provisions of the final 2005 planning rule adopted at 36 CFR part 219 governing land management planning. Section 31.12 of FSH 1909.15 (57 FR 43208; Sept. 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 instructions.” The agency’s conclusion is that these final directives fall within this category of actions and that no extraordinary circumstances exist as currently defined that require preparation of an environmental assessment or an environmental impact statement.

##### *Regulatory Impact*

These directives have been reviewed under USDA procedures. The final directives would 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. The directives would not interfere with an action taken or planned by another agency nor raise new legal or policy issues. Finally, the directives would 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 directives have been considered in light of Executive Order 13272 regarding proper consideration of small entities and the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), which amended the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). No direct or indirect financial impact on small businesses or other entities has been identified. Therefore, it is hereby certified that these final directives will not have a significant economic impact on a substantial number of small entities as defined by the act.

##### *No Takings Implications*

These final directives have been analyzed in accordance with the principles and criteria contained in Executive Order 12360, Governmental Actions and Interference with

Constitutionally Protected Property Rights, and it has been determined that they would not pose the risk of a taking of private property as they are limited to the establishment of administrative procedures.

#### *Energy Effects*

These final directives have been analyzed under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. It has been determined that they do not constitute a significant energy action as defined in the Executive order.

#### *Civil Justice Reform*

These final directives have been reviewed under Executive Order 12988, Civil Justice Reform. These final directives will direct the work of Forest Service employees and are not intended to preempt any state and local laws and regulations that might be in conflict or that would impede full implementation of these directives. The directives would not retroactively affect existing permits, contracts, or other instruments authorizing the occupancy and use of National Forest System lands and would not require the institution of administrative proceedings before parties may file suit in court challenging their 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 effects of these final directives on state, local, and tribal governments, and on the private sector have been assessed and

do 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.

#### *Federalism*

The agency has considered these final directives under the requirements of Executive Order 13132, Federalism. The agency has made an assessment that the final directives conform with the federalism principles set out in this Executive order; would not impose any significant 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. Moreover, these final directives address the land management planning process on national forests, grasslands, or other units of the National Forest System, which do not directly affect the states.

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

These final directives do not have tribal implications as defined by Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, and therefore, advance consultation with tribes is not required.

#### *Controlling Paperwork Burdens on the Public*

These final directives do not contain any record keeping or reporting requirements or other information collection requirements as defined in 5

CFR part 1320 and, therefore, impose no paperwork burden on the public. Accordingly, the review provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.) and implementing regulations at 5 CFR part 1320 do not apply.

#### *Conclusion*

These final directives provide consistent interpretation of the 2005 planning rule for line and staff officers, and interdisciplinary teams. As a consequence, the agency can fulfill its commitment to improve public involvement and decisionmaking associated with developing, amending, or revising a land management plan. The Forest Service has developed these planning directives to set forth the legal authorities, objectives, policy, responsibilities, direction, and overall guidance needed by Forest Service line officers, agency employees, and others to use the 2005 planning rule.

The full text of these manual and handbook references are available on the World Wide Web at <http://www.fs.fed.us.directives>. Single paper copies are available upon request from the address and telephone numbers listed earlier in this notice as well as from the nearest regional office, the location of which are also available on the Washington Office headquarters homepage on the World Wide Web at <http://www.fs.fed.us>.

Dated: January 10, 2006.

**Dale N. Bosworth,**

*Chief.*

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