

# H-1600-1 LAND USE PLANNING HANDBOOK

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## I. INTRODUCTION

### A. The purpose of this Handbook and the need for planning guidance.

This Handbook provides supplemental guidance to Bureau of Land Management (BLM) personnel in implementing the BLM land use planning required by Section 201 of the Federal Land Policy and Management Act of 1976 (FLPMA, 43 U.S.C. 1711) and the regulations at 43 CFR 1600. Land use plans and planning decisions are the basis for every action the BLM undertakes and serve as its primary tool for managing the public lands.

These plans ensure the public lands are managed in accordance with the mission and goals of BLM's Strategic Plan and FLPMA (43 U.S.C. 1701 *et seq.*), under the principles of multiple use and sustained yield, and in a manner that will protect the quality of scientific, scenic, historical, ecological, environmental, air and atmospheric, water resource, and archaeological values; that, where appropriate, will preserve and protect certain public lands in their natural condition; that will provide food and habitat for fish and wildlife and domestic animals; and that will provide for outdoor recreation and human occupancy and use by encouraging collaboration and public participation throughout the planning process.

This Handbook provides guidance for preparing and amending land use plan decisions through the planning process, including those contained in both Resource Management Plans (RMP) and Management Framework Plans (MFP). This Handbook also provides guidance for developing subsequent implementation plans and decisions. It builds on field experience gained in implementing the 1983 planning regulations (43 CFR 1600) and subsequent Manual guidance. This guidance does not, however, change or revise the planning regulations at 43 CFR 1600, which take precedence over this Handbook. Definitions for terms used in this Handbook are found in the glossary and in the BLM planning regulations at 43 CFR 1601.0-5.

Any interpretation of the guidance contained in this Handbook is subservient to the legal and regulatory mandates contained in FLPMA, 43 CFR 1600, the National Environmental Policy Act of 1969 (NEPA, 42 U.S.C. 4321 *et seq.*), and the Council on Environmental Quality's regulations at 40 CFR 1500-1508.

This planning guidance:

1. Encourages planning on a variety of scales, including both traditional RMPs at the local level and larger regional-level plans, and combinations of these across different land ownerships and jurisdictions;
2. Encourages greater public participation throughout the planning process and facilitates multi-jurisdictional planning;
3. Clarifies the relationship between land use plans and implementation plans;

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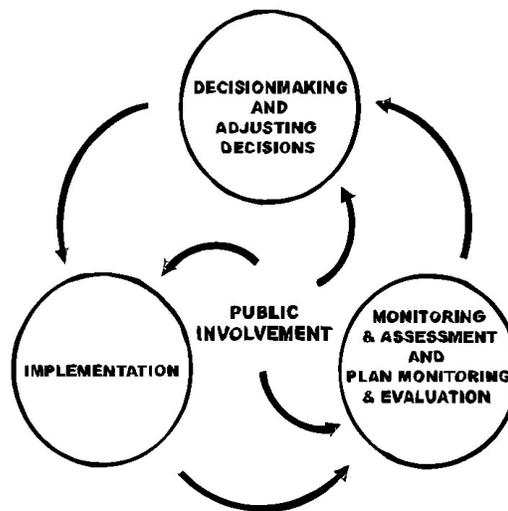
4. Provides the minimum procedural requirements for completing land use plans and implementation plans;
5. Clarifies the relationships between land use plan and NEPA requirements; and
6. Addresses new requirements and approaches for managing public lands or resources; and
7. Addresses the consideration of new information and circumstances, such as new listings of threatened and endangered species, and new requirements and standards for the protection of air and water quality.

### B. The basic planning process

Section 202 (a) of FLPMA states: “The Secretary shall, with public involvement . . . develop, maintain, and, when appropriate, revise land use plans which provide by tracts or areas for the use of the public lands” (43 U.S.C. 1712). The regulations for making and modifying land use plans and planning decisions are found at 43 CFR 1600.

The BLM will use an ongoing planning process of assessment, decision-making, implementation, plan monitoring and evaluation, and adjustment through maintenance, amendment, and revision to ensure that land use plans and implementation decisions remain consistent with applicable laws, regulations, orders, and policies. This is illustrated on Figure 1.

FIGURE 1 - OVERVIEW OF PLANNING RELATIONSHIPS



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This process allows for continuous adjustments to respond to new circumstances. The BLM will make decisions using the best information available at the time, and will modify them as BLM gains new information and knowledge of new circumstances relevant to resource values and environmental concerns. Modifying land use plans through maintenance and amendment on a continuous basis will reduce the need for major revisions of land use plans.

### **C. Public involvement requirements and formal relationships**

Several laws and Executive Orders set forth public involvement requirements. The BLM planning regulations (43 CFR 1601-1610) and the CEQ's NEPA regulations (40 CFR 1500-1508) provide for specific points of public involvement in the land use and implementation decision-making processes in order to address local, regional, and national interests. The NEPA requirements associated with planning have been incorporated into the planning regulations. NEPA further requires timely coordination by Federal agencies in dealing with interagency issues (see 40 CFR 1501.6) and in avoiding duplication with tribal, State, county, and local procedures (see 40 CFR 1506.2). For NEPA analyses associated with land use plans, BLM should offer qualified tribal, State, and local government entities cooperating agency or joint lead status and then formalize this cooperation through an agreement. Section III C and D of this Handbook outline formal public involvement points and procedures for consultation and coordination with other government entities.

It is recommended that Resource Advisory Councils (RAC) be involved in the land use planning process. The RACs, advisory groups chartered under the Federal Advisory Committee Act (FACA, 86 Stat. 770, 5 U.S.C., Appendix), may advise the BLM regarding the preparation, amendment, and implementation of land use plans for public lands and resources within a jurisdictional area. In addition, the February 11, 1994, Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations (Environmental Justice), requires BLM to find ways to communicate with the public that are germane to community-specific needs in areas with low income and minority populations and tribes.

### **D. Collaborative planning**

Collaboration as a general term describes a wide range of external and internal working relationships. BLM managers need to determine, in advance, the most appropriate, efficient, and productive type of working relationships to achieve meaningful results in land use planning initiatives.

While the ultimate responsibility regarding land use plan decisions on BLM-administered lands rests with the BLM official, managers have discovered that individuals, communities, and governments working together toward commonly understood objectives yields a significant improvement in the stewardship of public lands. Benefits of building collaborative partnerships include improving communication, developing a greater understanding of different perspectives, and finding solutions to issues and problems.

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A collaborative approach to planning entails BLM working together with tribal, State, and local governments, other Federal agencies, and interested parties, from the earliest stages and continuing throughout the planning process, to address common needs and goals within the planning area. This is an excellent time to consider existing plans of tribal, State and local governments and other Federal agencies. The BLM official must identify the decision space (i.e., regulation, policy, and local, regional, national interests) within which BLM must operate, but the community or group working with BLM may work with BLM to focus discussion or input.

Although the initial stages of developing an open and inclusive process are time-consuming, the potential returns of relationship building, cost-savings, and durability of decisions more than compensate for the effort. To provide for effective public participation in any collaborative planning process, it is important to communicate effectively with the public and invite participation in all aspects of the planning effort. Outreach to distant interests is also important. An effective outreach strategy will inform distant publics as well as local residents. Appendix A of this Handbook provides additional guidelines on collaborative processes.

Alternative Dispute Resolution (ADR) processes, in which parties are assisted by a neutral third party, may be useful in cases where planning progress is blocked by polarization. (Refer to BLM's Natural Resources Alternative Dispute Resolution Strategic Plan, 9/11/97, available at BLM State Offices.)

In using the collaboration and ADR processes, it is important to be aware of the situations where FACA does or does not apply so that you can make an informed decision to either avoid conflict with FACA or pursue a FACA charter for any advisory groups (see appendix B). Failure to review collaborative planning efforts and the requirements of FACA may allow the products of these efforts to be overturned if challenged in court. The Congress passed FACA in 1972 to reduce narrow, special interest group influence on decision-makers, to foster equal access for the public to the decision-making process, and to control costs by preventing the establishment of unnecessary advisory committees.

### **E. Multi-jurisdictional planning**

Within a planning area, BLM surface lands and subsurface mineral estate interests are often intermingled with lands that are managed by or under the jurisdiction of tribal, State, or local governments or other Federal agencies. As an outgrowth of these landownership patterns and responsibilities, other governmental entities and BLM have increasingly sought to coordinate their decisions and plans.

Multi-jurisdictional planning assists land use planning efforts where there is a mix of landownership and government authorities and there are opportunities to develop complementary decisions across jurisdictional boundaries. In these instances, planning could be accomplished for sub-basins, entire watersheds, or other landscape units. A multi-jurisdictional plan may include both land use and implementation decisions that are germane to each jurisdiction

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involved in the planning effort. However, BLM still retains authority for decisions affecting the public lands it administers. The BLM office leading or participating in a multi-jurisdictional plan must assure conformance with the BLM planning regulations, as well as BLM and CEQ NEPA guidance for the BLM-administered lands. This can be accomplished by completing the notification, public review, and procedural requirements of 43 CFR 1600 and 40 CFR 1500-1508 as part of the multi-jurisdictional planning effort.

In cases where BLM-administered lands make up a small part of the planning area, it may be desirable for other jurisdictional interests to lead the planning effort. The BLM may act as a facilitator, convener, leader, or participant, as appropriate, in order to encourage positive relationships and to develop a mutual understanding of resource conditions and multiple-use management options. In some cases, the lead role may be defined by law. In most cases, planning procedures of tribal, State, or local governments and other Federal agencies will differ from those of BLM. Therefore, successful multi-jurisdictional planning efforts are normally guided by Memoranda of Understanding (MOU), which clearly delineate lines of authority and roles and responsibilities for all participants, including BLM.

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## II. LAND USE PLAN DECISIONS

### A. Introduction

Land use plans guide management actions on the public lands covered by the plan. Land use plan decisions establish goals and objectives for resource management (i.e., desired future conditions); measures needed to achieve the goals and objectives and parameters for uses of the BLM lands. They identify lands that are open or available for certain uses, including any applicable restrictions, and lands that are closed to certain uses. Land use plan decisions ordinarily are made on a broad scale and customarily guide subsequent site-specific implementation decisions. Section 202 (c) of FLPMA (43 U.S.C. 1712) requires that in developing land use plans, BLM:

1. Use and observe the principles of multiple use and sustained yield.
2. Use a systematic interdisciplinary approach to integrate physical, biological, social, economic, and other sciences.
3. Give priority to designating and protecting areas of critical environmental concern (ACEC).
4. Rely, to the extent available, on an inventory of public lands, their resources, and other values;
5. Consider present and potential uses of public lands.
6. Consider the relative scarcity of the values involved and the availability of alternative means and sites for realizing those values.
7. Weigh long-term benefits to the public against short-term benefits.
8. Provide for compliance with applicable State and Federal pollution control laws, standards, and implementation plans.
9. To the extent practicable, be consistent with tribal, State, and local land use plans that are germane in the development of land use plans for public lands.

Where there are competing resource uses and values in the same area, FLPMA requires that BLM balance them to best meet the present and future needs of the American people. Land use plan decisions are made according to the procedures in the BLM planning regulations at 43 CFR 1600, which incorporate NEPA analysis (see 40 CFR 1500-1508) into the land use planning process. Land use plan decisions are presented to the public initially as proposed decisions, and can be protested under 43 CFR 1610.5-2 (see Appendix F).

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It is BLM policy to make decisions on a broad scale in the land use plan. Site-specific implementation decisions are normally deferred to implementation planning. Implementation decisions made through the RMP process are extraordinary and are normally limited to those required by regulation, such as designating off-highway vehicle (OHV) areas, roads and trails (see 43 CFR 8342). This policy is supported by regulation and Interior Board of Land Appeals (IBLA) case law. Proposed implementation decisions made in the land use plan are protestable to the BLM director.

### **B. Types of land use plan decisions**

Land use plan decisions for public lands fall into three categories:

- Desired outcomes (goals, standards, and objectives).
- Allowable uses and actions to achieve desired outcomes.
- Land tenure decisions to achieve desired outcomes.

#### 1. Desired outcomes.

Land use plans must identify goals, standards and objectives to identify the desired outcomes or desired future conditions BLM wishes to achieve. These are identified to direct BLM actions in a manner to best achieve legal mandates, such as the Endangered Species Act; BLM Strategic Plan goals; State Director guidance and national guidance (see 43 CFR 1610.0-4 (b)); or other resource or social needs. Goals are generally broad statements of desired outcomes (e.g., maintain ecosystem health and productivity or promote community stability).

Standards describe the physical and biological condition or degree of function a resource must meet in order to sustain ecological processes (e.g., land health or water quality standards). The regulations at 43 CFR 4180 require State Directors, in consultation with RACs, to develop rangeland health standards for lands within their jurisdiction. On July 30, 1998, the BLM Executive Leadership Team agreed to work with the RACs to expand these rangeland health standards into comprehensive land health standards, where needed, and incorporate them into land use plans and to use such standards in making all land management decisions. Once in place, standards are to be applied uniformly to all uses. For example, a standard requiring attainment of certain water quality parameters would be used in determining appropriate use authorizations for recreation, livestock grazing, and other applicable programs. All management decisions shall be carefully considered for compatibility and conformance with the standards.

Objectives identify specific desired conditions for resources. Objectives have established time frames for achievement and are quantifiable and measurable (e.g., by 2015, manage vegetative communities on the upland portion of the Clear Creek watershed to achieve a

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25 percent average canopy cover of sagebrush species).

### 2. Allowable actions and uses to achieve desired outcomes.

Land use plans must identify uses, or allocations, that are allowable on the public lands and mineral estate. These allocations identify surface lands and/or subsurface mineral interests where uses are allowed, including any applicable restrictions that may be necessary to meet goals, standards and objectives. Land use plans also identify lands where specific uses are excluded to protect resource values. Certain lands may be open or closed to specific uses based on legislative, regulatory, or policy requirements or criteria to protect sensitive resource values.

The land use plan must set the stage for the identification of site-specific resource use levels. Site-specific use levels are normally identified during subsequent implementation planning or during permit authorization processes. At the land use plan level, it is important to identify reasonable development scenarios for allowable uses such as mineral leasing, recreation, timber harvest, utility corridors, and livestock grazing to enable the orderly implementation of future actions. These scenarios provide context for the land use plan decisions and an analytical base for the NEPA analysis. The BLM may also establish criteria in the land use plan to guide the identification of site-specific use levels for these activities during plan implementation.

Land use plans also identify actions necessary to restore or protect land health. While protection and restoration opportunities and priorities are often related to managing specific land uses, such as commodity extraction, recreation, or rights-of-way corridors, they can be independent of these types of uses as well. In certain instances, it is insufficient to simply remove or limit a certain use, because unsatisfactory resource conditions may have developed over long periods of time and will not correct themselves without management intervention. For example, where exotic invasive species are extensive, active restoration may be necessary to allow native plants to reestablish and prosper. In these cases, identifying restoration opportunities and setting restoration priorities are critical parts of the land use planning process.

Land use plans establish administrative designations, such as ACECs, recommend proposed withdrawals, and recommend or make findings of suitability for congressional designations, such as for wild and scenic rivers or wilderness preservation.

Appendix C provides additional program-specific guidance and supporting Manual references for determining allowable uses and actions, resource-specific use levels, and special designations.

### 3. Land tenure decisions.

Land tenure decisions include those decisions that identify lands for proposed disposal or

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acquisition. Section 102 (a) (1) of FLPMA requires that BLM-managed lands be retained in Federal ownership unless BLM determines through the land use planning process that disposal of a particular parcel will serve the national interest (43 U.S.C. 1701).

There are two distinct sets of criteria in FLPMA for evaluating whether disposal will serve the national interest. One set is for disposal by sale and the other is for disposal by exchange.

Land disposal by public sale is addressed in Section 203 (a) of FLPMA. This section contains three criteria to apply in the identification of public lands suitable for disposal by public sale. The criteria, as paraphrased, are that: (a) the tract of public land is difficult and uneconomical to manage as part of the public lands and is not suitable for management by another Federal department or agency; (b) the land is no longer required for a specific purpose; or (c) disposal will serve important public objectives.

The criteria for determining which public lands or land interests are available for disposal by exchange is covered in Section 206 (a) of FLPMA. The criteria require the BLM to consider the public interest by giving full consideration to better Federal land management and the needs of State and local people, including needs for lands for the economy, community expansion, recreation areas, food, fiber, minerals, and fish and wildlife. The criteria also require that the objectives that Federal lands or interests to be conveyed may serve if retained in Federal ownership are not more than the values of the non-Federal lands or interests and the public objectives they could serve if acquired.

In addition, the land use plan may identify lands as possibly suitable for disposal under other authorities including State indemnity selections, agricultural entries, and conveyance under the Recreation and Public Purposes Act. Whether a specific tract of public land will be found suitable for disposal or retention is determined through a classification decision rendered pursuant to Section 7 of the Taylor Grazing Act (see 43 U.S.C. 315f) and in accordance with the applicable regulations in 43 CFR 2400.

The BLM may identify disposal areas by parcel or by areas that would be subject to disposal based on the application of the specific disposal criteria (FLPMA, Section 203 or 206) and other evaluation factors (e.g., resource values and concerns, accessibility, public investment, encumbrances, community needs) identified in the land use plan. It must be clear to the public that all lands within areas covered by any disposal criteria may be transferred out of Federal ownership based on the application of such criteria. To accomplish this, the land use plan must be explicit as to: (1) the location of the lands involved, illustrated either on a map of sufficient detail and scale to be clearly understood by the public, or by legal description; (2) the disposal authorities under which the lands may be conveyed; (3) the criteria that must be met in order to allow conveyance; and (4) the management objectives to be served by the disposal action.

Section 205 (b) of FLPMA (43 U.S.C. 1715), as paraphrased, requires that acquisitions of

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land, or interests in land, be consistent with the agency mission and applicable agency land use plans. Land use plans generally identify acquisition needs by establishing criteria to use in evaluating land acquisition opportunities. The criteria should encompass opportunities that may arise from future exchange, purchase and donation proposals. Plans may also establish criteria for support needs associated with opportunities for the acquisition of interests in land such as acquiring access easements and water rights necessary for implementing the plan objectives and decisions.

### **C. Establishing management direction for lands that may come under BLM jurisdiction in the future**

If it is foreseeable that the BLM will acquire management responsibility for certain parcels of land in the future, through purchase, exchange, withdrawal revocation, administrative transfers or some other means, then BLM can establish management direction for these lands, contingent on their acquisition, in conjunction with planning efforts on adjacent or similar BLM-administered lands.

If the acquired lands are surrounded by, or adjacent to BLM lands, BLM can extend applicable land use plan decisions, through plan maintenance (see 43 CFR 1610.5-4), to the acquired lands, following their acquisition, without completing a plan amendment as long as there are no unresolved management issues associated with the newly acquired lands. In some cases, regulatory requirements may dictate a plan amendment be completed, such as in the case of establishing or modifying boundaries of ACECs.

### **D. Making land use plan decisions at different geographic scales**

An RMP is prepared and maintained on a resource area basis, unless the State Director authorizes a more appropriate area (43 CFR 1610.1 (b)). Scales of planning and decisions may vary from national to site-specific, providing a comprehensive base for resource management. Planning at multiple scales may occur when it is necessary to resolve issues for a geographic area that is different from the geographic area covered by the traditional RMP. For example, broad-scale (regional) planning could identify issues that cross BLM field office boundaries or other jurisdictional boundaries.

Planning at multiple geographic scales allows BLM to tailor decisions to specific needs and circumstances, such as specific habitat requirements on a large watershed area. It enhances public involvement by allowing the public to focus on the scale where specific interests lie. It also provides decision-makers with the proper information for particular levels of decision-making. The geographic extent of the study area and data requirements can be tailored to the issues and policies that BLM must address.

### **E. The role of Geographic Sciences and Geographic Information Systems in developing land use and implementation plans**

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Geographic Sciences includes the areas of remote sensing, Geographic Information Systems (GIS) and mapping. Today most maps are created using GIS. GIS provides the spatial tools to bring data together at various scales and formats for spatial analysis and display (maps). Remote sensing can provide critical base information for planning, such as vegetation types. However, the data collection and analysis process needs to start long (often years) before the planning process begins.

To ensure that the land use plan is comprehensive and addresses the planning issues, it will be necessary to assemble and analyze a variety of spatial data. Although each land use plan will have its own specific resource data requirements, some base mapping themes are common to all planning efforts. The Public Land Survey System (PLSS) landnet, land status, and administrative/jurisdictional boundaries are base themes needed to define the geographic extent and the land base of the planning area. Base data (features on a U.S. Geological Survey Quad map), such as terrain, transportation, hydrography, and cultural features, are also basic to any analysis effort. A variety of resource data themes can then be added depending on the management issues involved. Planning teams should avoid compiling more GIS data than is actually needed.

Data and spatial information can be identified through collaborative efforts. Planning efforts are encouraged to use existing data compiled by tribal, State and local governments and nongovernment organizations, if applicable to the issues being addressed. Field Offices are encouraged to develop data in a manner that may be shared between partnerships and governments involved in the planning effort. There is much spatial data (including remote sensing data) available on the Internet, which may be used to support planning efforts.

### III. PROCEDURAL REQUIREMENTS FOR LAND USE PLAN DECISIONS

#### A. Making land use plan decisions

**1. Identify issues and concerns through the scoping process.** This scoping process is the same process required by NEPA (see CEQ regulations at 40 CFR 1501.7).

**2. Assess information.** Effective land use planning requires knowledge and understanding of the lands and resources involved and how people interact with the landscape. Such knowledge and understanding can be gained through assessment, which is the act of evaluating and interpreting data and information for a defined purpose. Assessments can be distinguished from inventory and monitoring in that the latter are primarily data collection activities. A legitimate conclusion of an assessment, however, may be that additional data are needed.

Assessments may be prepared at various scales covering different geographic areas and may include data of different resolution. Both scale and data resolution are important in understanding patterns and relationships that exist across larger landscapes. Assessments may involve a single characteristic (e.g., water quality) or, more commonly, many characteristics in combination.

Because many resources and resource issues transcend administrative boundaries, resource assessments often examine information associated with multiple ownerships and jurisdictions in order to gain a better understanding of the entire biophysical and human environment. Biological resources are dynamic, meaning they continually change, such as through successional progression or regression in vegetation communities, or deposition and erosion of physical components. They change in response to various internal and external stressors; however, many of the external stressors are often initiated far from the site where the desired future condition is being prescribed. Because of this, resource conditions and risks must be understood and managed within the context of their surrounding environment.

Assessments that extend beyond the planning area boundary allow management decisions to be made within the context of all the resource conditions and risks that exist within the surrounding area. This also facilitates the analysis of cumulative effects during the NEPA process. Management decisions are often based on assessments, but assessments are not management decisions. The following information is often obtained through assessments:

**a. Status and trends:** Status is the current situation compared to an established standard or management objective. Trend expresses the direction of change between the present and some point in the past. Assessments may be used to determine the prevailing condition of the public lands and whether they are improving, static, or declining under current management practices. Assessments

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consider the physical, biological, and human processes or features of the area that effect ecosystem function and conditions and the current range, distribution, and resource conditions of relevant ecosystem components such as soil, water, vegetation, and wildlife habitat.

Assessments may also address social and economic conditions and trends in the planning area in a similar fashion in order to understand how people, communities, and economies interact with the ecosystem in and near the planning area. Appendix D provides additional detail on addressing social and economic considerations in the land use planning process.

**b. Risk:** Risk is the likelihood of an undesirable outcome under a given management scenario. Assessments may indicate the likelihood that something undesirable will happen if we continue existing management or authorize additional use. In this way, risk expresses the vulnerability of the land to various activities, both existing and contemplated.

**c. Opportunities:** Assessments may be used to identify land health protection and restoration opportunities and priorities. While these opportunities and priorities are often related to managing specific land uses, such as commodity extraction, recreation, or rights-of-way corridors, they can be independent of these types of uses as well. In certain instances, it is insufficient to simply remove or limit a certain use, because the poor resource conditions have developed over long periods of time and simply will not correct themselves without management intervention. For example, where exotic invasive species are extensive, active restoration may be necessary to allow native plants to reestablish and prosper.

**3. Identify desired outcomes.** Based on the current status, trends, risks, and opportunities, identify desired outcomes that will address the issues identified. These outcomes are expressed as goals, standards, or objectives (see Section II.B.1.). Desired outcomes may be identified for natural resource with consideration of social and economic values. For example, a natural resources goal might be to restore riparian ecosystem functions on a particular watershed.

**4. Identify actions to achieve desired outcomes and allowable uses.** Based on the evaluation of current status, trends, risks, and opportunities, identify land health protection and restoration measures to achieve the desired outcomes. While conservation and restoration projects may be carried out at small physical, biological and temporal scales, their ultimate success often rests on the integration of these projects into the processes at the landscape and bioregional scale. Additionally, it is the conservation of species and habitats on a landscape level (i.e., broad scale) that will limit the need to list species under the ESA.

Also, identify allowable uses, including resource development potential, levels of use,

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and restrictions to best achieve goals, standards, and objectives. These uses and restrictions are based on resource protection needs and social and economic factors. If low income or minority populations or tribes exist in the planning area it is necessary to evaluate the potential impact of BLM actions or inactions on those populations. (See the CEQ publication *Environmental Justice - Guidance Under NEPA*, which has been distributed to all BLM State Offices).

Different protection and restoration measures, levels of uses, and restrictions are presented as alternatives in the land use plan and associated NEPA document. The alternative that best achieves the goals and policies of the Director and State Director, as outlined in the BLM Strategic Plan or through other means; and best resolves the issues pertinent to the planning effort is identified as the preferred alternative or proposed plan.

### B. Procedural requirements for making land use plan decisions

The BLM's nine-step planning process in 43 CFR 1600 falls within the framework of the NEPA decision-making process described in CEQ regulations at 40 CFR 1500-1508, the Department of the Interior NEPA Manual (516 DM 1-7), and the BLM NEPA Handbook H-1790-1. New RMPs and RMP revisions (a complete rewrite of the RMP) require an environmental impact statement (EIS). Land use plan amendments require either an environmental assessment (EA) or EIS, depending on the significance of impacts and public controversy.

Procedural requirements for land use planning in 43 CFR 1600 are the same as procedural requirements for NEPA, except as outlined below. The following list includes only requirements of the BLM's planning process that are not imposed by the NEPA guidance. (For an overview of the complete plan and plan amendment process, refer to Appendix E.)

1. A **Notice of Intent** (NOI) is published in the *Federal Register* to begin an EA-level plan amendment because the planning regulations mandate an NOI to initiate public participation in the planning process (see 43 CFR 1610.2 (c)). For EIS-level plans, revisions, or amendments, the NOI must meet the requirements of both NEPA and the planning regulations.
2. **Planning criteria** are prepared to ensure decision-making is tailored to the issues pertinent to the planning effort and to ensure BLM avoids unnecessary data collection and analyses. BLM gives public notice and an opportunity for review of, and comment on, the planning criteria before they are approved (see 43 CFR 1610.2 (f) (2) and 1610.4-2). The NOI may identify preliminary planning criteria.
3. A **90-day public review and comment period** is allowed on draft EISs prepared to analyze draft land use plan decisions (see 43 CFR 1610.2(e)).
4. The **BLM land use plans and amendments must be consistent** with officially

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approved or adopted resource-related plans of other Federal agencies, Indian tribes, and State and local governments, to the maximum extent the BLM land use plans are consistent with the purposes, policies and programs of FLPMA and Federal laws and regulations applicable to public lands (see 43 CFR 1610.3-2 (a)).

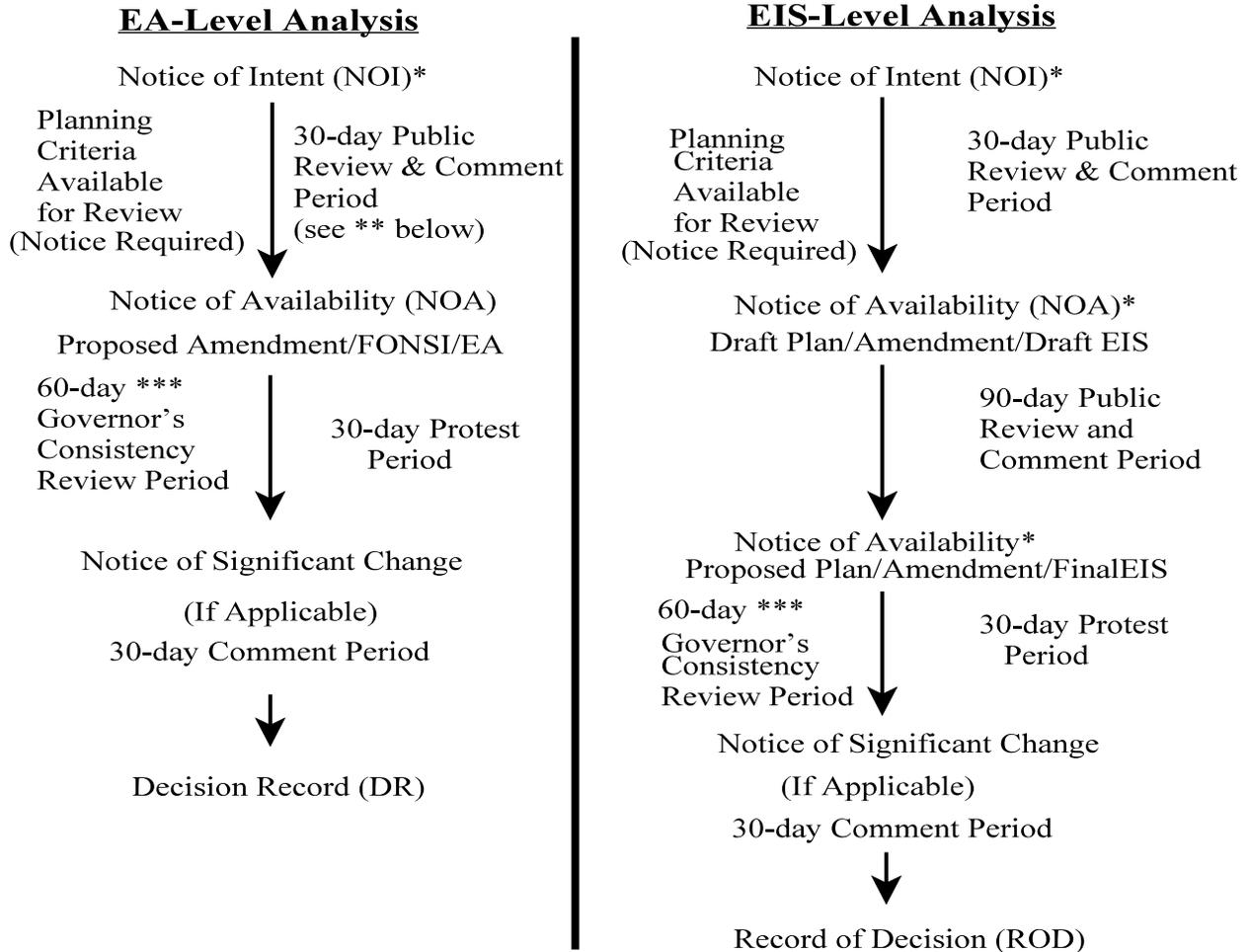
If these other entities do not have officially approved or adopted resource-related plans, then BLM's land use plans must, to the maximum extent practical, be consistent with their officially approved and adopted resource related policies and programs. This consistency will be accomplished so long as BLM land use plans are consistent with the policies, programs, and provisions of public land laws and regulations (see 43 CFR 1610.3-2 (b)).

5. Before the BLM approves proposed land use plan decisions, the **Governor(s) must have 60 days to identify inconsistencies** between the proposed plan and State and local plans and provide written comments to the State Director. If the Governor(s) does not respond within this period, it is assumed that the land use plan decisions are consistent. If the Governor recommends changes in the proposed plan or amendment that were not raised during the public participation process, the State Director shall provide the public with an opportunity to comment on the recommendations (see 43 CFR 1610.3-2 (e)). The BLM and the State may mutually agree upon a shorter review period satisfactory to both.
6. There is a **30-day protest period** for proposed land use plan decisions (see 43 CFR 1610.5-2). Protests will be addressed to the BLM Director. Appendix F outlines procedures.
7. Before a land use plan decision is approved, the BLM will give public notice and provide a **30-day public comment period if there has been any significant change** to the proposed decisions as a result of protests (see 43 CFR 1610.5-1(b)). Comments will be addressed by the State Director.

Figure 2 shows the minimum time frames for making land use plan decisions for both EA-level and EIS-level analyses. The time frames should be tailored to the particular planning effort and, with the exception of the 30-day protest period, may be extended to facilitate adequate public involvement.

Figure 2

**Timing Requirements For Land Use Plan Decision-making**



\* Notices that must be published in the *Federal Register*.

\*\* When a public review and comment period is appropriate during an EA-level plan amendment process, release an unsigned draft Plan Amendment/FONSI/EA for a 30-day minimum public review and comment period at this point. When ACEC decisions are involved, a 60-day public review and comment period must be provided (43 CFR 1610.7-2(b)). The public review period must not be combined with the Protest period.

\*\*\* A shorter Governor's consistency review period may be negotiated with the Governor on a State-by-State basis.

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### C. Government-to-government coordination with Indian tribes

The BLM will provide government officials of federally recognized tribes opportunities to comment on and to participate in the development of land use plan decisions. The BLM will consider comments, notify consulted tribes of final decisions, and tell them how their comments were addressed in those decisions. At a minimum, officials of federally recognized tribal governments must have the same level of involvement as State and county officials. It is recommended that coordination take place as early as possible and before official notifications are made. Land use plans and coordination activities must address the following:

1. Consistency with tribal plans: Section 202 (c) (9) of FLPMA requires BLM to coordinate plan preparation for public lands with plans for lands controlled by Indian tribes, so that our plans are consistent with tribes' plans for the management of tribal resources to the extent possible, consistent with Federal law. This coordination provides the means for cooperative approaches to develop management prescriptions for a larger land base than either plan can address by itself.
2. Protection of treaty rights: Land use plans must address the protection of land- and resource-related rights assured to Indian tribes on public lands through treaties. (Such treaty rights in the West are generally limited to Northwestern tribes who were subject to the Stevens treaties of the 1850s.)
3. Observance of specific planning-coordination authorities: In addition to the FLPMA consistency provisions discussed above, land use plans must comply with the following statutes and executive orders:
  - a. Section 101 (d) (6) of the National Historic Preservation Act. This act requires BLM to consult with the Indian tribe when historic properties of traditional religious or cultural importance to a tribe would be affected by BLM decision-making.
  - b. The American Indian Religious Freedom Act. The BLM plans must protect and preserve the freedom of American Indians and Native Alaskans to exercise their traditional religions, including access to sites and the freedom to worship through ceremonials and traditional rites.
  - c. Executive Order 13007 (Indian Sacred Sites). BLM plans must accommodate access to and use of sacred sites and avoid adversely affecting the physical integrity of sacred sites. The BLM must ensure reasonable notice is provided to tribes, through government-to-government relations, of proposed actions or land management policies that may restrict future access to or ceremonial uses of, or adversely affect the physical integrity of, sacred sites, including proposed land disposal.

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d. Executive Order 12898 (Environmental Justice). BLM must comply with this order and take into account the relevant CEQ guidelines and Department of the Interior policies and goals.

In some cases, Native American or tribal interests are represented by certain advocacy groups that have a “quasi-governmental” authority or interest, but are not federally recognized. There is no statutory, fiduciary trust, or government-to-government relationship with these groups requiring consultation. These groups are consulted on the same level as BLM would with any other nongovernmental organization or advocacy group using the principles of collaboration.

See BLM Manual 8120.5 and 8160, and BLM Handbook H-8160-1 for specific guidance on Native American consultation. Another source of guidance on consultation is found in the Departmental Manual 512 DM 2 (Departmental Responsibilities for Indian Trust Resources).

### **D. Consulting with State and local governments**

Section 202 (c) (9) of FLPMA, as paraphrased, requires BLM to provide for public involvement of State and local government officials in the development of land use decisions for public lands, including early public notice of proposed decisions that may have a significant effect on non-Federal lands. This process of early coordination and involvement by State and local governments is often, but not always, formalized through various MOUs between the State Director and the Governor or between the Field Managers and local municipalities, communities, or counties. The intent of MOUs is to establish points of contact and protocols for coordination between BLM and its partners. Regardless of whether an MOU is used as a tool for consistency, the principles of collaborative planning will be used in coordinating with these entities. BLM can also seek involvement and coordination from associations of elected officials.

Section 202 (c) (9) of FLPMA also requires that, to the extent practical, the BLM keep apprized of tribal, State, and local land use plans, assure that consideration is given to those plans that are germane to the development of BLM land use plan decisions, and assist in resolving inconsistencies between Federal and non-Federal plans. The key is ongoing, long-term relationships, where information is continually shared and updated.

Many municipalities, communities, and counties have established Community Advisory Boards, County Commissions, Planning Boards, Public Land Use Advisory Committees or other equivalent planning and advisory groups. In some cases a State may have a Federal lands or policy liaison. These organizations and officials should be actively engaged from the beginning of the planning effort. The BLM may invite tribes and State and local governments to be involved as formal cooperating agencies. In planning efforts led by another agency or government entity, the BLM can be a cooperating agency.

Involving State and local government in developing land use decisions may require the BLM to be “at the table” with the various land use boards of the State or local government. Thus, coordination with and involvement of State and local government go beyond merely providing

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briefings to State or county officials on the status of any planning effort. The BLM plans should be consistent with State and local plans to the maximum extent consistent with Federal law and FLPMA purposes. All the BLM plans or plan amendments must undergo a 60-day Governor's consistency review prior to final approval. The BLM's procedures for the Governor's consistency review are found in the planning regulations at 43 CFR 1610.3-2 (e).

When State and local governments initiate planning efforts, the BLM may want to consider initiating our own planning efforts in collaboration with the State or local planning process. This will provide the BLM the opportunity to integrate more closely its planning decisions with those of other governmental entities.

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### IV. IMPLEMENTATION

#### A. Implementing land use plans

When the approved land use plan or land use plan amendment decision document (i.e., Record of Decision (ROD) or Decision Record (DR)) is signed, many of the land use plan decisions in the plan are effective immediately, and require no additional planning or NEPA analysis. Examples of land use plan decisions which become effective immediately include:

1. Resource objectives.
2. ACEC designations.
3. Visual resource management class designations.
4. Wild horse and burro herd management area designations.
5. OHV designations.

There are, however, some program-specific requirements that are required in order to make some decisions effective. An example of a land use plan decision that requires an additional action for implementation would be a recommendation to withdraw lands from entry under the mining laws. Formal action requiring Secretarial level review and decision-making would follow if the BLM planning process results in a withdrawal recommendation and the applicable regulations in 43 CFR 2300 are followed.

Upon approval of the land use plan, subsequent implementation decisions are often put into effect through the development of implementation plans. These plans have traditionally been referred to as “activity plans” (habitat management plans, allotment management plans, recreation management plans, etc.). In this Handbook, these types of plans are referred to as “implementation plans” to reflect their role in implementing land use plan decisions. As resource management focuses less on program-oriented plans and more on watersheds or geographic areas, implementation plans are becoming more integrated between resource programs and are developed with consideration of more than the single focus of one resource program. These types of plans are sometimes referred to as “integrated or interdisciplinary plans,” “coordinated resource management plans,” or “ecosystem management plans” to reflect and distinguish their broad landscape-based considerations.

#### B. Defining implementation decisions

Implementation decisions are actions taken to implement land use plan decisions. They are generally appealable to IBLA under 43 CFR 4. Implementation decisions normally require additional planning and NEPA analysis. Implementation decisions must conform to the land use plan decisions. Examples of implementation decisions include establishment of:

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1. Allotment-specific permitted use levels.
2. Livestock grazing systems.
3. Vegetation treatment practices, including weed control.
4. Hazardous fuels reduction and restoration projects.
5. Forest stand treatments.
6. Oil and gas lease tract configurations.
7. Right-of-way grants.
8. Recreation facilities.

### C. Making implementation decisions

Implementation decisions are made with the appropriate level of NEPA analysis along with any procedural and regulatory requirements for individual programs. See 40 CFR 1500-1508, the BLM NEPA Handbook (H-1790-1), and the 516 DM 1-7 for detailed descriptions of NEPA procedures. An EA, EIS or an EIS Supplement must be prepared for subsequent implementation planning unless the decisions and actions contained in the implementation plan are:

1. Identified as exceptions to the BLM NEPA requirements (e.g., actions specifically exempted from NEPA by the Congress).
2. Categorically excluded (refer to Departmental Manual 516 DM 2, Appendix 1, and 516 DM 6, Appendix 5.4, for current listing (5/19/92) of categorical exclusions).
3. Fully covered by a previously prepared EA or EIS that is not in need of updating, as documented by a Documentation of Land Use Plan Conformance and NEPA Adequacy (DNA).

### D. Making land use plan and implementation decisions in the same document

Considering both levels of decisions through a single, integrated effort can be especially useful when collaborating with other Federal agencies, Indian tribes, or State and local governments on plans of mutual interest. If, for example, the BLM is participating with a community on a plan addressing community expansion and the BLM must complete a plan amendment to identify which lands are available for disposal, the amendment and implementation plans may be considered together. However, the land use plan decisions must follow the planning requirements of FLPMA, 43 CFR 1600, the NEPA procedures detailed in CEQ regulations at 40

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CFR 1500, and this Handbook. At the decision stage, the land use plan decisions must be separated from the implementation decisions. In this case, proposed land use plan decisions would be protested under 43 CFR 1610.5-2 and implementation decisions appealed to the IBLA under 43 CFR 4.411. Consult program specific guidance to determine which administrative appeal or protest procedures apply. Protest and appeals are discussed in Appendix F.

The authority to make the decisions also differs. Land use plan decisions must be made by the BLM State Director, whereas most implementation decisions are made by the BLM Field Managers. The BLM State Director may, however, make the decision for both levels.

The sequence shown in Figure 3 outlines the time frames for issuing decisions when the two decision types are combined into one planning effort. This sequence shows the process beginning with the identification of proposed decisions by a notice of availability.

**Figure 3**  
**Issuing Land Use Plan and Implementation Decisions**  
**When Both Decision Types are Included in a Single Planning Effort**

**Notice of Availability (NOA)**  
**EA/FONSI or Final EIS**

<u>Land Use Plan (LUP) Decisions</u>	<u>Implementation Decisions</u>
30-Day Protest Period to Director of proposed decisions(43 CFR 1610.5-2)	No action may be taken pending the 30-day LUP-level decision protest period and 30-Day Notice & Comment period.
Notice and Comment of Significant Change (30 Days If Applicable)	
Issue Notice of Decision Decision Record (DR) - EA-Level Analysis Record of Decision (ROD) - EIS-Level Analysis	Issue Notice of Decision 30-Day Appeal Period* Appeals to IBLA (43 CFR 4)

\* 43 CFR 4 establishes general appeal procedures, however some program-specific regulations contain appeal provisions which supersede these.

### **E. Appealing implementation decisions**

Generally, all final implementation decisions are appealable to the IBLA under 43 CFR 4 and are not subject to protest provisions in 43 CFR 1610.5-2. However, regulations for some resource

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programs allow a protest period or different appeal procedures before a final implementation decision is issued, such as under the grazing regulations.

Appendix F provides additional detail on appeal procedures for implementation decisions.

### **F. Developing strategies to facilitate implementation of land use plans**

A documented, well-organized thought process is essential to successful plan implementation. Strategies may be developed in conjunction with development of land use plan decisions, but the strategies are not land use plan decisions nor are they subject to protest or appeal. There are no procedural or approval requirements for an implementation strategy. A well thought-out implementation strategy should prioritize each decision for funding and implementation. Factors which influence priority are:

- a. Statutory mandates, including, but not limited to, compliance with the Clean Air and Clean Water Acts, the Endangered Species Act, and the National Historic Preservation Act.
- b. Goals listed in the BLM Strategic Plan and Annual Performance Plan.
- c. Present risk to resources, with areas at high risk ranking above resources without known or substantial risks.
- d. Likelihood of success, with actions using proven techniques possibly ranking higher than actions using experimental techniques.
- e. Cost-effectiveness of actions. There is no requirement to develop a cost/benefit analysis, but actions that have a high likelihood of improvement in resource condition for relatively small expenditure of time and money should receive relatively higher priority.
- f. Willingness and availability of cooperators to meet similar resource objectives on adjacent non-Federal lands and resources. This would include opportunities to cooperate on a watershed basis and to leverage limited resources.
- g. Budgetary and staff resources required to implement the decisions.

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### V. MONITORING AND EVALUATION

The regulations at 43 CFR 1610.4-9 require that land use plans establish intervals and standards for monitoring and evaluation.

**A. Monitoring** is the process of tracking the implementation of land use planning decisions. In Appendix C, each resource program identifies desired land use plan decisions. The Field Offices must determine what actions are necessary to implement those decisions. Sometimes those actions occur once, such as the development of an implementation plan, and sometimes those actions occur on a fairly regular basis, such as steps taken to repair a damaged watershed. Monitoring is the process of following up on those actions and documenting the BLM's progress toward full implementation of the land use plan decision. A monitoring schedule should be developed to periodically (annually is recommended) revisit plan decisions and track progress toward accomplishment. Land use plan monitoring should be documented with a plan implementation tracking log or report. In the log or report, field staff can describe actions proposed to implement plan decisions. This information is also used to develop annual budget documents. In subsequent years, staff can document whether these actions were actually completed and what further actions are needed to continue implementing the plan decisions. Monitoring helps to create a "living plan" and accountability for full plan implementation.

**B. Evaluation** is the process of reviewing the land use plan and the periodic plan monitoring reports to determine whether the land use plan decisions and NEPA analysis are still valid and whether the plan is being implemented. It is recommended that land use plans be evaluated at least every 5 years. Plan evaluations must be documented in a report to the Field Manager.

Evaluations should be tailored to desired outcomes and actions identified in the plan and should address these questions:

1. Are actions outlined in the plan being implemented?
2. Is the BLM achieving or likely to achieve resource goals, standards, and objectives? This determination is often made based on information obtained from resource assessments.
3. Are the allocations, constraints, or mitigation measures effective in achieving objectives?
4. Do decisions continue to be correct or proper over time? (See Section VI.)
5. Has there been significant change in the related plans of Indian tribes, State or local governments, or other Federal agencies?
6. Are there new data or analyses that are significant to the planning decisions or the validity of the NEPA analysis?

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7. Are there unmet needs or new opportunities that can best be met through a plan amendment or revision or will current management practices be sufficient?
8. Are new inventories warranted pursuant to BLM's duty to maintain inventories on a continuous basis (FLPMA, Section 201)?

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### VI. DETERMINING IF NEW DECISIONS ARE REQUIRED

New information, analyses, or new resource use or protection proposals may require amending or revising land use plans and updating implementation decisions.

#### A. Specific regulatory requirements for considering new information or circumstances

The primary requirements for considering new information are:

1. The BLM planning regulations require evaluating whether there is new data of significance to the land use plan (see 43 CFR 1610.4-9) and whether plan amendments (see 43 CFR 1610.5-5) or revisions (see 43 CFR 1610.5-6) are required.
2. The CEQ regulations (40 CFR 1502.9 (c)) require BLM to prepare supplements to draft or final EISs if the agency makes substantial changes in the proposed action that are relevant to environmental concerns or if there are significant new circumstances or information relevant to environmental concerns and bearing on the proposed action or its impacts.
3. Joint agency ESA regulations (see 50 CFR 402.16 (b)) require consultation to be reinitiated if new information reveals that decisions may affect listed species or critical habitat in a way or to an extent not previously considered, including exceeding the incidental take for a particular action.

#### B. Considering new proposals, circumstances, or information and deciding whether these warrant changes in decisions or the supporting NEPA analysis

New data or information can include, but is not limited to:

1. Changes in status, new listings or critical habitat designations of endangered, threatened and other special status or sensitive species (see Appendix C, Section G).
2. Changes in intensity of use or impact for a particular resource (e.g., increased recreation use as a result of urban expansion).
3. Changes in social and economic conditions from urban expansion or resulting from broad conservation efforts (e.g., open space management; reduction of timber harvests affecting the base economies of local communities).
4. A biological opinion issued by the Fish and Wildlife Service or the National Marine Fisheries Service on actions in the planning area.

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5. Information from tribes, elected county officials, State agencies, or other Federal agencies on significant changes in their related plans or resource conditions that are critical to land use plans and/or subordinate implementation plans.
6. New State listings of water quality-limited streams (Clean Water Act, Section 303 (d)), Total Maximum Daily Load (TMDL) development, or airshed designations (Clean Air Act) that may lead to the identification of new management practices, which would require additional NEPA compliance and could require new land use plan decisions.
7. Environmental disturbances that significantly change the natural conditions (e.g., wildfire, floods, or weed infestations).
8. Monitoring data and resource assessments associated with implementation of resource management actions designed to achieve resource objectives and land health standards.
9. Land use plan evaluations, weighing and interpreting the information gathered in monitoring.
10. Determining whether mitigation measures outlined in the plan are effective.
11. New national policy or a change in legal duties, resulting from law, regulation, executive order, or BLM directives. An example would be designation of a river segment under the Wild and Scenic Rivers Act that results in a change in legal duty affecting livestock grazing management not previously considered in the plan.

The determination whether to amend or revise the RMP is based on new proposals, circumstances, or information and will depend on the specific wording of the existing land use plan decisions, including any provisions for flexibility, and the level and detail of the NEPA analysis. A “yes” answer to any of the following five questions suggests the need to revisit existing decisions and/or NEPA analysis:

1. Does the new information or circumstance provide for new interpretations not known or considered at the time existing decisions were made that could measurably affect ongoing actions? For example:
  - a. Current land use plan decisions may require that all wildland fires be suppressed to limit the fire to the smallest acreage possible and make no provision for prescribed fires. This conflicts with new Secretarial policy guidance that wildland fire, as a critical natural process, must be reintroduced into the ecosystem. If the answer is “yes,” then plan amendment and NEPA documentation are needed.

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2. Are the decisions in the current land use plan no longer valid, based on new information or circumstance? If decisions are not valid, the decisions need to be vacated, replaced, or changed through plan amendment or revision. Examples of situations that require new or changed land use plan decisions include but are not limited to:
  - a. A land use plan decision to close or severely limit an area from OHV use might require reconsideration when new information indicates tribal access for traditional cultural activities is important.
  - b. Consultations resulting in new requirements or actions that are not in conformance with the existing land use plan to protect threatened or endangered species or critical habitats may require new land use plan decisions including new or supplemental NEPA analysis.
  - c. New requirements or actions that affect land use allocations or area-wide constraints or restrictions established at the land use plan level would require amendment of land use plan decisions.
  
3. Are implementation decisions no longer valid, based on new information or circumstance? Site-specific resource use levels or management actions normally do not require a land use plan amendment if the land use plan decisions provide broad direction for these uses and actions; however, they may require appropriate NEPA analysis. For example:
  - a. The level of livestock use permitted in an allotment may normally be modified or eliminated for reasons such as allotment-specific resource assessment, condition and trend monitoring data or change in use of the land.
  - b. Resource use levels or management practices, such as permitted livestock use or pre-commercial forest thinning may normally be modified or eliminated to satisfy the needs of threatened or endangered species or their critical habitat, as detailed in biological opinions or approved recovery plans.
  
4. Are effects of ongoing actions, in light of new information or circumstances, substantially different from those projected in existing NEPA analyses? If “yes,” conduct new or supplemental NEPA analysis to the extent necessary to address the differences and document the findings.
  - c. Consider direct and indirect effects and their significance.
  - d. Consider cumulative effects and whether the new information or

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circumstances identify or produce incremental impacts added to those resulting from other past, present, and reasonably foreseeable future actions. Does the additional effect, in the context of the ongoing action, require further mitigation or new decisions?

5. In light of new information or circumstances, are there now inconsistencies between the ongoing action and the resource-related plans of Indian tribes, State and local governments, or other Federal agencies that render earlier consistency findings invalid? Changes in land use plan decisions through amendment or revision must be accompanied by new consistency determinations.

Further NEPA analysis may be conducted to help determine whether decisions are still valid. It is possible to conduct additional NEPA analysis and reach a conclusion that no change is needed in decisions, but the decisions cannot be changed without additional NEPA analysis.

### **C. Documenting the determination to modify, or not to modify, decisions or NEPA analysis**

It is important to document decisions to modify or not to modify the land use plan or NEPA analysis made as part of the formal land use plan evaluation process (Section V). In reviewing new information or circumstances that are controversial or of interest to the public, it is also important to provide all interested parties with written documentation of the BLM's determination. In response to an outside application or internal proposal, a decision not to change land use decisions will be documented in the Plan Conformance section of the NEPA document. If the decision is to change decisions or revisit NEPA analysis, the rationale to modify, revise, or further evaluate decisions or NEPA analysis may be documented in a Notice of Intent prepared during scoping related activities or in the planning or NEPA document.

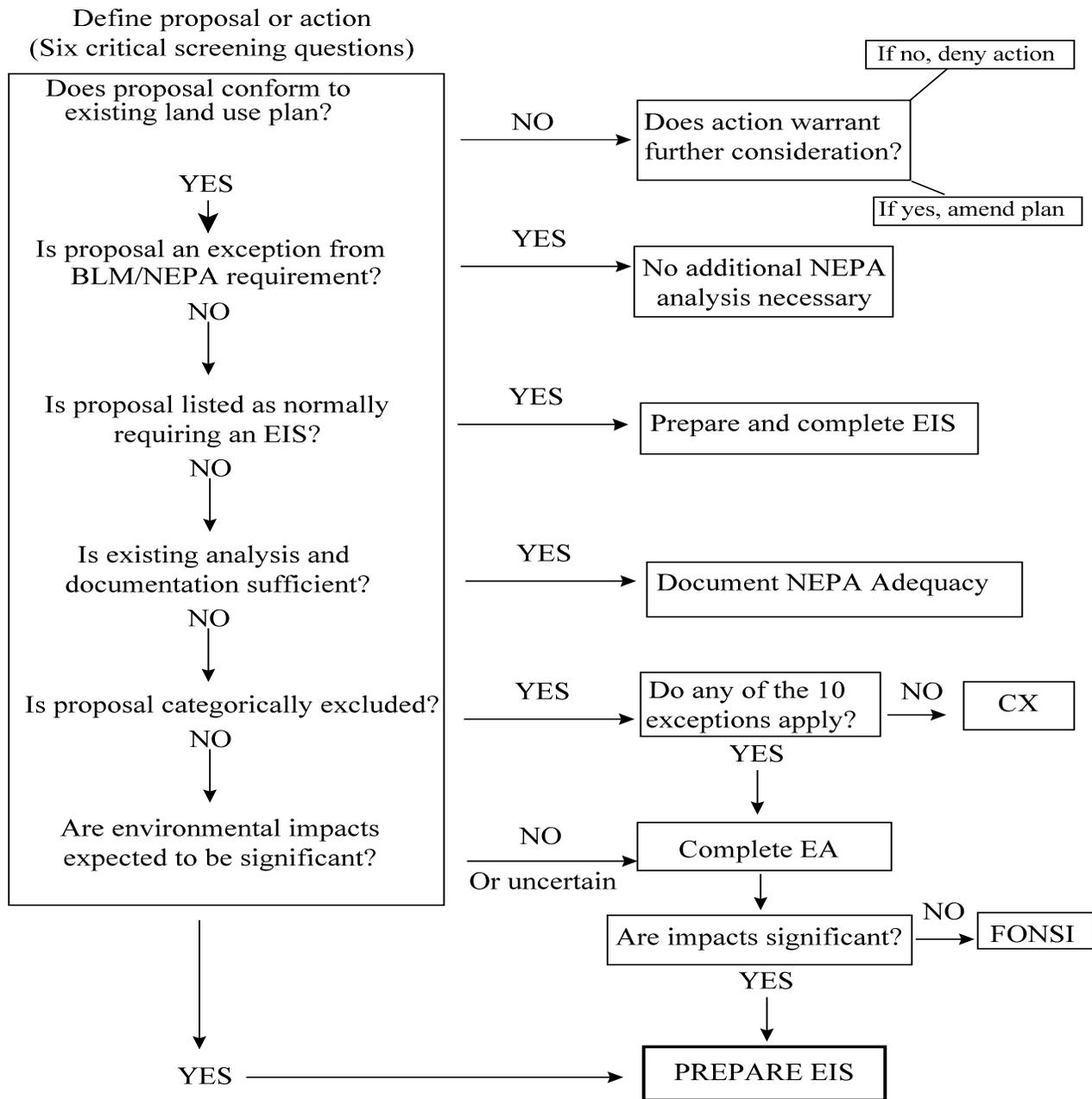
### **D. Evaluating new proposals**

New proposals stem from various sources, including the identification of specific implementation actions, such as a proposal to prepare a livestock grazing allotment management plan or non-BLM initiated proposals such as a right-of-way request for a new power line.

A new proposal should provide enough detail to allow a determination of whether it conforms with existing land use plan decisions and to facilitate screening for adequate NEPA compliance (See Figure 4). The NEPA Handbook (H-1790-1) describes the screening process in more detail.

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**Figure 4 - Evaluating New Proposals-An Overview**  
 (See BLM NEPA Handbook (H-1790-1) for additional detail)



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### E. Plan Conformance

The term “plan conformance,” as defined in the BLM planning regulations, means either that the plan specifically identifies a resource management action or (if not) the action is consistent with the terms, conditions, and decisions of the approved plan (43 CFR 1601.0-5(b)). Key considerations in making and documenting conformance determinations include:

1. Do land use plan decisions allow, conditionally allow, or preclude the action?
2. Do land use plan decisions call for a new decision to accommodate the action?
3. If the plan does not specifically mention the action, how clearly consistent is the action with plan objectives, terms, conditions, and decisions?

### F. Determining when to update land use plan decisions through maintenance actions

The BLM regulation at 43 CFR 1610.5-4 provides that land use plan decisions and supporting components can be maintained to reflect minor changes in data. Maintenance is limited to further refining or documenting a previously approved decision incorporated in the plan. Maintenance must not expand the scope of resource uses or restrictions or change the terms, conditions, and decisions of the approved plan. Plan maintenance is not considered a plan amendment and does not require formal public involvement, interagency coordination, or the NEPA analysis required for making new land use plan decisions. Maintenance actions must be documented in the plan or supporting components (i.e., recorded so that the change is evident).

Examples of maintenance actions:

1. Correcting minor data and typographical, mapping, or tabular data errors in the planning records, following development of a plan or plan amendment.
2. Refining the boundary of an archaeological district based on new inventory data.
3. Refining the known habitat of a special status species addressed in the plan based on new information.

Maintenance actions cannot change land use plan decisions. Plan maintenance must occur continuously so that the plan and supporting records reflect the current status of decision implementation and knowledge of resource conditions relevant to the approved decisions.

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### VII. AMENDING AND REVISING DECISIONS

#### A. Changing land use plan decisions

Land use plan decisions are changed through a plan amendment or plan revision. The process for conducting plan amendments is basically the same as the land use planning process used in creating RMPs. The primary difference is that circumstances may allow for completing a plan amendment through the EA process, rather than through the EIS process. The process for preparing plan revisions is the same as for preparing new RMPs, and an EIS is always required. Refer to Appendix E for an overview of the EIS-level and EA-level planning processes.

#### B. Determining when it is necessary to amend plans and how it is accomplished

Plan amendments (see 43 CFR 1610.5-5) change a one or more of the terms, conditions, or decisions of the approved land use plan. These decisions may include those relating to desired outcomes, measures to achieve desired outcomes, including resource restrictions, or land tenure decisions. Plan amendments are most often prompted by the need to:

- a. Consider a proposal or action that does not conform to the plan.
- b. Implement new or revised policy.
- c. Respond to new, intensified, or changed uses on public land.
- d. Consider new information from resource assessments, monitoring, or scientific studies.

The BLM regulations at 43 CFR 1600 and the NEPA process detailed in the CEQ regulations at 40 CFR 1500 guide preparation of plan amendments. The process is tailored to the anticipated level of public controversy and potential for significant impacts. In simple, noncontroversial cases, it is possible to complete the amendment process in less than 6 months. See Section III for procedures for preparing land use plan decisions.

Plans needing amendment may be grouped geographically or by type of decision in the same amendment process. Similarly, one amendment process may amend the same or related decisions in more than one land use plan. The amendment process may also be used to update plans adopted from another agency when the requirements of 43 CFR 1610.5-7 are followed.

In reaching a decision to amend the land use plan, BLM must not only consider the resource, but also other workload priorities, budgetary constraints, and staff capabilities. In situations where available budgets allow and staff capabilities are restricted, consider third-party contracting for all or portions of the plan amendment's NEPA analysis, including baseline data acquisition. If the manager decides not to amend, then nonconforming actions cannot be taken.

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### C. Determining when it is necessary to revise an RMP or replace an MFP

1. The RMP revisions (see 43 CFR 1610.5-6) involve preparation of a new RMP to replace an existing one. RMP revisions are necessary if monitoring and evaluation findings, new data, new or revised policy, or changes in circumstances indicate that decisions for an entire plan or major portion of the plan no longer serve as a useful guide for resource management. Plan revisions are prepared using the same procedures and documentation as for new plans.
2. As funding and capability permit, all MFPs will be replaced by RMPs. The priority for replacing MFPs will be guided by the extent MFPs fail to meet the statutory requirements for land use planning in FLPMA (see Section II.A.), and the need to modify decisions to meet resource management needs.

### D. Changing implementation decisions

Implementation decisions are changed through the NEPA decision-making process in conjunction with BLM resource program-specific guidance.

### E. Status of existing decisions during the amendment or revision process

Existing decisions remain in effect during these processes, unless it is determined this would violate Federal law or regulation. During the amendment or revision process, the BLM should not take an action that would have adverse environmental impacts that would limit the choice of reasonable alternative actions relative to the decisions being reexamined. (See 40 CFR 1506.1.) Emergency closures, temporary protective withdrawals, or contract suspensions may be required in some instances to preserve management options, pending completion of the planning process. In addition, the BLM shall take actions necessary to prevent unnecessary or undue degradation of the public lands (see FLPMA, Section 302(b)). For example, if a new study has identified a river segment to be eligible for inclusion in the National Wild and Scenic River System, discretionary actions or any actions authorized by the existing land use plan that would affect the eligibility of the segment during the time the plan is being amended should not be taken.

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## GLOSSARY

### Acronyms

ACEC	Area of Critical Environmental Concern
ADR	Alternative Dispute Resolution
AUM	Animal Unit Month
BLM	Bureau of Land Management
CEQ	Council on Environmental Quality
CFR	Code of Federal Regulations
CX	Categorical Exclusion
DM	Departmental Manual
DOI	Department of the Interior
DR	Decision Record (for an EA)
EA	Environmental Assessment
EIS	Environmental Impact Statement
EPA	Environmental Protection Agency
ESA	Endangered Species Act
FWS	Fish and Wildlife Service
FLPMA	Federal Land Policy and Management Act
FONSI	Finding of No Significant Impact
GIS	Geographic Information System
IBLA	Interior Board of Land Appeals
LUP	Land use plan
MFP	Management Framework Plan
MOU	Memorandum of Understanding
NOA	Notice of Availability
NOI	Notice of Intent
NEPA	National Environmental Policy Act
NMFS	National Marine Fisheries Service
OHV	Off-Highway Vehicle
RMP	Resource Management Plan
ROD	Record of Decision (for an EIS)
T&E	Threatened and Endangered
TMDL	Total Maximum Daily Load
U.S.C.	United States Code
VRM	Visual Resource Management

**Terms:** Following are definitions for terms used in this Manual and Handbook. Also see definitions for terms used in Section 103 of FLPMA and the planning regulations at 43 CFR 1601.0-5. This glossary does not supersede these definitions or those in other laws or regulations.

**Activity Plan** - see "Implementation Plan."

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**Alternative Dispute Resolution** - is any process used to prevent, manage, or resolve conflicts using procedures other than traditional courtroom litigation or formal agency adjudication.

**Amendment** - is the process for considering or making changes in the terms, conditions, and decisions of approved RMPs or MFPs using the prescribed provisions for resource management planning appropriate to the proposed action or circumstances. Usually only one or two issues are considered that involve only a portion of the planning area.

**Assessment** - is the act of evaluating and interpreting data and information for a defined purpose.

**Closed** - generally denotes that an area is not available for a particular use or uses. The reader must, however, refer to specific definitions found in law, regulations, or policy guidance for application to individual programs. For example, the reader must refer to 43 CFR 8340.0-5 for the specific meaning of “closed” as it relates to OHV use, or to 43 CFR 8364 for its use as it relates to closures and restrictions.

**Collaboration** - is a cooperative process in which interested parties, often with widely varied interests, work together to seek solutions with broad support for managing public and other lands. This may or may not involve an agency as a cooperating agency.

**Collaborative Partnerships and Collaborative Stewardship** - refers to people working together, sharing knowledge and resources, to achieve desired outcomes for public lands and communities within statutory and regulatory frameworks.

**Cooperating Agency** - assists the lead Federal agency in developing an EA or EIS. The CEQ regulations implementing NEPA define a cooperating agency as any agency that has jurisdiction by law or special expertise for proposals covered by NEPA (40 CFR 1501.6). Any Federal, tribal, State, or local government jurisdiction with such qualifications may become a cooperating agency by agreement with the lead agency.

**Director** (BLM Director) - the national Director of BLM.

**Evaluation** (Plan Evaluation) - is the process of reviewing the land use plan and the periodic plan monitoring reports to determine whether the land use plan decisions and NEPA analysis are still valid and whether the plan is being implemented.

**Geographic Information System** - is a computer system capable of storing, analyzing, and displaying data and describing places on the earth’s surface.

**Goal** - is a broad statement of a desired outcome. Goals are usually not quantifiable and may not have established time frames for achievement.

**Guidelines** - actions or management practices that may be used to achieve desired outcomes.

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They are sometimes expressed as best management practices. Guidelines may be identified during the land use planning process, but normally they are not considered a land use plan decision. Guidelines for grazing administration must conform to 43 CFR 4180.2.

**Implementation Decisions** - are decisions that take action to implement land use plan decisions. They are generally appealable to IBLA under 43 CFR 4.40.

**Implementation Plan** - is a site-specific plan written to implement decisions made in a land use plan. An implementation plan usually selects and applies best management practices to meet land use plan objectives. Implementation plans are synonymous with “activity” plans. Examples of implementation plans are interdisciplinary management plans, habitat management plans and allotment management plans.

**Indian tribe** (or tribe) - any Indian group in the conterminous United States that the Secretary of the Interior recognizes as possessing tribal status (listed periodically in the *Federal Register*).

**Land Use Allocation** - is the identification in a land use plan of the activities and foreseeable development that are allowed, restricted, or excluded for all or part of the planning area, based on desired future conditions.

**Land Use Plan** - is a set of decisions that establish management direction for land within an administrative area, as prescribed under the planning provisions of FLPMA. They are an assimilation of land use plan level decisions developed through the planning process at 43 CFR 1600, regardless of the scale at which the decisions were developed.

**Land Use Plan Decision** - establishes desired outcomes and actions needed to achieve them. They are made by means of the planning process in 43 CFR 1600. When they are presented to the public as proposed decisions, they can be protested to the BLM Director. They are not appealable to IBLA.

**Land Use Planning Base** - is the entire body of land use plan decisions resulting from RMPs, MFPs, planning analyses, the adoption of other agency plans, or any other type of plan where land use plan level decisions are reached.

**Management Decision** - a decision made by BLM to manage public lands. Management decisions include both land use plan decisions and implementation decisions.

**Monitoring** (Plan Monitoring) - is the process of tracking the implementation of land use plan decisions.

**Multi-jurisdictional Planning** - is collaborative planning in which the purpose is to address land use planning issues for an area, such as an entire watershed or other landscape unit, in which there is a mix of public and/or private land ownerships and adjoining or overlapping tribal, State, local government, or other Federal agency authorities.

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**Objective** - is a description of a desired condition for a resource. Objectives have established time frames for achievement and can be quantified and measured.

**Open** - generally denotes that an area is available for a particular use or uses. The reader must, however, refer to specific program definitions found in law, regulations, or policy guidance for application to individual programs. For example, the reader must refer to 43 CFR 8340.0-5 for the specific meaning of “open” as it relates to OHV use.

**Permitted Use** - means the forage allocated by, or under the guidance of, an applicable land use plan for livestock grazing in an allotment under a permit or lease and is expressed in AUMs (43 CFR 4100.0-5).

**Planning Analysis** - is a process using appropriate resource data and NEPA analysis to provide a basis for decisions in areas not yet covered by an RMP.

**Planning Criteria** - are the standards or rules and other factors developed by the manager and interdisciplinary teams for their use in forming judgments about decision-making, analysis, and data collection during planning. They streamline and simplify the subsequent prescribed resource management planning actions by setting forth the standards for deciding and judging in each of the prescribed planning actions.

**Public Land** - is land or interest in land, owned by the United States and administered by the Secretary of the Interior through the BLM.

**Resource Use Level** - is the level of use allowed within an area. It is based on the desired outcomes and land use allocations in the land use plan. Targets or goals for resource use levels are established on an area-wide or broad watershed level in the land use plan. Site-specific resource use levels are normally determined at the implementation level, based on site-specific resource conditions and needs, as determined through resource monitoring and assessments.

**Revision** - is the process of completely rewriting the land use plan due to changes in the planning area affecting major portions of the plan or the entire plan.

**Scale** - refers to the geographic area and data resolution under examination in an assessment or planning effort.

**Standard** - a description of the physical and biological condition or degree of function required to sustain ecological processes. For example, land health standards or water quality standards.

**Special status species** - includes proposed species, listed species, and candidate species under the ESA; State-listed species; and BLM State Director-designated sensitive species (see draft BLM Manual 6840 - Special Status Species Policy).

**Strategic Plan** (BLM Strategic Plan) - a plan that establishes the overall direction for BLM.

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This plan is guided by the requirements of the Government Performance and Results Act of 1993, covers a 5-year period, and is updated every 3 years. It is consistent with FLPMA and other laws affecting the public lands.

**TMDL** (Total Maximum Daily Load) - is an estimate of the total quantity of pollutants (from all sources -- point, nonpoint, and natural) that may be allowed into waters without exceeding applicable water quality criteria.

**Tribe** - see Indian tribe.

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## APPENDIX A

### Guide to Collaborative Planning

#### I. Principles

Collaboration implies that involvement of tribal, State, and local government, other Federal agencies, and the public will occur well before the planning process is officially initiated, rather than only at specific points stipulated by regulation and policy. The first-hand experience of BLM field managers and staff suggests the following guidelines for collaboration:

1. Recognize tribal, State, and local government's role in the planning process. FLPMA, Section 202 (c) (9), as paraphrased, requires meaningful participation by local officials and consistency, to the extent practicable, to officially approved plans of tribal, State, and local governments so long as the plans are consistent with Federal laws and regulations. Early involvement will ensure development of land use decisions that, as much as possible, conform and support those of other jurisdictions in the area.
2. Be inclusive. Explicitly acknowledge the interests of distant groups, individuals, industry, corporations, and other agencies. An effective collaborative process for public land planning assures that local, regional, and national interests are integrated. Constantly seek input from distant interests. Effective outreach is the best way to get beyond the barriers to successful participation. Ensure multiple options for participation.
3. Clearly cite the authority of collaborative groups, including that of BLM, and ensure accountability. Participants must understand the roles of all parties in the planning effort. If the planning effort includes other participants with jurisdictional responsibilities or decision-making authority, the responsibilities of each must be clearly identified. Decisions made by each jurisdiction must be within their own authorities. The BLM retains decision-making authority for all decisions on BLM lands.
4. Use collaboration to enhance and complement standard public involvement requirements. Individuals or groups that were unable or chose not to participate in a collaborative process are still entitled to full input through legally required public review and comment processes.

#### II. Practices

Face-to-face or one-on-one communication provides the best means of building trust and good working relationships. Be sure to ask yourself and others questions such as the following:

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1. Who else should I talk to? Who else should be involved? Whom do I need to approach to ensure the best contacts are made? How can BLM assure sufficient diverse participation to adequately reflect local, regional, and national interests?
2. What formal and informal opportunities for communication could be used to relay BLM's message?

On a local level, postings on local bulletin boards and face-to-face communication may best serve community needs when presented in both English and local languages, depending on the unique characteristics of each community. Consider the following questions:

1. How does this community receive and send information? Would the use of internet technology, such as web sites and e-mail, be effective?
2. Are there community meetings where information and ideas are exchanged?

Although this approach may seem time consuming at first, it is eventually very effective in communicating efficiently with a large number of people, motivating people to implement the agreed upon strategy, building trust, and encouraging broad-based participation. It may seem daunting in urban settings, but the same approach can be effective once the above questions are answered. This approach provides BLM with a technique to secure support for the chosen management decision and provides an early alert of emerging issues, giving the manager more time and flexibility to resolve issues up front. As issues are resolved dynamically, conflict diminishes. These methods can be used in advance of and are complementary to a standard communications plan that defines what communications products are needed, who is responsible for producing them, and timetables.

### III. Benefits

Benefits of collaboration include the following:

1. Better decisions are made. Concerns are heard and addressed, information and technical knowledge are shared, mutual goals and actions to achieve those goals are agreed upon, and plans are easier to implement as a result. Solutions tend to be more long-term and stand up to legal scrutiny. Through collaboration with different landowners at the landscape level, we are able too more effectively plan for the protection and use of BLM resources.
2. Resources are leveraged more effectively. There are a variety of cost-share arrangements and grants available for collaborative and partnership initiatives that can help implement on-the-ground projects.

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3. Relationships are improved. Collaboration encourages people to continue to talk despite differences and changing circumstances, thus improving the ability to resolve conflict and build trust among participants.

### IV. Tools and References

1. It is highly recommended that training on collaborative skills be obtained before major efforts to help government and citizens work together. The BLM National Training Center offers a series of courses, The Partnership Series, which can be taught in BLM locations to mixed public-private audiences, rather than at the National Training Center. Visit their web site at: [www.ntc.blm.gov/partner](http://www.ntc.blm.gov/partner) for more information.

2. Innovative partnerships and assistance agreements are very helpful to launching collaborative efforts. The BLM Washington Office, Planning, Assessment and Community Support Group, WO-210, can provide more information.

3. References: "Social Ecology: A New Pathway to Ecosystem Restoration," by James A. Kent, J.D., and Kevin Preister, P.D., in *Watershed Restoration: Principles and Practices*, ed. Jack E. Williams, Michael P. Dombeck, and Christopher A. Wood, June 1996. See also BLM National Training Center Manual for Community-Based Partnerships and Ecosystems for a Healthy Environment. *Beyond the Hundredth Meeting: A Field Guide to Collaboration Conservation on the West's Public Lands*, Barb Cestero, July 1999. *Building Common Ground Workbook: Skills for Discovering and Building Common Ground*, National Land Use Collaboration and National 4-H Council.

## APPENDIX B

### The Federal Advisory Committee Act (FACA) Considerations

The Federal Advisory Committee Act (FACA), 5 U.S.C.A. App. 2 ( 86 Stat. 770, as amended), was enacted on October 6, 1972, to reduce narrow special interest group influence on decision-makers, to foster equal access for the public to the decision-making process, and to control costs by preventing the establishment of unnecessary advisory committees. The BLM's managers and staff must understand the provisions of FACA both when they are gathering public input for decision-making processes and when they are working in collaborative efforts, including ADR, to insure BLM collaborative efforts are in compliance with FACA. If BLM fails to comply with FACA it will leave any products produced open to challenge in court.

To avoid violating the FACA, BLM managers should:

1. Keep the doors open to anyone at all meetings that are a part of a collaborative decision-making process initiated by BLM.
2. Ensure that the public is adequately advised of the time, place, and purpose of the meetings.

Collaborative groups that are not initiated by BLM can avoid coming into conflict with FACA and can continue to have active BLM participation by maintaining their independence and ensuring an open, participatory process. The FACA does not apply to meetings held exclusively between Federal officials and tribal, State and local elected officials, or their designated employees where such meetings are solely for the purpose of exchanging views, information, or advice relating to the management or implementation of Federal programs (see Unfunded Mandates Reform Act, 2 U.S.C. 1534).

The figure on Page B-3 outlines the basic requirements to determine if the provisions of FACA apply. If there is any doubt the Field Office should consult its Solicitor. The Field Office must make determinations as to whether FACA applies to a particular collaborative effort, and if it does, whether it would be beneficial to pursue the effort by chartering the group under FACA. Answers to the following questions are used to make this determination:

1. Does the group include individuals who are not employees of tribal, State, or local governments or other Federal agencies?
2. Does the group have a formal organizational structure?
3. How was the group or meeting initiated? Specifically, was the group established by BLM?
4. Is the group subject to strict agency control?

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5. What is the function of the group? Is it providing consensus advice or recommendations to the agency?

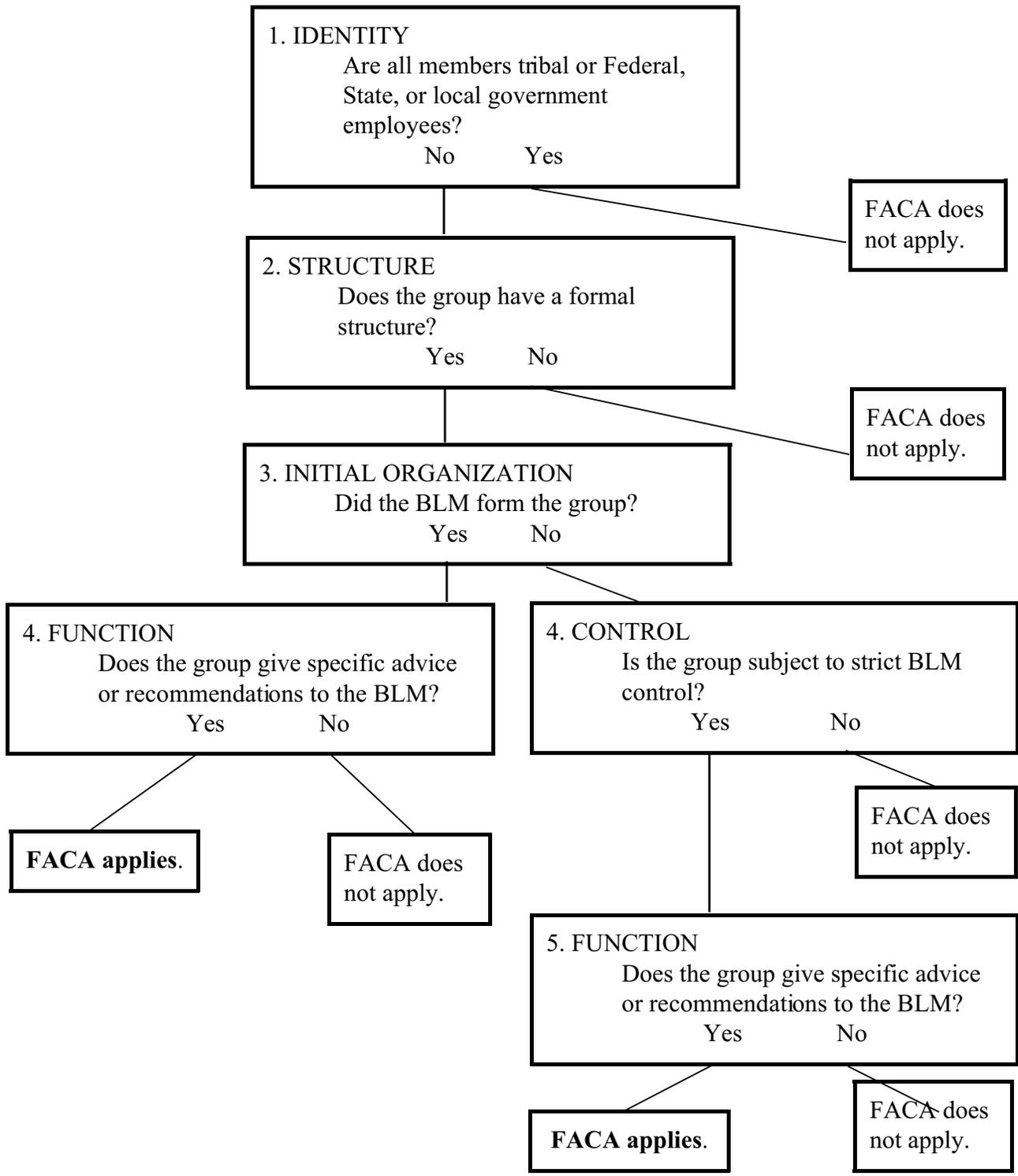
In general, a collaborative group is not subject to FACA if the agency does not appoint members to, or retain strict control of, the group and if all meetings are totally open to the public. Also, if the collaborative group is a diverse collection of individuals who are providing their individual opinions, FACA does not apply.

If a group is subject to FACA, there are a number of requirements that must be in place in order to proceed. Specific requirements include:

1. A charter describing the committee's function, duration, members, duties, frequency of meetings and costs.
2. A designated Federal employee to attend all meetings and to approve the agendas.
3. Notice of meetings must be published in the *Federal Register* and other appropriate venues.
4. Meetings must be open to the public and detailed minutes prepared for public review.

Further explanation is provided in BLM's Natural Resource Alternative Dispute Resolution Initiative Strategic Plan and Tool Kit, 9/11/1997, available at BLM State Offices.

# FACA DECISION TREE



## APPENDIX C

### Program-Specific and Resource-Specific Decision Guidance

This Appendix provides three categories of planning information for BLM program areas: *Land Use Plan Decisions*; *Implementation Decisions*; and *Notices, Consultations, and Hearings*. Each program/resource heading contains resource-specific guidance for each category. Generally, the guidance applies if the resource exists in the study area and a need for a decision is identified through the scoping process. Some decisions, however, are required by program-specific policy, such as the identification of Visual Resource Management (VRM) classes, even though the resource is not identified as an issue during the scoping process. Those resources where specific decisions are required, regardless of there being current issues, are identified in the specific resource discussions below, under the heading, *Land Use Plan Decisions*.

*Land Use Plan Decisions*: These broad-scale decisions guide future land management actions and subsequent site-specific implementation decisions. Land use plan decisions fall into three categories: desired outcomes; allowable uses and actions to achieve outcomes; and land tenure decisions.

*Implementation Decisions*: These decisions take action to implement land use plan decisions on a site-specific basis. They may be incorporated into implementation plans or be stand-alone decisions.

*Notices, Consultations, and Hearings*: There are resource-specific requirements and suggestions for notices, consultations, and hearings in the development of land use plan decisions that are in addition to those identified in Section III of this Handbook. (Note: Some laws or regulations, such as the ESA and Clean Air Act, have notice, consultation, or hearing requirements that apply to most resource programs or activities. These requirements are identified in the primary program narrative, but are not repeated for each program or activity that may be affected.)

#### I. Natural, Biological, and Cultural Resources

##### A. Air

1. *Land Use Plan Decisions*: Identify desired future conditions (including standards or goals under the Clean Air Act) and area-wide criteria or restrictions to achieve them.
2. *Implementation Decisions*: Identify site-specific emission control strategies and actions to achieve desired air quality conditions.
3. *Notices, Consultations, and Hearings*: Consult and coordinate with Federal, State and local agencies, as required by the Clean Air Act for Conformity Determinations, Executive Order 12088, and State Implementation Plans.

## B. Soil and Water

1. *Land Use Plan Decisions:* Identify desired future conditions (including standards or goals under the Clean Water Act). Identify watersheds that may need special protection from the standpoint of human health concerns, aquatic ecosystem health, or other public uses. For riparian areas identify desired width/depth ratios, streambank conditions, channel substrate conditions, and large woody material characteristics. Identify area-wide use restrictions or other protective measures to meet tribal, State and local water quality requirements. Identify measures, including filing for water rights under state permit procedures, to ensure water availability for multiple use management and functioning healthy riparian and upland systems.
2. *Implementation Decisions:* Identify site-specific or basin-specific soil, riparian or nonpoint source best management practices and rehabilitation techniques necessary to meet tribal, State and local water quality requirements.
3. *Notices, Consultations, and Hearings:* Consult and coordinate with other Federal, State, and local agencies, as directed by the Watershed Protection and Flood Prevention Act (16 U.S.C. 1001-1009), and the Clean Water Act (33 U.S.C. 1251). (See BLM Manual 7000.)

## C. Vegetation

1. *Land Use Plan Decisions:* Identify desired future conditions of vegetative resources, including the desired mix of vegetative types, structural stages, and landscape and riparian functions, including providing native plant, fish, and wildlife habitats. Designate priority plant species and habitats, including Special Status Species, and populations of plant species recognized as significant for at least one factor such as density, diversity, size, public interest, remnant character, or age. Identify actions and area-wide use restrictions necessary to achieve desired vegetative conditions.
2. *Implementation Decisions:* Identify site-specific vegetation management practices such as allotment grazing systems, vegetation treatments, or manipulation methods to achieve desired plant communities, and integrated vegetation management techniques to rehabilitate weed infestations or otherwise control noxious and invasive weeds.
3. *Notices, Consultations, and Hearings:* Consult under Section 7 of the ESA, or parallel State ESA law or agreement, for all actions that may affect listed species or designated critical habitat or may adversely affect proposed species critical habitat. (See Section G and H-6840.)

## D. Cultural

1. *Land Use Plan Decisions:* Identify area-wide criteria or site-specific use restrictions

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that apply to special cultural resource issues, including traditional cultural properties, that may affect the location, timing, or method of development or use of other resources in the planning area. Identify measures to protect and use cultural resources, including traditional cultural properties.

2. *Implementation Decisions:* Identify protection measures and opportunities to use cultural properties for scientific, educational, recreational, and traditional purposes.

3. *Notices, Consultations, and Hearings:*

- a. Consult the State Historic Preservation Officer (SHPO) before plan approval concerning any actions that may be directly implemented upon plan approval and may have an effect on a cultural property eligible for the National Register of Historic Places (see 36 CFR 800).

Formal consultations under Section 106 of the National Historic Preservation Act usually take place during implementation planning; however, the SHPO should be consulted during land use planning about cultural resource evaluation recommendations (36 CFR 800.4 (c)).

- b. Consult tribal leaders under the American Indian Religious Freedom Act about any management objectives and actions that might affect Native American religious practices, including access to sacred sites. In Alaska, the term “Indian tribes” may include Native American villages and corporations.
- c. Provide adequate notice to and consult with affected minority and low-income communities, as part of the NEPA process, to identify potential effects of the proposed action(s) on those communities and to adopt mitigation measures (Executive Order 12898, Environmental Justice).

## **E. Paleontology**

1. *Land Use Plan Decisions:* Identify area-wide criteria or site-specific use restrictions to ensure that: (a) areas containing, or that have the potential to contain, vertebrate or noteworthy occurrences of invertebrate or plant fossils are identified and evaluated prior to authorizing surface disturbing activities; (b) management recommendations are developed to promote the scientific, educational, and recreational uses of fossils; and (c) threats to paleontological resources are identified and mitigated as appropriate.

2. *Implementation Decisions:* Identify appropriate protection measures and educational and recreational use opportunities for paleontological localities.

3. *Notices, Consultations, and Hearings:* No additional specific requirements

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## F. Visual

1. *Land Use Plan Decisions:* Designate VRM classes. (See BLM Handbook H-8410-1 for a description of classes.)
2. *Implementation Decisions:* Design implementation decisions and actions to achieve VRM objectives.
3. *Notices, Consultations, and Hearings:* No additional specific requirements.

## G. Special Status Species

1. *Land Use Plan Decisions:* (Also see BLM Manual 6840, Special Status Species.) Due to the legal mandate to conserve threatened or endangered species and the BLM policy to conserve all Special Status Species, land use planning strategies and decisions should result in a reasonable conservation strategy for these species. Land use plan decisions to conserve Special Status Species should be clear and sufficiently detailed to prevent avoidable loss of habitat pending the development and implementation of implementation-level plans. Land use plan decisions should be consistent with objectives and recommended actions in approved recovery plans, conservation agreements and strategies, MOUs, and applicable biological opinions for threatened and endangered species.
2. *Implementation Decisions:* Programmatic and site-specific actions needed to implement planning decisions for conserving Special Status Species may be included in land use plans or deferred to implementation plans for habitat management areas, ACECs, grazing allotments, etc. The priority and implementation schedule should be included in the plan.
3. *Notices, Consultations and Hearings:* Consultation with the U.S. Fish and Wildlife Service (FWS) or National Marine Fisheries Service (NMFS) is required by the ESA for actions (plans, programs, projects) that may affect listed species and designated critical habitat, and conferencing is needed if actions may adversely affect a proposed species and proposed critical habitat. (See 50 CFR 402.13.) Depending on state-specific agreements or policies, there may be additional requirements to confer with state wildlife agencies if Federal actions may affect state-listed species or their habitats.

The BLM has entered into a Memorandum of Agreement (MOA) with the FWS, and the U.S.D.A. Forest Service to improve the efficiency and effectiveness of plan-level Section 7 consultation processes under the ESA. By the time this handbook is finalized it is expected to be signed by NMFS, also. Through this MOA, the BLM agrees to promote the conservation of candidate, proposed, and listed species and to informally and formally consult/confer on listed and proposed species and designated and proposed critical habitat during planning: (1) to assure that activities implemented under these plans minimize or

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avoid adverse impacts to such species and any critical habitat; (2) to assure that such activities implemented under these plans do not preclude future conservation opportunities; (3) to use, where possible, formal conference procedures specified in 50 CFR 402 to avoid conflicts between elements contained in plans and the requirements for conservation of the proposed species and proposed critical habitat; and (4) to analyze the effects of the plan on candidate species pursuant to agency planning requirements.

The MOA establishes interagency commitment to and guidance for the following: (1) early interagency communication, coordination, consultation, and conferencing on candidate, proposed, and listed species to take place prior to and during plan proposal development; (2) consultations/conferencing on land use plan adoption, revision, amendment, and ongoing plans where re-initiation is required (see discussion below); (3) implementation guidance for plan consultation; (4) efficiency through a consistent programmatic interagency cooperative consultation process; (5) assurance that ongoing activities do not jeopardize listed species, result in the destruction/adverse modification of designated critical habitat, or result in unauthorized take during consultations on an existing management plan; and (6) consultation or conferencing on both land management plans and other programmatic level proposals for species listed or critical habitat designated since the adoption of a plan. (See Appendix G.)

During preparation of draft land use plan decisions and associated NEPA analysis, informal consultation should be initiated on the preferred alternative with the FWS or the NMFS. Including representatives from these agencies on the planning team during development of alternatives allows the agencies to adequately address and discuss the effects of management actions on listed and proposed species and their critical habitats, and identify actions to achieve:

- a. **No effect** on listed species or their critical habitat,
- b. **May affect**, but not likely to adversely affect determination for proposed species, or not likely to adversely modify proposed critical habitat.
- c. **Beneficial effect** for all listed species and critical habitat.

Informal consultation may reduce or eliminate the need for formal consultation. If formal consultation is required, as determined by the FWS or NMFS, the consultation process must be completed before the decision is approved. If formal consultation is not required, this must be documented into the planning record by a letter of concurrence from FWS or NMFS to the BLM.

The ESA and 50 CFR 402.16 outline criteria for re-initiating consultation when there has been significant change since the original consultation. Based on these criteria, consultation on land use plan and implementation decisions must be re-initiated for any of the following reasons:

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- a. New information shows that the plan decisions may affect listed or proposed species or critical habitat in a way or to an extent not previously considered.
- b. Land use plan and/or implementation decisions are modified in a way that may cause adverse effects to the listed or proposed species or critical habitat that was not considered in the biological opinion.
- c. Implementation of existing land use plan decisions could affect a newly listed species or newly designated critical habitat.
- d. Amount or extent of incidental take is exceeded.

Consultation under ESA with American Indian tribes: Secretarial Order 3206, American Indian Tribal Rights, Federal-Tribal Trust Responsibilities, and the Endangered Species Act (June 5, 1997), requires Department of the Interior agencies to consult with Indian tribes when agency actions to protect a listed species, as a result of compliance with ESA, affect or may affect Indian lands, tribal trust resources, or the exercise of American Indian tribal rights. Consultation under this Order should be closely coordinated with the pertinent regional or field offices of the FWS and/or r game and nongame species. Designate priority species and habitats, including Special Status Species, and populations of fish or wildlife species recognized as significant for at least one factor such as density, diversity, size, public interest, remnant character, or age. Identify actions and area-wide use restrictions necessary to achieve desired population and habitat conditions. (Also see Section G above for Special Status Species management.)

2. *Implementation Decisions:* Identify site-specific actions, such as riparian fencing, guzzler placement, etc., needed to manage ecosystems for all species and habitat for special status species.

3. *Notices, Consultations, and Hearings:* Consult under Section 7 of the ESA, and parallel State ESA law or agreement as applicable, for all actions that may affect listed species or designated critical habitat or may adversely affect proposed species critical habitat. (See Section G and H-6840.)

## H. Fish and Wildlife

1. *Land Use Plan Decisions:* In consultation with the State wildlife agency, describe existing and desired population and habitat conditions for major habitat types that support a wide variety of game and nongame species. Designate priority species and habitats, including Special Status Species, and populations of fish or wildlife species recognized as significant for at least one factor such as density, diversity, size, public interest, remnant character, or age. Identify actions and area-wide use restrictions necessary to achieve desired population and habitat conditions. (Also see Section G above for Special Status

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Species management.)

2. *Implementation Decisions*: Identify site-specific actions, such as riparian fencing, guzzler placement, etc., needed to manage ecosystems for all species, and habitat for special status species.

3. *Notices, Consultations, and Hearings*: Consult under Section 7 of the ESA, and parallel State ESA law or agreement as applicable, for all actions that may affect listed species or designated critical habitat or may adversely affect proposed species critical habitat. (See Section G and H-6840.)

## I. Wild Horses and Burros

1. *Land Use Plan Decisions*: Identify the following (see 43 CFR 4700):

a. Herd areas existing at the time of passage of the Wild and Free-Roaming Horses and Burros Act, as amended (16 U.S.C. 1331-1340)

b. Herd management areas.

c. Initial and estimated herd size, including the relationship among wild horse and burro, livestock grazing, and wildlife population or use levels.

d. Guidelines and criteria for adjusting herd size.

e. Area-wide restrictions needed to achieve objectives.

2. *Implementation Decisions*: Identify and set objectives for herd composition, animal characteristics, and habitat development needs. Establish appropriate management levels (AML) based on monitoring and evaluations, including the population range within which the herd size will be allowed to fluctuate.

3. *Notices, Consultations, and Hearings*: The Wild and Free-Roaming Horses and Burros Act, as amended (16 U.S.C. 1331 - 1340) requires BLM to consult with Federal and State wildlife agencies and all other affected interests during land use and implementation planning for the management of wild horse and burros.

Public hearings are required when anticipated management activities involve the use of helicopters in the capture of or the use of motor vehicles in the transport of wild horses and burros. Hearings are held in the State where the activities are proposed and are normally conducted on an annual basis. (See 43 CFR 4740.)

## J. Fire Management

1. *Land Use Plan Decisions:* Identify the following:
  - a. Areas where wildland fire is not desired at all. In these areas, emphasis should be placed on prevention, detection, rapid response, and use of appropriate suppression techniques and tools. Fire suppression may be required to prevent unacceptable resource damage or to prevent loss of life and property.
  - b. Areas where unplanned fire is likely to cause negative effects, but these effects may be mitigated or avoided through fuels management (e.g., prescribed fire), prevention of human-caused fire, and/or other strategies.
  - c. Areas where fire is desired to manage ecosystems, but where there are constraints because of the existing vegetation condition due to fire exclusion.
  - d. Areas where fire is desired, and where there are no constraints associated with resource conditions or social, economic, or political considerations (i.e., where natural and management-ignited fire may be used to achieve desired objectives, such as for vegetation or watershed condition).
  - e. General restrictions on fire management practices (including both wildfire suppression and fuels management) if any are needed to protect other resource values. Restrictions may vary by Area in 1.a. through 1.d., above.
2. *Implementation Decisions:* Identify specific layout and design features, the number of personnel and equipment, the fire planning analysis, fire prevention methods, equipment type, base locations, prescription parameters for suppression and prescribed fire areas, and non-prescribed fire fuels management techniques. (See H-9211-1 and H-9214-1.)
3. *Notices, Consultations, and Hearings:* No additional specific requirements.

## II. Resource Uses

### A. Forestry

1. *Land Use Plan Decisions:* Identify areas with the capacity for and that are available for planned sustained-yield timber or special forest product harvest; planned harvest levels in those areas determined to be available; and appropriate harvest, reforestation, and forest development methods to meet desired future conditions identified for vegetation.
2. *Implementation Decisions:* Identify individual timber or special forest product sale locations and schedules, site-specific intensive management practices, locations and

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schedules, and restrictions associated with forestry activities.

3. *Notices, Consultations, and Hearings:* No additional specific requirements.

## **B. Livestock Grazing**

1. *Land Use Plan Decisions:* Identify lands available or not available for livestock grazing (see 43 CFR 4130.2 (a)). Field Offices should consider factors such as other uses for the land, terrain characteristics, soil and vegetation potential, presence of undesirable vegetation, including significant invasive weed infestations, and the presence of other resources that may require special management or protection, such as special status species, Special Recreation Management Areas (SRMAs), or ACECs. For lands available for livestock grazing, identify on an area-wide basis, existing permitted use and future anticipated permitted use with full implementation of the land use plan. Identify guidelines and criteria for guiding future allotment-specific adjustments in permitted use, season of use, or other grazing management practices.

2. *Implementation Decisions:* Identify allotment-specific (for one or several allotments) grazing management practices and permitted use based on monitoring and assessment information, and constraints and needs of other resources. The grazing management practices and levels of permitted use must achieve the desired outcomes outlined in the land use plan, including rangeland health standards (or comprehensive land health standards) or result in significant progress toward fulfillment of rangeland health standards, and conform to the guidelines as required under 43 CFR 4180.2(c).

3. *Notices, Consultations, and Hearings:* Conduct appropriate consultation, cooperation and coordination as required under 43 CFR 4130.2 (b). Copies of proposed decisions on grazing use are sent to the interested public in accordance with 43 CFR 4160.1.

## **C. Recreation**

1. *Land Use Plan Decisions:* Identify allowable kinds and levels of recreation to sustain the goals, standards, and objectives for the natural resources of the planning area. Identify general management strategies, including major actions, limitations, and restrictions required to maintain recreational values. Identify SRMAs. Anything not designated as an SRMA will, by default, become an Extensive Recreation Management Area (ERMA) for those areas open to recreational use. Specific designation of ERMAs is not required. (8300 Manual)

All public lands are required to have OHV designations (see 43 CFR 8342.1). All OHV designations, including road and trail designations or redesignations (see 43 CFR 8340.0-8 and 8342.2), must be made through the land use planning process described at 43 CFR 1600.

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All public lands must be designated as “open,” “limited,” or “closed” to OHVs (43 CFR 8342.1). “Open” designations are used primarily for sites selected for intensive OHV recreation, where there are no compelling resource protection needs, user conflicts or public safety issues that warrant limiting cross-country use. For those lands that are designated as “limited,” a map showing the transportation network of roads and trails available for use under the terms and conditions described in the land use plan, will be included in the land use plan. For existing land use plans that may have omitted or deferred area and/or trail designations, a land use plan revision or amendment must be completed as soon as practicable. The OHV designations should be reviewed periodically to ensure that resource objectives are being met (see 43 CFR 8342.3).

At a minimum, the OHV designations for wilderness study areas (WSA) must be “limited” to ways and trails existing at the time of inventory, unless “open” is appropriate for a sand or snow area. This applies to both motorized and mechanized transport. (See Wilderness Study Area Handbook H-8550-1, I.B.11, and use 43 CFR 8364.1 for mechanized.) In addition, designations may also be made for the future of a WSA, in the event of release from study, if different. Congressionally designated wilderness areas are statutorily closed to motorized and mechanized use; this should be shown in the land use plan along with the acreage affected.

2. *Implementation Decisions:* Identify site-specific visitor services and facilities, such as interpretive exhibits, campgrounds and signs. Identify methods to ensure that recreation programs and facilities are accessible to visitors with disabilities. Determine limits of acceptable change for resources and visitors, and Recreation Opportunity Spectrum (ROS) classes. On-the-ground decisions such as road and trail maintenance, signing, and parking will be addressed in implementation planning or in a specific travel management plan, as appropriate. Any new area, road, or trail OHV designation or redesignation, however, requires a land use plan revision or amendment. (See 43 CFR 8342.2.)

3. *Notices, Consultations and Hearings:* No additional specific requirements.

## **D. Lands and Realty**

1. *Land Use Plan Decisions:* Identify the following in compliance with the goals, standards and objectives for natural resources within the planning area:

- a. Land sale disposal areas as described in Section II.B.3. (See 43 CFR 2710.)
- b. Land exchange disposal areas as described in Section II.B.3. (See 43 CFR 2200.)
- c. Proposed acquisition areas, or interests in land, as described in Section II.B.3.
- d. Proposed withdrawal areas. (See 43 CFR 2300.)

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e. Land Classifications under Section 7 of the Taylor Grazing Act of 1934, as amended (43 U.S.C. 315f). The procedures applicable to Section 7 outlined in 43 CFR 2400 must be followed. The following actions require classification: Recreation and Public Purposes Act sales (see 43 CFR 2740) and leases (see 43 CFR 2912); agricultural entries (see 43 CFR 2520, 2530, 2610); and State grants (see 43 CFR 2620). To the extent that the land use planning procedures pursuant to 43 CFR 1600 differ from applicable classification procedures under 43 CFR 2400, the latter procedures shall be followed and applied.

f. Where and under what circumstances land use authorizations such as major leases and land use permits may be granted. (See 43 CFR 2920.)

g. Right-of-way corridors, avoidance areas, and exclusion areas, along with any general terms and conditions that may apply. (See 43 CFR Part 2800.)

2. *Implementation Decisions:* Identify exchange agreements, land sale plans, approval of leases and permits, and all subsequent phases of case processing. Identify issuance of site-specific right-of-way grants and authorizations. Identify authorization notices for those actions that require classification or other notices, including sales, exchanges, State selection, Recreation and Public Purposes Act sales and leases, agricultural entries, or other land disposal actions.

3. *Notices, Consultations, and Hearings:* Consult with parties to Interagency Agreements or MOUs relating to corridor identification or use. The Western Utility Group shall be consulted during the development of decisions affecting utility use. Consult with Indian tribes and State and local governments having interest in or jurisdiction over lands proposed for disposal or acquisition.

## **E. Coal**

1. *Land Use Plan Decisions:*

a. Identify unleased coal lands that are acceptable for further consideration for coal leasing and development and those that are not. (See 43 CFR 3461.)

b. For acceptable lands, identify if areas are suitable for development by all mining methods or by only certain stipulated mining methods, such as surface or underground mining. (See 43 CFR 3461.)

c. Identify any special conditions that must be met during more detailed planning, lease sale, or post-lease activities, including measures required to protect other resource values. (See 43 CFR 3461.)

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- d. Identify goals, standards, and objectives for reclamation of mined areas.
2. *Implementation Decisions:* Delineate and rank coal tracts, recommend tract sale schedules to the Secretary of the Interior, and process lease applications and lease exchanges.
  3. *Notices, Consultations, and Hearings:*
    - a. Publish in the *Federal Register* and the local news media a call for coal and other resource information before initiating, revising, or amending land use plans or a land use analysis involving coal. (See 43 CFR 3461.)
    - b. Publish in the *Federal Register* a notice under 43 CFR 3461, providing for a minimum 30-day comment period on the results of the application of unsuitability criteria, exemptions, and exceptions.
    - c. Consult as required under 43 CFR 3461, for unsuitability criteria 7 through 11, criteria 13 through 15, and criterion 17.
    - d. Consult qualified surface owners as required under 43 CFR 3420.1-4 (e) (4) to determine their preference for or against surface mining. If a significant number of qualified surface owners in an area do not support surface mining, BLM can only consider underground mining unless one of the exceptions in 43 CFR 3420.1-4 (e) (4) (ii) or (iii) applies.
    - e. Consult other Federal agencies, Indian tribes, and States as required under 43 CFR 3420.1-6 and 3420.1-7.
    - f. Hold a public hearing as required under 43 CFR 1610.2(k) and 43 CFR 3420.1-5 if requested.

## **F. Fluid Minerals**

1. *Land Use Plan Decisions:* Identify the following:
  - a. Areas open to development, subject to the terms and conditions of the standard lease form.
  - b. Areas open to development, subject to minor constraints such as seasonal restrictions.
  - c. Areas open to development, subject to major constraints such as no surface occupancy stipulations.

- d. Areas closed to leasing.
- e. Lease stipulations in areas open to leasing. Identify whether the leasing and development decisions also apply to geophysical exploration.
- f. Goals, standards, and objectives for reclamation of leased area.

Areas subject to major constraints shall have waiver, exception, or modification criteria documented in the plan. (H-1624-1 and 43 CFR 3101.1-4) When applying leasing restrictions, the least restrictive constraint to meet the resource protection objective should be used. (See H-1624-1.)

2. *Implementation Decisions:* Site-specific actions such as geophysical exploration, lease tract configuration, well siting, tank battery placement, and pipeline routing.

3. *Notices, Consultations, and Hearings:* No additional specific requirements.

### **G. Locatable Minerals, Mineral Materials, and Nonenergy Leasable Minerals**

1. *Land Use Plan Decisions:* Identify areas open and closed to the operation of the mining laws, mineral material disposal, and nonenergy leasing. In open areas, identify any area-wide terms, conditions, or other special considerations needed to protect resource values. Identify goals, standards, and objectives for reclamation of future mining areas.

2. *Implementation Decisions:* Authorize leases and permits and identify site-specific constraints.

3. *Notices, Consultations, and Hearings:* Recommend proposed withdrawals to the Secretary of the Interior for appropriate action pursuant to Section 204 (a) of FLPMA. Comply with the congressional notice provisions of Section 204 of FLPMA (43 U.S.C. 1714) for withdrawals of 5,000 acres or more.

## **III. Special Designations**

### **A. Congressional Designations**

1. *Land Use Plan Decisions:* Recommend areas for designation such as Wilderness, National Conservation Areas, National Wild and Scenic Rivers, National Historic or Scenic Trails, or National Recreation Areas.

Designate WSAs to be managed under the interim management policy. (H-8550-1)

Identify management direction for WSAs after WSAs are released from wilderness

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consideration by Congress.

2. *Implementation Decisions*: Develop site-specific implementation actions and plans for congressionally designated areas.

3. *Notices, Consultations, and Hearings*: For wilderness area recommendations, the BLM must hold hearings as specified in Section 3 (d) of the Wilderness Act. The BLM must notify the public at least 30 days before the hearing and provide at least 30 days after the hearing for the public to submit comments.

## B. Administrative Designations

1. *Land Use Plan Decisions*:

a. Designate ACECs and identify goals, standards, and objectives for the area, as well as general management practices and uses, including necessary constraints and mitigation measures. (Also see BLM Manual 1613.) The ACECs must meet the relevance and importance criteria in 43 CFR 1610.7-2 (b) and require special management to:

- (1) Protect and prevent irreparable damage to resources or natural systems.
- (2) Protect life and promote safety from natural hazards.

b. Designate Research Natural Areas and Outstanding Natural Areas as types of ACECs using the ACEC designation process.

c. Designate Back Country Byways, Watchable Wildlife Viewing Sites, or other BLM administrative designations.

2. *Implementation Decisions*: Develop site-specific management actions and constraints. Evaluate and issue permits for scientific, educational, or recreational activities and develop project plans for trails, interpretive exhibits, resource rehabilitation, and other site-specific activities. Protective management provisions shall be followed to enhance or protect identified resource values and/or characteristics.

3. *Notices, Consultations, and Hearings*: Publish a *Federal Register* notice providing a 60-day comment period on proposed ACEC recommendations and resource use limitations (see 43 CFR 1610.7-2 (b)).

## IV. Support

The planning regulations at 43 CFR 1601.0-5 (k) (6), provide that land use plans may identify

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support needs such as access development, realty actions, engineering, cadastral survey, etc.

**A. Cadastral**

1. *Land Use Plan Decisions:* Land use plans should identify planning boundaries so the geographic extent of decisions is clearly understood. The plan may identify areas where additional cadastral survey work is needed to locate and mark boundaries on the ground, including those areas identified for disposal. The plan may also identify the need to complete more detailed boundary management plans.

2. *Implementation Decisions:* If necessary, develop a boundary management plan for locating and marking priority areas. Identify areas needing immediate trespass resolution.

**B. Transportation and Facilities (Reserved)**

The BLM Engineering Advisory Team is engaging in an effort to identify transportation and facilities related decision requirements at both the land use plan and implementation level. Appropriate decision requirements will be developed through a public process and incorporated into this section. This is expected to be completed by the end of Fiscal Year 2001.

## APPENDIX D

### Social and Economic Considerations in Land Use Planning Decisions

#### INTRODUCTION

This section provides guidance on what and how to consider social and economic information throughout the planning process. Any information gathered in support of a planning effort must be considered in the context of BLM's legal mandates. BLM is required by Sections 101 and 102 of NEPA (43 U.S.C. 4331, 4332), Section 201 of FLPMA (43 U.S.C. 1711), and Executive Order 12898 (Environmental Justice) to consider social and economic science in planning and decision-making along with physical, biological, and other sciences. Social and economic information is just one category of the information required to make informed, legal land use planning decisions, and this Appendix is the BLM's sole source of guidance on the use of social and economic information in land use planning and land use decision-making.

#### **A. Defining the social and economic information in land use planning.**

The social and economic information in land use planning includes the economic, political, and social structure of communities; social values, beliefs, and attitudes; how people interact with the landscape; and sense-of-place issues. It integrates a wide variety of disciplines, generally including economics, sociology, demography, anthropology, archaeology, political science, geography, history, and landscape architecture among others. Social and economic sciences can help define the relationships between resource issues and social science questions, concepts, and values.

#### **B. Why incorporating social and economic considerations into the planning process is important.**

BLM is required by statute and executive order to consider social and economic science when preparing a land use plan. BLM is also required to manage the public lands on the basis of multiple use and sustained yield and to meet the needs of present and future generations. These needs include environmental protection and human occupancy and other uses that may conflict or create conflicting demands. As the human population continues to increase and social values continue to evolve, resource conflicts are also expected to increase. More importantly, the American public is increasingly aware of the importance of the public lands to its well-being and is demanding a larger voice in resource management decisions.

#### **C. Process for incorporating consideration of the social and economic information into land use planning.**

To incorporate social and economic science assessment into the land use plan BLM may consider the following factors:

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**1. Scale.** It is important to tailor the analysis to the scale of the planning effort. For example, a broad-based regional programmatic plan would likely focus on the assessment of many communities within and near the planning region as well as an examination of national-scale public land priorities; for example, the Interior Columbia Basin Ecosystem Management Plan (ICBEMP) used social and economic information from a large area to establish large-scale socioeconomic patterns and trends. A single RMP may focus on a much smaller area and include a more detailed analysis on each community. At the implementation plan level, the analysis would focus on more site-specific information, such as the groups or individuals affected by the decision under consideration.

**2. Types of Analysis.** There are many analytical methods, tools, guidelines, and procedures that can be applied to assessing the social and economic considerations in land use planning. Social science information can be presented in terms of *current conditions and trends* (this type of analysis is similar to that done for other types of resources, for example, wildlife, vegetation, etc.). Trend analysis may include historic trends as well as projections of future trends. This type of information is important for understanding the social context within which land use decisions will be made and in what way these decisions will affect communities and individuals in and near the planning area, as well as concerned groups and individuals at the regional and national level. Any social and economic information collected should be directly tied to the resource issues being addressed in the planning effort and should provide the decision-maker with information on the social and economic climate of the planning area.

*Impact analysis* is usually the next step after assessing current conditions and trends. The purpose of impact analysis is to assess the social and economic consequences of implementing the various alternatives identified in the planning process. The types of information that could be collected may vary from region to region. Any information that might provide insight into a community's structure or make-up would be considered valuable from a land use planning perspective. This information would in most instances come from secondary sources, but BLM may need to consider collecting information itself if no secondary information is available. As with all data collection efforts, undertaking a social and economic inventory should be done only when resources and budgets allow and only to the extent necessary for the planning effort at hand.

**3. Timing.** Timing refers to different stages in the planning process where social science information and analysis may be useful to the decision-maker and the public, including scoping and issue identification; assessment of past, current, and future conditions; and identification of impacts and mitigation. Social and economic science information may need to be adapted to the different stages of the planning effort as planning proceeds. Information should be gathered early enough to be included throughout the discussion and decision-making phases of the planning effort.

**4. Applying social and economic considerations to the land use planning effort.** Social and economic information can help identify areas where resource uses conflict and where resources may be misallocated. As mentioned, BLM is mandated to consider social and economic data as

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one aspect of its planning process. Many current BLM land use plans do not include any social or economic information because there was no model for BLM to reference to make sure it was applying the information in an appropriate, uniform, and legal way. A good example of how to use social and economic information is the ICBEMP planning effort referenced above. Managers and land use planners are encouraged to review this plan before beginning a social and economic study for the first time.

#### **D. Tools and references.**

##### **1. General sources of social, economic, and demographic data.**

The following references are provided as possible sources of further information on human dimension information. Data and information from these and other sources must be used within the context of the laws governing the management of lands by BLM.

*U.S. Department of Agriculture (U.S.D.A.), Forest Service.* Human Dimensions Website: <http://www.fs.fed.us/emc/nris/hd/>. This website contains much useful information about human dimensions analysis and includes sites from which economic and demographic data can be downloaded.

*U.S. Department of Commerce, Bureau of the Census.* Census data include economic characteristics of cities, towns, counties, and States, as well as a wide variety of social and demographic information such as population, age, and migration rates. The Census Bureau also presents information on county governments such as financial characteristics. (Website: <http://www.census.gov>)

-----, *Bureau of Economic Analysis.* Includes data for States, counties, and economic regions for such factors as personal income and employment by industry, Gross State Product, and more. (Website: <http://www.bea.doc.gov/>)

*U.S. Department of Labor, Bureau of Labor Statistics.* This federal agency collects and reports data on the labor market, such as labor trends, detailed information on employment by industry, and unemployment rates. It also reports price indices such as the consumer price index and the producer price index. (Website: <http://www.stats.bls.gov>)

*U.S. Department of the Interior, BLM.* The BLM collects data on a wide variety of commercial uses of public lands. These data are useful for putting public land uses in context of overall use in a planning area. Examples of the data collected are: grazing use, mining, timber product sales, coal, oil and gas leases, recreation, rights of way, and payments-in-lieu-of-taxes (PILT). To obtain this data, contact resource specialists for those uses.

*Resource-specific sources of data.* There are many State and Federal agencies that collect and report data on specific industries, such as agriculture (farming and ranching), mining, forestry, and recreation. For agriculture data, the *USDA Economic Research Service*

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(Website: <http://www.econ.ag.gov>) and the *National Agricultural Statistics Service* (Website: <http://www.usda.gov/nass/>) are two good sources of information. The Economic Research Service also conducts studies on rural conditions and trends.

*Training Course at the BLM National Training Center.* The training center offers a series of training courses, called the Partnership Series, on collaboration to help government and citizens work together. More information about these courses can be obtained at the National Training Center Website: <http://www.ntc.blm.gov/partner>.

## 2. Specific publications.

Guide to Social Assessment: BLM Social Effects Project. 1982. Branch, Kristi, et al. Prepared by Mountain West Research: Billings, Montana. Community level guidance developed for large scale energy projects.

Guidelines and Principles for Social Impact Assessment 1994. Interorganizational Committee on Guidelines and Principles. *Impact Assessment*, Volume 12, No. 2. This journal article contains social impact assessment guidelines developed by some of the leading people in this field.

Guidelines for Conducting Social Assessment within a Human Dimensions Framework. 1999. Bright, Alan, Ken Cordell, Anne Hoover & Michael Tarrant. U.S.D.A. Forest Service, Ecosystem Management Coordination Staff: Washington DC. This is a great reference for both theory and practical suggestions.

Measuring Change in Rural Communities: A Workbook for Determining Demographic, Economic, and Fiscal Trends. 1998 (2<sup>nd</sup> edition). Rasker, Ray, Jerry Johnson, and Vicky York. Sonoran Institute: Bozeman, Montana. This is a good reference for nonexperts in assessing current economic conditions and trends in rural communities.

Social Impact Analysis: Principles and Procedures. 1996. USDA Forest Service Course 1900-03 Student's Manual. Methodology focuses on defining impacts to affected public groups.

*Many "state-of-the-art" social science publications were produced as background Reports of the Scientific Assessment for the Interior Columbia Ecosystem Management Project. Two of these reports are listed below. A complete list of these publications is available at <http://www.icbemp.gov>.*

Developing Measures of Socioeconomic Resiliency in the Interior Columbia River Basin. 1999. Horne, Amy L. and Richard W. Haynes. General Technical Report PNW-GTR-453. Portland, OR: U.S. Department of Agriculture, Forest Service, Pacific Northwest Research Station. <http://www.fs.fed.us/pnw/pubs.htm>

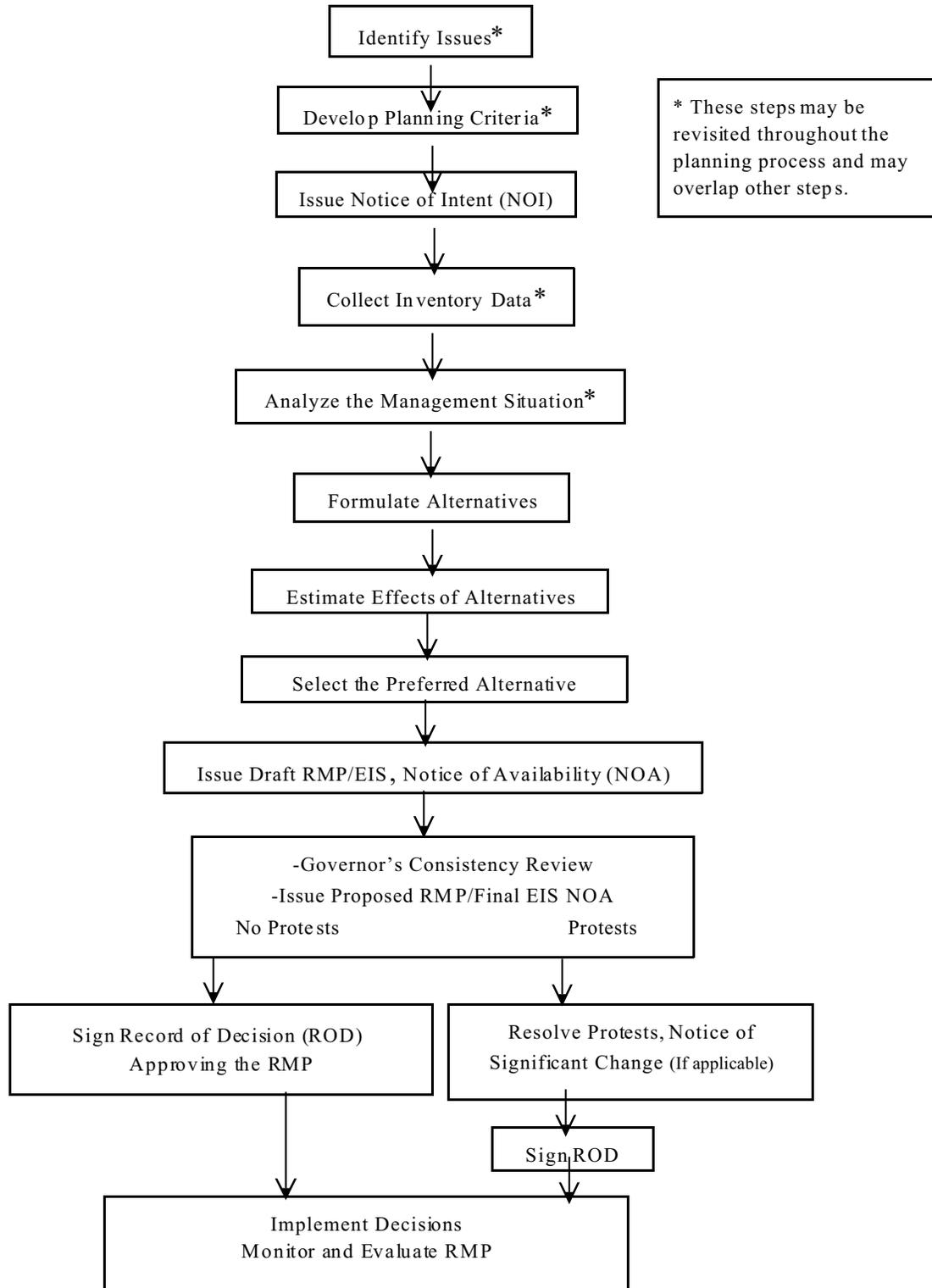
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Place Assessment: How People Define Ecosystems. 1999. Galliano, Steven J. and Gary Loeffler. General Technical Report PNW-GTR-462. Portland, OR: U.S.D.A., Forest Service, Pacific Northwest Research Station (Quigley, Thomas M., ed.; Interior Columbia Basin Ecosystem Management Project: Scientific Assessment).  
<http://www.fs.fed.us/pnw/pubs.htm>

**APPENDIX E**

**The RMP EIS Level Planning Process - An Overview**

The following chart depicts the planning requirements as well as the NEPA documentation requirements for the EIS-level planning process. This process is used for new RMPs, Plan revisions, and EIS-level plan amendments. (See Page E-3 for EA-level plan amendments.)



## PLANNING PROCESS STEPS

**Identify Issues:** Identify issues or land use problems that need to be solved. Solicit ideas through mailings, newspaper articles, public meetings, and workshops. Gather, screen, and evaluate ideas from public, private, and internal sources. Summarize the issues to guide the planning process.

**Develop Planning Criteria:** Planning criteria establish constraints and guides for the planning process, streamline the process, establish standards, rules, and measures, set the scope of inventory and data collection, identify the range of alternatives, and estimate the extent of analysis.

**Notice of Intent (NOI):** The NOI is published in the *Federal Register*, local media, mailings, etc. The NOI identifies the preliminary planning criteria and provides for a 30-day public review and comment period.

**Collect Inventory Data:** Collect inventory data based on the planning criteria. Data are generally collected from existing sources. New data collection is limited to what is necessary to resolve the planning issues identified.

**Analyze the Management Situation:** Gather information on the current management situation, describe pertinent physical and biological characteristics, and evaluate the capability and condition of the resources. The analysis provides a reference for developing and evaluating alternatives.

**Formulate Alternatives:** Identify a range of reasonable combinations of resource uses and management practices. Develop reasonable alternatives offering a distinct choice among potential management strategies. Must include a no action alternative.

**Estimate Effects of Alternatives:** Estimate the impacts of each alternative on the environment and management situation.

**Select the Preferred Alternative:** The Field Manager and District Manager recommend to the State Director a preferred alternative that best resolves planning issues and promotes balanced multiple use objectives. The State Director approves the selection of the preferred alternative along with the other alternatives under consideration.

**Draft RMP/EIS:** The Notice of Availability (NOA) is published in the *Federal Register*, media, mailings, etc. The NOA notifies the public of the availability of the Draft RMP/EIS and provides for a 90-day public review and comment period.

**Proposed RMP/EIS:** Comments are evaluated and appropriate modifications are made. A second NOA is published and a copy of the Proposed RMP/EIS Proposed Decision is filed with the EPA. This initiates the 30-day protest period under 43 CFR 1610.5-2.

**Governor's Consistency Review:** 60-day Governor's review to identify inconsistencies with State or local plans.

**Protests:** See the procedure outlined in Appendix F. The State Director may sign and implement that portion of the plan not under protest.

**Notice of Significant Change:** When a protest or consistency review results in significant changes to the proposed plan, a Notice of Significant Change is issued providing an additional 30-day comment period.

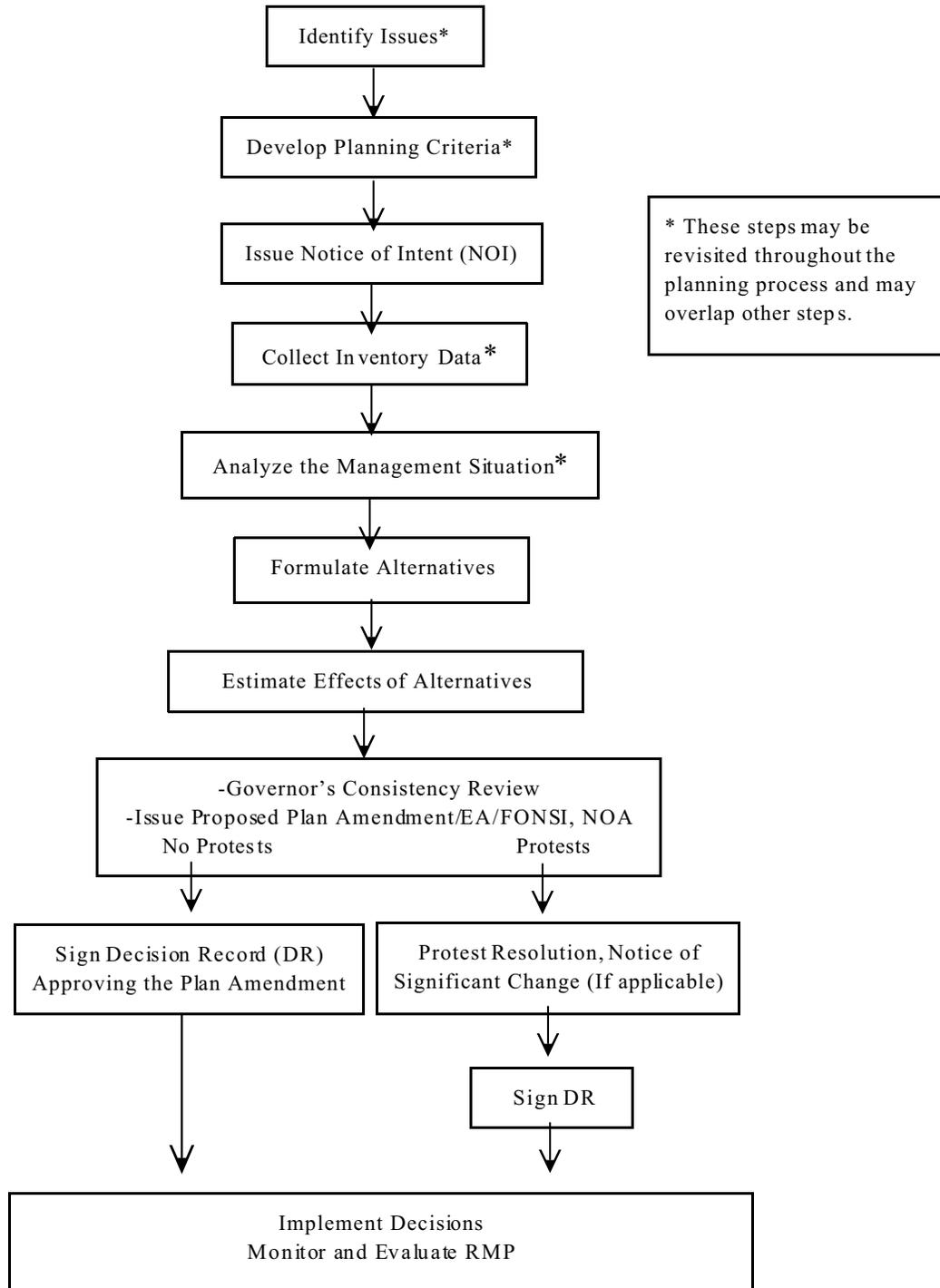
**Plan Approval:** Once protests have been resolved and the Governor's consistency review has been completed, the State Director approves the RMP by signing the Record of Decision (ROD).

**Monitor and Evaluate the RMP:** The plan must be continually monitored and evaluated until it is replaced.

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**The RMP EA-Level Plan Amendment Process - An Overview**

The following chart depicts the planning requirements as well as the NEPA documentation requirements for the EA-level plan amendment process.



## APPENDIX F

### Summary of Protest and Appeal Provisions

#### I. Land Use Plan Protests.

The protest procedures in 43 CFR 1610.5-2 allow the public an opportunity for administrative review of the BLM proposed land use plan decisions.

##### A. How does the process start?

The protest process starts when a person with standing (see I.C. below) files a protest of a proposed RMP or plan amendment decision to the Director of BLM within the required time frames (see I. D. (1) and (2) below).

Protests allowed under the regulations for several resource programs (e.g., livestock grazing, lands, forestry, mining) or for certain implementation decisions are different from land use plan protests (see section II. below).

##### B. What is protestable?

A proposed decision in a RMP or plan amendment that may adversely affect an individual or group.

##### C. Who has standing to protest?

1. Any participant in the planning process who has an interest that is or may be adversely affected may file a protest. (See 43 CFR 1610.5-2 (a).) The Director has traditionally interpreted this requirement to allow any level of participation, consistent with 43 CFR 1610.5-2 (a) (2) (iv).
2. The protester may raise only issues submitted for the record during the planning process. These issues could have been raised by anyone. No new issues can be brought into the record at the protest stage. (See 43 CFR 1610.5-2 (a) (2) (iv).)

##### D. What is the protest procedure?

1. For proposed decisions in an RMP or plan amendment requiring an EIS, a letter of protest must be filed with the Director within 30-days of EPA's NOA of the published Proposed RMP/Final EIS or Proposed Amendment/Final EIS in the *Federal Register*. (See 43 CFR 1610.5-2 (a) (1).)
2. For proposed decisions in a plan amendment supportable by an EA, a letter of protest to the Director must be filed within 30 days of the BLM's published NOA of the

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proposed Amendment/EA/FONSI. Since the publication date of the NOA is key, it should be published in either the *Federal Register* or a local newspaper, using a paid advertisement if necessary. (See 43 CFR 1610.5-2 (a) (1).)

3. Letters of protest must fulfill the content requirements established in 43 CFR 1610.5-2 (a) (2). The protest must be in writing and contain:
  - a. The name, mailing address, phone number, and interest of the person filing the protest.
  - b. A statement of the part or parts of the plan and the issues being protested.
  - c. A copy of all documents addressing the issue(s) that the protesting party submitted during the planning process or a statement of the date they were discussed for the record.
  - e. A concise statement explaining why the protestor believes the State Director's decision is wrong.
4. The BLM will not grant an extension of time to protest because the regulations at 43 CFR 1610.5-2 (a) (1) state that protests shall be filed within 30 days.

#### **E. How are protests resolved?**

1. Once the BLM Director receives a timely filed protest, the Director asks the State Director to prepare and submit a response file consisting of a State Director Protest Report with draft response letters. The BLM Director then decides how to resolve the protest based on two factors, in this order:
  - a. The standing of the protester. (See 43 CFR 1610.5-2 (a).)
  - b. The merits of the protest. The Director will determine whether the BLM followed established procedure, considered relevant information in reaching a decision, and whether the proposed decision is consistent with BLM policy.
2. Once a determination is made that the protesters meet the requirements of 43 CFR 1610.5-2, mediation may be offered. This should be considered and discussed with the Solicitor's Office, Natural Resource ADR Specialists, and the State and Washington Offices for concurrence, before initiation.
3. The results of an administrative review of a protest is a decision by the BLM Director that may: dismiss a protest, without ruling on the merits of the filing; deny, in whole or in part a protest; return, in whole or in part, the RMP or plan amendment to the

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appropriate State Director for clarification or for further planning or consideration; or change in whole or in part, the proposed management decisions in the proposed RMP.

4. The BLM Director shall uphold a protest when one of the following situations exists: approval of the proposed plan or amendment would be contrary to the Director's policy guidance; significant aspects of the proposed plan or amendment are based upon invalid or incomplete information; and/or, the proposed plan or amendment does not comply with applicable provisions of the planning regulations at 43 CFR 1600.

5. Once a protest is resolved, the decision of the Director is the final decision of the Department of the Interior and therefore cannot be appealed to the IBLA. (See 43 CFR 1610.5-2 (a) (3) (b).)

#### **F. How will the BLM implement a land use plan or plan amendment under protest?**

1. The BLM withholds approval and implementation on any portion of a plan or plan amendment until the protest process has been completed. Portions of the land use plan or plan amendment not being protested may be approved and implemented (see 43 CFR 1610.5-1 (b))

2. Before the BLM approves a plan that has been significantly changed following a protest, the State Director will publish a notice providing opportunity for a 30-day public comment on any significant change in the proposed plan (see 43 CFR 1610.5-1 (b)). The BLM Director determines what constitutes a significant change. Comments on the significant change shall be directed to the State Director. The State Director shall document approval of the plan or amendment in a concise public record of the decision, meeting the requirements of the CEQ regulations implementing NEPA. (See 40 CFR 1505.2.)

## II. Appeals of Implementation Decisions.

Implementation decisions are generally appealable to IBLA (see 43 CFR 4).

### A. What is an appeal?

An opportunity for a qualified party to obtain a review of a decision of a BLM authorized officer by an independent board of Administrative Judges within the Department's Office of Hearings and Appeals.

### B. What is appealable?

Most of the BLM decisions that implement provisions of the land use plan may be appealed to IBLA. Exceptions include, but are not limited to decisions approved by the Secretary (or by an Assistant Secretary) and classification decisions made under 43 CFR 2400. Decisions that may be appealed to IBLA, but are not directly appealable to IBLA include: locatable mineral decisions under 43 CFR 3809 (an adversely affected operator may first appeal to the State Director); certain decisions that first must be appealed to an administrative law judge under 43 CFR 4100 and 43 CFR 4.470, such as those relating to livestock grazing; and fluid minerals State Director reviews under 43 CFR 3165.3. A decision of an administrative law judge may be appealed to the IBLA by an adversely affected party, including a BLM State Director. See 43 CFR 4.476.

### C. Who can appeal?

Any party to a case who is adversely affected by one of the BLM's decisions has the right to appeal to the IBLA. (See 43 CFR 4.410 (a).)

### D. What is the appeal procedure?

1. A **Notice of Appeal** stating the serial number or other identification of the case must be filed in the office of the officer who made the decision(s) within 30 days after the date of service of the decision or the date of its publication in the *Federal Register*, if the person is not served with the decision. (See 43 CFR 4.411 (a), (b).) A copy of the Notice of Appeal must be filed with the Regional or Field Solicitor. The adversely affected party may include a statement of reasons for appealing. The regulations do not grant an extension of time for filing the Notice of Appeal (see 43 CFR 4.411 (c)), but there is a discretionary grace period of 10 days for documents, such as a Notice of Appeal, that are timely transmitted. (43 CFR 4.401 (a)).

2. If the appellant did not state the reasons for the appeal in the Notice of Appeal, a **Statement of Reasons**, including a statement of standing, if required by 43 CFR 4.412 (b), must be filed with the IBLA within 30 days after the Notice of Appeal was filed. Extensions of time are often granted for this purpose. Within 15 days after each

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document is filed, the appellant must file a copy with the appropriate Office of the Solicitor and any adverse parties named in the decision being appealed. (See 43 CFR 4.413.)

3. Within 15 days after the Statement of Reasons is filed with the Solicitor and adverse parties, the appellant must file proof of that service with IBLA. (See 43 CFR 4.413 (d).)

4. Once a Notice of Appeal is filed, the BLM case file should be expeditiously transmitted to the IBLA. Refer to program-specific guidance for the more detailed procedures related to processing an appeal.

#### **E. What factors does IBLA consider in accepting an appeal?**

1. Is the Notice of Appeal timely filed in the proper office? (See 43 CFR 4.411 (a).)
2. Is the appellant a party to the case and adversely affected by the decision being appealed? (See 43 CFR 4.410 (a).)

#### **F. What factors decide the merits of the appeal?**

The IBLA must decide whether the BLM followed applicable laws and regulations, established policies and procedures, and considered relevant information in reaching a decision.

#### **G. Implementation of an appealed decision**

Effect of decision pending appeal (see 43 CFR §4.21).

Except as otherwise provided by law or other pertinent regulation:

1. A decision will not be effective or implemented during the 30-day appeal period, but IBLA or the Director of the Office of Hearings and Appeals can put the decision into full force and effect immediately when the public interest requires. (See 43 CFR 4.21 (a).)
2. A decision becomes effective on the day after the expiration of the 30-day appeal period, unless a petition for a stay is filed together with a timely notice of appeal. A petition for a stay may be filed only by a party who has standing to appeal. See program specific regulations for requirements for a petition for a stay and 43 CFR 4.21 (b). (See 43 CFR 4.21 (a) (1).)
3. A decision, or portion of a decision, for which a petition for stay is filed with IBLA is effective if:
  - a. The IBLA denies or partially denies the petition for a stay, or

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- b. The IBLA fails to act on the petition within 45 calendar days after the expiration of the 30-day appeal period. (See 43 CFR 4.21 (a) (3).)

**APPENDIX G****Memorandum of Agreement - Endangered Species Act Consultation and Coordination****July 27, 1999****MEMORANDUM OF AGREEMENT****ENDANGERED SPECIES ACT  
SECTION 7 PROGRAMMATIC CONSULTATIONS  
AND COORDINATION****among  
BUREAU OF LAND MANAGEMENT,  
FOREST SERVICE,  
NATIONAL MARINE FISHERIES SERVICE  
and  
FISH AND WILDLIFE SERVICE****Goal**

The goal of the Memorandum of Agreement (MOA) is to improve the efficiency and effectiveness of plan and programmatic level section 7 consultation processes under the Endangered Species Act, and enhance conservation of imperiled species while delivering appropriate goods and services provided by lands and resources managed by the signatory agencies.

**Purpose**

The purpose of this interagency Memorandum of Agreement (MOA) is to establish a general framework for a “streamlined” (i.e., easier and more effective) process for interagency cooperation among the Bureau of Land Management (BLM), U.S. Forest Service (FS), U.S. Fish and Wildlife Service (FWS), and National Marine Fisheries Service (NMFS) in the exercise of their responsibilities under the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531-1544) and the 1994 Memorandum of Understanding on the conservation of species which are tending towards federal listing (94-SMU-058), which all four agencies signed. In particular, this MOA outlines guidance and procedures for section 7 consultations as well as consideration of candidate species conservation in land management plans and other programmatic level proposals prepared by the BLM and FS. The guidance and procedures outlined in this MOA will enhance existing procedures for conducting section 7 consultations. Nothing in this MOA is intended to amend 50 CFR part 402. This streamlined process will provide a number of efficiencies, allowing the agencies to better achieve compliance with the ESA and the regulations at 50 CFR part 402 without altering or diminishing the agencies’ existing responsibilities under

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the ESA or its regulations. Although consultation already occurs on land management plans and site-specific land management activities, guidance is needed to ensure consistency and efficiency. The result will be increased up-front coordination on biological assessments including conservation measures for candidate, proposed, and listed species and proposed and designated critical habitat. It will also result in a shortened time frame for the appropriate consultation response (a goal of 30 days or less for concurrence letters and 90 days or less to complete formal consultation) once an agreed to biological assessment has been received by the FWS or NMFS. This agreement in no way alters the commitment of the action agencies to consult at the site-specific level.

The term “action” as used in section 7 of the ESA includes land use plans under the Federal Land Policy and Management Act (43 U.S.C. 1701 *et seq.*) and resource management plans under the Forest and Rangeland Renewable Resources Planning Act (16 U.S.C. 1600 *et seq.*) as amended by the Forest Management Act (16 U.S.C. 1600 *et seq.*).

The BLM and FS (action agencies) will consult and confer, as outlined in the following sections, on land management plans, both during development of a new, amended, or revised plan, and on an existing plan if a new species is listed or critical habitat designated, or significant new information becomes available, and, where appropriate, consult on other programmatic level proposals (e.g., recreation program, grazing program, riparian strategy), habitat management plans, multi-year projects aggregated as a program, grouped permits or activities, or plan objectives, standards and guidelines, such as the Pacific Anadromous Fish Strategy (PACFISH) interim standards and guidelines. The action agencies also agree to include candidate species in biological assessments/evaluations provided during the plan consultation/conference process.

The BLM, FS, FWS, and NMFS agree to promote the conservation of candidate, proposed, and listed species and to informally and formally consult/confer as specified in 50 CFR 402 on listed and proposed species, and designated and proposed critical habitat during planning: (1) To assure that activities implemented under these plans minimize or avoid adverse impacts to such species and any critical habitat; (2) to assure that such activities implemented under these plans do not preclude future conservation opportunities; (3) to use, where possible, formal conference procedures specified in 50 CFR 402 to avoid conflicts between elements contained in plans and the requirements for conservation of proposed species and proposed critical habitat; and (4) to analyze the effects of the plan on candidate species pursuant to agency planning regulations.

This MOA establishes interagency commitment to and guidance for the following: (1) Early interagency communication, coordination, consultation, and conferencing on candidate, proposed, and listed species to take place prior to and during plan/program proposal development; (2) consultations/conferencing on land management plan adoption, revision, amendment and on ongoing plans where reinitiation is required; (3) implementation guidance for plan and programmatic level consultation; (4) efficiency through a consistent programmatic interagency cooperative consultation process; (5) ensuring that ongoing activities do not jeopardize listed species, result in the destruction/adverse modification of designated critical habitat, or result in unauthorized take during consultations on an existing land management plan;

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and (6) consulting or conferencing on both land management plans and other programmatic level proposals for species listed or critical habitat designated since the adoption of a plan.

### **Context of Agreement**

As part of their land management planning processes, the FS prepares Land and Resource Management Plans and the BLM prepares Resource Management Plans and, in the past, has also prepared Management Framework Plans (hereinafter, these plans will be collectively called "plans"). Plans identify general land-use purposes or allocations; future conditions that are desired on specific lands; goals and objectives for resource conditions on specific lands; and standards, guidelines, or other mechanisms that establish the management framework for all the activities conducted and allowed on lands managed by these agencies. Plans are developed over a period of several years and site-specific management actions are developed and carried out to implement the plan.

Because a plan does not normally prescribe the specific timing and location of expected land management activities, there is a significant level of uncertainty associated with the potential environmental consequences of plans. This uncertainty extends to effects on candidate, proposed, endangered and threatened species and designated critical habitat. Although the precise location and timing of site-specific effects of management actions and land uses are not often known when a plan is adopted, amended, or revised, BLM and FS, by signing this MOA, agree to consult with FWS and NMFS so that future activities formulated and allowed under the parameters of the plan are not likely to jeopardize the continued existence of listed species or result in the destruction/adverse modification of designated critical habitat. Additionally, because of the conservation mandate of section 7(a)(1) of the ESA, plans can be very helpful in recovery of listed species. The action agencies, by signing this agreement, affirm that planning for conservation of candidate, proposed, and listed species is key to the accomplishment of the federal land stewardship role. Successful implementation of this MOA will enhance plans and programmatic level proposals by promoting the incorporation of conservation objectives and guidelines for proposed and listed species.

Plans may be operational for a period covering many years, new species may be added to the list of threatened and endangered species, or significant new information may become available, triggering reinitiation of formal consultation and the need for reevaluation of the effects of plan implementation on listed or proposed species, and on designated or proposed critical habitat. This provides an additional impetus to cooperate under this MOA.

Under new FWS guidance issued on December 5, 1996 (61 FR 64481), candidate species are those species for which FWS has on file sufficient information on biological vulnerability and threat(s) to support issuance of a proposed rule to list, but issuance of the proposed rule is precluded by higher listing priorities. NMFS also maintains a list of candidate species that are being considered for listing. Since it is highly likely that most candidate species will become proposed and/or listed during the life span of the plan or program under consultation, it is prudent to receive conservation recommendations for candidates to use in the development of

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alternatives during the NEPA process or programmatic level consultations. These recommendations for candidate species will facilitate development of objectives, standards and guidelines, or conservation measures at the plan/programmatic level which can help streamline future project level conferences/consultations for these species when they acquire formal protection under the ESA. In some cases this early coordination may avoid the need to list the species.

### **Scope**

The scope of this MOA includes Land and Resource Management Plans prepared by the FS pursuant to the National Forest Management Act of 1976 [16 U.S.C. 1601-1614] and Resource Management Plans and Management Framework Plans prepared by the BLM pursuant to the Federal Land Policy and Management Act of 1976 [43 U.S.C. 1701-1784]. The MOA may also be applied to other programmatic level proposals. These may include, but are not limited to, a recreation or grazing program, riparian restoration strategy, multi-year forest management activities, recovery strategy or other proposals.

Elements of plans that will undergo section 7 consultation/conference pursuant to this MOA include:

1. Management goals, objectives, standards, and guidelines;
2. Designation of special management areas, management area direction and prescriptions, and designation of allowable resource uses;
3. Broad-scale monitoring and evaluation requirements for listed, proposed, and other species of concern; and
4. Site-specific or forest-wide management decisions included in the plan and/or Record of Decision.

### **Consultation Procedures**

Action and consulting agencies agree to maintain and exchange information on (1) the biology, ecology, distribution, and abundance of threatened, endangered, proposed, and candidate species and proposed and designated critical habitat and (2) planning schedules, status, and priorities for the land management activities. Successful implementation of this MOA depends on full cooperation and coordination. The BLM and FS should have access to FWS and NMFS candidate species lists, proposals to list species as threatened or endangered, proposals to designate critical habitat, and recovery planning documents. Regular exchanges of information examining the status, biology, and ecology of listed species and their habitat needs should occur. Similarly, BLM and FS will coordinate with FWS and/or NMFS on planning schedules and priorities that will require a commitment of FWS and/or NMFS staff resources.

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Coordination and consultation early in the planning process will result in the identification of potential impacts to species and critical habitat, allowing resource managers to make appropriate adjustments. This early cooperation will help to ensure that species conservation is achieved with a minimum of adverse impacts on proposed activities. When plans or programs that may affect listed species and/or designated critical habitat involves more than one planning area, it may be more efficient to consult on ecosystem level strategies, species range wide, or species-specific strategies under the jurisdiction of all the agencies rather than on individual plans or site-specific activities. The agencies may agree to address multiple plans as one consultation package.

Action agencies will make a determination of effects through a biological assessment/evaluation of the plan, the adequacy of conservation measures, and the effects of the land-use allocation and management direction on listed, proposed, and, as appropriate, candidate species and proposed or designated critical habitat. This assessment will determine whether consultation is needed, and if needed, whether informal or formal consultation or conference is appropriate.

Action agencies will include appropriate protection and conservation elements for listed, proposed, and candidate species and proposed or designated critical habitat in land use plans, habitat management plans, or in interim standards and guidelines that are consistent with land use plans.

Consideration of these conservation elements will help resource managers improve beneficial effects and avoid and minimize adverse effects at subsequent planning and project levels. Projects that conform to the protection and conservation elements (such as standards and guidelines) developed through programmatic consultation are likely to receive a “not likely to adversely affect” determination and concurrence or, at a minimum, an expedited Biological Opinion from the consulting agency, in the absence of new information that would change the environmental baseline or effects determination, or other changed circumstances.

Action agencies will review all scientific and other information used in the planning process to ensure that it is reliable, credible, and represents the best scientific and commercial data available. Sources of biological data will include, but are not limited to, recovery plans, conservation assessments, conservation strategies, conservation agreements, and scientific documents. This reflects the policy stated in 59 FR 34271 (July 1, 1994).

Action agencies will follow, where appropriate, the conference process for candidate species when standards and guidelines for candidate species conservation are included in programmatic documents. Inclusion of candidate species recognizes that there is tremendous benefit in early coordination between the agencies, saving time, effort and money. If, or when, the species is listed, informal conferencing on candidate species and formal conferencing on proposed species or on proposed critical habitat accomplishes the following objectives: (1) Identifies plan elements or ongoing activities that, if implemented, could adversely affect species when listed or critical habitat when designated; (2) provides the opportunity to modify the plan elements and/or ongoing activities to remove the adverse effects and thus reduce the likelihood that future

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activities would be in conflict with the ESA after a species is listed; (3) identifies plan elements that benefit/promote the conservation of proposed or candidate species or proposed critical habitat; and, (4) if done under formal conference procedures, provides a conference opinion for proposed species that can be confirmed as a biological opinion once the species is listed; and (5) identifies measures to help avoid a jeopardy determination.

Following the procedures and measures prescribed by this MOA will promote the conservation of species, and should result in minimizing incidental take of listed species as a result of implementing a planned activity. Incidental take statements must be issued for any action for which such take is anticipated. When sufficient information is available to anticipate the amount or extent of take incidental to plan or program implementation, the provisions of sections 7(b)(4) and 7(o)(2) (exemptions from takings) will apply to consultations conducted on a plan or programmatic level proposal. If incidental take is not anticipated for the activities implementing a plan or programmatic level proposal, an incidental take statement will state that conclusion. Subsequent “tiered” consultations performed on individual project activities, groups of similar projects, or annual programs, where specific effects on species can be determined within the context of a local geographic area, will contain incidental take statements identifying the anticipated amount of incidental take from the site-specific action under consultation.

When action agencies formally consult on existing plans they are required to ensure that any ongoing activities, including site-specific activities, resulting from or consistent with plans, do not result in any irreversible or irretrievable commitment of resources that have the effect of foreclosing the formulation or implementation of any reasonable and prudent alternatives that could result from the programmatic consultation. This will be accomplished by conducting early and complete agency collaboration, followed by a timely and coordinated consultation process.

Compliance with section 7(d) of the ESA will be assured at the plan level because the agencies agree to conference on a plan as soon as a species is proposed for listing. If the conference opinion adequately addresses plan level effects and the conservation of the species, then the conference opinion should allow for an easy conversion to a biological opinion or concurrence when the species is listed. Absent any change in circumstances, no further consultation would be required. Furthermore, the action agencies will implement a logical and documented process to jointly "screen" site-specific projects prior to reinitiation of plan consultations following a new listing (if conferencing has not been completed). The screening process should identify any projects which could result in an irreversible or irretrievable commitment of resources that might foreclose the formulation or implementation of reasonable and prudent alternatives to avoid jeopardy. These projects will be modified, suspended, or halted during the programmatic consultation. The final determination of section 7(d) compliance will be the action agency's responsibility, but it is expected that close coordination with the consulting agencies will occur.

### **Procedural Guidance**

Attached is implementation guidance for carrying out consultations at the plan and programmatic level. The agencies agree to use this guidance when implementing the terms of this

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memorandum. From time to time, the agencies may find it necessary or advisable to alter the procedures described in the attachment; if this occurs, a revised procedural guidance reflecting changes agreed to by the agencies may be issued with the approval of the heads of the four agencies.

This MOA and guidance does not supersede or preclude the use of the May 31, 1995, interagency agreement for streamlining section 7 consultation in the Pacific Northwest. Nothing in this MOA constrains the obligations of the agencies in carrying out their authorities under applicable laws. There is no effect on non-federal interests.

**Authority**

Endangered Species Act of 1973, as amended (16 U.S.C. 1531-1544)

National Forest Management Act of 1976 (16 U.S.C. 1601-1614)

Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701-1784)

MOU on the conservation of species that are tending towards federal listing (94-SMU-058),  
January 25, 1994

**Effective Date**

This MOA is effective immediately. Its provisions will remain in effect until it is amended, superseded, or revoked, whichever occurs first.

**INTERAGENCY MEMORANDUM OF AGREEMENT FOR  
PROGRAMMATIC ENDANGERED SPECIES ACT SECTION 7 CONSULTATIONS**

signed by Tom Fry 10-13-99

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Director, Bureau of Land Management

signed by Jamie Clark 10-12-99

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Director, U.S. Fish and Wildlife Service

signed by Mike Dombeck 9-7-99

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Chief, U.S. Forest Service

\_\_\_\_\_  
Assistant Administrator for Fisheries  
National Oceanic and Atmospheric Administration

## **Implementation Guidance: Streamlining Programmatic Consultation for BLM/FS Land Use Plans and Programs**

### I. Introduction

This document specifies the level of management commitment, direction, and support, and identifies the critical elements necessary for successful implementation of the streamlined process of ESA section 7 consultation on land-use plans and their programs as established in the July 27, 1999, MOA by the BLM, FS, NMFS and FWS. Implementation of the following critical elements should help achieve this goal:

introduction of the process through interagency workshops

development of consultation outlines to address specific consultation streamlining needs

early coordination between the land management and consulting agencies when entering into the consultation process

establishment of a dispute resolution process

establishment of procedures to evaluate and refine the process

The agencies will ensure these critical elements are met. However, this process is designed to recognize the inherent flexibility and adaptive approach necessary to meet the critical elements that will enhance the consultation/conference process while simultaneously meeting area-specific needs.

### II. Overall Approach

The specific intent of streamlined consultation procedures and guidance is two fold:

- 1) To further the conservation of listed, proposed, and candidate species by utilizing applicable plans and guidance to provide increased beneficial effects, avoid or minimize adverse effects and reduce levels of incidental take; and
- 2) to enable the section 7 process, including review, analysis and documentation, to proceed as quickly and efficiently as possible.

The streamlined consultation process involves three basic phases:

Phase 1: Interagency participation in early planning, program guidance meetings, and the review of preliminary determinations of effect.

Phase 2: Preparation of biological assessments (BAs) or biological evaluations (BEs) by the action agencies using the working group, technical support group, and if necessary, issue resolution team.

Phase 3: Preparation of biological opinions (BOs) or concurrence letters by the consulting agencies.

### III. Workshops

The agencies will provide interagency workshop opportunities to guide streamlining consultation efforts. The workshops will be tailored to each region, highlighting national as well as local issues, and designed to provide guidance and recommendations for improving consultation, coordination, and interagency working relationships.

Workshops will emphasize the benefits and process necessary for implementing improved consultation and enhanced working relationships between the consulting and action agencies. These workshops will be scheduled for biologists/botanists, line officers, and related planning and resources staff who are regularly involved in completing the interagency consultation process. It is expected that within one year of implementation of the MOA all regions will complete workshops.

Workshops will be conducted by cadres of biologists and land managers with expert knowledge in section 7 consultation efforts.

### IV. Management Support and Direction: Development of a Consultation Agreement

To accomplish the objectives described in the MOA, the action agencies and consulting agencies agree to develop and apply consultation agreements for programmatic consultations conducted under this guidance that do the following:

Determine the scope of the planned action, the appropriate level of signature authority (REGION, FOREST, AREA) and scale of analysis necessary to accomplish programmatic consultation.

Designate staff and responsibilities

Determine the necessary time frames

Initiate early interagency staff coordination

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Establish a dispute resolution process in keeping with that outlined above

An example is attached.

#### V. Scope

The action agencies will clarify the priority list of activities to be covered in the consultation effort. They should identify, for instance, which actions or plans, which administrative units or geographic areas, and suggest which species or critical habitats must be covered within the designated time frame, as well as any other appropriate issues.

#### VI. Staffing

The implementation of this process should not require additional staffing. Rather, this approach is designed to utilize staff that are already interacting with their interagency counterparts, but in a more efficient way to achieve the goals of streamlining programmatic consultation efforts.

#### VII. Process for Working Groups and Framework for Dispute Resolution

The following working groups will be established in a manner that will facilitate implementing the MOA:

Program Level ESA Working Groups - Interagency teams of biologists responsible for ESA coordination and oversight of determination of effects at the plan/program level. The working group, which may consist of as few as two individuals (e.g., FWS biologist and FS biologist), is the basic operational unit of the streamlined programmatic consultation process. The group is responsible for ensuring that the best available scientific and commercial information on listed, proposed, and candidate species, or proposed or designated critical habitat, is considered in the decision-making process, and facilitating achievement of ESA compliance in the shortest time possible. One team member should be identified as a logistical leader to schedule and facilitate meetings, etc. An individual should also be given the responsibility for tracking the consultation process and reporting outcomes to the regional technical support contact (see Regional/State Technical Working Group). Teams will communicate on a regular basis and meet as needed to facilitate the interagency coordination on ESA compliance. It is expected that most, if not all, potentially contentious ESA issues will be discussed and resolved at this level. Findings made in the Biological Assessment and other group decisions will be made by consensus.

Working group members may include Forest or BLM District/Resource Area wildlife or fisheries biologists and/or botanists, FWS Field Office wildlife or fisheries biologists and/or botanists, and NMFS biologists. Specific representation may vary by forest or resource area, administrative unit, or species involved, but these teams must have applicable agency

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representation to ensure that consensus can be achieved among the agencies involved in the MOA. For example, these teams could be established for each Forest or BLM District/Resource Area, or groups of Forests or BLM Districts/Resource Areas based on ecological provinces, watersheds, common issues, species, etc.

These teams will provide input to the design of proposed plans/programmatic activities to incorporate species habitat needs, identify programmatic proposals that may result in adverse impacts to species and critical habitat, and screen ongoing activities to ensure that reasonable and prudent alternatives to avoid jeopardy are not foreclosed.

Local Issue Resolution Working Groups - Interagency teams of decision-makers at the Forest, BLM District/Resource Area, or state levels for other agencies, responsible for first level dispute resolution (Forest Supervisors, BLM District/Area Managers, FWS State Supervisors, NMFS designated supervisors). These teams would normally meet on an *ad hoc* basis to resolve issues elevated from the program level working group. Most effective use of these working groups will include early guidance on priorities, expectations, and policy as well as support for staffing. These teams could also be useful for working out coordination issues to help gain efficient use of program level working groups. Specific team representation depends upon the agency administrative units involved in the issue.

Regional/State Issue Resolution Working Group - Interagency teams of regional or state agency heads, i.e., the Regional Forester, BLM State Director, FWS Regional Director, and NMFS Regional Director. These teams will meet on an *ad hoc* basis to resolve issues elevated from the Local Issue Resolution Working Groups. Specific team representation depends upon the agency administrative units involved in the issue.

Regional/State Technical Support Working Group - In addition to the three level teams, interagency regional experts will be available for technical support to the other working groups. These individuals may consist of species biology experts, planners, program management experts, ecologists, etc. and are responsible for the overall technical oversight during the consultation process. This core technical support working group should meet on a regular basis to ensure that the process is functioning as intended. This working group may also have to meet on an *ad hoc* basis to respond to specific technical issue questions raised by the other working groups or enlist the support of other *ad hoc* members to provide additional expertise.

National Issue Resolution Working Group - Interagency teams of appropriate representatives of the FS, BLM, FWS, and NMFS responsible for resolution of issues not resolved by the Regional/State Issue Resolution Working Group. These teams will be appointed by the agency heads.

## VIII. Time frames

The agencies have agreed to commit to completion of informal consultation within 30 days and formal consultation within 90 days. However, circumstances may dictate that the individual units may establish time frames that are appropriate to a specific action by mutual consent.

## IX. Early Coordination

Early interagency coordination is the key to the streamlining consultation process. Coordination with consulting agencies early in the planning process, before initiation of consultation, will result in the identification of potential impacts to species and critical habitat. This will allow resource managers to make appropriate adjustments in proposed activities during the design phase. This early coordination will enable proposed plans/programmatic activities to incorporate species habitat needs, and will facilitate and expedite the consultation process. Issues to be resolved include:

### 1. Section 7 (d) of the ESA

Section 7 (d) of the ESA states that federal agencies “...shall not make any irreversible or irretrievable commitment of resources with respect to the agency action which has the effect of foreclosing the formulation or implementation of any reasonable or prudent alternative measure” after the initiation of consultation. When action agencies formally consult on existing plans the agencies are required to ensure that any ongoing activities, including site-specific activities, resulting from or consistent with plans, do not result in any irreversible or irretrievable commitment of resources that have the effect of foreclosing the formulation or implementation of any reasonable and prudent alternatives that could result from the programmatic consultation.

Compliance with section 7(d) of the ESA will be assured at the plan level because the agencies agree to conference on a plan as soon as a species is proposed for listing. If the conference opinion adequately addresses plan level effects and the conservation of the species, then the conference opinion should allow for an easy conversion to a biological opinion or concurrence when the species is listed. Absent any change in circumstances, no further consultation would be required. Furthermore, the action agencies will implement a logical and documented process to jointly "screen" site-specific projects prior to reinitiation of plan consultations following a new listing (if conferencing has not been completed). The screening process should identify any projects which could result in an irreversible or irretrievable commitment of resources that might foreclose the formulation or implementation of reasonable and prudent alternatives to avoid jeopardy. These projects will be modified, suspended, or halted during the programmatic consultation. The final determination of section 7(d) compliance will be the action agencies' responsibility, but it is expected that close coordination with the consulting agencies will occur.

### 2. Species coverage

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Agencies will consult/conference on listed species and designated critical habitat, proposed species, proposed critical habitat, and include candidate species as a part of the analysis of effects.

### 3. Agreement on the information needs for the development of the BA/BE

The program level working groups will review and make available current information on candidate, proposed and listed species and proposed or designated critical habitat within the planning areas. This should include information on status, population trends, response to management, disturbance regimes needed, interagency and state coordination measures required, and conservation opportunities.

Land management plan standards and guidelines (S&G's); programmatic recovery or conservation strategies (such as the Northwest Forest Plan, PACFISH, INFISH and the longterm red-cockaded woodpecker strategy); recovery plans; or applicable biological opinions from other consultations can serve as the basic foundation for programmatic consultations using the streamlined process. Land management plans/programs incorporating conservation S&G's will be more likely to provide beneficial effects to species. The basic goal is that land management plans/programs offering the protection of these S&Gs would not jeopardize listed or proposed species, or move candidate species closer to listing. Furthermore, to achieve the most conservation benefits from the planning process, the program level working group should identify programmatic conservation strategies helpful in formulating plan alternatives to minimize or avoid adverse effects to listed, proposed, or candidate species and, where possible, to assist in the conservation and recovery of these species per the Interagency MOU of 1994. These alternatives should be evaluated and reformulated into a consensus description of the proposed Federal action (the land management plan or program plus any additional agreed upon measures needed to work toward conservation of these species). For existing plans or programs, these conservation measures may be within the scope of the plan or program or may require plan amendment or modifications of the program. This process will comply with applicable laws and regulations for all agencies.

Agencies must agree on the level of information necessary in the BA/BE to be able to render a BO of sufficient detail. An agreed upon BA/BE is critical to ensure that the streamlined consultation process works and that the identified time frames are met. The beginning date for consultation is the day a BA/BE that is agreed upon by all members of the team is received by the consulting agency, accompanied by a written request for consultation or conference. It is imperative that the action agency submit only final BAs/BEs that all cooperating agencies deem adequate.

### 4. Agreement on the effects analysis and determination

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The Program level working groups will identify parameters, or criteria that normally would result in "no effect", "not likely to adversely affect", "likely to adversely affect" and "likely to jeopardize" determinations on plan level effects analysis. This will be extremely useful in sorting, screening and reaching consensus on the BA/BE "determination of effects". This process will allow the team to reach rapid agreement on many aspects of the plan. More problematic elements (certain Standards and Guidelines (S&Gs), etc.) will then become the team's focus. If these problem areas need additional modification in the plan, these changes may be outlined in the description of action and the BA/BE. For example, if an additional objective or S&G is needed in an existing plan, the action to be consulted on would consist of the proposed new measure, in the context of the current S&Gs, and the actions needed to amend the plan and adopt the new measure. If the team cannot agree on the adequacy of the BA/BE, on the determination of effects, or information needed to complete the BA/BE, etc., the issue resolution process will be initiated.

#### 5. Biological Assessment preparation

All anticipated environmental effects and mitigation and monitoring requirements will be disclosed in the BA/BE. This includes analysis of effects on listed, proposed, or candidate species or designated or proposed critical habitat from the plan/program analyzed.

ESA compliance is required regardless of the level of NEPA documentation required for a plan or program. A BA/BE for a plan or program that has an EA rather than an EIS, could be very short and simple, but the Program Level ESA Working Group should be used to help identify the level of documentation needed and appropriateness of the determination for all plan/program BA/BEs. Coordination requirements and conservation recommendations must be identified early in the decision-making process so they can be incorporated into the plan/program under consultation, incorporated later as a plan amendment, or clarified as program direction.

The agreed upon elements of a BA/BE are:

- a. description of the action: reference the description of the proposed action section of the plan/program (do not duplicate it in the BE/BA, but incorporate by reference any needed documents and include then in the consultation package);
- b. description of the area that may be directly or indirectly affected by the action: if possible, refer to the appropriate action(s) of the plan/program rather than duplicating it in the BE/BA;
- c. description of any listed, proposed or candidate species, or designated or proposed critical habitat that may be affected;

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- d. description of the manner in which the action may affect listed, proposed or candidate species; or proposed or designated critical habitat (direct effects);
- e. analysis of indirect and cumulative effects;
- f. analysis of effects of interrelated and interdependent actions;
- g. analysis of effects of interrelated and interdependent actions;
- h. determination of effects statement; and
- i. may include any measures to minimize incidental take, as well as specifying measures to handle or dispose of any individuals actually taken.

The action agency will prepare a BA/BE based on the above agreements in the cooperative spirit of the MOA and will submit it to the consulting agency (a joint meeting between the action agencies and the consulting agencies may be the most efficient way to develop these BA/BEs). The consulting agency will then review the BA/BE for adequacy within two weeks of receipt. Because of the early interagency coordination described above, this is not likely to result in the identification of substantial issues. However, if the BA/BE is deemed inadequate, the consulting agency will notify the action agency in writing detailing specific issues and indicating that the time frame for the formal consultation or concurrence letter has not started.

#### 6. Biological Opinion Preparation

The consulting agency will provide a draft of their consultation response for action agency review no later than two weeks before the end of the agreed upon consultation period. Any reasonable and prudent measures and terms and conditions for incidental take should be discussed and agreed to by the interagency consultation team prior to issuance of a final BO or conference opinion.

#### X. Dispute Resolution Process

The use of interagency working groups and a National Issue Resolution working group are designed to ensure that any disagreements on completeness of the BA/BE, determination of effects, or contents of a draft BO or conference opinion are resolved in a coordinated and timely manner.

If the Program Level ESA Working Group cannot reach consensus on what information is needed to complete consultation/conference on a plan/program, determination of effects, the adequacy of the plan standards and guides, compliance with existing guidance, conservation strategies, etc., a review will be conducted by the Local Issue Resolution Working Group. The employment of regional

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section 7 consultation specialists may be useful in resolving such disputes. If the Local Issue Resolution Working Group cannot resolve the issue or if there is disagreement between one of the agencies and the consensus findings of the Program Level ESA Working Group (team is in agreement) a Regional/State Issue Resolution Working Group review will be initiated. If this group cannot resolve the issue, it will be elevated to the National Issue Resolution Working Group.

All issue resolution working group (or panel) reviews should be initiated by request of the applicable working group, or a specific agency. The request should include: (1) A concise summary of issues in dispute and decisions that need to be made; (2) agency position statements on each of the issues; (3) all supporting rationale and documentation for consideration; and (4) a brief chronology of key actions taken to resolve the dispute. Resolution should be pursued as quickly as possible. The National Issue Resolution Working Group decisions are the final and binding resolution of disputes. Issue resolution working groups are encouraged to use the assistance of the Regional/State Technical Support Working Group in the resolution process.

Each stage of the issue resolution process will not exceed 15 days.

#### XI. Evaluation and Refinement

To facilitate a process of the utmost utility to the agencies, The Regional/State Technical Support Working Group should implement measures to track the progress of the process described above and propose any refinements necessary to further the goals of the MOA to agency heads.