

36 CFR. Part 219

Implemented April 21, 2008

§ 219.1 Purpose and applicability.

(a) The rules of this subpart set forth a process for land management planning, including the process for developing, amending, and revising land management plans (also referred to as plans) for the National Forest System (NFS), as required by the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976 (16 U.S.C. 1600 et seq.), hereinafter referred to as NFMA. This subpart also describes the nature and scope of plans and plan components. This subpart is applicable to all units of the NFS as defined by 16 U.S.C. 1609 or subsequent statute.

(b) Consistent with the Multiple-Use Sustained-Yield Act of 1960 (16 U.S.C. 528-531) (MUSYA), the overall goal of managing the NFS is to sustain the multiple uses of its renewable resources in perpetuity while maintaining the long-term productivity of the land. Resources are to be managed so they are utilized in the combination that will best meet the needs of the American people. Maintaining or restoring the health of the land enables the NFS to provide a sustainable flow of uses, benefits, products, services, and visitor opportunities.

(c) The Chief of the Forest Service shall establish planning procedures for this subpart for plan development, plan amendment, or plan revision in the Forest Service Directive System.

SOURCE: 73 FR 21505, April 21, 2008, unless otherwise noted.

AUTHORITY: 5 U.S.C. 301; 16 U.S.C. 1604, 1613.

§ 219.2 Levels of planning and planning authority.

Planning occurs at multiple organizational levels and geographic areas.

(a) National. The Chief of the Forest Service is responsible for national planning, such as preparation of the Forest Service Strategic Plan required under the Government Performance and Results Act of 1993 (5 U.S.C. 306; 31 U.S.C. 1115-1119; 31 U.S.C. 9703-9704), which is integrated with the requirements of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act (NFMA). The Strategic Plan establishes goals, objectives, performance measures, and strategies for management of the NFS, as well as the other Forest Service mission areas.

(b) Forest, grassland, prairie, or other comparable administrative unit.

(1) Land management plans provide broad guidance and information for project and activity decisionmaking in a national forest, grassland, prairie, or other comparable administrative unit. The supervisor of the national forest, grassland, prairie, or other comparable administrative unit is the responsible official for development and approval of a plan, plan amendment, or plan revision for lands under the responsibility of the supervisor, unless a regional forester, the Chief, or the Secretary chooses to act as the responsible official.

(2) When plans, plan amendments, or plan revisions are prepared for more than one administrative unit, a unit supervisor identified by the regional forester, or the regional forester, the Chief, or the Secretary may be the responsible official. Two or more responsible officials may undertake joint planning over lands under their respective jurisdictions.

(3) The appropriate station director must concur with that part of a plan applicable to any experimental forest within the plan area.

(c) Projects and activities. The supervisor or district ranger is the responsible official for project and activity decisions, unless a higher-level official chooses to act as the responsible official. Requirements for project or activity planning are established in the Forest Service Directive System. Except as specifically provided, none of the requirements of this subpart apply to projects or activities.

(d) Developing, amending, and revising plans--

(1) Plan development. If a new national forest, grassland, prairie, or

other administrative unit of the NFS is established, the regional forester, or a forest, grassland, prairie, or other comparable unit supervisor identified by the regional forester must either develop a plan for the unit or amend or revise an existing plan to apply to the lands within the new unit.

(2) Plan amendment. The responsible official may amend a plan at any time.

(3) Plan revision. The responsible official must revise the plan if the responsible official concludes that conditions within the plan area have significantly changed. Unless otherwise provided by law, a plan must be revised at least every 15 years.

SOURCE: 73 FR 21505, April 21, 2008, unless otherwise noted.

AUTHORITY: 5 U.S.C. 301; 16 U.S.C. 1604, 1613.

§ 219.3 Nature of land management planning.

(a) Principles of land management planning. Land management planning is an adaptive management process that includes social, economic, and ecological evaluation; plan development, plan amendment, and plan revision; and monitoring. The aim of planning is to produce responsible land management for the NFS based on useful and current information and guidance. Land management planning guides the Forest Service in fulfilling its responsibilities for stewardship of the NFS to best meet the needs of the American people.

(b) Force and effect of plans. Plans developed in accord with this subpart generally contain desired conditions, objectives, and guidance for project and activity decisionmaking in the plan area. Plans do not grant, withhold, or modify any contract, permit, or other legal instrument; subject anyone to civil or criminal liability; or create any legal rights. Plans typically do not approve or execute projects and activities. Decisions with effects that can be meaningfully evaluated (40 CFR 1508.23) typically are made when projects and activities are approved.

SOURCE: 73 FR 21505, April 21, 2008, unless otherwise noted.

AUTHORITY: 5 U.S.C. 301; 16 U.S.C. 1604, 1613.

§ 219.4 National Environmental Policy Act compliance.

(a) In accord with 16 U.S.C. 1604(g)(1) this subpart clarifies how the National Environmental Policy Act of 1969 (42 U.S.C. 4321-4346) (hereinafter referred to as NEPA) applies to NFS land management planning.

(b) Approval of a plan, plan amendment, or plan revision, under the authority of this subpart, will be done in accord with the Forest Service NEPA procedures.

(c) Nothing in this subpart alters the application of NEPA to proposed projects and activities.

(d) Monitoring and evaluations, including those required by § 219.6, may be used or incorporated by reference, as appropriate, in applicable NEPA documents.

SOURCE: 73 FR 21505, April 21, 2008, unless otherwise noted.

AUTHORITY: 5 U.S.C. 301; 16 U.S.C. 1604, 1613.

§ 219.5 Environmental management systems.

The responsible official will establish an environmental management system (EMS) or conform to a multi-unit, regional, or national level EMS. The scope of an EMS will include, at the minimum, land management environmental aspects as determined by the responsible official or established in a multi-unit, regional, or national level EMS. An EMS may also include environmental aspects unrelated to land management if deemed appropriate.

(a) An EMS may be established independently of the planning process.

(b) The Chief of the Forest Service shall establish procedures in the Forest Service Directive System to ensure that an appropriate EMS(s) is in place.

The responsible official may determine whether and how to change and improve an EMS, consistent with those procedures.

(c) The EMS must conform to the consensus standard developed by the International Organization for Standardization (ISO) and adopted by the American National Standards Institute (ANSI) as “ISO 14001: Environmental Management Systems--Specification With Guidance For Use” (ISO 14001). The ISO 14001 describes EMSs and outlines the elements of an EMS.

(d) No project or activity approved under a plan developed, amended, or revised under the requirements of this subpart may be implemented until the responsible official establishes an EMS or the responsible official conforms to a multi-unit, regional, or national level EMS as required by this section.

SOURCE: 73 FR 21505, April 21, 2008, unless otherwise noted.

AUTHORITY: 5 U.S.C. 301; 16 U.S.C. 1604, 1613.

§ 219.6 Evaluations and monitoring.

(a) Evaluations. The responsible official shall keep the plan set of documents up to date with evaluation reports, which will reflect changing conditions, science, and other relevant information. The following three types of evaluations are required for land management planning: Comprehensive evaluations for plan development and revision, evaluations for plan amendment, and annual evaluations of monitoring information. The responsible official shall document evaluations in evaluation reports, make these reports available to the public as required in § 219.9, and include these reports in the plan set of documents (§ 219.7(a)(1)). Evaluations under this section should be commensurate to the level of risk or benefit associated with the nature and level of expected management activities in the plan area.

(1) Comprehensive evaluations. These evaluate current social, economic, and ecological conditions and trends that contribute to sustainability, as described in § 219.10. Comprehensive evaluations and comprehensive evaluation reports must be updated at least every 5

years to reflect any substantial changes in conditions and trends since the last comprehensive evaluation. A comprehensive evaluation report may be combined with other documents, including NEPA documents. The responsible official must ensure that comprehensive evaluations, including any updates necessary, include the following elements:

(i) Area of analysis. The area(s) of analysis must be clearly identified.

(ii) Conditions and trends. The current social, economic, and ecological conditions and trends and substantial changes from previously identified conditions and trends must be described based on available information, including monitoring information, surveys, assessments, analyses, and other studies as appropriate. Evaluations may build upon existing studies and evaluations.

(2) Evaluation for a plan amendment. An evaluation for a plan amendment must analyze the issues relevant to the purposes of the amendment and may use the information in comprehensive evaluations relevant to the plan amendment. When a plan amendment is made contemporaneously with, and only applies to, a project or activity decision, the analysis prepared for the project or activity may be used to satisfy the requirements for an evaluation for an amendment.

(3) Annual evaluation of the monitoring information. Monitoring results must be evaluated annually and in accord with paragraph (b)(2) of this section.

(b) Monitoring. The plan must describe the monitoring program for the plan area. Monitoring information in the plan document or set of documents may be changed and updated as appropriate, at any time. Such changes and updates are administrative corrections (§ 219.7(b)) and do not require a plan amendment or revision.

(1) The plan-monitoring program shall be developed with public participation and take into account:

(i) Financial and technical capabilities;

(ii) Key social, economic, and ecological performance measures relevant to the plan area; and

(iii) The best available science.

(2) The plan-monitoring program shall provide for:

(i) Monitoring to assist in evaluating the effects of each management system to the end that it will not produce substantial and permanent impairment of the productivity of the land;

(ii) Monitoring of the degree to which on-the-ground management is maintaining or making progress toward the desired conditions and objectives for the plan; and

(iii) Adjustment of the monitoring program as appropriate to account for unanticipated changes in conditions.

(3) The responsible official may conduct monitoring jointly with others, including but not limited to, Forest Service units, Federal, State or local government agencies, federally recognized Indian Tribes, Alaska Native Corporations, and members of the public.

SOURCE: 73 FR 21505, April 21, 2008, unless otherwise noted.

AUTHORITY: 5 U.S.C. 301; 16 U.S.C. 1604, 1613.

§ 219.7 Developing, amending, or revising a plan.

(a) General planning requirements--

(1) Plan documents or set of documents. The responsible official must maintain a plan document or set of documents for the plan. A plan document or set of documents includes, but is not limited to evaluation reports; documentation of public involvement; the plan, including applicable maps; applicable plan approval documents; applicable NEPA documents, if any; applicable EMS documents, if any; and the monitoring program for the plan area.

(2) Plan components. Plan components may apply to all or part of the plan area. A plan should include the following components:

(i) Desired conditions. Desired conditions are the social, economic, and ecological attributes toward which management of the land and resources is to be directed. Desired conditions are aspirations and are not commitments or final decisions approving projects and activities, and may be achievable only over a long time period.

(ii) Objectives. 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. Like desired conditions, objectives are aspirations and are not commitments or final decisions approving projects and activities.

(iii) Guidelines. Guidelines provide information and guidance for project and activity decisionmaking to help achieve desired conditions and objectives. Guidelines are not commitments or final decisions approving projects and activities.

(iv) Suitability of areas. Areas of each NFS unit are identified as generally suitable for various uses (§ 219.12). An area may be identified as generally suitable for uses that are compatible with desired conditions and objectives for that area. An area may be identified as generally not suitable for uses that are not compatible with desired conditions and objectives for that area. Identification of an area as generally suitable or not suitable for a use is guidance for project and activity decisionmaking and not a commitment nor a final decision approving projects and activities. Uses of specific areas are approved through project and activity decisionmaking.

(v) Special areas. Special areas are areas in the NFS designated because of their unique or special characteristics. Special areas such as botanical areas or significant caves may be designated, by the responsible official in approving a plan, plan amendment, or plan revision. Such designations are not final decisions approving projects and activities. The plan may also recognize special areas designated by statute or through a separate administrative process in accord with NEPA requirements (§ 219.4) and other applicable laws.

(3) Standards. A plan may include standards as a plan component. Standards are constraints upon project and activity decisionmaking and

are explicitly identified in a plan as “standards.” Standards are established to help achieve the desired conditions and objectives of a plan and to comply with applicable laws, regulations, Executive orders, and agency directives.

(4) Changing plan components. Plan components may be changed through plan amendment or revision or through an administrative correction in accord with § 219.7(b).

(5) Planning authorities. The responsible official has the discretion to determine whether and how to change the plan, subject to the requirement that the plan be revised at least every 15 years. A decision by a responsible official about whether or not to initiate the plan amendment or plan revision process and what issues to consider for plan development, plan amendment, or plan revision is not subject to objection under this subpart (§ 219.13).

(6) Plan process.

(i) Required evaluation reports, plans, plan amendments, and plan revisions must be prepared by an interdisciplinary team; and

(ii) Unless otherwise provided by law, all NFS lands possessing wilderness characteristics must be considered for recommendation as potential wilderness areas during plan development or revision.

(7) Developing plan options. In the collaborative and participatory process of land management planning, the responsible official may use an iterative approach in development of a plan, plan amendment, and plan revision in a way that plan options are developed and narrowed successively. The key steps in this process shall be documented in the plan set of documents.

(b) Administrative corrections. Administrative corrections may be made at any time, and are not plan amendments or revisions. Administrative corrections include the following:

(1) Corrections and updates of data and maps;

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

changes;

(3) Changes in the monitoring program and monitoring information (§ 219.6(b));

(4) Changes in timber management projections or other projections of uses or activities; and

(5) Other changes in the plan document or set of documents that are not substantive changes in the plan components.

(c) Approval document. The responsible official must record approval of a new plan, plan amendment, or plan revision in a plan approval document, which must include:

(1) The reasons for the approval of the plan, plan amendment, or plan revision;

(2) Concurrence by the appropriate station director with any part of the plan applicable to any experimental forest in the plan area, in accord with § 219.2(b)(3);

(3) A statement of how the plan, plan amendment, or plan revision applies to approved projects and activities, in accord with § 219.8;

(4) Science documentation, in accord with § 219.11; and

(5) The effective date of the approval (§ 219.14(a)).

If a plan approval document is, in whole or part, the culmination of an EA or EIS process, the plan approval document or pertinent part thereof, must be prepared in accord with Forest Service NEPA procedures.

SOURCE: 73 FR 21505, April 21, 2008, unless otherwise noted.

AUTHORITY: 5 U.S.C. 301; 16 U.S.C. 1604, 1613.

§ 219.8 Application of a new plan, plan amendment, or plan revision.

(a) Application of a new plan, plan amendment, or plan revision to existing authorizations and approved projects or activities.

(1) The responsible official must include in any document approving a plan amendment or revision a description of the effects of the plan, plan amendments, or plan revision on existing occupancy and use authorized by permits, contracts, or other instruments carrying out approved projects and activities. If not expressly excepted, approved projects and activities must be consistent with applicable plan components, as provided in paragraph (e) of this section. Approved projects and activities are those for which a responsible official has signed a decision document.

(2) Any modifications of such permits, contracts, or other instruments needed to make them consistent with applicable plan components as developed, amended, or revised are subject to valid existing rights. Such modifications should be made as soon as practicable following approval of a new plan, plan amendment, or plan revision.

(b) Application of a new plan, plan amendment, or plan revision to authorizations and projects or activities subsequent to plan approval. Decisions approving projects and activities subsequent to approval of a plan, plan amendment, or plan revision must be consistent with the plan as provided in paragraph (e) of this section.

(c) Application of a plan. Plan provisions remain in effect until the effective date of a new plan, plan amendment, or plan revision.

(d) Effect of new information on projects or activities. Although new information will be considered in accord with agency NEPA procedures, nothing in this subpart requires automatic deferral, suspension, or modification of approved decisions in light of new information.

(e) Ensuring project or activity consistency with plans. Projects and activities must be consistent with the applicable plan components. If an existing (paragraph (a) of this section) or proposed (paragraph (b) of this section) use, project, or activity is not consistent with the applicable plan

components, the responsible official may take one of the following steps, subject to valid existing rights:

- (1) Modify the project or activity to make it consistent with the applicable plan components;
- (2) Reject the proposal or terminate the project or activity, subject to valid existing rights; or
- (3) Amend the plan contemporaneously with the approval of the project or activity so that it will be consistent with the plan as amended. The amendment may be limited to apply only to the project or activity.

SOURCE: 73 FR 21505, April 21, 2008, unless otherwise noted.

AUTHORITY: 5 U.S.C. 301; 16 U.S.C. 1604, 1613.

§ 219.9 Public participation, collaboration, and notification.

The responsible official must use a collaborative and participatory approach to land management planning, in accord with this subpart and consistent with applicable laws, regulations, and policies, by engaging the skills and interests of appropriate combinations of Forest Service staff, consultants, contractors, other Federal agencies, federally recognized Indian Tribes, Alaska Native Corporations, State or local governments, or other interested or affected communities, groups, or persons.

(a) Providing opportunities for participation. The responsible official must provide opportunities for the public to collaborate and participate openly and meaningfully in the planning process, taking into account the discrete and diverse roles, jurisdictions, and responsibilities of interested and affected parties. Specifically, as part of plan development, plan amendment, and plan revision, 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. The responsible official has the discretion to determine the methods and timing of public involvement opportunities.

- (1) Engaging interested individuals and organizations. The responsible official must provide for and encourage collaboration and participation by

interested individuals and organizations, including private landowners whose lands are in, adjacent to, or otherwise affected by future management actions in the plan area.

(2) Engaging State and local governments and Federal agencies. The responsible official must provide opportunities for the coordination of Forest Service planning efforts undertaken in accord with this subpart with those of other resource management agencies. The responsible official also must meet with and provide early opportunities for other government agencies to be involved, to collaborate, and to participate in planning for NFS lands. The responsible official should seek assistance, where appropriate, from other State and local governments, Federal agencies, and scientific and academic institutions to help address management issues or opportunities.

(3) Engaging Tribal governments and Alaska Native Corporations. The Forest Service recognizes the Federal Government's trust responsibility for federally recognized Indian Tribes. The responsible official must consult with, invite, and provide opportunities for any federally recognized Indian Tribes and Alaska Native Corporations that may be affected by the planning process to collaborate and participate. In working with federally recognized Indian Tribes, the responsible official must honor the government-to-government relationship between Tribes and the Federal Government. The responsible official should seek assistance, where appropriate, from federally recognized Indian Tribes and Alaska Native Corporations to help address management issues or opportunities.

(b) Public notification. The following public notification requirements apply to plan development, amendment, or revision, except when a plan amendment is approved contemporaneously with approval of a project or activity and the amendment applies only to the project or activity, in a way that 36 CFR part 215 or part 218, subpart A, applies:

(1) When formal public notification is provided. Public notification must be provided at the following times:

(i) Initiation of development of a plan, plan amendment, or plan revision

(ii) Commencement of the 90-day comment period on a proposed plan,

plan amendment, or plan revision

(iii) Commencement of the 30-day objection period prior to approval of a plan, plan amendment, or plan revision

(iv) Approval of a plan, plan amendment, or plan revision

(v) Adjustment to conform to this subpart of a planning process for a plan, plan amendment, or plan revision initiated under the provisions of a previous planning regulation

(2) How public notice is provided. Public notice must be provided in the following ways:

(i) All required public notices applicable to a new plan, plan revision, or any ongoing plan revision as provided in § 219.14(b) must be published in the Federal Register and newspaper(s) of record.

(ii) Required notifications that are associated with a plan amendment or any ongoing plan amendment as provided in § 219.14(b) and that apply to one plan must be published in the newspaper(s) of record. Required notifications that are associated with plan amendments and any ongoing plan amendments (as provided at § 219.14(b)) and that apply to more than one plan must be published in the Federal Register.

(iii) Public notification of evaluation reports and monitoring program changes may be made in a way deemed appropriate by the responsible official.

(3) Content of the public notice. Public notices must contain the following information:

(i) Content of the public notice for initiating a plan development, plan amendment, or plan revision. The notice must inform the public of the documents available for review and how to obtain them; provide a summary of the need to develop a plan or change a plan; invite the public to comment on the need for change in a plan; identify any other need for change in a plan that they feel should be addressed during the planning process; provide an estimated schedule for the planning process, including the time available for comments; and inform the

public how to submit comments.

(ii) Content of the public notice for a proposed plan, plan amendment, or plan revision. The notice must inform the public of the availability of the proposed plan, plan amendment, or plan revision, including any relevant evaluation report; the commencement of the 90-day comment period; and the process for submitting comments.

(iii) Content of the public notice for a plan, plan amendment, or plan revision before approval. The notice must inform the public of the availability of the plan, plan amendment, or plan revision; any relevant evaluation report; and the commencement of the 30-day objection period; and the process for objecting.

(iv) Content of the public notice for approval of a plan, plan amendment, or plan revision. The notice must inform the public of the availability of the approved plan, plan amendment, or plan revision, the approval document, and the effective date of the approval (§ 219.14(a)).

(v) Content of the public notice for an ongoing planning process. The notice must state whether or not a planning process initiated before April 21, 2008 (§ 219.14(b)) will be adjusted to conform to this subpart.

SOURCE: 73 FR 21505, April 21, 2008, unless otherwise noted.

AUTHORITY: 5 U.S.C. 301; 16 U.S.C. 1604, 1613.

§ 219.10 Sustainability.

Sustainability, for any unit of the NFS, has three interrelated and interdependent elements: Social, economic, and ecological. A plan can contribute to sustainability by creating a framework to guide on-the-ground management of projects and activities; however, a plan by itself cannot ensure sustainability. Agency authorities, the nature of a plan, and the capabilities of the plan area are some of the factors that limit the extent to which a plan can contribute to achieving sustainability.

(a) Sustaining social and economic systems. The overall goal of the social and economic elements of sustainability is to contribute to sustaining social

and economic systems within the plan area. To understand the social and economic contributions that National Forest System lands presently make, and may make in the future, the responsible official, in accordance with § 219.6, must evaluate relevant economic and social conditions and trends as appropriate during plan development, plan amendment, or plan revision.

(b) Sustaining ecological systems. The overall goal of the ecological element of sustainability is to provide a framework to contribute to sustaining native ecological systems by providing appropriate ecological conditions to support diversity of native plant and animal species in the plan area. This will satisfy the statutory requirement to provide for diversity of plant and animal communities based on the suitability and capability of the specific land area in order to meet overall multiple-use objectives (16 U.S.C. 1604(g)(3)(B)). Procedures developed pursuant to § 219.1(c) for sustaining ecological systems must be consistent with the following:

(1) Ecosystem diversity. Ecosystem diversity is the primary means by which a plan contributes to sustaining ecological systems. Plan components must establish a framework to provide the characteristics of ecosystem diversity in the plan area.

(2) Species diversity. If the responsible official determines that provisions in plan components, in addition to those required by paragraph (b)(1) of this section, are needed to provide appropriate ecological conditions for specific threatened and endangered species, species-of-concern, and species-of-interest, then the plan must include additional provisions for these species, consistent with the limits of Agency authorities, the capability of the plan area, and overall multiple use objectives.

SOURCE: 73 FR 21505, April 21, 2008, unless otherwise noted.

AUTHORITY: 5 U.S.C. 301; 16 U.S.C. 1604, 1613.

§ 219.11 Role of science in planning.

(a) The responsible official must take into account the best available science. For purposes of this subpart, taking into account the best available

science means the responsible official must:

- (1) Document how the best available science was taken into account in the planning process within the context of the issues being considered;
- (2) Document that the science was appropriately interpreted and applied.

(b) To meet the requirements of paragraph (a) of this section, the responsible official may use independent peer review, a science advisory board, or other review methods to evaluate the consideration of science in the planning process.

SOURCE: 73 FR 21505, April 21, 2008, unless otherwise noted.

AUTHORITY: 5 U.S.C. 301; 16 U.S.C. 1604, 1613.

§ 219.12 Suitable uses and provisions required by NFMA.

(a) Suitable uses--

(1) Identification of suitable land uses. National Forest System lands are generally suitable for a variety of multiple uses, such as outdoor recreation, range, timber, watershed, and wildlife and fish purposes. The responsible official, as appropriate, shall identify areas within a National Forest System unit as generally suitable for uses that are compatible with desired conditions and objectives for that area. The responsible official may identify lands within the plan area as generally not suitable for uses that are not compatible with desired conditions and objectives for that area. Identification of an area as generally suitable or not suitable for a use is guidance for project and activity decisionmaking and not a permanent land designation, and is subject to change through plan amendment or plan revision.

A plan approval document may include project and activity decisions including prohibitions of a specific use (or uses) under 36 CFR part 261 or authorization of a specific use (or uses) when the supporting analysis and plan approval document for the prohibition or use is in accordance with the Forest Service NEPA procedures.

(2) Identification of lands not suitable for timber production.

(i) The responsible official must identify lands within the plan area as not suitable for timber production (§ 219.16) if:

(A) Statute, Executive Order, or regulation prohibits timber production on the land; or

(B) The Secretary of Agriculture or the Chief of the Forest Service has withdrawn the land from timber production; or

(C) The land is not forest land (as defined at § 219.16); or

(D) Timber production would not be compatible with the achievement of desired conditions and objectives established by the plan for those lands; or

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

(F) There is no reasonable assurance that such lands can be adequately restocked within 5 years after final regeneration harvest.

(ii) This identification in a plan is not a final decision compelling, approving, or prohibiting projects and activities. A final determination of suitability for timber production is made through project and activity decisionmaking.

(3) Lands suitable for timber production. After considering physical, ecological, social, economic, and other pertinent factors to the extent feasible, a Responsible Official may establish timber production as an objective in a plan for any lands not identified in paragraph (a)(2)(i) of this section. The responsible official must review lands not suited for timber production at least once every 10 years, or as otherwise prescribed by law, to determine their suitability for timber production. As a result of this 10-year review, timber production may be established as a plan objective for any lands found to be suitable for such purpose

through amendment or revision of the plan.

(4) Other lands where trees may be harvested for multiple use values other than timber production. Designation of lands as not suitable for timber production does not preclude the harvest of trees on those lands for salvage, sanitation, or other multiple use purposes. Except for lands described at paragraph (a)(2)(i)(E) of this section, timber harvest may be used as a tool to assist in achieving or maintaining applicable desired conditions or objectives.

(b) Plan provisions for resource management. A plan should include provisions for the following:

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

(2) Maximum size openings created by timber harvest according to geographic areas, forest types, or other suitable classifications for areas to be cut in one regeneration harvest operation. This limit may be less than, but will not exceed, 60 acres for the Douglas-fir forest type of California, Oregon, and Washington; 80 acres for the southern yellow pine types of Alabama, Arkansas, Georgia, Florida, Louisiana, Mississippi, North Carolina, South Carolina, Oklahoma, and Texas; 100 acres for the hemlock-Sitka spruce forest type of coastal Alaska; and 40 acres for all other forest types. The plan must allow for exceeding its limitations on maximum size openings after appropriate public notice and review by the supervisor of the responsible official who normally would approve the harvest proposal. The plan maximum size openings must not apply to the size of areas harvested as a result of natural catastrophic conditions such as fire, insect and disease attack, or windstorm;

(3) Provisions that cut blocks, patches, or strips that are shaped and blended to the extent practicable with the natural terrain;

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

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

(6) Provisions that there is reasonable assurance that lands can be adequately restocked within 5 years after final regeneration harvest; and

(7) Provisions that soil, slope, or other watershed conditions will not be irreversibly damaged by timber harvest.

(c) Forest Service Directive System procedures.

(1) The Chief of the Forest Service must include in the Forest Service Directive System procedures for estimating the quantity of timber that can be removed annually in perpetuity on a sustained-yield basis in accordance with 16 U.S.C. 1611.

(2) The Chief of the Forest Service must include in the Forest Service Directive System requirements assuring that even-aged stands of trees scheduled for harvest during the planning period have generally reached culmination of mean annual increment of growth. This requirement applies only to regeneration harvest of even-aged stands on lands identified as suitable for timber production and where timber production is a management purpose for the harvest.

(3) Forest Service Directive System procedures to fulfill the requirements of this paragraph shall be adopted following public involvement as described in 36 CFR part 216.

SOURCE: 73 FR 21505, April 21, 2008, unless otherwise noted.

AUTHORITY: 5 U.S.C. 301; 16 U.S.C. 1604, 1613.

§ 219.13 Objections to plans, plan amendments, or plan revisions.

(a) Opportunities to object. Before approving a plan, plan amendment, or plan revision, the responsible official must provide the public 30 calendar days for pre-decisional review and the opportunity to object. Federal agencies may not object under this subpart. During the 30-day review period, any person or organization, other than a Federal agency, who participated in the planning process through the submission of written comments, may object to a plan, plan amendment, or plan revision according to the procedures in this section, except in the following circumstances:

(1) When a plan amendment is approved contemporaneously with a project or activity decision and the plan amendment applies only to the project or activity, in a way that the administrative review process of 36 CFR part 215 or part 218, subpart A, applies instead of the objection process established in this section; or

(2) When the responsible official is an official in the Department of Agriculture at a level higher than the Chief of the Forest Service, in a way that there is no opportunity for administrative review.

(b) Submitting objections. The objection must be in writing and must be filed with the reviewing officer within 30 days following the publication date of the legal notice in the newspaper of record of the availability of the plan, plan amendment, or plan revision. Specific details will be in the Forest Service Directive System. An objection must contain:

(1) The name, mailing address, and telephone number of the person or entity filing the objection. Where a single objection is filed by more than one person, the objection must indicate the lead objector to contact. The reviewing officer may appoint the first name listed as the lead objector to act on behalf of all parties to the single objection when the single objection does not specify a lead objector. The reviewing officer may

communicate directly with the lead objector and is not required to notify the other listed objectors of the objection response or any other written correspondence related to the single objection;

(2) A statement of the issues, the parts of the plan, plan amendment, or plan revision to which the objection applies, and how the objecting party would be adversely affected; and

(3) A concise statement explaining how the objector believes that the plan, plan amendment, or plan revision is inconsistent with law, regulation, or policy or how the objector disagrees with the decision and providing any recommendations for change.

(c) Responding to objections.

(1) The reviewing officer (§ 219.16) has the authority to make all procedural determinations related to the objection not specifically explained in this subpart, including those procedures necessary to ensure compatibility, to the extent practicable, with the administrative review processes of other Federal agencies. The reviewing officer must promptly render a written response to the objection. The response must be sent to the objecting party by certified mail, return receipt requested.

(2) The response of the reviewing officer shall be the final decision of the Department of Agriculture on the objection.

(d) Use of other administrative review processes. Where the Forest Service is a participant in a multi-Federal agency effort that would otherwise be subject to objection under this subpart, the reviewing officer may waive the objection procedures of this subpart and instead adopt the administrative review procedure of another participating Federal agency. As a condition of such a waiver, the responsible official for the Forest Service must have agreement with the responsible official of the other agency or agencies that a joint agency response will be provided to those who file for administrative review of the multi-agency effort.

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

SOURCE: 73 FR 21505, April 21, 2008, unless otherwise noted.

AUTHORITY: 5 U.S.C. 301; 16 U.S.C. 1604, 1613.

§ 219.14 Effective dates and transition.

(a) Effective dates. A plan, plan amendment, or plan revision is effective 30 days after publication of notice of its approval (§ 219.9(b)), except when a plan amendment is approved contemporaneously with a project or activity and applies only to the project or activity, in a way that 36 CFR part 215 or part 218, subpart A, apply.

(b) Transition. For the purposes of this section, initiation means that the Agency has provided notice under § 219.9(b) or issued a notice of intent or other public notice announcing the commencement of the process to develop a plan, plan amendment, or plan revision.

(1) Plan development and plan revisions. Plan development and plan revisions initiated after April 21, 2008 must conform to the requirements of this subpart, except that the plan for the Tongass National Forest may be revised once under this subpart or the planning regulations in effect before November 9, 2000.

(2) Plan Amendments. With respect to plans approved or revised pursuant to the planning regulation in effect before November 9, 2000, (see 36 CFR parts 200 to 299, Revised as of July 1, 2000), a 3-year transition period for plan amendments begins on April 21, 2008. During the transition period, plan amendments may continue using the provisions of the planning regulation in effect before November 9, 2000, or may conform to the requirements of this subpart. If the responsible official uses the provisions of the prior planning regulations, the responsible official may elect to use either the objection procedures of this subpart or the optional appeal procedures available during the planning rule transition period. The optional appeal procedures available during the planning rule transition period are published at 54 FR 3357 (January 23, 1989), as amended at 54 FR 13807 (April 5, 1989); 54 FR 34509 (August 21, 1989); 55 FR 7895 (March 6, 1990); 56 FR 4918 (February 6, 1991); 56 FR 46550 (September 13, 1991); and 58 FR

58915 (November 4, 1993). Plan amendments initiated after the transition period must conform to the requirements of this subpart.

(3) Plan development, plan amendments, or plan revisions underway before this rule.

(i) For plan development, plan amendments, or plan revisions that had been underway before April 21, 2008, using the provisions of the planning regulations in effect before November 9, 2000 (See 36 CFR parts 200 to 299, Revised as of July 1, 2000) the responsible official is not required to halt the process and start over but may complete those processes in conformance of the provisions of those regulations or in conformance to the requirements of this subpart.

(ii) For plan development plan amendment, or plan revisions that had been underway before April 21, 2008 using the provisions of the planning regulations in effect January 5, 2005 (See 36 CFR parts 200 to 299, Revised as of July 1, 2005) the responsible official is not required to start over under this subpart upon a finding that the plan, plan amendment, or plan revision process undertaken before April 21, 2008 conforms to the requirements of this subpart.

(iii) Except when a plan amendment is approved contemporaneously with a project or activity and applies only to that project or activity (in a way that 36 CFR part 215 or part 218, subpart A apply), the responsible official may elect to use either the objection procedures of this subpart or the optional appeal procedures available during the planning rule transition period. The optional appeal procedures available during the planning rule transition period are published at 54 FR 3357 (January 23, 1989), as amended at 54 FR 13807 (April 5, 1989); 54 FR 34509 (August 21, 1989); 55 FR 7895 (March 6, 1990); 56 FR 4918 (February 6, 1991); 56 FR 46550 (September 13, 1991); and 58 FR 58915 (November 4, 1993).

(4) Plans developed, amended, or revised using the provisions of the planning rule in effect prior to November 9, 2000. For units with plans developed, amended, or revised using the provisions of the planning rule in effect prior to November 9, 2000 (See 36 CFR parts 200 to 299, Revised as of July 1, 2000), that rule is without effect. No obligations remain from that regulation, except those that are those specifically in

the plan.

[73 FR 80300, Dec. 31, 2008]

SOURCE: 73 FR 21505, April 21, 2008, unless otherwise noted.

AUTHORITY: 5 U.S.C. 301; 16 U.S.C. 1604, 1613.

§ 219.15 Severability.

In the event that any specific provision of this rule is deemed by a court to be invalid, the remaining provisions shall remain in effect.

SOURCE: 73 FR 21505, April 21, 2008, unless otherwise noted.

AUTHORITY: 5 U.S.C. 301; 16 U.S.C. 1604, 1613.

§ 219.16 Definitions.

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

Adaptive management: A system of management practices based on clearly identified outcomes and monitoring to determine if management actions are meeting desired outcomes, and if not, to facilitate management changes that will best ensure that outcomes are met or re-evaluated. Adaptive management stems from the recognition that knowledge about natural resource systems is sometimes uncertain.

Alaska Native Corporations: The regional, urban, and village native corporations formed under the Alaska Native Claims Settlement Act of 1971.

Area of analysis: The geographic area within which ecosystems, their components, or their processes are evaluated during analysis and development of one or more plans, plan revisions, or plan amendments. This area may vary in size depending on the relevant planning issue. For a plan, an area of analysis may be larger than a plan area. For development

of a plan amendment, an area of analysis may be smaller than the plan area. An area of analysis may include multiple ownerships.

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

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

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

Environmental management system: The part of the overall management system that includes organizational structure, planning activities, responsibilities, practices, procedures, processes, and resources for developing, implementing, achieving, reviewing, and maintaining environmental policy.

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

Forest land: Land at least 10 percent occupied by forest trees of any size or formerly having had such tree cover and not currently developed for non-forest uses. Lands developed for non-forest use include areas for crops; improved pasture; residential or administrative areas; improved roads of any width and adjoining road clearing; and power line clearings of any width.

ISO 14001: A consensus standard developed by the International Organization for Standardization and adopted by the American National Standards Institute that describes environmental management systems and outlines the elements of an environmental management system.

Newspaper(s) of record: The principal newspapers of general circulation annually identified and published in the Federal Register by each regional forester to be used for publishing notices as required by 36 CFR 215.5. The newspaper(s) of record for projects in a plan area is (are) the newspaper(s) of record for notices related to planning.

Plan: A document or set of documents that integrates and displays information relevant to management of a unit of the National Forest System.

Plan area: The National Forest System lands covered by a plan.

Productivity: The capacity of National Forest System lands and their ecological systems to provide the various renewable resources in certain amounts in perpetuity. For the purposes of this subpart it is an ecological, not an economic, term.

Public participation: Activities that include a wide range of public involvement tools and processes, such as collaboration, public meetings, open houses, workshops, and comment periods.

Responsible official: The official with the authority and responsibility to oversee the planning process and to approve plans, plan amendments, and plan revisions.

Reviewing officer: The supervisor of the responsible official. The reviewing officer responds to objections made to a plan, plan amendment, or plan revision prior to approval.

Species-of-concern: Species for which the responsible official determines that management actions may be necessary to prevent listing under the Endangered Species Act.

Species-of-interest: Species for which the responsible official determines that management actions may be necessary or desirable to achieve ecological or other multiple use objectives.

Timber harvest: The removal of trees for wood fiber use and other multiple-use purposes.

Timber production: The purposeful growing, tending, harvesting, and regeneration of regulated crops of trees to be cut into logs, bolts, or other round sections for industrial or consumer use.

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

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

SOURCE: 73 FR 21505, April 21, 2008, unless otherwise noted.

AUTHORITY: 5 U.S.C. 301; 16 U.S.C. 1604, 1613.