Agenda

County of Inyo
Board of Supervisors

Board of Supervisors Room
County Administrative Center
224 North Edwards
Independence, California

All members of the public are encouraged to participate in the discussion of any items on the Agenda. Anyone wishing to speak, please obtain a card from the Board Clerk and indicate each item you would like to discuss. Return the completed card to the Board Clerk before the Board considers the item (s) upon which you wish to speak. You will be allowed to speak about each item before the Board takes action on it.

Any member of the public may also make comments during the scheduled "Public Comment" period on this agenda concerning any subject related to the Board of Supervisors or County Government. No card needs to be submitted in order to speak during the "Public Comment" period.

Public Notices: *(1)* In Compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting please contact the Clerk of the Board at (760) 878-0373. (28 CFR 35.102-35.104 ADA Title II). Notification 48 hours prior to the meeting will enable the County to make reasonable arrangements to ensure accessibility to this meeting. Should you because of a disability require appropriate alternative formatting of this agenda, please notify the Clerk of the Board 72 hours prior to the meeting to enable the County to make the agenda available in a reasonable alternative format. (Government Code Section 54954.2). *(2)* If a writing, that is a public record relating to an agenda item for an open session of a regular meeting of the Board of Supervisors, is distributed less than 72 hours prior to the meeting, the writing shall be available for public inspection at the Office of the Clerk of the Board of Supervisors, 224 N. Edwards, Independence, California and is available per Government Code § 54957.5(b)(1).
Note: Historically the Board does break for lunch, the timing of a lunch break is made at the discretion of the Chairperson and at the Board's convenience.

April 12, 2016

8:30 a.m. 1. ***PUBLIC COMMENT***

CLOSED SESSION

2. ***CONFERENCE WITH LABOR NEGOTIATORS --*** (Government Code Section 54957.6). Agency designated representatives: Deputy Sheriff's Association (DSA); Elected Officials Assistant Association (EOAA); Inyo County Correctional Officers Association (ICCOA); Inyo County Employees Association (ICEA); Inyo County Probation Peace Officers Association (ICPPOA); Law Enforcement Administrators' Association (LEAA). Unrepresented employees: all. Agency designated representatives - County Administrative Officer, Kevin Carunchio, Assistant County Administrator, Rick Benson, Deputy Personnel Director, Sue Dishion, Information Services Director, Brandon Shults, County Counsel Marshall Rudolph, and Assistant County Counsel John Vallejo.

OPEN SESSION

10:00 a.m. ***PLEDGE OF ALLEGIANCE***

3. ***REPORT ON CLOSED SESSION***

4. ***PUBLIC COMMENT***

5. ***COUNTY DEPARTMENT REPORTS*** *(Reports limited to two minutes)*

6. ***INTRODUCTIONS*** – The following new employee will be introduced: Health and Human Services: Crystal Cox, Social Worker IV.

CONSENT AGENDA (Approval recommended by the County Administrator)

COUNTY ADMINISTRATOR

7. ***Risk Management*** – Request Board approve Amendment #3 to the contract between the County of Inyo and John D. Kirby, A.P.C., for the provision of Civil Litigation Attorney Services, increasing the amount of the contract limit by $40,000, for a total contract amount not to exceed $190,000, for the period of July 1, 2015 through June, 30 2016, and authorize the Chairperson to sign.

HEALTH AND HUMAN SERVICES

8. ***Behavioral Health*** – Request Board approve the Mental Health Services Act (MHSA) Plan Update (Fiscal Year 2015-16) to allow access to funds under the approved MHSA Agreement, and authorize the Health and Human Services Deputy Director of Behavioral Health – as the Mental Health Director, to sign.

SHERIFF'S DEPARTMENT

9. Request Board: A) approve the Cooperative Law Enforcement Annual Operating Plan and Financial Plan between the Inyo County Sheriff's Office and the USDA, Forest Service-Inyo National Forest, for the 2016 Controlled Substance Annual Operating and Financial Plan in the amount of $5,000; and B) authorize the Inyo County Sheriff and the Board of Supervisor's Chairperson to sign the Operating Plan and all necessary documents, contingent upon the adoption of the Fiscal Year 2016-17 Inyo County budget.

10. Request Board: A) approve the 2016 Domestic Cannabis Eradication/Suppression Program Letter of Agreement between the Inyo County Sheriff's Office and the Drug Enforcement Administration (DEA) of the United States Department of Justice (DOJ) in the amount of $5,000; and B) authorized the Inyo County Sheriff to sign the agreement and all necessary documents; and C) authorize Alisha McMurtrie-Inyo County Treasurer/Tax Collector, to sign as the authorized agency representative to enable electronic fund transfer when available, contingent upon the adoption of the Fiscal Year 2016-17 budget.

DEPARTMENTAL (To be considered at the Board's convenience)

11. ***ADMINISTRATION – Parks and Recreation –*** Request Board approve, in concept, a new building at the Laws Museum to house and display a replica set of 20 Mule Team Borax Wagons.

12. ***DISTRICT ATTORNEY –*** Request Board find that consistent with the Authorized Position Review Policy : A) approve the job description for the Assistant to the District Attorney (Range 70) and, approve a change in Authorized Staffing by deleting the current Administrative Legal Secretary (Range 70) effective July 13, 2016, and adding the Assistant to the District Attorney (Range 70) effective July 16, 2016; and B) the availability of funding for the Assistant to the District Attorney comes from the General Fund and CalOES Victim Witness grant funds as certified by the District Attorney, and concurred with by the County Administrator and Auditor-Controller; and C) the position could be filled by an internal recruitment, however, an open recruitment would be more appropriate to ensure qualified applicants apply; and D) authorize the hiring of (1) Administrative Assistant to the District Attorney at Range 70 ($4,391 - $5,341).

13. ***HEALTH AND HUMAN SERVICES – ESAAA/IC Gold –*** Request Board find consistent with the adopted Authorized Position Review Policy: A) the availability of funding for this requested position comes from State and Federal funds and the General Fund, as certified by the Health and Human Services Director and concurred with by the County Administrator and the Auditor-Controller; and B) where due to the part-time nature of this position it is unlikely that the position could be filled by internal candidates meeting the qualifications for the position, therefore, an open recruitment would be appropriate to ensure qualified applicants apply; and C) approve the hiring of one B-PAR Food Assistant at Range 42PT ($12.26 - $14.91/hr.), depending upon qualifications.

14. ***HEALTH AND HUMAN SERVICES – Employment and Eligibility –*** Request Board find consistent with the adopted Authorized Position Review Policy: A) the availability of funding for this requested position exists in the Social Services budget, as certified by the Health and Human Services Director and concurred with by the County Administrator and the Auditor-Controller; and B) where internal candidates meet the qualifications for the position, the vacancy could possibly be filled through an internal recruitment through the State's California Personnel System, but an open recruitment would be more appropriate to ensure qualified applicants apply; and C) approve the hiring of one Office Clerk II at Range 50 ($2,749 - $3,343).

15. ***HEALTH AND HUMAN SERVICES/PROBATION –*** Request Board: A) approve and ratify the contract between the County of Inyo and California Institute for Behavioral Health Solutions (CIBHS) for facilitator training and implementation support of Moral Reconation Therapy (MRT) in an amount not to exceed $20,000 for the period of April 11, 2016 through April 30, 2017, contingent upon approval of future budgets, and authorize the Chairperson to sign the contract and HIPAA Business Associate Agreement; and B) amend the Fiscal Year 2015-16 Community Health (Budget #045200) as follows: increase estimated revenue in Intra County Charges (Object Code #4821) by $20,000 and increase appropriation in Professional Services (Object Code #5265) by $20,000 *(4/5's vote required)*; and C) amend the Fiscal Year 2015-16 Criminal Justice Realignment (Budget #023002) as follows: increase estimated revenue in Realignment-2011(Object Code #4460) by $20,000 and increase appropriation in Internal Charges (Object Code #5121) by $20,000 *(4/5's vote required.*

16. ***PLANNING – Inyo National Forest Plan Update –*** Receive a presentation from staff about coordination with Forest Service staff regarding the Inyo National Forest Plan Update/Revision, and provide input.

17. ***PLANNING* – Bureau of Land Management Planning Rule 2.0 –** Request Board review the Bureau of Land Management's Planning Rule 2.0 and provide direction to staff.

18. ***SHERIFF'S DEPARTMENT* –** Request Board find consistent with the adopted Authorized Position Review Policy: A) the availability of funding for this requested position comes from the General Fund, as certified by the Sheriff and concurred with by the County Administrator and the Auditor-Controller; and B) where internal candidates may meet the qualifications for the position and the position could possibly be filled by an internal recruitment, an open recruitment is more appropriate to ensure the position is filled with the most qualified applicant; and C) approve the open recruitment and hiring of (1) Deputy Sheriff position at Range 67SA-SC ($4,149 - $5,565), and authorize hiring up to a Step E for a qualified lateral applicant.

TIMED ITEMS (Items will not be considered before scheduled time)

1:30 p.m. 19. ***BOARD OF EQUALIZATION MEETING* –** The Board will convene as the Inyo County Board of Equalization (separate agenda)

CORRESPONDENCE – ACTION (To be considered at the Board's convenience)

COMMENT (Portion of the Agenda when the Board takes comment from the public and County staff)

20. ***PUBLIC COMMENT***

BOARD MEMBERS AND STAFF REPORTS

CORRESPONDENCE - INFORMATIONAL

21. ***AUDITOR-CONTROLLER* –** Notice that in accordance with Section 26905 and 26921 of the Government Code and your orders of February 5, 1950 and January 3, 1956, an actual count of money in the hands of the Treasurer was made on March 31, 2016 and that the count showed the funds to be in balance, pending written verification of inactive accounts.

22. ***SHERIFF* –** Sheriff and Jail Overtime Report for the month of March 2016.

AGENDA REQUEST FORM

BOARD OF SUPERVISORS
COUNTY OF INYO

For Clerk's Use Only:
AGENDA NUMBER
7

☒ Consent ☐ Departmental ☐ Correspondence Action ☐ Public Hearing
☐ Scheduled Time for ☐ Closed Session ☐ Informational

FROM: Administration, Risk Management

FOR THE BOARD MEETING OF: April 12, 2016

SUBJECT: Approval of Contract Amendment #3 between the County of Inyo and John D. Kirby, A.P.C. – Civil Litigation Services

DEPARTMENTAL RECOMMENDATION:

Request Board approve Contract Amendment #3 between the County of Inyo and John D. Kirby A.P.C., for the provision of Civil Litigation Attorney Services for the period of June 30, 2015 through June 30, 2016 increasing the amount of the Contract to $190,000.

SUMMARY DISCUSSION:

Your Board previously approved the Contract for Legal Services – Civil Litigation Attorney Services, and Amendments 1 and 2 to the Contract for Legal Services – Civil Litigation Attorney Services, for John D. Kirby, A.P.C., for the period of July 1, 2015 through June 30, 2016 (as amended). The original contract contemplated legal services through December 31, 2015; therefore, the original funding requested for the contract was $150,000. Amendment #2 exercised the original contract's option to extend for an additional six months to June 30, 2016 and provided that Contractor would continue to represent and defend the County and its officers and employees in the case of Bishop Paiute Tribe v. Inyo County, and would consult and assist on matters involving potential or pending litigation in Courts or before administrative agencies. There was no increase in the original contract amount when the original contract was extended for the additional six months. Due to continuances of trial and motion dates and ongoing litigation activity in pending cases including without limit the Bishop Paiute Tribe, Waasdorp and Prominent cases, additional services and expenses have been, and are continuing to be, incurred. It is recommended that your Board approve an increase in the contract limit from $150,000 to $190,000.

ALTERNATIVES:

The County could decline to approve the Contract Amendment #3 with John D. Kirby, A.P.C.

OTHER AGENCY INVOLVEMENT:

FINANCING:

The funds for this Contract are paid out of the County Liability Budget Unit 500903.

APPROVALS	
COUNTY COUNSEL:	AGREEMENTS, CONTRACTS AND ORDINANCES AND CLOSED SESSION AND RELATED ITEMS *(Must be reviewed and approved by county counsel prior to submission to the board clerk.)* Approved: yes Date 4/4/16
AUDITOR/CONTROLLER:	ACCOUNTING/FINANCE AND RELATED ITEMS (*Must be reviewed and approved by the auditor-controller prior to submission to the board clerk.)* Approved: yes Date 4-4-16
PERSONNEL DIRECTOR: N/A	PERSONNEL AND RELATED ITEMS (Must be reviewed and approved by the director of personnel services prior to submission to the board clerk.) Approved:_____ Date_____

DEPARTMENT HEAD SIGNATURE:
(Not to be signed until all approvals are received)_____ Date: 04-04-2016
(The Original plus 20 copies of this document are required)

AMENDMENT NUMBER 3 TO
AGREEMENT BETWEEN THE COUNTY OF INYO AND
John D. Kirby, A.P.C.
FOR THE PROVISION OF INDEPENDENT CONTRACTOR SERVICES

WHEREAS, the County of Inyo (hereinafter referred to as "County") and John D. Kirby, A.P.C., of San Diego, CA (hereinafter referred to as "Contractor"), have entered into an Agreement for the Provision of Independent Contractor Services dated July 1, 2015, on County of Inyo Standard Contract No. 123, for the term from July 1, 2015 to June 30, 2016 (as amended).

WHEREAS, County and Contractor do desire and consent to amend such Agreement as set forth below;

WHEREAS, such Agreement provides that it may be modified, amended, changed, added to, or subtracted from, by the mutual consent of the parties thereto, if such amendment or change is in written form, and executed with the same formalities as such Agreement, and attached to the original Agreement to maintain continuity.

County and Contractor hereby amend such Agreement as follows:

1. The contract limit specified in Section 3(E) is increased to $190,000.

The effective date of this Amendment to the Agreement is March 1, 2016.

All the other terms and conditions of the Agreement are unchanged and remain the same.

AMENDMENT NUMBER 3 TO
AGREEMENT BETWEEN THE COUNTY OF INYO AND
John D. Kirby, A.P.C.
FOR THE PROVISION OF INDEPENDENT CONTRACTOR SERVICES

IN WITNESS THEREOF, THE PARTIES HERETO HAVE SET THEIR HANDS AND SEALS THIS _____ DAY OF _____, _____.

COUNTY OF INYO

By: _____

Dated: _____

CONTRACTOR
JOHN D. KIRBY, A PROFESSIONAL CORP.

By: _____, President
Signature

JOHN D. KIRBY, PRESIDENT
Type or Print

Dated: 4/1/2016

APPROVED AS TO FORM AND LEGALITY:

_____
County Counsel

APPROVED AS TO ACCOUNTING FORM:

_____
County Auditor

APPROVED AS TO PERSONNEL REQUIREMENTS:

_____
Personnel Services

APPROVED AS TO RISK ASSESSMENT:

_____
County Risk Manager

AGENDA REQUEST FORM

BOARD OF SUPERVISORS
COUNTY OF INYO

For Clerk's Use Only:
AGENDA NUMBER
8

☒ Consent ☐ Departmental ☐ Correspondence Action ☐ Public Hearing
☐ Scheduled Time for ☐ Closed Session ☐ Informational

FROM: HEALTH AND HUMAN SERVICES , Behavioral Health

FOR THE BOARD MEETING OF: April 12, 2016

SUBJECT: Approve the Mental Health Services Act (MHSA) 2015-16 Update.

DEPARTMENTAL RECOMMENDATION:

Request your Board approve the Mental Health Services Act (MHSA) Plan Update (FY 15/16) in order to access funds under the approved MHSA Agreement, and authorize the HHS Deputy Director of Behavioral Health, as the Mental Health Director, to sign.

CAO RECOMMENDATION:

SUMMARY DISCUSSION:

As required in the Mental Health Services Act, we submitted our MHSA Integrated Three Year Plan for FY 14/15 through FY 17/18 last fiscal year. This three year plan was approved by the Board of Supervisors in April 2015. A Plan Update is now required for FY 15/16. The Plan continues to be written with local Stakeholder input in accordance with the MHSA component guidelines and requirements. Stakeholder input includes the strong voice of consumers and family members as well as input from community partners and other interested parties. We again conducted a survey as part of the overall planning process. We received 40 completed surveys from partners, consumers and family members reaffirming the strategies proposed in the three year plan. We also discussed the strategies in our ongoing stakeholder and partner meetings. In accordance with the requirement for a 30 day comment period, we posted our plan on the County website on March 9, 2016 and disseminated the plan throughout the County. We held a public hearing on April 11, 2016 at our new wellness center site in Bishop to conclude our public comment period. At this time, our Mental Health Advisory Board also reviewed and approved the Plan. The MHSA plan is comprised of the following components:

Community Services and Supports (CSS): Input affirmed the overwhelming support for the continued use of the CSS funds for the wellness centers and for access to Progress House. Our partners in law enforcement and in the hospital setting continue to acknowledge the critical role of Progress House in assisting persons in need of crisis support and transitional living arrangements. This year, we have again helped at least four persons with mental illness to transition from jail to the community safely. We also provided respite services for at least 25 persons experiencing a mental health crisis. We have used the two wellness center sites as a way to connect persons with basic living needs to services and support. We saw 126 individuals at the wellness centers, including 28 persons who were homeless. Many of these persons are reticent to participate in more traditional mental health services in the clinic. We will continue to use the two wellness center sites as a central part of our strategies, both as part of ongoing services to persons with severe mental illness and as outreach to persons who are homeless or at risk of hospitalization due to their mental illness. We now have moved in to our permanent remodeled wellness center site in Bishop. Stakeholders have voiced a desire to purchase a permanent site for many years. The new site allows us to provide showers, laundry and cooking facilities as well as peer-directed and staff facilitated groups and other activities. We will have the capability in our new site for some access to a Behavioral Health RN who will provide some outreach and coordination of care for persons who may not be connected with health care providers. While we are busier at our wellness center site in Bishop, we continue to provide consistent services twice per week in Lone Pine. Our centrally

located site in Lone Pine has met our needs in this community thus far. We provide services at the site or use the resources in the community to provide the same array of services and support. We continue to look for ways to adapt outreach and services to best match the community. At both wellness center sites, as well as at Progress House, we have also continued our focus on building consumer's skills in the area of "peer support". We also look for ways to involve our consumers in "giving back" and making a meaningful contribution to the community. Our continued data suggests that these strategies have been successful in meeting many of the recovery needs of persons in our community with severe mental illness, as well as containing costs related to access and use of hospitalization for treatment.

Prevention Early Intervention (PEI): Per our three year plan, we have expanded our PEI strategies to seniors to include a Friendly Visitor (FV) program. The Friendly Visitor provides an informal outreach and opportunity to contact and engage the senior in conversation or an activity on a regular basis. There is one "Friendly Visitor" assigned to South County and one to North County. We have provided the FV program to 25 isolated seniors, split evenly between North and South county. This range of services is performed as part of the larger HHS Adult Services team in an attempt to address the varying needs of the population. We have also provided elder outreach to 79 seniors. This service is provided by a mental health RN who assesses the individual's health conditions and behavioral health needs. If necessary, the senior is linked to further behavioral health services including with our psychiatrist.

We also intend to continue our prevention and early intervention (PEI) strategies to families with young children. We have continued to use Parent Child Interactive Therapy (PCIT), an evidence-based practice. PCIT has been used in work with several Child Welfare referred families. In the last year, we have increased capacity for use of this effective parenting strategy with Spanish-speaking families and to expand services in the southern end of the county.

Innovations (INN)**:** Our three year Innovations Plan was approved by the Oversight and Accountability Commission in June 2014. In the first year of our INN plan, we chose to implement a Coordinated Care Collaborative Project and used this opportunity to take the next steps in integrating care between mental health, addiction and physical health care. The INN strategy was very timely with the implementation of Health Care Reform, the Affordable Care Organization requirements and parity requirements. We developed our partnership with the Northern Inyo Hospital Rural Health Clinic as the first step in this integration. We used a change model and process that has proven most helpful to the implementation of change strategies and the collection of outcome data to inform change. In the second year of the plan, we are now applying this model in the jail setting with our re-entry coordination. The Re-entry Coordinator, the Behavioral Health and Public Health RN's, an Addiction Counselor and the Deputy Director of Behavioral Health meet weekly to coordinate services for inmates both incarcerated and transitioning back into the community.

Other Components: We have continued our planned use of funds in the areas of Workforce Education and Training (WET). We have looked for ways to increase knowledge around co-occurring substance use and crisis intervention training. We have assisted with funds for training for Substance Use Disorder certification and to expand MRT, including a component to address trauma. We transferred some funds from the CSS component for use in Capital Facilities Technical Needs (CFTN) to continue our implementation of the Electronic Health Record to meet federal meaningful use requirements as well as to address remodeling needs at the Wellness Center and at Progress House.

We respectfully request that the Board approve the MHSA Plan for submission to the Oversight and Accountability Commission.

ALTERNATIVES:

Your Board could choose not to approve the MHSA Plan Update. This would prohibit our further use of these funds until an acceptable Plan that met MHSA regulations could be formulated. MHSA funds currently comprise approximately one third of all funds available for mental health services in Inyo.

OTHER AGENCY INVOLVEMENT:

Mental Health is under the umbrella of Behavioral Health, a division of Health and Human Services. The MHSA includes involvement of Stakeholders and partners from all interested agencies involved in mental health issues.

FINANCING:
State MHSA funds. Funds are deposited into the MHSA trust (505306), and budgeted as revenue in the Mental Health budget (045200). Expenditures from MHSA are tracked in the Mental Health Budget and transfers occur bi-annually from the MHSA Trust into Mental Health to cover those expenditures. No County General Funds.

APPROVALS	
COUNTY COUNSEL:	AGREEMENTS, CONTRACTS AND ORDINANCES AND CLOSED SESSION AND RELATED ITEMS *(Must be reviewed and approved by county counsel prior to submission to the board clerk.)* Approved: rcs Date 03/30/2016
AUDITOR/CONTROLLER:	ACCOUNTING/FINANCE AND RELATED ITEMS (*Must be reviewed and approved by the auditor-controller prior to submission to the board clerk.)* Approved: Date 3/30/2016
PERSONNEL DIRECTOR:	PERSONNEL AND RELATED ITEMS (Must be reviewed and approved by the director of personnel services prior to submission to the board clerk.) Approved: Date

DEPARTMENT HEAD SIGNATURE:
(Not to be signed until all approvals are received) Jan Turner by MMason Date: 3/31/16

INYO COUNTY BEHAVIORAL HEALTH

Mental Health Services Act
FY 2015-2016 Annual Update

POSTED FOR PUBLIC COMMENT
March 9, 2016 through April 10, 2016

The MHSA FY 2015-2016 Annual Update is available for public review and comment from March 9, 2016 through April 10, 2016. We welcome your feedback via phone, in person, or in writing. Comments may also be made during the Public Hearing to be held on Monday, April 11, 2016.

Public Hearing Information:
Monday, April 11, 2016 at 10:00 am
Behavioral Health Advisory Board Meeting
Bishop Wellness Center
586 Central Avenue, Bishop, CA 93514

Comments or Questions? Please contact:
Gail Zwier
MHSA Annual Update Feedback
Inyo County Behavioral Health
162 J Grove Street, Bishop, CA 93514
Phone: (760) 873-6533; Fax: (760) 873-3277
gzwier@inyocounty.us

Thank you!

MHSA Community Program Planning and Local Review Process

County: Inyo **30-day Public Comment period dates:** 03/09/16 – 04/10/16

Date: March 7, 2016 **Date of Public Hearing:** Monday, April 11, 2016

COUNTY DEMOGRAPHICS AND DESCRIPTION

Inyo County contains astounding natural diversity. It includes Owens Valley and parts of Death Valley and is located between the Sierra Nevada Mountains and the White Mountains along the California/Nevada border. Inyo County offers scenic views and multiple opportunities for outdoor sports enthusiasts in diverse landscapes. Inyo County encompasses both the lowest point in the U.S., Death Valley, and the highest point in the lower 48 states, Mount Whitney. It is the second largest county in California with 10,140 square miles and has one of the smallest population bases in the state with 18,546 people.

A majority of Inyo County's population identifies as Euro-American, with a significant minority identifying as American Indian. Based on the 2010 census, 66% identify as white alone; 19% identify with Hispanic or Latino origin. Given the Hispanic population, Spanish is a threshold language for service. 13% identify as American Indian; 2% identify as Asian; and less than 1% identify as African American. 4% of people identify with 2 or more races. The federally-recognized Native American nations in Inyo County are the Bishop Paiute Tribe, Big Pine Paiute Tribe of the Owens Valley, Fort Independence Reservation, Lone Pine Paiute Shoshone Reservation, and Timbisha Shoshone Tribe. The Timbisha Shoshone Tribe, located in Death Valley National Park, is the only tribe located inside a national park in the US. The ethnic composition of Inyo County testifies to the rich heritage of Native American tribes in California and the recent history of the colonization of the Western United States. To meet the needs of the Native American population, there is a Federally Qualified Heath Care facility, Toiyabe, that includes mental health and addiction serves as part of their family service offerings.

The composition of the Inyo population by age according to the same 2010 census is also informative to the planning process. While 5% of the population is under the age of 5 and 21% is under the age of 18, 26% of persons are over 60, with 19% over 65 and 9% over 70. This data suggests a planning process with an in-depth look at the needs of older adults who are spread throughout the vast expanse of the County and as such are more vulnerable to isolation and complex challenges to access care. In addition, a "frontier" culture and an accompanying independent nature necessitated an approach that lends well to these factors.

The rural nature and location of Inyo County somewhat limits residents' access to urban centers and to services like healthcare. Most residents live in the northern area of Inyo County around its main population center, Bishop, and the closest urban area to Bishop is roughly 200 miles away, a 4-hour drive. Transportation is limited to motor vehicles and minimal air service. Another unique feature of Inyo County is the structure of land ownership. Federal agencies manage 92% of the land. The City of Los Angeles owns 3.9% of the land for the purpose of maintaining water rights. The State of California owns 2.4%, and private landowners own a mere 1.7% of the land in Inyo County. The configuration of land ownership and management along with other factors influences the economy and restricts the development of the region.

Economic conditions in Inyo County impose hardships on many families and individuals due to the combination of a high cost of living and limited work availability. Inyo County relies heavily on tourism and government services to support the economy. Many available jobs are in the service industry or are seasonal. Employee turnover rate is high. The median household income, based on the American Community Survey and in 2011 inflation-adjusted dollars, is $49,571, compared with $70,231 at the state level. According to the US Bureau of Labor Statistics, the unemployment rate in Inyo County in the last year averaged 8.95%, lower than the state rate but higher than the US rate. In addition, in 2000, 19% of people in Inyo County had a disability, which can play a role in employment status and income level even though it does not contribute to the unemployment rate. 35% of households in Inyo County have Social Security income, and 5% have Supplemental Security Income. A total of 12% of households in the last year received some form of assistance like cash assistance or food stamps. The percentage of the total population of Inyo County living below the poverty level increased from 11% in 2003 to 12% in 2011, a trend further demonstrated in later paragraphs.

The low average education level in Inyo County also affects many individuals' employment opportunities and earnings. 40% of people 25 and older have no more than a high school education, and only 23% have a Bachelor's degree or higher. In terms of education level, the composition of Inyo County has shifted slightly in a positive direction in the last decade, however, as 89% of people 25 and older in 2011 graduated high school or higher compared with 82% in 2000.

Difficult economic conditions and limited opportunities can have disproportionate effects on children, families with young children, older adults, and other disadvantaged persons and can play an indirect role in substance abuse issues in communities. Roughly 18% of children 0-18 live below the federal poverty level, which increased from 14% in 2003. 24% of children under 5 live below the poverty level, up from 20% in 2000. 29% of families with children under five only live in poverty, compared with 14% at the state level. Significantly, 82% of single female parent families with children under 5 in Inyo County are in poverty, while the percentage at the state level is 38%. Of adults 65 years and older, 7% are in poverty. This information offers a fuller picture of people in greatest need in Inyo County and is critical, considering the importance of the earliest years of a child's life to optimal child development and lifelong health.

In sum, low education levels, low household income, high costs of housing, food, and fuel, and the remote location of Inyo County communities compound to place high stresses on families and individuals in Inyo County and on disadvantaged people in particular.

COMMUNITY PROGRAM PLANNING

Provide a brief description of the Community Program Planning and Local Review Processes that were conducted as part of this annual update per Title 9 of the California Code of Regulations, Sections 3300 and 3315.

1. *Briefly describe the Community Program Planning (CPP) Process for development of all components included in the FY 2015-2016 Annual Update. Include the dates of meetings and other planning activities; describe methods used to obtain stakeholder input.*

The Inyo County Health and Human Services- Behavioral Health (ICHHS-BH) Community Program Planning (CPP) process for the development of the MHSA FY 2015-2016 Annual Update built upon the planning process for the MHSA Three-Year Plan. This planning process

was comprehensive and has included input from over 100 consumers and family members, providers, and community members. We developed a short satisfaction survey regarding the components of the Plan and also asked for priorities and alternative ideas as well. We received surveys from 40 persons.

The Annual Update included stakeholder meetings at both of our Wellness Center sites and at Progress House. A variety of stakeholders participated in these meetings. In addition, there are a number of consumers, family members, and other stakeholders who provide ongoing input into our MHSA services and activities. We also routinely discuss and obtain input on the utilization of MHSA funds with our key stakeholders and partners in our quarterly Quality Improvement Committee (QIC) meetings, our bi-monthly MHSA consumer meetings, and the Behavioral Health Advisory Board. We also discuss the MHSA plan as part of our HHS leadership team which includes managers and supervisors from Child Welfare, Senior programs, Employment and Eligibility, Prevention, Public Health, HHS Administration as well as Behavioral Health (including Substance Use Disorder services). The MHSA plan was also discussed in partner meetings with the local hospital, schools and criminal justice.

With this information, we were able to review the unique needs of our community and make sure that the programs supported through MHSA funds are well designed for our county. The overall goals of the MHSA are still valid and provide an excellent guide for maintaining our MHSA services in FY 2015-2016.

Components addressed by the planning process included Community Services and Supports (CSS); Prevention and Early Intervention (PEI); Workforce Education and Training (WET); and Capital Facilities/Technological Needs (CFTN); in addition, we provided basic education regarding mental health policy; program planning and implementation; monitoring and quality improvement; evaluation; and fiscal and budget components.

The MHSA 2015-2016 Annual Update was developed and approved by the Behavioral Health Advisory Board after reviewing data on our current programs; analyzing community needs based on stakeholder input; and determining the most effective way to further meet the needs of our unserved/underserved populations. In addition, the MHSA was shared at staff meetings and at wellness center stakeholder meetings to obtain additional input and feedback on services. All stakeholder groups are in full support of this MHSA annual update and the strategies to maintain services.

2. *Identify the stakeholders involved in the Community Program Planning (CPP) Process (e.g., agency affiliation, populations represented, ages, race/ethnicity, client/family member affiliation, primary languages spoken, etc.). Include how stakeholder involvement was meaningful.*

A number of different stakeholders were involved in the CPP process. Input was obtained from clients who utilize services at the Wellness Centers, including the homeless population. The Wellness Centers are consumer-run programs where adults come together, facilitate classes, attend activities, and have a formal meeting each week. Through these regularly scheduled meetings, we obtained input from clients on ideas for maintaining and enhancing our Wellness Centers in both Bishop and Lone Pine. These meetings are attended in Bishop by consumers including 3-6 consumers who are homeless, 2 consumers who are Hispanic, 2 consumers who are older adults, 2 consumers who are transition age youth, and approximately 5 other adult

Caucasian consumers. In Lone Pine, the stakeholder group consists of 2 persons who are homeless and 3-5 other Caucasian adult consumers.

The CPP also included input from ongoing child and adult staff meetings in behavioral health services, the multiple agencies involved with children's services, including Child Welfare, Juvenile Probation, Toiyabe Family Services, and the schools.

A critical entity in the planning process is the Behavioral Health Advisory Board. The Behavioral Health Advisory Board consists of two adult consumers; two family members of adult child/community members; the Patient's Rights Advocate (former consumer and volunteer); a Hispanic consumer advocate; and a member of the Board of Supervisors. Five to 10 consumers also participate regularly at the Advisory Board meetings.

LOCAL REVIEW PROCESS

1. *Describe methods used to circulate, for the purpose of public comment, the annual update. Provide information on the public hearing held by the local mental health board after the close of the 30-day review.*

This proposed MHSA FY 2015-2016 Annual Update has been posted for a 30-day public review and comment period from March 9, 2016 to April 10, 2016. An electronic copy is available online on the Inyo County website (http://www.inyocounty.us/MHSA). Hard copies of the document are available in the Bishop Behavioral Health Clinic; Bishop Social Services office; Health and Human Services Administrative office; Health and Human Services, Lone Pine office; and at all county libraries, including the Bishop, Big Pine, Independence, Lone Pine, Furnace Creek, and Shoshone branches. In addition, a hard copy of the proposed Annual Update has been distributed to all members of the Mental Health Advisory Board; consumer groups; staff; Wellness Centers (Bishop and Lone Pine); and with partner agencies. The Annual Update is also available to stakeholders upon request.

A public hearing is scheduled for Monday, April 11, 2016 at 10 a.m., at the Bishop Wellness Center at 586 Central Avenue, Bishop, CA 93514. The public hearing will be held in conjunction with the Behavioral Health Advisory Board meeting.

2. *Include summary of substantive recommendations received during the stakeholder review and public hearing, and responses to those comments. Include a description of any substantive changes made to the annual update that was circulated. Indicate if no substantive comments were received.*

Input on the MHSA FY 2015-2016 Annual Update will be reviewed and incorporated into the final document, as appropriate, prior to submitting to the County Board of Supervisors and the California Mental Health Services Oversight and Accountability Commission (MHSOAC).

MHSA Program Component
COMMUNITY SERVICES AND SUPPORTS

1. ***Provide a program description (must include number of clients served, age, race/ethnicity). Include achievements and notable performance outcomes.***

The MHSA CSS System Transformation program provides services to all ages [children (ages 0-17); transition age youth (ages 16-25); adults (ages 18-59); older adults (ages 60+)]; all genders; and all races/ethnicities. The strategies are part of the larger system/continuum of care. We offer a "whatever it takes" service approach in helping individuals achieve their goals. This has allowed us the transformative flexibility to meet the person "where they are." Services for all populations help reduce ethnic disparities; offer peer support; and promote values-driven, evidence-based practices to address each individual's unique needs and mental health. These services emphasize the principles of empowerment, self-determination, wellness, recovery, and resiliency and offer integrated services for clients of all ages and their families. Services are delivered in a timely manner and are sensitive to the cultural needs of each individual. The wellness centers are often the first "accepted door" into the System of Care by persons who do not recognize that they have a mental illness. It is critical that the wellness centers are centrally-located within the community in a comfortable setting. Our bilingual workers provide targeted outreach to the Latino population both within the schools and the community settings to build trust and to offer support in the wellness center.

The CSS Program includes comprehensive assessment services; wellness and recovery action planning; case management services; individual and group mental health services; crisis services; peer-led self-help/support groups; education and employment support; anti-stigma events; linkages to needed services; and housing support. Our Adult and Older Adult Wellness Centers (located in Bishop and Lone Pine) provide adults and older adults with necessary services and supports in a welcoming environment. Often persons who are homeless will be guided by partners or even community members to come to the wellness centers for support. Several persons have reported that they had been steered to the wellness centers by the local church, law enforcement, social services, or the hospital. We have also received calls from these partners letting us know about persons they have referred to the wellness center or persons for whom they have concerns. During times of more extreme hot or cold or otherwise inclement weather, persons are especially engaged at the wellness centers. We have provided more intensive outreach to persons during times of inclement weather, either extreme heat in the summer or cold during the winter. For example, we have received calls from our local grocery store about persons that they have observed as homeless and seeking respite from the elements within the store. We have successfully provided targeted outreach to a number of these persons and have engaged with them in the community, even if they are initially unwilling to come even to the wellness centers. Wellness center workers have patiently and persistently provided outreach over time to build trust with persons who have been very distrustful and distressed in their illness. Over many months, a person who was homeless in the elements, medically compromised and very ill was engaged; first with finally accepting food, then a sleeping bag, then showers, and finally shelter and willingness to address critical health issues. The worker was trusted to "stand guard" over belongings so that the person could have a shower at a local eatery. This slow process has been successful in the engagement of persons who are homeless and very ill.

We provided ongoing peer-facilitated groups at the Wellness Center in Bishop including Addiction and Recovery, Journaling, Art, Nutrition, Tai Chi, Blanket-making, and Wellness Walking. We also provide groups such as money management, smoking cessation, gardening, and dialectical behavioral therapy to persons at the wellness center facilitated by Behavioral Health staff members. In addition, our Transition Age Youth (TAY) program provides opportunities for youth to participate in age-appropriate activities. The TAY youth utilize the Wellness Center in Bishop once a week, meeting together to socialize, listen to guest speakers, and develop leadership skills. We anticipate a move to our new wellness center in Bishop by the end of March 2016. This site offers an opportunity to provide more extensive offerings such as a kitchen facility, showers (including an ADA shower), and laundry facility. This type of service has proven to be very effective in the engagement of persons who might not otherwise come to the facility. The new location is centrally located and is within close proximity (3-5 blocks) to our clinic, social services, Progress House, the city park, and four community-based organizations offering assistance. The two separate structures will allow us to offer a separate space for TAY as well as a space to provide some support services provided by our mental health nurses.

Another important component of the CSS plan is in the provision of respite and transitional housing for Full Service Partners (FSPs) as needed. We continue to purchase four beds at Progress House, an Adult Residential Facility. We have used these beds for persons with severe mental illness who are transitioning out of acute care, incarceration or who are homeless. We have provided transition services for three transition age youth with severe mental illness who had spent time incarcerated in our local jail. All three young adults have been able to make significant progress while at Progress House, two moving back into the community. Two of the three persons were Native American and one person was Caucasian. In addition, we have served persons who are living within the community who are in need of a respite due to a mental health crisis. We have been able to keep persons within our community and to assist them to successfully transition back into the community through this strategy. We have provided respite services for at least 25 adults. An example of this type of respite was with a Latino young adult experiencing serious family conflict and safety risks due to mental health symptoms. Without intervention, this young adult was likely to be hospitalized or incarcerated. After a period of respite, this young adult, who was extremely motivated to work, was able to manage symptoms in order to become employed and to move to a community setting. We continue to look for ways to increase the effectiveness of this strategy through the implementation of recovery principles. This year we added a Supervising Nurse as part of the administrative oversight at Progress House to help to ensure that health conditions and medication assistance is addressed.

We have also continued to offer Latino Outreach through both the wellness center sites and within the community. A contracted bilingual therapist, also employed by the schools, provides mental health services to Latino youth and their families. These youth and families may be hesitant to come into the traditional clinic especially if there are immigration issues. The therapist is able to treat anxiety and depression related to trauma issue as well as the provision of family support. A bilingual Latina employee at the wellness center also provides outreach to the underserved population and is able to serve as an advocate for Spanish-speaking persons with mental illness that are struggling to navigate the systems of support. Approximately 26 youth are served through this CSS strategy.

A specific strategy has been needed to address the needs of our isolated southeastern area of the County, the Death Valley area, closer to Nevada population centers than to Inyo towns. While there is a contract with a mental health provider for youth in Pahrump, few persons are willing or

able to engage in this service. A small amount of telemedicine is also available for persons engaged in services. A strategy of using a Mental Health Nurse to outreach and engage with persons with mental illness in this part of the county has been most useful. The Nurse has provided services to three families, two transition age youth (one Native American TAY and one Caucasian TAY with co-occurring developmental disabilities), two adults, and eight older adults. Persons often evidence co-occurring addiction issues as well as related health conditions. The Nurse also participates in a monthly community potluck that serves as a way to connect with residents effectively.

The CSS programs continue to provide the opportunity to change our service delivery model and build transformational programs and services. Over the past years, staff and consumers have worked together to build a community service program to give back to the community and reduce stigma. Consumers have conducted multiple food drives, assisted with relief efforts for fire victims, helped with park clean-up, visited older adults in a skilled nursing facility, volunteered for community events, and made blankets for the Hospice program. In addition, 3 to 5 consumers volunteer at the local Salvation Army and several more are involved in seasonal bell-ringing. These "stigma-busting" activities have allowed consumers to gain skills, meet new people, and cultivate a positive presence in the community.

The following represents our persons served under CSS strategies:

FSPs Ethnicity by Age Group

	TAY	Adult	Older Adult	Total
Caucasian	2	13	9	24
Native American		2		2
Latino	3	2		5
Total	5	17	9	33

Average Cost per FSP = $29,819

Wellness Center visitors by Age Group

TAY	Adult	Older Adult	Total
21	97	8	126

Number of Youth served through Latino Outreach: 26

Persons receiving targeted outreach and engagement in South East County (underserved population): 15

Approximate cost per person served $6,235.

2. ***Describe any challenges or barriers, and strategies to mitigate.***

While we successfully purchased a property in Bishop as our new wellness center site, renovations have taken longer to accomplish than anticipated. Another challenge that we have identified is the need to offer transition housing services for Older Adult FSP's. While we can use our transitional housing at Progress House to accomplish a certain amount of these services, there are an increasing number of "Older Adults" who need this support, often persons with co-occurring disorders. We continue to look for community-defined ways to address this challenge.

3. *List any significant changes from previous fiscal year, if applicable.*

While we are not planning to make any other significant changes to our overall CSS program, we continue to test changes that will increase the effectiveness of the strategies implemented. These strategies address such areas as co-occurring substance use, coordinating physical health care and assisting persons with re-entry into the community from the legal justice system.

We will also continue to look for ways to extend FSP services especially to youth and TAY in the Native American and Latino populations, and we will look for ways to partner with our local tribes to accomplish this effort. We will extend CSS strategies for youth to include participation in the wraparound services offered as a collaborative effort with Child Welfare, Juvenile Probation, First Five, and Prevention. Youth with more severe mental health needs who may be at risk for out-of-home care, have been identified to participate in these services.

MHSA Program Component
PREVENTION AND EARLY INTERVENTION

1. ***Provide a program description (must include number of clients served, age, race/ethnicity, and cost per person; separate data for Prevention and Early Intervention, if possible). Include achievements and notable performance outcomes.***

Prevention

A. Elder Outreach and Friendly Visitor Program

Elder Outreach: Our community has a large proportion of seniors. This PEI program has been helpful at identifying at-risk seniors who begin to exhibit signs of depression, prescription drug abuse, isolation, and other conditions related to the aging population. This Older Adult PEI Program has provided outreach and engagement, early mental health screening, and prevention services to older adults who had been receiving services in the community and through county resources. This program also trains agency partners to recognize the signs and symptoms of mental illness in older adults.

The Elder Outreach Program funds a mental health nurse to provide screening, referral and linkage, and support services to prevent the exacerbation of mental health conditions. The program, utilizing a Behavioral Health Nurse, offers comprehensive assessment services to those older adults at risk of developing mental health problems that may interfere with their ability to remain independent in the community. The Nurse then links these individuals to resources within the community, including County Behavioral Health services. This program offers service alternatives for older adults who have been unserved and underserved in this community. Services are voluntary and client-directed, strength-based, employ wellness and recovery principles, address both immediate and long-term needs of program members, and are delivered in a timely manner that is sensitive to the cultural needs of the population served.

The role of the Behavioral Health Nurse is first to provide the initial assessment, including a PHQ 9 measure of depression, to potential candidates for prevention services such as the Friendly Visitor Program or Healthy Ideas. A member of the Adult Services team will further involve the Behavioral Health Nurse when intervention may be warranted, especially if any suicidal ideation is noted.

The Behavioral Health Nurse collaborates closely with other agencies that provide services to this population, including In-Home Supportive Services, Adult Protective Services, Eastern Sierra Area Agency on Aging, local physicians, Public Health, nursing homes, home health agencies, and the home delivery meals program. All agencies receive training to help them recognize signs and symptoms of mental illness in older adults.

The Behavioral Health Nurse also provides services to older adults in community settings that are the natural gathering places for older adults, such as our Senior Center sites in the community sites of Bishop, Big Pine, Independence, Lone Pine, and Tecopa. Older adults who need additional services are referred to a Friendly Visitor (see below) or to Behavioral Health for ongoing treatment, as appropriate.

In the past year, outreach visits were made to 79 older adults. This results in a cost of $1304 per individual. This strategy again targets the more isolated parts of the county. One Native American and one Hispanic older adult have been served with the remainder being Caucasian. PEI funding also has allowed us to provide care coordination/case management as additional support to the Older Adult PEI program.

Friendly Visitor (FV) Program has been implemented to provide prevention services to isolated seniors who have evidenced symptoms of depression and are living alone in the community. We have funded two par- time Program Services Assistants, one in the northern part of the county and one in the southern part of the county. Meals on Wheels drivers identify seniors who evidence symptoms of depression and/or anxiety and who might benefit from a visitor. The visitor, who may also be a senior, develops a plan with the senior to address the depression and prevent further exacerbation of symptoms. The program has provided services to 25 seniors at a cost of approximately $554 per individual. Although a formal evaluation of the program has not occurred, participants have reported a satisfaction with the services and a lessening of symptoms as evidenced by the following comments:

> "We have lots in common as we are both Veterans. He has helped me through the Veterans Administration (VA) system to get the help I need and now I am getting someone to help clean my house. Some days I have been so depressed and when he comes, I don't feel so lonely."
>
> "FV has been wonderful. I am blind and when he comes, he will read to me. I truly enjoy his company."
>
> "I miss Bud (FV). He is dependable, the visits are great and I enjoy his company."
>
> "We talk politics. I truly enjoy him and his company. This is a wonderful program and I really like him visiting me."
>
> "Through this program, FV helped me get out of myself and brought me up. I don't feel so lonely and isolated anymore."
>
> "I was in the doldrums and now I feel more motivated"

It is our plan to implement further outcome indicators including satisfaction surveys and pre/post PHQ9s.

The Behavioral Health RNs also provide a quarterly newsletter which addresses a wellness topic. This newsletter is distributed to the various senior centers and other agencies and has been well received.

Early Intervention

B. Parent-Child Interaction Therapy (PCIT) Community Collaboration

Several of our staff have been trained and certified to offer Parent-Child Interaction Therapy (PCIT), an evidence-based intensive parent-training program which has been found to be effective for families with aggressive, defiant, and non-compliant children; families with parents who have limited parenting skills; and families who have experienced domestic

violence and/or child abuse. PCIT focuses on promoting positive parent-child relationships and interactions, while teaching parents effective parenting skills. PCIT has been shown to be an effective treatment program for children ages 2-7 years. This program has been adapted as an intervention for many different types of families (child welfare population, at-risk families, adoptive families, foster families, and other languages including Spanish).

PCIT teaches families individualized parenting skills that are developed through a process in which parents directly receive instruction through an earpiece that is linked to a therapist. The therapist, behind a one-way mirror and/or via a live camera feed, observes interactions between the parent and child, coaches the development of relationship enhancing techniques, and gives behavioral interventions for responding to difficult parent-child situations. Sessions last about one hour, occur over 18-20 weekly visits, and show very strong outcomes for both parents and children.

Currently, Inyo County Health and Human Services – Behavioral Health (ICHHS-BH) offers PCIT at two (2) locations in the county: our mental health clinic in Bishop and within the community in Lone Pine. Eight families were served at the Bishop clinic and two families were seen in Lone Pine. The ICHHS-BH Youth and Family Program Chief is certified to provide supervision in PCIT. Our PCIT Community Collaborative program continues to work to expand PCIT delivery in the public mental health system and into the community. We had previously also trained four (4) local mental health clinicians in PCIT, targeting both ICHHS-BH staff and personnel from local community-based organizations. We wish to expand our services, especially to the Lone Pine area. This past year, we began training a bilingual Spanish intern in order to expand our capacity to offer PCIT services in Spanish to meet the needs of the underserved Latino community. We have continued to utilize case managers and our Perinatal Program Addictions Counselor to reinforce the PCIT skills. While these unlicensed staff members do not provide the actual PCIT strategy, they use the "language" of PCIT to offer parent coaching and support within the home. This approach has reinforced the skills learned in the PCIT sessions.

PCIT is a highly effective program and the families show improved outcomes as a result of this intensive parenting program. In addition, the children and their siblings show improved behavior (positive social interactions, following directions, reduction in acting out behavior) as a result of the program. We have served ten additional families with this intervention, including two Native American; four Hispanic; and four Caucasian families. Of the six court-referred families involved in PCIT, five were reunified satisfactorily. It is our plan moving forward to implement a more formal outcome measure such as the Parent Stress Index to quantify results.

The approximate cost per family served under PCIT is $10,268

2. Describe any challenges or barriers, and strategies to mitigate.

A continuing barrier for Inyo County is the small number of staff and the issues caused when staff vacancies occur. In a small county, all vacancies are "key" and have an impact on service delivery and strategy implementation. We are again providing training in PCIT to interns in Behavioral Health, wraparound, and in the substance use disorder program, as well as with HHS Specialists in these programs and in Child Welfare.

In the area of Elder Outreach, we had intended to continue the provision of the Healthy Ideas strategy as part of our continuum of care. We have experienced the retirement of one of the nurses trained in the Healthy Ideas strategy and the hiring of a new nurse for this position who has not had the opportunity for this training. In addition, we have lost our volunteer for Healthy Ideas and have experienced turnover within the Adult Services programs as well. We hope to continue the Healthy Ideas program in the near future.

We continue to have one Behavioral Health nurse vacancy, but continue to provide the Elder Outreach, newsletter, etc.

3. ***List any significant changes from previous fiscal year, if applicable.***

New Early Intervention Strategy

A. Families Intensive Response Strengthening Team (FIRST): This year, we are expanding our collaborative services using a wraparound model to additional families beyond those with youth at risk of placement in a high level of out of home placement. Using an early intervention strategy, we are able to strengthen families who are at high risk. We are able to pull in resources from the First Five program and Substance Use Prevention programs, as well as other agencies to intensively support the families. As the result of this expansion, we are able to serve families with younger children. One example was the work with a family where both parents of an infant evidenced a serious mental illness. We were able to support a healthy bonding and attachment process for this infant. We are also looking for ways to expand the successful wraparound and home-based services as we plan to more fully implement the Pathways to Mental Health program and Continuum of Care Reform.

MHSA Program Component
INNOVATION

1. ***Provide a program description (must include number of clients served, age, race/ethnicity, and cost per person). Include achievements and notable performance outcomes.***

The Inyo County Community Care Collaborative (CCC) was implemented to improve coordination of care with primary health care services for adults, ages 18 and older, with a serious mental illness. Persons with a serious mental illness are more likely to have chronic health conditions, and have shortened life spans by up to 25 years, compared to the general population. Increasing access to and coordination with primary care services for our clients with a serious mental illness is a high priority for ICHHS-BH. By coordinating and co-locating health and mental health services, we are able to improve outcomes for our clients and improve access to primary care services.

The Innovation Project funding supported the development of a CCC Team by partially funding one full-time Behavioral Health Nurse position (1.0 FTE) to coordinate and integrate health and wellness activities for behavioral health clients and one full-time Administrative Analyst position to collect, track, and analyze outcome and cost data based on a quality improvement model. The target population has been behavioral health consumers who are also enrolled and receiving services at the Northern Inyo Hospital Rural Health Clinic (NIHRHC), and currently includes approximately 85 persons. The CCC team identifies clients who receive behavioral health services and help link them to health services in the community. These individuals work with the NIHRHC to improve health outcomes for CCC clients.

The Coordinated Care Collaborative addresses the following:

- Identify individuals who do not have an identified primary care physician, or routinely use primary care services, and link them to the appropriate provider/health clinic/healer/alternative health care in the community. It is now part of our admission process to assess whether each person has a primary care physician and to link that person with care if it is not in place. As a result of these efforts, approximately 90% of our admitted consumers have a primary care physician.

- Collect basic health information, including lab work, on individuals to help understand each person's current health indicators. Staff work with the individual to understand their health indicators (e.g., height, weight, body mass index, A1c and risk for diabetes, carbon monoxide monitor results, hypertension/blood pressure, cholesterol, and lung functioning). These health indicators are used to inform both the individual and staff on high risk health factors, and allow them to work together with the health clinic to identify goals on improving their health and wellness.

- Participating clients allow for the reconciliation of medications between ICHHS-BH and NIHRHC. A work flow has been tested and developed to allow for the sharing of this information between the two entities to best coordinate the medication needs.

- Clients and staff work together to develop health and wellness activities to support clients to improve their health. These activities include developing walking groups, nutrition

and cooking groups, and mindfulness. There is also a smoking cessation group offered at the Bishop Wellness Center. Wellness information is also offered to CCC clients, to provide support and information to help individuals make healthy choices. These activities help the team provide supportive services which will lead to positive outcomes.

- Peer Support has been recognized to be an important component of the coordinated care approach. We have begun to train peer supporters to assist with health goals and to accompany consumers to medical appointments to provide support and another "listening ear." To date, we have trained three (3) peer supporters and one is actively involved in providing this service.

- We have collected and tracked population health data as well as tracking data on each consumer who has been identified as needing more intensive care coordination. Approximately 40 consumers receive more intensive coordination.

- Late in FY 14/15, we began to "spread" this approach to target persons in the jail who evidence mental health conditions as well as health conditions. We track all persons who are receiving psychotropic medication to treat a mental health condition or who have been identified as needing this type of treatment. Approximately 25-30 persons have been served to date. We have established weekly care coordination meetings with the behavioral health nurses, the jail nurse, an addictions counselor, the re-entry coordinator, and the behavioral health director. A majority of persons in this population have co-occurring substance abuse disorders and several of these persons have health conditions as a result. Most of the persons in this population have not received any consistent primary care or behavioral health treatment. The goal of this coordination is not only to treat and stabilize mental health and health conditions during incarceration but also to support the continued treatment during re-entry back into the community.

2. ***Describe any challenges or barriers, and strategies to mitigate.***

One of the ongoing challenges is in staff vacancies and turnover both in primary health as well as in behavioral health. A champion for the project at NIHRHC took another position within the hospital and as a result, it is difficult to maintain the medication reconciliation and tracking of costs. The behavioral health nurses are also pulled in many directions and struggle to keep up with the medication reconciliation as well during vacancies. In addition, one of the Peer Supporters moved on to employment (a good outcome) and another moved out of the area. One strategy to mitigate the impact of this situation is to continue to look for ways to build peer and other natural supports. Another strategy is to set up work flows that can be used by numerous staff and thus to "institutionalize" the gains made and the process of continuing to improve the strategies.

Another ongoing barrier is found in the difficulty in developing a registry or a more efficient way to share communication, while maintaining privacy and security requirements, when electronic health records (E.H.R.) are not compatible. Each system has purchased their own E.H.R. to meet their own state requirements. We have not identified a way to address this barrier that does not include a great amount of duplicate entry. Partners at Northern Inyo Hospital, Toiyabe Indian Health Project and Inyo County HHS are participating in a Rural Health Network (RHN) planning grant to look for small ways to begin address this barrier.

3. *List any significant changes from previous fiscal year, if applicable.*

No significant changes are anticipated to the original Innovation Plan. As described above, we are beginning to apply the coordinated care model to the jail and re-entry services population, as appropriate. Further, we have identified the need to coordinate care more effectively with Toiyabe Indian Health Project to address the needs of the Native American persons in our communities.

A future strategy may be to also look at ways to coordinate care for veterans. This focus will push us further in the development of strategies to address care when services are outside of the area. Distance strategies, such as telemedicine, will be developed to address this challenge.

MHSA Program Component
WORKFORCE EDUCATION AND TRAINING

1. Provide a program description. Include achievements.

Workforce Education and Training (WET) Coordination: Since the original WET Plan was approved, ICHHS-BH has developed contracts with various learning providers to deliver trainings to consumers, family members, Behavioral Health staff, members of the Mental Health Advisory Board, and partner agencies. Training topics include psychosocial rehabilitation skills, the recovery model, motivational interviewing, and delivering comprehensive services for promoting wellness and recovery. Team building has also been a focus of our trainings. In addition, we have implemented evidence-based models such as Aggression Replacement Training (ART) and wraparound services.

In the last year, our efforts to effectively coordinate care have also underlined the following training and workplace development needs:

1) As consumers have identified co-occurring medical needs and complications, we have found that we would benefit from an on-line resource such as "Up to Date" to provide our psychiatrist and nurses with information regarding medical conditions, medications, drugs, side effects, and accompanying research. Our behavioral health nurses will also participate in a psychiatric nurse conference to increase knowledge around mental health and related health conditions.
2) We have also identified a critical need for further training as related to the co-occurrence of mental illness and substance use disorders. It is critical to implement effective strategies to treat or mitigate the impact of substances on recovery and wellness. We propose to support an on-line addiction counselor certification through University of the Pacific and related practicum/intern support. A cohort of 25 students from HHS and Probation will participate in the certification classes. We will also help to support the evidence-based strategy of Moral Reconation Treatment (MRT). We will include a day of training targeting trauma informed care as an important component of this strategy.
3) We will participate in the small county technical assistance around wellness centers and building peer support. We will visit other wellness centers and increase knowledge around psychosocial rehabilitation and immersion.
4) We have seen the need to offer training for partners in law enforcement, probation and other first responders. We propose to implement a crisis intervention strategy, using persons with lived experience to share stories.

Fundamental Learning Program: Our training partners include *Relias*, an online training system which offers courses in confidentiality, ethics, and regulations, as well as an array of clinical skills building courses that also fulfill continuing education requirements for licensed behavioral health professionals. We have purchased a bulk subscription package for our organization that makes these exemplary courses available to staff. As an added training component, we have provided staff and consumers with technical software training to enhance the skill set of staff and consumers/family members who work or volunteer for Inyo County.

Consumer Pathways Program: We have developed a National Alliance for the Mentally Ill (NAMI) Peer2Peer Training program to consumers to develop skills for Coach, Parent Partner, or Peer Mentor positions with Inyo County. Some of the topics included in the curriculum are: wellness management and recovery; promoting resiliency skills in Transition Age Youth; putting

recovery skills into practice; embracing wellness in all aspects of care; providing peer support; and creating a recovery-based mental health services plan. To date, fifteen (15) consumers have graduated from the Peer2Peer Training and are developing activity groups to lead at our Wellness Centers. As part of our efforts to develop a Peer Supporter program, we have developed a training that includes not only Peer2Peer, but also training in Motivational Interviewing and development of Wellness Recovery Action Plans (WRAP). Further we have trained an additional five persons to be certified facilitators of Mental Health First Aid (MHFA). Facilitators include two persons with lived experience; one Spanish-speaking, and one family member. Also included is representation from the faith community and the health care community. MHFA has been provided to an additional 40 persons in the last year, including at least 15 persons with lived experience.

In the coming fiscal years, we will continue to identify regional and statewide trainings, such as those offered through NAMI and California Association of Social Rehabilitation Agencies, for staff, clients, family members, and other stakeholders to enhance their understanding of the recovery model, promote effective service delivery, increase cultural competency, promote leadership and team building, and learn other essential skills. We will work to identify evidence-based strategies to address gaps in our systems of care, including crisis response (CIT), dual-diagnosis/co-occurring disorders treatment, and MHFA. To support consumer and family member training, we will develop and maintain a mental health information library at the Bishop Wellness Center. This library will allow consumers and family members to borrow publications and DVDs on mental health, the recovery model, cultural competency, and other mental health related information. We will also continue to encourage consumers to identify mental health topics of interest for our "Q2" meetings and include consumers and family members in several of these meetings.

Financial Incentives: We participate in the Mental Health Loan Assumption Program, which offers two to three employees with master's degree in social work, including a bi-lingual intern, support to pay back school loans for "hard to fill" positions. Due to bargaining agreements with local labor groups, we have not been able to offer tuition reimbursement to date. We continue to look for ways to offer this strategy.

2. ***Describe any challenges or barriers, and strategies to mitigate. Identify shortages in personnel, if any.***

We continue to face the challenge of recruiting bilingual staff. We have one bilingual Latina employee who is pursuing her attainment is Licensed Clinical Social Worker (LCSW). She has quickly filled her caseload with Latino/Latina youth and families as the community is made aware of her services and consumers refer other family or friends. In addition, we are challenged to recruit and hire Native American providers, especially to serve youth and families. While we work closely with Toiyabe Indian Health Project, we continue to also serve a significant number of Native American youth within our core services. We have recently hired two Native American HHS Specialists to provide services focusing on youth or TAY. We also continue to look for ways to identify TAY to participate as part of the Human Services Certificate program at our community college as well as in other Peer Supporter roles. We look forward to expanding our training capacity and opportunities for both staff and consumers.

Another area of challenge is in the hiring of our licensed psychotherapy staff and behavioral health nurses. Several of our licensed staff will reach retirement age in the next 2-5 years and it is important to develop a strategy for succession planning. We are looking for ways to attract

interns to our county. Through the Regional WET program, we have been able to avail ourselves of a Roving Clinical Supervisor. Three interns from Behavioral Health as well as one intern employed by another provider have received distance clinical supervision and have made progress in achieving the requisite hours towards licensing as LCSWs or other master's level licensure. A nurse shortage also continues to be a challenge which we have not yet been able to fully address successfully. We continue to have one full time vacancy in this program.

Finally, we are challenged to provide psychiatry services. While we currently have an excellent experienced "in person" psychiatrist, we struggle to meet current need, let alone the need to address succession planning. As with many other counties, we are looking at the need to move forward with tele-psychiatry to address the shortage in psychiatry.

While we participate in the Mental Health Loan Assumption Program, we have not been able to offer tuition reimbursement to date, due to bargaining agreements with local labor groups. We continue to look for ways to offer this strategy.

3. ***List any significant changes from previous fiscal year, if applicable.***

The most significant change is in the additional effort to increase our county expertise in the area of co-occurring disorders through the provision of addiction certification coursework. As a small county it is important that the overall workforce is knowledgeable and trained to identify and provide interventions that meet the needs of persons with mental illness or co-occurring disorders. We must use each and every service provider, across agencies to accomplish this in our community.

MHSA Program Component
CAPITAL FACILITIES/TECHNOLOGY

1. ***Provide a program description (must include number of clients served, age, race/ethnicity). Include achievements.***

ICHHS-BH chose to utilize the bulk of CFTN funding for a system-wide IT upgrade to achieve an Integrated Information Systems Infrastructure. ICHHS-BH initially implemented ShareCare™, a product of The Echo Group. An Electronic Health Record system is in place, including clinical assessments and progress notes. We also input the treatment plan into the record although a paper copy of the treatment plan is maintained due to signature requirements not addressed in the current system. Electronic prescriptions and medication monitoring are also components of this IT system, as well as lab orders and results. We have also explored ways to take a next step toward a more integrated health record by attempting to record health conditions and reconcile medication across primary health and health.

We have now come to a crossroads with our system due to the necessity to either upgrade the system to the ECHO VHR (Virtual Health Record) product or to find a product that better meets federal meaningful use as well as California requirements. We have moved forward to perform a cost/benefit analysis of the Kings View/Anasazi product to ascertain whether it will better meet the needs of the county around both meaningful use and outcome tracking. (see discussion below) .

CFTN funding that may be used for Capital Facilities is limited, but the funds will be used for remodeling needs for the newly-purchased Wellness Center in Bishop as well as Progress House. These funds will be used to meet Americans with Disabilities Act (ADA) requirements and to create a more welcoming environment.

2. ***Describe any challenges or barriers, and strategies to mitigate.***

While ICHHS-BH has been able to utilize the ShareCare product to successfully produce a claim and has moved forward in the full use of the product to produce an electronic health record, ICHHS-BH must continue to use many "work-arounds" in order to address deficiencies in the product. ICHHS-BH has fully implemented the clinical record portion for both mental health and SUD documentation with the product restrictions, which include an inability to sign the record electronically. While ICHHS-BH has explored the Virtual Health Record (VHR), we have not been satisfied that problems with the product have been adequately addressed or that ICHHS-BH will be able to obtain data necessary for QI purposes. We have been over-reliant on paper-based processes for outcomes tracking and quality-assurance monitoring. An initial cost/benefit analysis of the Kings View/ Anasazi product has suggested that this product may better meet our needs. The Anasazi product is supported and "hosted" by Kings View. This "hosting" mitigates the shortage of IT persons available in a small county. To date, only one other California County has implemented the VHR and twenty-two counties have implemented the Kings View/ Anasazi product. ICHHS-BH would also benefit from shared reports and data between the counties. In addition, Kings View provides tele-psychiatry services. Tele-psychiatry has become a way to mitigate the identified need for additional psychiatry services both now and into the future. It will be advantageous to use an E.H.R. product that is also used and familiar to the provider of the tele-psychiatry services. Funds transferred from CSS are proposed to meet this one-time implementation. This strategy will allow us to benefit from the experience and support provided

by this vendor as well as to have a streamlined method to compare our programs with other small counties.

3. ***Describe if the county is meeting/met benchmarks and goals, or provide the reasons for delays to implementation.***

ICHHS-BH had delayed implementation of the VHR to investigate whether the product would address the problems identified in the ShareCare product and to provide a cost/benefit analysis between this product and the Kings View/ Anasazi product to inform the decision.

4. ***List any significant changes from previous fiscal year, if applicable.***

The probable change is vendor is described above. The remainder of CTFN funds, however, are proposed for remodeling needs on the newly purchased wellness center and for transition beds at Progress House.

FY 2015/16 Mental Health Services Act Annual Update
Funding Summary

County: INYO Date: 3/7/16

	MHSA Funding					
	A	B	C	D	E	F
	Community Services and Supports	Prevention and Early Intervention	Innovation	Workforce Education and Training	Capital Facilities and Technological Needs	Prudent Reserve
A. Estimated FY 2015/16 Funding						
1. Estimated Unspent Funds from Prior Fiscal Years	972,742	305,477	401,089	270,114	202,990	
2. Estimated New FY 2015/16 Funding	1,092,601	273,150	71,882			
3. Transfer in FY 2015/16[a/]	(202,293)				202,293	0
4. Access Local Prudent Reserve in FY 2015/16	0					0
5. Estimated Available Funding for FY 2015/16	1,863,050	578,627	472,971	270,114	405,283	
B. Estimated FY 2015/16 MHSA Expenditures	1,118,432	248,273	142,746	94,600	405,283	
C. Estimated FY 2015/16 Unspent Fund Balance	744,618	330,354	330,225	175,514	0	

D. Estimated Local Prudent Reserve Balance	
1. Estimated Local Prudent Reserve Balance on June 30, 2015	499,148
2. Contributions to the Local Prudent Reserve in FY 2015/16	0
3. Distributions from the Local Prudent Reserve in FY 2015/16	0
4. Estimated Local Prudent Reserve Balance on June 30, 2016	499,148

a/ Pursuant to Welfare and Institutions Code Section 5892(b), Counties may use a portion of their CSS funds for WET, CFTN, and the Local Prudent Reserve. The total amount of CSS funding used for this purpose shall not exceed 20% of the total average amount of funds allocated to that County for the previous five years.

FY 2015/16 Mental Health Services Act Annual Update
Community Services and Supports (CSS) Funding

County: INYO Date: 3/1/16

	Fiscal Year 2015/16					
	A	B	C	D	E	F
	Estimated Total Mental Health Expenditures	Estimated CSS Funding	Estimated Medi-Cal FFP	Estimated 1991 Realignment	Estimated Behavioral Health Subaccount	Estimated Other Funding
FSP Programs						
1. System Transformation (FSP)	570,400	570,400				
2.	0					
3.	0					
4.	0					
5.	0					
6.	0					
7.	0					
8.	0					
9.	0					
10.	0					
11.	0					
12.	0					
13.	0					
14.	0					
15.	0					
16.	0					
17.	0					
18.	0					
19.	0					
Non-FSP Programs						
1. General System Development (80%)	304,214	304,214				
2. Outreach and Engagement (20%)	76,053	76,053				
3.	0					
4.	0					
5.	0					
6.	0					
7.	0					
8.	0					
9.	0					
10.	0					
11.	0					
12.	0					
13.	0					
14.	0					
15.	0					
16.	0					
17.	0					
18.	0					
19.	0					
CSS Administration	167,765	167,765				
CSS MHSA Housing Program Assigned Funds	0					
Total CSS Program Estimated Expenditures	1,118,432	1,118,432	0	0	0	0
FSP Programs as Percent of Total	51.0%					

FY 2015/16 Mental Health Services Act Annual Update
Prevention and Early Intervention (PEI) Funding

County: INYO Date: 3/1/16

	Fiscal Year 2015/16					
	A	B	C	D	E	F
	Estimated Total Mental Health Expenditures	Estimated PEI Funding	Estimated Medi-Cal FFP	Estimated 1991 Realignment	Estimated Behavioral Health Subaccount	Estimated Other Funding
PEI Programs - Prevention						
1. Older Adult PEI	78,206	78,206				
2.	0					
3.	0					
4.	0					
5.	0					
6.	0					
7.	0					
8.	0					
9.	0					
10.	0					
PEI Programs - Early Intervention						
11. PCIT Community Collaboration	44,689	44,689				
12. Wraparound for Youth	100,551	100,551				
13.	0					
14.	0					
15.	0					
16.	0					
17.	0					
18.	0					
19.	0					
20.	0					
PEI Administration	24,827	24,827				
PEI Assigned Funds	0					
Total PEI Program Estimated Expenditures	248,273	248,273	0	0	0	0

FY 2015/16 Mental Health Services Act Annual Update
Innovation (INN) Funding

County: INYO Date: 3/1/16

	Fiscal Year 2015/16					
	A	B	C	D	E	F
	Estimated Total Mental Health Expenditures	Estimated INN Funding	Estimated Medi-Cal FFP	Estimated 1991 Realignment	Estimated Behavioral Health Subaccount	Estimated Other Funding
INN Programs						
1. Community Care Collaborative (CCC)	129,769	129,769				
2.	0					
3.	0					
4.	0					
5.	0					
6.	0					
7.	0					
8.	0					
9.	0					
10.	0					
11.	0					
12.	0					
13.	0					
14.	0					
15.	0					
16.	0					
17.	0					
18.	0					
19.	0					
20.	0					
INN Administration	12,977	12,977				
Total INN Program Estimated Expenditures	142,746	142,746	0	0	0	0

FY 2015/16 Mental Health Services Act Annual Update
Workforce Education and Training (WET) Funding

County: INYO Date: 3/1/16

	Fiscal Year 2015/16					
	A	B	C	D	E	F
	Estimated Total Mental Health Expenditures	Estimated WET Funding	Estimated Medi-Cal FFP	Estimated 1991 Realignment	Estimated Behavioral Health Subaccount	Estimated Other Funding
WET Programs						
1. WET Coordination	11,000	11,000				
2. Fundamental Learning Program	39,600	39,600				
3. Consumer Pathways	16,500	16,500				
4. Financial Incentives	27,500	27,500				
5.	0					
6.	0					
7.	0					
8.	0					
9.	0					
10.	0					
11.	0					
12.	0					
13.	0					
14.	0					
15.	0					
16.	0					
17.	0					
18.	0					
19.	0					
20.	0					
WET Administration	0					
Total WET Program Estimated Expenditures	94,600	94,600	0	0	0	0

FY 2015/16 Mental Health Services Act Annual Update
Capital Facilities/Technological Needs (CFTN) Funding

County: INYO Date: 3/1/16

	Fiscal Year 2015/16					
	A	B	C	D	E	F
	Estimated Total Mental Health Expenditures	Estimated CFTN Funding	Estimated Medi-Cal FFP	Estimated 1991 Realignment	Estimated Behavioral Health Subaccount	Estimated Other Funding
CFTN Programs - Capital Facilities Projects						
1. Wellness Center/Progress House Remodel	155,283	155,283				
2.	0					
3.	0					
4.	0					
5.	0					
6.	0					
7.	0					
8.	0					
9.	0					
10.	0					
CFTN Programs - Technological Needs Projects						
11. Kingsview IT Setup	250,000	250,000				
12.	0					
13.	0					
14.	0					
15.	0					
16.	0					
17.	0					
18.	0					
19.	0					
20.	0					
CFTN Administration	0					
Total CFTN Program Estimated Expenditures	405,283	405,283	0	0	0	0

For Clerks Use Only

AGENDA NUMBER

9

AGENDA REQUEST FORM

BOARD OF SUPERVISORS
COUNTY OF INYO

[x] Consent [] Departmental [] Correspondence Action [] Public Hearing

[] Scheduled Time for [] Closed Session [] Informational

FROM: Sheriff's Department

FOR THE BOARD MEETING OF: **April 12, 2016**

SUBJECT: Approval of U.S. Forest Service Cooperative Law Enforcement Agreement for Controlled Substance Operations.

DEPARTMENTAL RECOMMENDATION:

Request your Board A) approve the application for the 2016 Financial & Operation Plan for Controlled Substance Operations U.S. Forest Service reimbursements in the amount of $5000 and; B) authorize the Inyo County Sheriff and the Chairman of the Board to sign the agreement and all necessary documents, contingent upon adoption of the FY 16/17 budget.

CAO RECOMMENDATION:

SUMMARY DISCUSSION:

Marijuana cultivation within the Forest Service boundaries in Inyo County continues to increase. These include the areas from the southern end of the county to the northern end of the county. The Sheriff's Office has continued to investigate and abate the cultivations with the U.S. Forest Service and BLM. Monies from this agreement will assist the Sheriff's Department in continuing to assist in these investigations and the eradication of thousands of marijuana plants within Inyo County. The marijuana-growing season starts in the spring, usually April or May and the harvesting season begins in August to September, as such, no expenditures or reimbursements are expected until FY 2016/17.

ALTERNATIVES:

Deny the agreements and use existing county funds for controlled substance operations.

OTHER AGENCY INVOLVEMENT:

FINANCING:

The U.S. Forest Service reimbursements total $5000, to be billed and received in the 2016/17 fiscal year. The revenue will be budgeted in the Sheriff General (022700) budget for the FY 2016/17.

APPROVALS	
COUNTY COUNSEL:	AGREEMENTS, CONTRACTS AND ORDINANCES AND CLOSED SESSION AND RELATED ITEMS *(Must be reviewed and approved by county counsel prior to submission to the board clerk.)* Approved: Yes Date 3/25/16
AUDITOR/CONTROLLER:	ACCOUNTING/FINANCE AND RELATED ITEMS (*Must be reviewed and approved by the auditor-controller prior to submission to the board clerk.)* Approved: yes Date 3/30/2016
PERSONNEL DIRECTOR:	PERSONNEL AND RELATED ITEMS (Must be reviewed and approved by the director of personnel services prior to submission to the board clerk.) Approved:_____ Date_____

DEPARTMENT HEAD SIGNATURE:
(Not to be signed until all approvals are received)_____ Date: 3-30-16

FS Agreement No. 15-LE-11051360-025
Cooperator Agreement No.
Modification No. MOD 4

EXHIBIT B

COOPERATIVE LAW ENFORCEMENT ANNUAL OPERATING PLAN & FINANCIAL PLAN
Between The
INYO COUNTY SHERIFF'S OFFICE
And the
USDA, FOREST SERVICE
INYO NATIONAL FOREST

2016 CONTROLLED SUBSTANCE ANNUAL OPERATING AND FINANCIAL PLAN

This Annual Financial and Operating Plan (Annual Operating Plan), is hereby made and entered into by and between the Inyo County Sheriff's Office, hereinafter referred to as "ICSO," and the USDA, Forest Service, Inyo National Forest, hereinafter referred to as the "U.S. Forest Service," under the provisions of Cooperative Law Enforcement Agreement #15-LE-11051360-025 executed on August 14, 2015. This Annual Operating Plan is made and agreed to as of the last date signed below and is for the estimated period beginning October 01, 2015 and ending September 30, 2016.

Previous Year Carryover: $745.64
Current FY2016 Obligation: $4,254.36
FY-2016 Total Annual Operating Plan: $5,000

I. GENERAL:

A. The following individuals shall be the designated and alternate representative(s) of each party, so designated to make or receive requests for special enforcement activities.

Principal Cooperator Contacts:

Cooperator Program Contact	Cooperator Administrative Contact
William R. Lutze, Sheriff Inyo County P.O. Drawer "S" 550 South Clay Street Independence, CA 93526 Telephone: (760)878-0320 **FAX:** (760) 878-0389 **E-mail:** blutz@inyocounty.us	Janis Odum P.O. Box Drawer S 550 South Clay Street Independence, CA 93526 Telephone: (760-878-0326 **FAX:** (760) 878-0389 **E-mail:** jodum@inyocounty.us

Cooperator Alternate Contact
Juan Martinez P.O. Drawer S 550 South Clay Street Independence, CA 95326 Telephone: (760)872-4053 **FAX:** (760)872-4074 **E-mail:** jmartinez@inyocounty.us

Principal U.S. Forest Service Contacts:

U.S. Forest Service Program Manager Contact #1	U.S. Forest Service Administrative Contact
Jonathan (Scott) Glenn, Special Agent Stanislaus National Forest 19777 Greenly Road Sonora, CA 95370-5909 **Telephone: (209) 532-3671 Ext. 228** **Fax: (209)536-9829** **E-mail:** jglenn@fs.fed.us	Jennie Shirley, Administrative Specialist Pacific Southwest Regional Office – LEI 1323 Club Drive Vallejo, CA 94592 **Office:** (707)562-9127 **FAX:** (707)562-9031 **E-mail:** jennieshirley@fs.fed.us

U.S. Forest Service Program Coordinator Contact
Kent Delbon, Assistant Special Agent in Charge Pacific Southwest Regional Office – LEI 1323 Club Drive Vallejo, CA 94592 707-562-8649 (office) **FAX:** 707-562-9031 **E-mail:** kdelbon@fs.fed.us

II. CONTROLLED SUBSTANCE OPERATIONS

Pursuant to IV- I and K of Agreement No. 15-LE-11051360-025, the following is in support of operations to suppress manufacturing and trafficking of controlled substances on or affecting the administration of National Forest System lands, with an emphasis on identification, apprehension and prosecution of suspects engaged in these activities:

A. The *U.S. Forest Service* agrees:

1. To reimburse **ICSO** for expenditures associated with the detection of locations and activities related to illegal production and trafficking of controlled substances, including;

   a. Ground reconnaissance to identify and inventory locations and activities associated with producing or trafficking controlled substances.

   b. Aerial reconnaissance to identify and inventory locations and activities associated with producing or trafficking controlled substances.

2. To reimburse **ICSO** for certain expenses resulting from investigative activities associated with investigating cases involving the illegal production or trafficking of controlled substances on or affecting the administration of National Forest system lands, including:

   a. Surveillance operations to identify persons illegally producing or trafficking controlled substances.

   b. Apprehension of persons suspected of producing or trafficking controlled substances.

   c. Collection of evidence to support prosecution of persons suspected of illegally producing or trafficking controlled substances.

   d. Prosecution of persons suspected of producing or trafficking controlled substances.

3. To reimburse **ICSO** for expenses resulting from the removal of cannabis plants from National Forest System lands. When circumstances indicate that removal of the cannabis plants is required before an investigation to determine the person(s) responsible can be completed, eradication operations must be approved by the U.S. Forest Service prior to taking place.

   Note: ICSO retains the authority to eradicate cannabis plants from National Forest System lands without reimbursement from the U.S. Forest Service at its discretion.

4. To reimburse **ICSO** for the costs of purchasing supplies and equipment used exclusively for activities described in items A.1, A.2 and A.3 of this Plan. Purchases must be agreed to and approved by the U.S. Forest Service.

   Purchases may **not exceed 10% of the total allocation** without prior approval by the U.S. Forest Service Designated Representative.

B. **ICSO** agrees:

1. Within its capability, to perform the following activities on National Forest System lands:

   a. Detect and inventory locations associated with illegal production or trafficking of controlled substances, and notify the U.S. Forest Service of such locations as soon as possible.
   b. Investigations to determine the person(s) responsible for manufacturing or trafficking controlled substances.

   c. Upon request and prior approval of the U.S. Forest Service, remove cannabis plants from National Forest System lands.

2. To furnish all activity reports, crime reports, investigation reports, and other reports or records, resulting from activities identified in **Section II, A** of this Operating and Financial Plan to the affected Forests for review and forwarding to the Regional Office for processing.

C. The *U.S. Forest Service* and **ICSO** mutually agree to the following:

1. The following rate schedule will apply to all expenditures that may be reimbursed to **ICSO** under this agreement;

Salary (base)	**$35.16** per hour,
Salary (overtime)	**$base + 1/2** per hour,
Per diem costs	**$34**/M&IE + **$55.00**/Lodging,
Travel (mileage and fares)	**$0.66** per mile,
Helicopter flight time	**Actual documented costs**,
Supplies or equipment	**Actual documented costs**

2. The total expenditures of **ICSO** that may be reimbursed may not exceed.... **$5,000**
   The total expenditures for item **A.4** may not exceed..... **10%** of the total allocation.

D. **Any remaining funding in this Annual Operating Plan may be carried forward to the next fiscal year and will be available to spend through the term of the Cooperative Law Enforcement Agreement, or de-obligated at the request of the U.S. Forest Service.**

III. BILLING FREQUENCY:

See Cooperative Law Enforcement Agreement Provisions II-H and III-B for additional information.

ICSO will furnish *monthly itemized statements* of expenses to the U.S. Forest Service for expenditures that may be reimbursed as identified in items II A.1, A.2, A.3, and A.4 of this

Plan. Attachment A, Law Enforcement Billing Summary, Drug Enforcement, must be completed and submitted to the contacts in (a) below for each billing statement.

a. Mail copies of itemized billing statements (Attachment A) to:

Jennie Shirley, Administrative Spclst
Pacific Southwest Regional Office - LEI
1323 Club Drive
Vallejo, CA 94592

Send photo copy to:
Jonathan Glenn, Special Agent
Stanislaus National Forest
19777 Greenly Rd.
Sonora, CA 95370-5909

b. Send hard copy invoices to:

U.S. Forest Service
Albuquerque Service Center
Payments – Grants & Agreements
101 B Sun Ave NE
Albuquerque, NM 87109

Or fax to: (877) 687-4894
Or e-mail scanned invoice to: ASC_GA@fs.fed.us

c. Final billings for reimbursement on this Annual Operating Plan (AOP) must be received by the U.S. Forest Service before October 31, 2016 in order to receive payment.

d. Annually update the registration of the County Sheriff's DUNS# on the System for Award Management (SAM) website at www.sam.gov for the verification of the EFT (Electronic Funds Transfer) banking information.

Job Code: NFLE0515 1360 $745.64
Job Code: NFLE0516 1360 $4,254.36

In witness whereof, the parties hereto have executed this Annual Operating Plan as of the last date written below.

WILLIAM LUTZE, Sheriff
Inyo County

Date

Date

Chairperson, Board of Supervisors
Inyo County

DON HOANG, Special Agent in Charge
U.S. Forest Service, Pacific Southwest Region

Date

The authority and format of this agreement has been reviewed and approved for signature.

Constance Zipperer

8 March 2016

CONSTANCE ZIPPERER
U.S. Forest Service, Grants Management Specialist

Date

Burden Statement

According to the Paperwork Reduction Act of 1995, an agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0596-0217. The time required to complete this information collection is estimated to average 3 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

The U.S. Department of Agriculture (USDA) prohibits discrimination in all its programs and activities on the basis of race, color, national origin, age, disability, and where applicable, sex, marital status, familial status, parental status, religion, sexual orientation, genetic information, political beliefs, reprisal, or because all or part of an individual's income is derived from any public assistance. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotape, etc.) should contact USDA's TARGET Center at 202-720-2600 (voice and TDD).

To file a complaint of discrimination, write USDA, Director, Office of Civil Rights, 1400 Independence Avenue, SW, Washington, DC 20250-9410 or call toll free (866) 632-9992 (voice). TDD users can contact USDA through local relay or the Federal relay at (800) 877-8339 (TDD) or (866) 377-8642 (relay voice). USDA is an equal opportunity provider and employer.

AGENDA REQUEST FORM
BOARD OF SUPERVISORS
COUNTY OF INYO

For Clerks Use Only
AGENDA NUMBER
10

[X] Consent [] Departmental [] Correspondence Action [] Public Hearing

[] Scheduled Time for [] Closed Session [] Informational

FROM: Sheriff's Department

FOR THE BOARD MEETING OF: **April 12, 2016**

SUBJECT: Approval of the Drug Enforcement Administration (DEA) Domestic Cannabis Eradication/Suppression Grant

DEPARTMENTAL RECOMMENDATION:

Request the Board A) approve the 2016 Domestic Cannabis Eradication/Suppression Program Letter of Agreement in the amount of $5,000; B) authorize Sheriff Lutze to sign the agreement and all necessary documents; C) authorize Alisha McMurtrie, Treasurer/Tax Collector, to sign as the authorized agency representative to enable electronic fund transfer when available; D) contingent upon adoption of the FY16/17 budget.

CAO RECOMMENDATION:

SUMMARY DISCUSSION:

The US Drug Enforcement is again offering local law enforcement agencies grants for cannabis eradication and suppression. Over the last couple of years, these funds have been instrumental in financing the eradication of the illegal marijuana grows found in our local mountains. This year's grant award is $5,000. The grant award will be used for flight time, equipment, and overtime. The DEA grant will enhance the Inyo Narcotic Teams ability to detect, identify, and apprehend suspects involved in illicit cannabis cultivation.

ALTERNATIVES:

Deny the grant and use existing county funds for cannabis enforcement.

OTHER AGENCY INVOLVEMENT:

FINANCING:

The DEA Grant award is $5,000 of federal funds designed to augment local law enforcement efforts to eradicate/suppress domestic cannabis. The funds will be budgeted in the FY 16/17 Domestic Cannabis Eradication/Suppression Budget Unit # 671507.

APPROVALS	
COUNTY COUNSEL:	AGREEMENTS, CONTRACTS AND ORDINANCES AND CLOSED SESSION AND RELATED ITEMS *(Must be reviewed and approved by county counsel prior to submission to the board clerk.)* Approved: Yes Date 03/28/2016
AUDITOR/CONTROLLER:	ACCOUNTING/FINANCE AND RELATED ITEMS (*Must be reviewed and approved by the auditor-controller prior to submission to the board clerk.)* Approved: eyes Date 3/30/2016
PERSONNEL DIRECTOR:	PERSONNEL AND RELATED ITEMS (Must be reviewed and approved by the director of personnel services prior to submission to the board clerk.) Approved:_____ Date_____

DEPARTMENT HEAD SIGNATURE:
(Not to be signed until all approvals are received) 3-30-16 Date:

U.S. Department of Justice
Drug Enforcement Administration

www.dea.gov Springfield, Virginia 22152

Agreement Number 2016-130

This Letter of Agreement (LOA) is entered into between the ***INYO COUNTY SHERIFF'S OFFICE,*** hereinafter referred to as (***THE AGENCY),*** and the DRUG ENFORCEMENT ADMINISTRATION (DEA) OF THE UNITED STATES DEPARTMENT OF JUSTICE (DOJ), hereinafter referred to as DEA, in reference to the following:

There is evidence that trafficking in marijuana (illicit cannabis) has a substantial and detrimental effect on the health and general welfare of the people of the ***State of California***. The parties hereto agree that it is to their mutual benefit to cooperate in locating and eradicating illicit cannabis plants and to investigate and prosecute those cases before the courts of the United States (U.S.) and the courts of the ***State of California***. DEA, pursuant to the authority of 21 U.S.C. § 873, proposes to provide certain necessary funds and ***THE AGENCY*** is desirous of securing funds.

NOW, therefore, in consideration of the mutual covenants hereinafter contained, the parties hereto have agreed as follows:

1. ***THE AGENCY*** will, with its own law enforcement personnel and employees, as hereinafter specified, perform the activities and duties described below:

   a. Gather and report intelligence data relating to the illicit cultivation, possession, and distribution of illicit cannabis.
   b. Investigate and report instances involving the trafficking in controlled substances.
   c. Provide law enforcement personnel for the eradication of illicit cannabis located within the ***State of California***.
   d. Make arrests and refer to the appropriate prosecutorial authority cases for prosecution under controlled substances laws and other criminal laws.
   e. Send required samples of eradicated illicit cannabis to the National Institute on Drug Abuse (NIDA) Potency Monitoring Project.
   f. **MANDATORY requirement for *THE AGENCY* to utilize *the Web-based DEA internet Capability Endeavor(DICE) or if applicable the Firebird based DEA Analysis/Response Tracking System (DARTS) to report all statistics and seizures per incident, to include the submission of significant items for de-confliction and information sharing purposes.***
   g. Submit to DEA quarterly expenditure reports.

2. It is understood and agreed by the parties to this Agreement that the activities described in Sub-paragraphs a, b, c, d, e, f, and g of paragraph one shall be accomplished with existing personnel, and that the scope of ***THE AGENCY's*** program with respect to those activities by such personnel shall be solely at ***THE AGENCY's*** discretion, subject to appropriate limitations contained in the budget adopted by ***THE AGENCY***, except that ***THE AGENCY*** understands and agrees that DEA funds and the result of expended funds (e.g. equipment, supplies and other resources) must be directly related to and must only be used for marijuana eradication program activities in a manner consistent with the Controlled Substances Act (CSA), 21 U.S.C. § 801 et seq.

3. DEA will pay to ***THE AGENCY*** Federal funds in the amount of **FIVE THOUSAND DOLLARS ($5,000.00)** for the period of JANUARY 1, 2016, to SEPTEMBER 30, 2016, to defray costs relating to the eradication and suppression of illicit cannabis. These Federal funds shall only be used for the eradication of illicit cannabis as provided in this agreement. ***THE AGENCY*** understands and agrees that Federal funds provided to ***THE AGENCY*** under this Agreement will not be used to defray costs relating to herbicidal eradication of illicit cannabis without the advance written consent of DEA. DCE/SP funding is provided for the storage, protection, and destruction of illicit cultivated marijuana. Funding is not provided nor expenditures allowed for the development of technology to assist with the identification of indoor and/or outdoor growing sites. Additionally funding and expenditures are not permitted for the eradication of "Ditch Weed". ***THE AGENCY*** understands and agrees that Federal funds will not be used to perform any of the following functions: (i) issuing licenses, permits, or other forms of authorization permitting the holder to manufacture, distribute, sell, or use marijuana in contravention of the CSA; (ii) conducting ancillary activities related to the issuance of such licenses and permits, such as background checks on applicants; (iii) collecting state or local tax or licensing revenue related to the manufacture, distribution, or sale of marijuana in contravention of the CSA; (iv) preparing or issuing regulations governing the manufacture, distribution, sale, or possession of marijuana in contravention of the CSA; (v) monitoring compliance with state or local laws or regulations that permit the manufacture, distribution, sale, or use marijuana in contravention of the CSA; or (vi) the purchase of evidence and the purchase of information. The result of expended funds (e.g. equipment, supplies and other resources) must be directly related to and must only be used for marijuana eradication activities. While using the Federal funds provided to ***THE AGENCY*** under this Agreement for activities on Federal land, ***THE AGENCY*** agrees to notify the appropriate local office of the U.S. Department of Agriculture, (Forest Service) and the U.S. Department of the Interior (Bureau of Land Management, National Park Service, Fish and Wildlife Service, Bureau of Indian Affairs, and/or Bureau of Reclamation) of ***THE AGENCY's*** presence on Federal land.

4. The Federal funds provided to ***THE AGENCY*** are primarily intended for payment of deputies'/officers' overtime while those deputies and officers are directly engaged in the illicit cannabis eradication process, **(per DOJ policy, the annual maximum overtime reimbursement rate is based on the current year General Pay Scale / rest of the United States and cannot exceed 25% of a GS-12, Step 1; the funds shall only be used to pay the normal overtime rate, i.e. time and a half. The overtime reimbursement rate "shall not include any cost for benefits, such as retirement, FICA, or other expenses", which is**

specifically prohibited by DOJ) and for per diem and other direct costs related to the actual conduct of illicit cannabis eradication. Examples of such costs includes rental of aircraft, fuel for aircraft, and minor repairs and maintenance necessitated by use to support illicit cannabis eradication. These Federal funds are not intended as a primary source of funding for the purchase of equipment, supplies, or other resources. When Domestic Cannabis Eradication Suppression Program (DCE/SP) funds are used to purchase supplies, equipment, or other resources, those items must be directly related to and must only be used for marijuana eradication activities and may not be used to perform any of the following functions: (i) issuing licenses, permits, or other forms of authorization permitting the holder to manufacture, distribute, sell, or use marijuana in contravention of the CSA; (ii) conducting ancillary activities related to the issuance of such licenses and permits, such as background checks on applicants; (iii) collecting state or local tax or licensing revenue related to the manufacture, distribution, or sale of marijuana in contravention of the CSA; (iv) preparing or issuing regulations governing the manufacture, distribution, sale, or possession of marijuana in contravention of the CSA; or (v) monitoring compliance with state or local laws or regulations that permit the manufacture, distribution, sale, or use marijuana in contravention of the CSA. Under Section 524 (c) (1) (I)1 of title 28, United States Code, states that the Assets Forfeiture Fund may be used for payment of overtime salaries, travel, fuel, training, equipment, and other similar costs of State or local law enforcement officers that are incurred in a joint law enforcement operation with a Federal law enforcement agency participatiing in the Fund;" ***[Agency Initial_____/***

All purchases of equipment, supplies and other resources must be requested in writing, ***through*** the respective DEA Division, ***to the Investigative Support Section (OMS)***. Requests must include manufacturer specifications and pricing of the item (including tax, if applicable) to be purchased. OMS will notify the state/local agency whether or not the purchase has been approved. ***[Agency Initial_____].*** Expenditures for equipment, supplies, and other resources should not exceed 10% of the total Federal funds awarded. Although equipment, supplies, and other resources may be specifically itemized in the Operation Plan, **they are not automatically approved for purchase.** All requests for purchases must be received in HQ/OMS by July 15th. Exemptions to any of these requirements must have prior HQ/OMS approval.

Per the DOJ, none of the funds allocated to you may be used to purchase promotional items, gifts, mementos, tokens of appreciation, or other similar items. Prohibited purchases include items justified as training aids if they are embossed, engraved or printed with ***THE AGENCY*** or program logos. Additionally, the use of DCE/SP funds for Demand Reduction expenses is no longer authorized.

5. In compliance with Section 623 of Public Law 102-141, ***THE AGENCY*** agrees that no amount of these funds shall be used to finance the acquisition of goods or services unless ***THE AGENCY***:

(a) Specifies in any announcement of the awarding of the contract for the procurement of the goods and services involved the amount of Federal funds that will be used to finance the acquisition; and
(b) Expresses the amount announced pursuant to paragraph (a) as a percentage of the

(c) total cost of the planned acquisition.

The above requirements only apply to procurements for goods or services that have an aggregate value of $500,000 or more. Any goods or services acquired under this provision of the agreement must be directly related to and must only be used for marijuana eradication activities and may not be used to perform any of the following functions: (i) issuing licenses, permits, or other forms of authorization permitting the holder to manufacture, distribute, sell, or use marijuana in contravention of the CSA; (ii) conducting ancillary activities related to the issuance of such licenses and permits, such as background checks on applicants; (iii) collecting state or local tax or licensing revenue related to the manufacture, distribution, or sale of marijuana in contravention of the CSA; (iv) preparing or issuing regulations governing the manufacture, distribution, sale, or possession of marijuana in contravention of the CSA; or (v) monitoring compliance with state or local laws or regulations that permit the manufacture, distribution, sale, or use marijuana in contravention of the CSA.

6. If DEA approves the purchase of supplies (all tangible personal property other than "equipment" as defined by 28 C.F.R. § 66.32/66.33), and there is a residual inventory of unused supplies exceeding $5,000 in total aggregate fair market value upon termination or completion of this Agreement, and if the supplies are not needed for any other federally sponsored programs or projects, ***THE AGENCY*** shall compensate DEA for DEA's share and in any case the supplies will not be used directly or indirectly to support any state, county or local entity that authorizes cultivating marijuana or has direct oversight or regulatory responsibilities for a state authorized marijuana program. ***THE AGENCY*** agrees that any unused supplies not exceeding $5,000 in total aggregate fair market value upon termination or completion of this Agreement will either be used for the marijuana eradication activities, returned to DEA, or destroyed, but in any case will not be used to perform any of the following functions: (i) issuing licenses, permits, or other forms of authorization permitting the holder to manufacture, distribute, sell, or use marijuana in contravention of the CSA; (ii) conducting ancillary activities related to the issuance of such licenses and permits, such as background checks on applicants; (iii) collecting state or local tax or licensing revenue related to the manufacture, distribution, or sale of marijuana in contravention of the CSA; (iv) preparing or issuing regulations governing the manufacture, distribution, sale, or possession of marijuana in contravention of the CSA; or (v) monitoring compliance with state or local laws or regulations that permit the manufacture, distribution, sale, or use marijuana in contravention of the CSA.

7. If DEA approves the purchase of equipment (tangible, non-expendable personal property having a useful life of more than one year and an acquisition cost of $5,000 or more per unit) for the use of ***THE AGENCY***'s personnel engaged in illicit cannabis eradication under this Agreement, ***THE AGENCY*** will use, manage, and dispose of the equipment in accordance with 28 C.F.R. § 66.32/66.33, except that in no case, regardless of useful life and acquisition cost, will the equipment be used directly or indirectly to perform any of the following functions: (i) issuing licenses, permits, or other forms of authorization permitting the holder to manufacture, distribute, sell, or use marijuana in contravention of the CSA; (ii) conducting ancillary activities related to the issuance of such licenses and permits, such as background checks on applicants; (iii) collecting state or local tax or licensing revenue related to the manufacture, distribution, or sale of marijuana in contravention of the CSA; (iv) preparing or issuing regulations governing the

manufacture, distribution, sale, or possession of marijuana in contravention of the CSA; or (v) monitoring compliance with state or local laws or regulations that permit the manufacture, distribution, sale, or use marijuana in contravention of the CSA.

8. Payment by DEA to ***THE AGENCY*** will be in accordance with a schedule determined by DEA and said payment will be made pursuant to the execution by ***THE AGENCY*** of a Request for Advance or Reimbursement (SF-270) and receipt of same by DEA. However, no funds will be paid by DEA to ***THE AGENCY*** under this Agreement until DEA has received to its satisfaction an accounting of the expenditures of all funds paid to ***THE AGENCY*** during the previous year Agreement. The final/closeout expenditure report will be documented on a Financial Status Report (SF-425) and July thru September (FINAL) Accounting Form.

9. It is understood and agreed by ***THE AGENCY*** that, in return for DEA's payment to ***THE AGENCY*** for Federal funds, ***THE AGENCY*** will comply with all applicable Federal statutes, regulations, guidance, and orders, including previous OMB guidance under OMB **Circular A-102** (Grants and Cooperative Agreements With State and Local Governments), **OMB Circular A-87** (Cost Principles for State, Local and Indian Tribal Governments), and OMB Circular A-133 (Audits of States, Local Governments and Non-Profit Organizations), which have been combined in 2 CFR 200, effective December 26, 2014. In addition, 2 C.F.R. Part 2867 (Non-Procurement Debarment and Suspension), 28 C.F.R. Part 83 (Drug-Free Workplace Act common rule), 28 C.F.R. Part 69 (Byrd Anti-Lobbying Amendment common rule) specifically apply. (Note: The LOA is reimbursable agreement, not a grant; therefore for purposes of the DCE/SP, DEA requires an audit completed regardless of the threshold amount listed in 2 CFR 200. The DCE/SP does not have an assigned Catalog of Federal of Domestic Assistance (CFDA) number. Audits can be conducted and submitted accordingly to the Federal Audit Clearinghouse database, without a CFDA number. The auditor must enter the audit information in the Federal Audit Clearinghouse database. In conjunction with the beginning date of the award, the audit report period of ***THE AGENCY*** under the single audit requirement is **01/01/2016** through **09/30/2016**.

10. ***THE AGENCY*** acknowledges that arrangements have been made for any required financial and compliance audits and audits will be made within the prescribed audit reporting cycle. ***THE AGENCY*** understands that failure to furnish an acceptable audit as determined by the cognizant Federal agency may be a basis for denial of future Federal funds and/or refunding of Federal funds and may be a basis for limiting ***THE AGENCY*** to payment by reimbursement on a cash basis. ***THE AGENCY*** further understands that its use of DEA funds or the result of expended DEA funds (e.g. equipment, supplies and other resources) for any use other than the marijuana eradication program activities, including but not limited to its use directly or indirectly to perform any of the following functions: (i) issuing licenses, permits, or other forms of authorization permitting the holder to manufacture, distribute, sell, or use marijuana in contravention of the CSA; (ii) conducting ancillary activities related to the issuance of such licenses and permits, such as background checks on applicants; (iii) collecting state or local tax or licensing revenue related to the manufacture, distribution, or sale of marijuana in contravention of the CSA; (iv) preparing or issuing regulations governing the manufacture, distribution, sale, or possession of marijuana in contravention of the CSA; or (v) monitoring

compliance with state or local laws or regulations that permit the manufacture, distribution, sale, or use marijuana in contravention of the CSA, will be a basis for denial of future Federal funds and/or refunding of Federal funds and may be a basis for limiting ***THE AGENCY*** to payment by reimbursement on a cash basis.

11. ***THE AGENCY*** shall maintain complete and accurate reports, records, and accounts of all obligations and expenditures of DEA funds under this Agreement in accordance with generally accepted government accounting principles and in accordance with state laws and procedures for expending and accounting for its own funds. ***THE AGENCY*** shall further maintain its records of all obligations and expenditures of DEA funds under this Agreement in accordance with all instructions provided by DEA to facilitate on-site inspection and auditing of such records and accounts.

12. ***THE AGENCY*** shall permit and have available for examination and auditing by DEA, the U.S. Department of Justice Office of Inspector General, the Government Accountability Office, and any of their duly authorized agents and representatives, any and all investigative reports, records, documents, accounts, invoices, receipts, and expenditures relating to this Agreement. In addition, ***THE AGENCY*** will maintain all such foregoing reports and records for three years after termination of this Agreement or until after all audits and examinations are completed and resolved, whichever is longer.

13. ***THE AGENCY*** agrees that an authorized officer or employee will execute and return to the DEA Regional Contractor, the LOA; Request for Advance or Reimbursement (SF-270); Electronic Funds Transfer Memorandum; Certifications Regarding Lobbying; Debarment, Suspension, & Other Responsibility Matters; Drug Free Workplace Requirements (OJP Form 406 1/6); and the Assurances (OJP Form 4000/3). ***THE AGENCY*** acknowledges that this Agreement will not take effect and that no Federal funds will be awarded by DEA until DEA receives the completed LOA package.

14. Employees of ***THE AGENCY*** shall at no time be considered employees of the U.S. Government or DEA for any purpose, nor will this Agreement establish an agency relationship between ***THE AGENCY*** and DEA.

15. ***THE AGENCY*** shall be responsible for the acts or omissions of ***THE AGENCY's*** personnel. ***THE AGENCY*** and ***THE AGENCY's*** employees shall not be considered as the agent of any other participating entity. Nothing herein is intended to waive or limit sovereign immunity under other federal or state statutory or constitutional authority. This Agreement creates no liability on the part of the DEA, its agents or employees, or the U.S. Government for any claims, demands, suits, liabilities, or causes of action of whatever kind and designation, and wherever located in the **State of California** resulting from the DCE/SP funded by DEA.

16. ***THE AGENCY*** shall comply with Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, as amended, and all requirements imposed by or pursuant to the regulations of the U.S. Department of Justice implementing those laws, 28 C.F.R. Part 42, Subparts C, F, G, H, and I.

17. Within ten (10) days after termination of the Agreement, ***THE AGENCY*** will prepare an July thru September (FINAL) Accounting Form and a Financial Status Report SF-425, itemizing the breakdown of final expenditures. The July thru September (FINAL) Accounting Form and the SF-425, along with a refund check, payable to DEA funds not obligated or expended funds which were advanced by DEA pursuant to this Agreement, will be returned to the DEA Regional Contractor by October 14th.

18. Upon submission of the July thru September (FINAL) Accounting Form and Financial Status Report SF- 425 to your regional contractor for the preceding year, a copy of the general ledger and the underlying supporting documentation reflecting the expenditures for equipment in excess of $2,500, that was previously approved by OMS, and the expenses associated with the rental or leasing of vehicles or aircraft must be attached.

19. The duration of this Agreement shall be as specified in Paragraph 3, except that this Agreement may be terminated by either party after 30 day written notice to the other party. All obligations that are outstanding on the above prescribed termination date or on the date of any thirty (30) day notice of termination shall be liquidated by ***THE AGENCY*** within sixty (60) days thereof, in which event DEA will only be liable for obligations incurred by ***THE AGENCY*** during the terms of this Agreement. In no event shall ***THE AGENCY*** incur any new obligations during the period of notice of termination. ***THE AGENCY*** shall return to DEA all unexpended funds forthwith after the sixty (60) day liquidation period. In the event that the agreement is terminated, any DEA funds that have been obligated or expended and the result of expended funds (e.g. equipment, supplies and other resources) will be used and disposed of in accordance with the provisions of this agreement.

20. ***THE AGENCY*** must be registered in the System for Award Management (SAM) to receive payment of Federal funds. There are two steps to registering in SAM. **First, *THE AGENCY*** must have a Data Universal Numbering System (DUNS) number. [A "+4 extension" to a DUNS number (DUNS+4) is required when there is a need for more than one bank/electronic funds transfer account for a location.] A DUNS number may be obtained via the internet (http://fedgov.dnb.com/webform) or by phone (U.S. and U.S. Virgin Islands: 1-866-705-5711; Alaska and Puerto Rico: 1-800-234-3867). **Second, *THE AGENCY*** must then register with SAM via the internet SAM www.sam.gov. Questions regarding the internet registration process may be directed to 1-866-606-8220 (follow the prompts for SAM). Both the DUNS number and registration in SAM are free of charge.

Note: It is *THE AGENCY*'s responsibility to update their SAM registration annually or whenever a change occurs.

***THE AGENCY*'s** current DUNS No. is 010706687.

***THE AGENCY*'s** opportunity to enter into this Agreement with DEA and to receive the Federal funds expires sixty days from date of issuance. Agreement issued on _____.

THE INYO COUNTY SHERIFF'S OFFICE

Printed Name: William R. Lutze

Signature: _____ **(Blue Ink Only)**

Title: Sheriff Date: _____

Agency, please submit original signed LOA & associated paperwork to your DEA Regional Contractor.

DRUG ENFORCEMENT ADMINISTRATION

Printed Name: _____

Signature: _____ **(Blue Ink Only)**

Special Agent in Charge – San Francisco Field Division Date: _____

SAC, please submit original signed LOA & associated paperwork to your Fiscal Office.

DEA DIVISIONAL FISCAL CLERK MUST INPUT INTO UFMS & COMPLETE THE BOTTOM OF THIS SECTION

ACCOUNTING CLASSIFICATION/OBLIGATION NUMBER:

2016/S1R/OM/8210000/DOM-G2/01IB/DCE/OPS: _____

_____

UFMS Input Date: _____ **DNC** No. _____

DNO No. _____ **DDP** No. _____

Printed Name: _____ Signature: _____

***Fiscal,** please submit original signed LOA & associated paperwork to your DEA Regional Contractor.*

U. S. Department of Justice
Drug Enforcement Administration
Investigative Support Section
DEA Headquarters

www.dea.gov

February 24, 2016

All Domestic Cannabis
Eradication/Suppression Program (DCE/SP)
Participating Agencies

Funding for the Domestic Cannabis Eradication/Suppression Program (DCE/SP) is only available by electronic transfer. Funds will be transferred directly into the Letter of Agreement (LOA) agency's bank account. In order to process electronic transfers, the following information must be provided:

Agency Name on Bank Account:	Inyo County Treasury General
Account Number:	2740013710
Name of Bank/Financial Institution:	Union Bank
Address of Bank/Financial Institution:	445 S. Figueroa St., 8th Flr Los Angeles, Ca. 90071
Telephone Number of Bank/Financial Institution:	(800) 798-6466
Contact Person of Bank/Financial Institution:	Tito Ibarrola
Bank/Financial Institution ABA Number:	12200496
State-Local Agency Name / LOA Number:	Inyo Co Sheriff/2016-130

Alisa McMurtrie, Treasurer/Tax Collector
Authorized Agency Representative (Name & Title)

Signature of Authorized Agency Representative

Date

Investigative Support Section
DEA Headquarters

REQUEST FOR ADVANCE OR REIMBURSEMENT

(See instructions on back)

OMB APPROVAL NO. 0348-004

PAGE 1 OF 2 PAGES

1. TYPE OF PAYMENT REQUESTED
   a. ✓ one or both boxes: [x] ADVANCE [ ] REIMBURSEMENT
   b. ✓ the applicable box: [ ] FINAL [ ] PARTIAL

2. BASIS OF REQUEST: [x] CASH [ ] ACCRUAL

3. FEDERAL SPONSORING AGENCY AND ORGANIZATIONAL ELEMENT TO WHICH THIS REPORT IS SUBMITTED: DRUG ENFORCEMENT ADMINISTRATION

4. FEDERAL GRANT OR OTHER IDENTIFYING NUMBER ASSIGNED BY FEDERAL AGENCY: 2016-130

5. PARTIAL PAYMENT REQUEST NUMBER FOR THIS REQUEST:

6. EMPLOYER IDENTIFICATION NUMBER: 95-6005445

7. RECIPIENT'S ACCOUNT NUMBER OR IDENTIFYING NUMBER:

8. PERIOD COVERED BY THIS REQUEST
   FROM (MM-DD-YYYY): 01/01/2016
   TO (MM-DD-YYY): 09/30/2016

9. RECIPIENT ORGANIZATION
   Name: Inyo County Sheriffs Department
   Number and Street: PO DRAWER S
   City, State and ZIP Code: Independence, Ca. 93526

10. PAYEE *(Where check is to be sent if different than item 9)*
   Name:
   Number and Street:
   City, State and ZIP Code:

11. COMPUTATION OF AMOUNT OF REIMBURSEMENTS/ADVANCES REQUESTED

PROGRAMS/FUNCTIONS/ACTIVITIES ➤		(a) Original Letter of Agreement	(b)	(c)	TOTAL
a. Total program outlays to date *(As of date)*		$ 5,000.00			$ 5,000.00
b. Less: Cumulative program income					0.00
c. Net program outlays *(Line a minus line b)*		$ 5,000.00	0.00	0.00	$ 5,000.00
d. Estimated net cash outlays for advance period					0.00
e. Total *(Sum of lines c & d)*		$ 5,000.00	0.00	0.00	$ 5,000.00
f. Non-Federal share of amount on line e					0.00
g. Federal share of amount on line e		$ 5,000.00			$ 5,000.00
h. Federal payments previously requested					0.00
i. Federal share now requested *(Line g minus line h)*		$ 5,000.00			$ 5,000.00
j. Advances required by month, when requested by Federal grantor agency for use in making prescheduled advances	1st month		0.00		
	2nd month				0.00
	3rd month				0.00

12. ALTERNATE COMPUTATION FOR ADVANCES ONLY

a. Estimated Federal cash outlays that will be made during period covered by the advance	$
b. Less: Estimated balance of Federal cash on hand as of beginning of advance period	
c. Amount requested *(Line a minus line b)*	$ 0.00

LOA NUMBER - 2016-130

13. CERTIFICATION		
I certify that to the best of my knowledge and belief the data on the reverse are correct and that all outlays were made in accordance with the grant conditions or other agreement and that payment is due and has not been previously requested.	SIGNATURE OR AUTHORIZED CERTIFYING OFFICIAL (BLUE INK ONLY)	DATE REQUEST SUBMITTED
	TYPED OR PRINTED NAME AND TITLE William R. Lutze, Sheriff	TELEPHONE (AREA CODE, NUMBER AND EXTENSION) (760)878-0320

This space for agency use

Public reporting burden for this collection of information is estimated to average 60 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0004), Washington, DC 20503.

PLEASE DO NOT RETURN YOUR COMPLETED FORM TO THE OFFICE OF MANAGEMENT AND BUDGET. SEND IT TO THE ADDRESS PROVIDED BY THE SPONSORING AGENCY.

INSTRUCTIONS

Please type or print legibly. Items 1, 3, 5, 9, 10, 11e, 11f, 11g, 11i, 12 and 13 are self-explanatory; specific instructions for other items are as follows:

Item	*Entry*
2	Indicate whether request is prepared on cash or accrued expenditure basis. All requests for advances shall be prepared on a cash basis.
4	Enter the Federal grant number, or other identifying number assigned by the Federal sponsoring agency. If the advance or reimbursement is for more than one grant or other agreement, insert N/A; then, show the aggregate amounts. On a separate sheet, list each grant or agreement number and the Federal share of outlays made against the grant or agreement.
6	Enter the employer identification number assigned by the U.S. Internal Revenue Service, or the FICE (institution) code if requested by the Federal agency.
7	This space is reserved for an account number or other identifying number that may be assigned by the recipient.
8	Enter the month, day, and year for the beginning and ending of the period covered in this request. If the request is for an advance or for both an advance and reimbursement, show the period that the advance will cover. If the request is for reimbursement, show the period for which the reimbursement is requested.
Note:	The Federal sponsoring agencies have the option of requiring recipients to complete items 11 or 12, but not both. Item 12 should be used when only a minimum amount of information is needed to make an advance and outlay information contained in item 11 can be obtained in a timely manner from other reports.
11	The purpose of the vertical columns (a), (b), and (c) is to provide space for separate cost breakdowns when a project has been planned and budgeted by program, function, or activity. If additional columns are needed, use as many additional forms as needed and indicate page number in space provided in upper right; however, the summary totals of all programs, functions, or activities should be shown in the "total" column on the first page.
11a	Enter in "as of date," the month, day, and year of the ending of the accounting period to which this amount applies. Enter program outlays to date (net of refunds, rebates, and discounts), in the appropriate columns. For requests prepared on a cash basis, outlays are the sum of actual cash disbursements for goods and services, the amount of indirect expenses charged, the value of in-kind contributions applied, and the amount of cash advances and payments made to subcontractors and subrecipients. For requests prepared on an accrued expenditure basis, outlays are the sum of the actual cash disbursements, the amount of indirect expenses incurred, and the net increase (or decrease) in the amounts owed by the recipient for goods and other property received and for services performed by employees, contracts, subgrantees and other payees.
11b	Enter the cumulative cash income received to date, if requests are prepared on a cash basis. For requests prepared on an accrued expenditure basis, enter the cumulative income earned to date. Under either basis, enter only the amount applicable to program income that was required to be used for the project or program by the terms of the grant or other agreement.
11d	Only when making requests for advance payments, enter the total estimated amount of cash outlays that will be made during the period covered by the advance.
13	Complete the certification before submitting this request.

U.S. Department of Justice
Office of Justice Programs
Office of the Comptroller

LOA Number: 2016-130

CERTIFICATIONS REGARDING LOBBYING; DEBARMENT, SUSPENSION AND OTHER RESPONSIBILITY MATTERS; AND DRUG-FREE WORKPLACE REQUIREMENTS

Applicants should refer to the regulations cited below to determine the certification to which they are required to attest. Applicants should also review the instructions for certification included in the regulations before completing this form. Signature of this form provides for compliance with certification requirements under 28 CFR Part 69, "New Restrictions on Lobbying" and 28 CFR Part 67, "Government-wide Debarment and Suspension (Nonpro-curement) and Government-wide Requirements for Drug- Free Workplace (Grants)." The certifications shall be treated as a material representation of fact upon which reliance will be placed when the Department of Justice determines to award the covered transaction, grant, or cooperative agreement.

1. LOBBYING

As required by Section 1352, Title 31 of the U.S. Code, and implemented at 28 CFR Part 69, for persons entering into a grant or cooperative agreement over $100,000, as defined at 28 CFR Part 69, the applicant certifies that:

(a) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making of any Federal grant, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal grant or cooperative agreement;

(b) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal grant or cooperative agreement, the undersigned shall complete and submit Standard Form - LLL, "Disclosure of Lobbying Activities," in accordance with its instructions;

(c) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subgrants, contracts under grants and cooperative agreements, and subcontracts) and that all subrecipients shall certify and disclose accordingly.

2. DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS (DIRECT RECIPIENT)

As required by Executive Order 12549, Debarment and Suspension, and implemented at 28 CFR Part 67, for prospective participants in primary covered transactions, as defined at 28 CFR Part 67, Section 67.510--

A. The applicant certifies that it and its principals:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, sentenced to a denial of Federal benefits by a State or Federal court, or voluntarily excluded from covered transactions by any Federal department or agency;

(b) Have not within a three-year period preceding this application been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and

(d) Have not within a three-year period preceding this application had one or more public transactions (Federal, State, or local) terminated for cause or default; and

B. Where the applicant is unable to certify to any of the statements in this certification, he or she shall attach an explanation to this application.

3. DRUG-FREE WORKPLACE (GRANTEES OTHER THAN INDIVIDUALS)

As required by the Drug-Free Workplace Act of 1988, and implemented at 28 CFR Part 67, Subpart F, for grantees, as defined at 28 CFR Part 67 Sections 67.615 and 67.620--

A. The applicant certifies that it will or will continue to provide a drug-free workplace by:

(a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

(b) Establishing an on-going drug-free awareness program to inform employees about--

(1) The dangers of drug abuse in the workplace;

(2) The grantee's policy of maintaining a drug-free workplace;

(3) Any available drug counseling, rehabilitation, and employee assistance programs; and

(4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

(c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);

(d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant,

(1) Abide by the terms of the statement; and

(2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;

(e) Notifying the agency, in writing, within 10 calendar days after receiving notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to: Department of Justice, Office of Justice Programs, ATTN: Control Desk, 810 7 th Street, N.W., Washington, D.C. 20531. Notice shall include the identification number(s) of each affected grant;

(f) Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted--

(1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or

(2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

(g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e), and (f).

B. The grantee may insert in the space provided below the site(s) for the performance of work done in connection with the specific grant:

Place of Performance (Street address, city, county, state, zip code)

Check ___if there are workplaces on file that are not identified here.

Section 67, 630 of the regulations provides that a grantee that is a State may elect to make one certification in each Federal fiscal year. A copy of which should be included with each application for Department of Justice funding. States and State agencies may elect to use OJP Form 4061/7.

Check ___if the State has elected to complete OJP Form 4061/7.

DRUG-FREE WORKPLACE
(GRANTEES WHO ARE INDIVIDUALS)

As required by the Drug-Free Workplace Act of 1988, and implemented at 28 CFR Part 67, Subpart F, for grantees, as defined at 28 CFR Part 67; Sections 67.615 and 67.620--

A. As a condition of the grant, I certify that I will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in conducting any activity with the grant; and

B. If convicted of a criminal drug offense resulting from a violation occurring during the conduct of any grant activity, I will report the conviction, in writing, within 10 calendar days of the conviction, to: Department of Justice, Office of Justice

As the duly authorized representative of the applicant, I hereby certify that the applicant will comply with the above certifications.

1. Grantee Name and Address:

Inyo County Sheriff
P.O. Drawer S., 550 S. Clay St.
Independence, Ca. 93526

2. Application Number and/or Project Name

3. Grantee IRS/Vendor Number

LOA Number: 2016-130 Domestic Cannabis Eradication/Suppression

4. Typed Name and Title of Authorized Representative

William R. Lutze, Sheriff

5. Signature

6. Date

(BLUE INK ONLY)

*U.S. Government Printing Office: 1996 - 405-037/40014

ASSURANCES

The Applicant hereby assures and certifies compliance with all Federal statutes, regulations, policies, guidelines and requirements, including OMB Circulars No. A-21, A-87, A-110, A-122, A-133; E.O. 12372 and Uniform Administrative Requirements for Grants and Cooperative Agreements - 28 CFR, Part 66, Common rule, that govern the application, acceptance and use of Federal funds for this federally-assisted project. Also the Applicant assures and certifies that:

1. It possesses legal authority to apply for the grant; that a resolution, motion or similar action has been duly adopted or passed as an official act of the applicant's governing body, authorizing the filing of the application, including all understandings and assurances containedtherein, and directing and authorizing the person identified as the official representative of the applicant to act in connection with the application and toprovide such additional information may be required.

2. It will comply with requirements of the provisions of the Uniform Relocation Assistance and Real Property Acquisitions Act of 1970 (P.L. 91-646) which provides for fair and equitable treatment of persons displaced as a result of Federal and federally - assisted programs.

3. It will comply with provisions of Federal law which limit certain political activities of employees of a State or local unit of government whose principal employment is in connection with an activity financed in whole or in part by Federal grants. (5 USC 1501, et seq.)

4. It will comply with the minimum wage and maximum hours provisions of the Federal Fair Labor Standards Act if applicable.

5. It will establish safeguards to prohibit employees from using their positions for a purpose that is or gives the appearance of being motivated by a desire for private gain for themselves or others, particularly those with whom they have family, business, or other ties.

6. It will give the sponsoring agency or the Comptroller General, through any authorized representative, access toand the right to examine all records, books, papers, or documents related to the grant.

7. It will comply with all requirements imposed by the Federal sponsoring agency concerning special requirements of law, program requirements, and other administrative requirements.

8. It will insure that the facilities under its ownership, lease or supervision which shall be utilized in the accomplishment of the project are not listed on the Environmental Protection Agency's (EPA)list of Violating Facilities and that it will notify the Federal grantor agency of the receipt of any communication from the Director of the EPA Office of Federal Activities indicating that a facility to be used in the project is under consideration for listing by the EPA.

9. It will comply with the flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973, Public Law 93-234, 87 Stat. 975, approved December 31, 1976, Section 102(a) requires, on and after March 2, 1975, the purchase of flood insurance in communities where such insurance is available as a condition for the receipt of any Federal financial assistance for construction or acquisition purposes for usein any area that has been identified by the Secretary of the Department of Housing and Urban Development as an area having special flood hazards. The phrase "Federal financial assistance" includes any form of loan, grant, guaranty, insurancepayment, rebate, subsidy, disaster assistance loan or grant, or any other form of direct or indirect Federal assistance.

10. It will assist the Federal grantor agency in its compliance with Section 106 of the National Historic Preservation Act of 1966 as amended (16 USC 470), Executive Order 11593, and the Archeological and Historical Preservation Act of 1966 (16 USC 569 a-1 et seq.) by (a) consulting with the State Historic Preservation Officer on the conduct of investigations, as necessary, to identify properties listed in or eligible for inclusion in the National Register of Historic Places that are subject to adverse effects (see 36 CFR Part 800.8) by the activity, and notifying the Federal grantor agency of the existence of any such properties, and by (b) complying with all requirements established by the Federal grantor agency to avoid or mitigate adverse effects upon such properties.

11. It will comply, and assure the compliance of all its subgrantees and contractors, with the applicable provisions of Title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, the Juvenile Justice and Delinquency Prevention Act, or the Victims of Crime Act, as appropriate; the provisions of the current edition of the Office of Justice Programs Financial and Administrative Guide for Grants, M7100.1; and all other applicable Federal laws, orders, circulars, or regulations.

12. It will comply with the provisions of 28 CFR applicable to grants and cooperative agreements including Part 18, Administrative Review Procedure; Part 20, Criminal Justice Information Systems; Part 22, Confidentiality of Identifiable Research and Statistical Information; Part 23, Criminal Intelligence Systems Operating Policies; Part 30, Intergove-rnmental Review of Department of Justice Programs and Activities; Part 42, Nondiscrimination/Equal Employment Opportunity Policies and Procedures; Part 61, Procedures for Implementing the National Environmental Policy Act; Part 63, Floodplain Management and Wetland Protection Procedures; and Federal laws or regulations applicable to Federal Assistance Programs.

13. It will comply, and all its contractors will comply, with the nondiscri-mination requirements of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, 42 USC 3789(d), or Victims of Crime Act (as appropriate); Title VI of the Civil Rights Act of 1964, as amended; Section 504 of the Rehabilitation Act of 1973, as amended; Subtitle A, Title II of the Americans with Disabilities Act (ADA) (1990); Title IX of the Education Amendments of 1972; the Age Discrimination Act of 1975; Department of Justice Non-Discrimination Regulations, 28 CFR Part 42, Subparts C, D, E, and G; and Department of Justice regulations on disability discrimination, 28 CFR Part 35 and Part 39.

14. In the event a Federal or State court or Federal or State administrative agency makes a finding of discrimination after a due process hearing on the grounds of race, color, religion, national origin, sex, or disability against a recipient of funds, the recipient will forward a copy of the finding to the Office for Civil Rights, Office of Justice Programs.

15. It will provide an Equal Employment Opportunity Program if required to maintain one, where the application is for $500,000 or more.

16. It will comply with the provisions of the Coastal Barrier Resources Act (P.L. 97-348) dated October 19, 1982 (16 USC 3501 et seq.) which prohibits the expenditure of most new Federal funds within the units of the Coastal Barrier Resources System.

(BLUE INK ONLY)

Signature

Date

LOA NUMBER - 2016-130

AGENDA REQUEST FORM

BOARD OF SUPERVISORS
COUNTY OF INYO

For Clerk's Use Only:
AGENDA NUMBER

11

☐ Consent ☒ Departmental ☐ Correspondence Action ☐ Public Hearing

☐ Scheduled Time for ☐ Closed Session ☐ Informational

FROM: Parks and Recreation

FOR THE BOARD MEETING OF: April 12, 2016

SUBJECT: Approval of Building Expansion at Laws Museum

DEPARTMENTAL RECOMMENDATION:

Request your Board approve, in concept, a new building at the Laws Museum to house and display a replica set of 20 Mule Team Borax Wagons.

SUMMARY DISCUSSION:

The Laws Museum and Historical Society has been approached by the Death Valley Conservancy to provide a permanent storage and exhibit facility for a replica set of 20 Mule Team Borax Wagons. The wagons are currently being built and should be completed by January 2017. The wagons are full-size replicas of the original wagons.

Although the Museum has an existing storage and display barn for antique wagons, it is not large enough to accommodate the proposed addition to the Museum's collection. Therefore, if the Museum is to accept these wagons a new building will be necessary. Museum staff has developed scale drawings of the proposed addition and is in the process of converting those drawings to engineered plans.

At present, the Museum does not have the funds to build the addition but intends to start a fund raising campaign in the very near future. Since the Museum grounds belong to Inyo County, any new building project will require your Board's approval. The Museum is requesting your Board's support for this project subject to obtaining all necessary funds, complying with all building codes and securing all applicable building permits. The Public Works Director has reviewed the proposal and has no objections to moving forward so long as the above conditions are met.

The Museum and Historical Society is very excited about this opportunity to significantly enhance their collection. Given that the mule teams are an important part of Inyo County's history the Laws Museum is uniquely suited to provide a home for this display.

ALTERNATIVES:

If the Museum is not allowed to build a new facility it is unlikely that the wagons will be brought to Laws. The Death Valley Conservancy would then need to secure another home for the wagons, quite possibly outside of Inyo County.

OTHER AGENCY INVOLVEMENT

Public Works, Building Inspection

FINANCING:

There are no costs associated with this approval. The Museum is proposing to provide all necessary funding. It can be expected, however, that the Museum will request waivers of certain County fees, when appropriate.

APPROVALS	
COUNTY COUNSEL:	AGREEMENTS, CONTRACTS AND ORDINANCES AND CLOSED SESSION AND RELATED ITEMS *(Must be reviewed and approved by county counsel prior to submission to the board clerk.)* Approved: _____ Date_____
AUDITOR/CONTROLLER:	ACCOUNTING/FINANCE AND RELATED ITEMS (M*ust be reviewed and approved by the auditor-controller prior to submission to the board clerk.)* Approved:_____ Date_____
PERSONNEL DIRECTOR:	PERSONNEL AND RELATED ITEMS (Must be reviewed and approved by the director of personnel services prior to submission to the board clerk.) Approved:_____ Date_____

DEPARTMENT HEAD SIGNATURE: Richard G. Benson Date: 4/5/16
(Not to be signed until all approvals are received)
(The Original plus 20 copies of this document are required)

For Clerk's Use Only:
AGENDA NUMBER

12

AGENDA REQUEST FORM

BOARD OF SUPERVISORS
COUNTY OF INYO

☐ Consent ☒ Departmental ☐ Correspondence Action ☐ Public Hearing

☐ Scheduled Time for ☐ Closed Session ☐ Informational

FROM: Thomas L. Hardy, District Attorney

FOR THE BOARD MEETING OF: April 12, 2016

SUBJECT: Filling of a vacant position with the District Attorney's Office

DEPARTMENTAL RECOMMENDATION:

Request Board find that consistent with the adopted Authorized Position Review Policy:

1) Request board approve the job description for the Assistant to the District Attorney (Range 70) and, approve a change in Authorized Staffing by deleting the current Administrative Legal Secretary (Range 70) effective July 13, 2016, and adding the Assistant to the District Attorney (Range 70) effective June 16, 2016;
2) The availability of funding for the Assistant to the District Attorney comes from the General Fund and CalOES Victim Witness grant funds as certified by the District Attorney concurred with the County Administrator and Audit-Controller;
3) The position could be filled by an internal recruitment; however, an open recruitment would be more appropriate to ensure qualified applicants apply; and
4) Authorize the hiring on (1) Administrative Assistant to the District Attorney at Range 70 ($4391 -$5341).

CAO RECOMMENDATION:

The longstanding policy of the Board of Supervisors and this Office, when a vacancy in an authorized position is anticipated, to not allow a department to fill the authorized position vacancy until the position is vacated. While overlapping or job shadowing can sometimes be warranted and desirable, it is not a practice – particularly for long periods of time – the County can routinely afford.

Furthermore, allowing such overlap in positions creates a situation where the authorized strength must be temporarily changed to accommodate two persons filling one positions; essentially two positions for need to be created for the position in which the job shadowing is requested. County Code Section 2.08.040(E) sets forth a policy whereby no new positions are to be created or filled in any fiscal year after adoption of the County Budget, unless made necessary by unforeseen or unanticipated emergencies and recommended by the County Administrator.

In this instance, consistent with County Code, I support the department's request to change it the department's Authorized Strength by adding an Administrative Assistant to the District Attorney deleting the current Administrative Legal Secretary position.

I am also willing to support the department's to fill the position in an overlapping fashion but only as of June 16, 2016. This will create a temporary increase in the department's Authorized Staffing by adding an Administrative Assistant in addition to the current Administrative Legal Secretary position until the current Legal Secretary retires on July 13, 2016. By not filling the position until June 16th, the duration of the overlap in the positions will be of limited duration (presuming a candidate can be identified and can start work by mid-June). Furthermore, the retiring incumbent possesses institutional knowledge critical to department operations. So, for improving efficiency of department operations, I support the change in Authorized Staffing associated with changing job titles, and for continuity of institutional knowledge in the office, and in light of the short

duration of the request (likely less than 30-days), I support the department's request to change temporarily change the Authorized Strength to allow for job shadowing.

SUMMARY DISCUSSION:

The current Administrative Legal Secretary has given notice of retirement, effective July 14, 2016, from the District Attorney's office. The Administrative Legal Secretary (Administrative Assistant to the District Attorney) is an essential position to the District Attorney's office to handle all Budgets, all Fiscal duties, and Administrative duties.

In recent years, the actual duties of the Administrative Legal Secretary have evolved from handling a substantial amount of what could be described as traditional legal secretarial work to primarily administrative and budgetary duties for the department. This is, at least partially, due to the advance of technology that has allowed attorneys to perform more of their own work in a word processing environment, and the automation of other standard forms and documents. The current legal secretarial staff (two full-time legal secretaries and one BPAR legal secretary) can, by and large, handle the vast majority of legal secretarial work.

Given the change in actual duties, and given the retirement of the current Administrative Legal Secretary, it is an appropriate time to re-define the job description for what remains a vital position focused on budgetary, fiscal, and administrative duties. The proposed description (attached) should increase the field of potential candidates and result in a strong recruitment.

ALTERNATIVES:

None.

OTHER AGENCY INVOLVEMENT:

None.

FINANCING:

District Attorney General Fund Budget #022400 at 80% and CalOES Victim Witness Grant Budget 620415 at 20%.

APPROVALS	
COUNTY COUNSEL:	AGREEMENTS, CONTRACTS AND ORDINANCES AND CLOSED SESSION AND RELATED ITEMS *(Must be reviewed and approved by county counsel prior to submission to the board clerk.)* Approved: _____ Date _____
AUDITOR/CONTROLLER:	ACCOUNTING/FINANCE AND RELATED ITEMS (*Must be reviewed and approved by the auditor-controller prior to submission to the board clerk.)* Approved: _____ Date _____
PERSONNEL DIRECTOR:	PERSONNEL AND RELATED ITEMS (Must be reviewed and approved by the director of personnel services prior to submission to the board clerk.) Approved: _____ Date 4/7/16

DEPARTMENT HEAD SIGNATURE:
(Not to be signed until all approvals are received) _____ Date: 4/7/16

INYO COUNTY
PERSONNEL SERVICES
P. O. BOX 249
INDEPENDENCE, CA 93526

(760) 878-0377
FAX (760) 878-0465

AN EQUAL OPPORTUNITY EMPLOYER
(WOMEN, MINORITIES, AND DISABLED ARE ENCOURAGED TO APPLY)

ANNOUNCES A **CLOSED COUNTYWIDE** RECRUITMENT FOR:

ASSISTANT TO THE DISTRICT ATTORNEY

Application Deadline:

DEPARTMENT: District Attorney
LOCATION: Countywide
SALARY: Range 70 $4391 $4613 $4840 $5086 $5341**

****BENEFITS:** CalPERS Retirement System (2% at 55) – employee contribution of 7% paid by Inyo County (EPMC reported as wages). Medical Plan – Inyo County pays a portion of monthly premium for employee and dependent on PERS Choice plan; 100% of employee and dependent monthly premium paid for dental and vision; $20,000 term life insurance policy on employee. Vacation – 10 days per year during the first three years; 15 days per year after three years; 1 additional day for each year of service after ten years to a maximum of 25 days per year. Sick leave – 15 days per year. Flex (personal days) – 5 days per fiscal year. Paid holidays – 11 per year.

DEFINITION: To prepare and monitor the budget and to perform and supervise the fiscal operations for the District Attorney's Office; to perform designated administrative services, and conduct research and analysis and/or other specialized projects/programs. Assist the District Attorney with department budget preparation, analysis, and review; may participate in the formulation and implementation of departmental fiscal policies and procedures; to serve as the liaison between the District Attorney's Office and outside organizations/agencies, vendors, community organizations, other County departments/divisions, and the public; to supervise clerical staff, and to function as a positive and productive team member.

DISTINGUISHING CHARACTERISTICS: This is a professional position responsible for a broad range of administrative management functions for the District Attorney and the District Attorney's Office, including, but not limited to, implementing and maintaining the budget process and fiscal recordkeeping and reporting operations. The Assistant to the District Attorney oversees and participates in the day-to-day fiscal/accounting operations and budget preparation/monitoring activities; assists the District Attorney with Department-wide budget preparation, analysis, and review; serves as the liaison for the District Attorney's Office; supervises assigned clerical and/or technical employees in the implementation of budget processing, accounting financial reporting, contract monitoring, specialized programmatic activities, and/or other related services and functions.

EXAMPLES OF ESSENTIAL DUTIES: Duties may include, but are not limited to, the following: Performs a wide variety of complex, responsible, and confidential secretarial and administrative support duties for the District Attorney and Assistant District Attorney.

Prepares, reviews, and monitors budget(s); coordinates data collection; assists in the preparation of final budget presentation with justifications; coordinates and participates in the ongoing budget monitoring process informing the District Attorney of budget status and adjusts as necessary and as assigned.

Performs designated administrative services, which may include contract/grant preparation and monitoring, and office management; maintains data, records, and documentation on manual and electronic information systems; conducts a variety of administrative, productivity, and efficiency studies related to budget process, performance audits, management reviews, and administrative analyses of operational systems and procedures. Assists the District Attorney with the development of administrative policies and procedures related to area(s) of responsibility; conducts research and analyses on a variety of issues and topics. Monitors, researches, reviews, and analyzes existing and new legislation and examines its effect on the District Attorney's Office operations; makes recommendations and provides alternatives consistent with legislative guidelines and requirements.

Assists and maintains department fiscal operations; tracks and monitors expenditures and revenues, approves payments, verifies payroll data, and produces financial reports. Participates in the administration and monitoring of contracts and grants; verifies payments and ensures appropriate approvals are documented; monitors fiscal obligations of assigned contracts and escalates issues to appropriate resources; prepares a wide variety of correspondence, reports, legal documents, agreements, financial spreadsheets, charts, graphs, public relations/media distributions, and possible county Board of Supervisor presentations; responds to questionnaires, audits and surveys; establishes and maintains documentation and records as appropriate.

Independently responds to letters and general correspondence of a routine nature and prepares more sensitive correspondence from notes and general direction, as appropriate; proofreads written documents originating from the District Attorney's Office for grammatical and technical accuracy.

Plans, prioritizes, assigns, supervises, evaluates, and reviews the work of assigned clerical and/or technical staff; provides and/or coordinates administrative and clerical staff training; provides recommendations on hiring and other personnel actions as necessary and upon request.

Conducts research and prepares correspondence, reports, and studies related to assigned administrative functions as necessary and upon request.

Answers questions and provides information to the public; investigates complaints and recommends corrective action as necessary.

Performs a variety of administrative tasks to support the District Attorney's Office operations and/or programs; verifies and prepares requisitions, payment authorizations, and prepares necessary payment requests.

Screens the District Attorney's calls, visitors, and mail; responds to requests for information; identifies which matters require personal attention by the District Attorney or Assistant District Attorney, interprets and explains County policies, rules, and regulations in response to inquiries; refers inquiries to appropriate resources as necessary.

Coordinates and makes travel arrangements for the District Attorney, Assistant District Attorney or other personnel as assigned. Maintains appointment schedules and calendars; tracks due dates and follows up as necessary; arranges meetings and conferences.

Represents the District Attorney's Office to the public as well as other County departments, employees and managers, and at designed meetings, workshops and/or task forces as necessary, in a positive and productive manner; serves as a positive and effective team member.

Performs related duties as assigned.

EMPLOYMENT STANDARDS

Experience/Training: High school graduate or equivalent with a minimum of seven years of responsible general clerical experience including administrative and fiscal duties within a governmental operation. Supervisory and Legal experience preferred.

Knowledge of: Standard and accepted principles and methods of public and business administration with special reference to organization, fiscal budget, staffing, and recordkeeping; standard and accepted principles of government budget process and financial reporting tools; standard and accepted uses and applications of statistics, including calculation of mean and median; standard and accepted research techniques, including the use of surveys and questionnaires; basic principles and techniques of administrative analysis, including workload measurement, workflow and layout, work simplification and systems and procedure analysis; basic principles and practices of County-wide operations organization; relevant computerized systems and software, including word processing, spreadsheet, presentation, and database applications; basic principles and practices of public finance, budgeting, and fiscal control, as well as supervision, training, and performance management; standard and accepted office practices, procedures, and equipment.

Skill to: Organize and coordinate an administrative services program within the District Attorney's Office; on a continuous basis, read, analyze, evaluate and summarize written materials and statistical data including reports, financial reports, and budgets; determine effective method of research, compile data and present in form most likely to enhance understanding; interpret and evaluate staff reports; know pertinent laws, regulations and codes; observe performance and evaluate staff; problem solve issues related to assigned functions; remember various rules and interpret policy; administer policies,

guidelines, and procedures in an effective manner; perform complex mathematical and statistical calculations accurately; analyze problems, identify alternative solutions, project consequences of proposed actions, and implement recommendations in support of goals; communicate clearly and concisely in both oral and written forms; gain cooperation through discussion and persuasion; interpret and apply administrative and departmental policies, procedures, and regulations; operate and utilize a variety of office equipment including computer hardware and software as assigned; plan, organize and schedule priorities for self and others in an effective and timely manner; compile and maintain complex and extensive records and prepare routine reports.

Typical Physical Requirements: Sitting for extended periods of time daily; standing and walking short distances. Minimal twisting, bending, stooping, and lifting in the performance of assigned duties. Normal manual dexterity and eye-hand coordination required. Repeated hand-wrist movement required. Corrected vision to normal range; normal hearing and talking is required for verbal communications. Ability to use a variety of office equipment and machines; occasionally run errands; lift light weight. Good memory and recall is necessary for accurate and timely transfer of data/information.

Typical Working Conditions: Most assigned work is normally performed in an office environment. Continuous contact with departmental and County staff, management, general public, individuals, and other outside organizations. Some travel may be required.

Special requirements: Must possess or obtain by appointment date a valid operator's license issued by the California Department of Motor Vehicles; must successfully complete pre-employment background check and physical examination.

SELECTION: Selection procedures will be determined by the number and qualifications of applicants and may include a qualification screening, written examination, computer skills exercise, and oral examination.

APPLICATION: Applications **must be received** in the Personnel Office, P.O. Box 249, Independence, CA 93526, no later than 5:00 p.m. on ------(postmarks not accepted). Must apply on Inyo County application form. A cover letter and/or resume will be accepted in addition to the application form but will not serve as a substitute for a completed application. **It is not acceptable to complete the application with statements like "See/Refer to Resume" or "See Attached".** Incomplete applications will not be processed. Applications may be faxed to meet the deadline—original application with original signature must be mailed.

The County of Inyo has work sites located throughout the Owens Valley (Independence, Bishop, Lone Pine, Big Pine, and Olancha) and the Death Valley area (Death Valley, Tecopa, and Shoshone). Positions are assigned to a work site based upon the needs of the County. Positions may be temporarily or permanently reassigned to another work site as deemed necessary by the Department Head and/or County Administration.

REASONABLE ACCOMMODATION FOR INDIVIDUALS WITH QUALIFYING DISABILITIES: Inyo County will make reasonable efforts in the examination process on a case-by-case basis to accommodate persons with disabilities. If you have special needs, please contact (760) 878-0377 prior to the examination process.

CITIZENSHIP/IMMIGRATION STATUS: Inyo County employs only U.S. citizens and lawfully authorized non-citizens in accordance with the Immigration Reform and Control Act of 1986.

For Clerk's Use Only:
AGENDA NUMBER

13

AGENDA REQUEST FORM
BOARD OF SUPERVISORS
COUNTY OF INYO

☐ Consent ■ Departmental ☐ Correspondence Action ☐ Public Hearing
☐ Scheduled Time for ☐ Closed Session ☐ Informational

FROM: HEALTH & HUMAN SERVICES – IC GOLD/ESAAA

FOR THE BOARD MEETING OF: April 12, 2016

SUBJECT: Request for authorization to hire one B-PAR Food Assistant in the IC GOLD/ESAAA program.

DEPARTMENTAL RECOMMENDATION:

Request your Board find that, consistent with the adopted Authorized Position Review Policy:

1) the availability of funding for this requested position comes from State and Federal funds and the General Fund, as certified by the Health and Human Services Director and concurred with by the County Administrator, and the Auditor-Controller; and
2) where due to the part-time nature of this position it is unlikely that the position could be filled by internal candidates meeting the qualifications for the position, an open recruitment would be appropriate to ensure qualified applicants apply; and
3) approve the hiring of one B-PAR Food Assistant at Range 042PT ($12.26 - $14.91/hr.).

CAO RECOMMENDATION:

SUMMARY DISCUSSION:

The Department recently received a letter of resignation from the Food Assistant at our Lone Pine Senior Program. This position acts as an assistant to the Cook, providing support to all functions of the cook and filling in as the cook during absences. The Lone Pine kitchen produces meals for the Lone Pine and Independence congregate sites, as well as for delivery for communities including Aberdeen, Independence, Olancha/Cartago, Lone Pine/Keeler and southeast Inyo. This vacancy leaves our Lone Pine kitchen with limited resources to provide back up to the primary cook at this very busy site. We are respectfully asking permission to fill this vacant B-Par Food Assistant position in Lone Pine in order to ensure the provision of services and to reduce costs as it relates to overtime, as well as the costs related to sending Bishop staff resources to ensure coverage.

ALTERNATIVES:

The Board could choose not to allow HSS to hire the Food Assistant, which would decrease the ability of the program to ensure adequate kitchen staff coverage, resulting in either increased costs due to overtime and/or to cover the cost for Bishop staff to provide coverage.

OTHER AGENCY INVOLVEMENT:

None

FINANCING:

State and Federal funding, and County General Fund. These positions are budgeted 59% in IC GOLD (056100) and 41% in ESAAA (683000) in the salaries and benefits object codes.

APPROVALS	
COUNTY COUNSEL:	**AGREEMENTS, CONTRACTS AND ORDINANCES AND CLOSED SESSION AND RELATED ITEMS** *(Must be reviewed and approved by County Counsel prior to submission to the Board Clerk.)* Approved: _____ Date:
AUDITOR/CONTROLLER:	**ACCOUNTING/FINANCE AND RELATED ITEMS** *(Must be reviewed and approved by the Auditor/Controller prior to submission to the Board Clerk.)* Approved: _____ Date: 3/28/16
PERSONNEL DIRECTOR:	**PERSONNEL AND RELATED ITEMS** *(Must be reviewed and approved by the Director of Personnel Services prior to submission to the Board Clerk.)* Approved: _____ Date: 3/25/16

DEPARTMENT HEAD SIGNATURE:
(Not to be signed until all approvals are received) _____ Date: 3/30/16

For Clerk's Use Only:
AGENDA NUMBER

14

AGENDA REQUEST FORM
BOARD OF SUPERVISORS
COUNTY OF INYO

☐ Consent ■ Departmental ☐ Correspondence Action
☐ Public Hearing ☐ Scheduled Time for ☐ Closed Session ☐ Informational

FROM: HEALTH & HUMAN SERVICES – Employment and Eligibility

FOR THE BOARD MEETING OF: April 12, 2016

SUBJECT: Request to hire one full time Office Clerk II in the HHS Social Services Eligibility and Employment division.

DEPARTMENTAL RECOMMENDATION:
Request your Board find that, consistent with the adopted Authorized Position Review Policy:

1) the availability of funding for the requested position exists in the Social Services budget, as certified by the Director of Health and Human Services and concurred with by the County Administrator and the Auditor-Controller, and
2) where internal candidates meet the qualifications for the position, the vacancy could possibly be filled through an internal recruitment through the State's California Personnel System, but an open recruitment would be more appropriate to ensure qualified applicants apply; and
3) approve the hiring of one Office Clerk II at Range 50, ($2,749- $3,343).

CAO RECOMMENDATION:

SUMMARY DISCUSSION:
The Department's Employment and Eligibility division has a vacant Office Clerk II position as the person in the position accepted a promotional opportunity in another of our divisions. This position remains critical to the functioning of this division, providing the first point of contact by telephone or in person to individuals applying for a wide range of social services programs. This division has one of the highest volumes of lobby traffic and the Office Clerk position is vital to ensuring that clients are greeted warmly and directed to the correct staff member for assistance. This division provides a wide range of services including, but not limited to MediCal benefits, Cal Fresh benefits, cash assistance through CalWORKs, County Medical Services Program (CMSP) and General Relief. Maintaining our current staffing level helps ensure high quality customer services, as well as ensuring timely and accurate documentation of client records. The Department is respectfully requesting permission to fill the recent vacancy of our Office Clerk II.

ALTERNATIVES:
The Board could choose to not allow HHS to fill this vacancy, which would likely result in increased wait times for consumers, as well as the use of higher paid staff to provide front office coverage during portions of the work day.

OTHER AGENCY INVOLVEMENT:
None

FINANCING:
Federal, State and Social Services Realignment. This position is budgeted 100% in Social Services (055800) in the Salaries and Benefits object codes. No County General funds.

APPROVALS	
COUNTY COUNSEL:	**AGREEMENTS, CONTRACTS AND ORDINANCES AND CLOSED SESSION AND RELATED ITEMS** *(Must be reviewed and approved by County Counsel prior to submission to the Board Clerk.)* Approved: _____ Date:
AUDITOR/CONTROLLER:	**ACCOUNTING/FINANCE AND RELATED ITEMS** *(Must be reviewed and approved by the Auditor/Controller prior to submission to the Board Clerk.)* Approved: 3/28/2016 Date:
PERSONNEL DIRECTOR:	**PERSONNEL AND RELATED ITEMS** *(Must be reviewed and approved by the Director of Personnel Services prior to submission to the Board Clerk.)* Approved: ✓ 3/25/16 Date:

DEPARTMENT HEAD SIGNATURE:
(Not to be signed until all approvals are received) Jean Turnerby mMann Date: 3/30/16

AGENDA REQUEST FORM

BOARD OF SUPERVISORS
COUNTY OF INYO

For Clerk's Use Only:
AGENDA NUMBER
15

☐ Consent ☒ Departmental ☐ Correspondence Action ☐ Public Hearing
☐ Scheduled Time for ☐ Closed Session ☐ Informational

FROM: Health and Human Services/Probation

FOR THE BOARD MEETING OF: April 12, 2016

SUBJECT: Ratify Contract with California Institute of Behavioral Health Solutions (CIBHS) for Moral Reconation Therapy (MRT) facilitator training and implementation support.

DEPARTMENTAL RECOMMENDATION: Request Board:

1) approve and ratify the contract between the County of Inyo and California Institute for Behavioral Health Solutions (CIBHS) for facilitator training and implementation support of MRT in an amount not to exceed $20,000 for the period of April 11, 2016 through April 30, 2017, contingent upon approval of future budgets, and authorize the Chairperson to sign the contract and HIPAA Business Associate Agreement;
2) amend the FY2015-16 Community Health Budget 045200 as follows: increase estimated revenue in Intra County Charges Object Code 4821 by $20,000 and increase appropriation in Professional Services Object Code 5265 by $20,000 (4/5's vote required); and,
3) amend the FY2015-16 Criminal Justice Realignment Budget 023002 as follows: increase estimated revenue in Realignment – 2011 Object Code 4460 by $20,000 and increase appropriation in Internal Charges Object Code 5121 by $20,000 (4/5's vote required).

CAO RECOMMENDATION:

I recommend approving the budget amendment increasing the use of Criminal Justice Realignment Funds. However, I note that the expenditure of these funds is not within the purview of the Community Corrections Partnership, and the CCP Executive Committee does not have jurisdiction to "approved [sic] the proposed use of funds for this project." as stated in the Summary Discussion. Your Board of Supervisors has the sole authority to appropriate Criminal Justice Realignment funds, and it is inappropriate for your Board's department heads to submit requests for expenditure of these funds to the CCP Executive Committee for approval.

Although not affecting this recommendation, I want to use this opportunity to reiterate the current County Policy regarding Criminal Justice Realignment. The following principles were adopted as part of the Fiscal Year 2011-2012 Budget and have been reaffirmed in every subsequent County Budget:

1. Future modifications and amendments to the Community Corrections Plan must be implemented within Criminal Justice Realignment funding constructs; otherwise Criminal Justice Realignment risks becoming, essentially, to some degree an unfunded State mandate that could require your Board of Supervisors to consider taking money away from other County needs.

2. Reject any Community Corrections Plan (4/5^{ths} vote required) that cannot be implemented (e.g., demonstrate adequate budget) with public safety realignment funding provided by the State, or County monies your Board is willing to re-appropriate from other programs.

3. Require County public safety and human services departments to absorb costs associated with implementing public safety realignment within their existing budgets. If we are really talking about changing the way we conduct the business of criminal justice and rehabilitation, and not simply expanding the criminal justice industrial complex, then costs associated with old programming methodologies should give way to new ones. If your Board of Supervisors accepts community corrections plans that simply add layers of new infrastructure instead of re-structuring and re-integrating existing infrastructure, there will never be enough money to fund this endeavor.

4. Continue to utilize a centralized budget (as is again included in the year's Budget) and/or cost centers to manage funds; consider having involved departments submit quarterly billings for pre-approved costs as opposed to simply transferring funds into those departments' budgets.

SUMMARY DISCUSSION: MRT is a successful intervention strategy that has been provided to date by two of our Addictions Counselors as part of the Substance Use Disorders (SUD) program offerings. MRT is a cognitive based treatment strategy that addresses the area of moral reasoning. It is a strategy that is effective with the criminal justice-related population, especially in the jail setting and is used to address the impact of addiction. MRT has been discussed in the Community Corrections Partnership (CCP) and is part of the efforts to reduce recidivism and increase successful re-entry in to the community. While two persons were initially trained in this strategy, one of the counselors has now retired. The CCP has reviewed the initial outcomes of MRT implementation and would like to expand the number of MRT facilitators for both adults and juveniles. The strategy can be used both in the jail and juvenile center setting and also in an outpatient setting. We propose to train an additional ten facilitators from the SUD program and from the Probation Department. This will increase the skill set of employees from probation as well as from the SUD treatment programs. The facilitator training includes a day of training in Trauma MRT. CIBHS will act in the capacity of planning and convening the training to occur April 11-15. CIBHS will also provide implementation support, by way of consultation calls, to reinforce implementation and address challenge. They will further assist in collecting data for outcomes monitoring. This is an opportunity to expand skills through the use of an effective strategy and increase a "shared language" amongst providers. The CCP Executive Committee has approved the proposed use of funds for this project.

The Criminal Justice Realignment Budget 023002 is approved by your Board through the yearly budget process. In FY15/16, your Board approved a total of $371,106 for AB109/CCP approved projects amongst four (4) Departments: Probation, Health and Human Services, Sheriff, and District Attorney. This is a new project proposed by Health And Human Services and the CCP. AB109 monies are held in the Public Safety Realignment Trust and as expended pass through the Criminal Justice Realignment Budget 023002 to reimburse the Departments' individual budget(s). We are respectfully requesting that the Criminal Justice Realignment Budget 023002 and Community Mental Health Budget 045200 be increased by $20,000 to cover the expenditure of this contract.

The request for your Board to ratify the contract comes to you as a result of a procedural error by our Department that resulted in the item not being placed on the agenda at the earlier date of April 5, 2016. We are respectfully requesting that your Board ratify the contract and authorize the

Chairperson to sign the contract and HIPAA Business Associate Agreement in order to ensure that MRT services are available to the fullest extent possible to meet the needs of our community.

ALTERNATIVES: Your Board could deny this contract. We would be unable to expand our pool of facilitators in MRT and therefore be unable to expand the number of settings and populations served by this effective strategy.

OTHER AGENCY INVOLVEMENT: The CCP consists of partners from probation, courts, district attorney's office, law enforcement, education, prevention, behavioral health, social services,Toiyabe, faith community and other interested community members.

FINANCING: As mentioned above, the CCP Executive Committee has approved this project. AB109 monies are held in the Public Safety Realignment Trust 500106 and are passed through the Criminal Justice Realignment Budget 023002 to reimburse the Health and Humans Services - Community Mental Health Budget 045200 as expended. No County General Fund monies will be used.

APPROVALS	
COUNTY COUNSEL:	AGREEMENTS, CONTRACTS AND ORDINANCES AND CLOSED SESSION AND RELATED ITEMS *(Must be reviewed and approved by county counsel prior to submission to the board clerk.)* Approved: Yes Date 04/04/2016
AUDITOR/CONTROLLER:	ACCOUNTING/FINANCE AND RELATED ITEMS (*Must be reviewed and approved by the auditor-controller prior to submission to the board clerk.)* Approved: Yes Date 4/7/16
PERSONNEL DIRECTOR:	PERSONNEL AND RELATED ITEMS (Must be reviewed and approved by the director of personnel services prior to submission to the board clerk.) Approved: _____ Date _____

DEPARTMENT HEAD SIGNATURE:
(Not to be signed until all approvals are received) Joan Turner Date: 4-7-16

DEPARTMENT HEAD SIGNATURE:
(Not to be signed until all approvals are received) Cary Shepherd Date: 4-7-16

DEPARTMENT HEAD SIGNATURE:
(Not to be signed until all approvals are received) [signature] Date: 4/7/16

BUDGET OFFICER SIGNATURE:
(Not to be signed until all approvals are received) [signature] Date: 04-06-2016

COUNTY ADMINISTRATIVE OFFICER SIGNATURE:
(Not to be signed until all approvals are received) [signature] Date: 04-06-2016

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0001661
SO-1118

AGREEMENT BETWEEN COUNTY OF INYO
AND California Institute of Behavioral Health Solutions
FOR THE PROVISION OF Moral Reconation Therapy (MRT) Facilitator Training **SERVICES**

INTRODUCTION

WHEREAS, the County of Inyo (hereinafter referred to as "County") may have the need for the facilitator training and support services of California Institute of Behavioral Health Solutions of Sacramento, CA (hereinafter referred to as "Contractor"), and in consideration of the mutual promises, covenants, terms, and conditions hereinafter contained, the parties hereby agree as follows:

TERMS AND CONDITIONS

1. SCOPE OF WORK.

The Contractor shall furnish to the County, upon its request, those services and work set forth in Attachment **A**, attached hereto and by reference incorporated herein. Requests by the County to the Contractor to perform under this Agreement will be made by Jeff Thomson, whose title is: Chief Probation Officer. Requests to the Contractor for work or services to be performed under this Agreement will be based upon the County's need for such services. The County makes no guarantee or warranty, of any nature, that any minimum level or amount of services or work will be requested of the Contractor by the County under this Agreement. County by this Agreement incurs no obligation or requirement to request from Contractor the performance of any services or work at all, even if County should have some need for such services or work during the term of this Agreement.

Services and work provided by the Contractor at the County's request under this Agreement will be performed in a manner consistent with the requirements and standards established by applicable federal, state, and County laws, ordinances, regulations, and resolutions. Such laws, ordinances, regulations, and resolutions include, but are not limited to, those which are referred to in this Agreement.

2. TERM.

The term of this Agreement shall be from April 11, 2016 to April 30,2017 unless sooner terminated as provided below.

3. CONSIDERATION.

A. Compensation. County shall pay to Contractor in accordance with the Schedule of Fees (set forth as Attachment **B**) for the services and work described in Attachment **A** which are performed by Contractor at the County's request.

B. Travel and per diem. Contractor will not be paid or reimbursed for travel expenses or per diem which Contractor incurs in providing services and work requested by County under this Agreement.

C. No additional consideration. Except as expressly provided in this Agreement, Contractor shall not be entitled to, nor receive, from County, any additional consideration, compensation, salary, wages, or other type of remuneration for services rendered under this Agreement. Specifically, Contractor shall not be entitled, by virtue of this Agreement, to consideration in the form of overtime, health insurance benefits, retirement benefits, disability retirement benefits, sick leave, vacation time, paid holidays, or other paid leaves of absence of any type or kind whatsoever.

D. Limit upon amount payable under Agreement. The total sum of all payments made by the County to Contractor for services and work performed under this Agreement shall not exceed twenty thousand ($20,000.00) Dollars (hereinafter referred to as "contract limit"). County expressly reserves the right to deny any payment or reimbursement requested by Contractor for services or work performed which is in excess of the contract limit.

E. Billing and payment. Contractor shall submit to the County, once a month, an itemized statement of all services and work described in Attachment **A**, which were done at the County's request. This statement will be submitted to the County not later than the fifth (5th) day of the month. The statement to be submitted will cover the period from the first (1st) day of the preceding month through and including the last day of the preceding month. This statement will identify the date on which the services and work were performed and describe the nature of the services and work which were performed on each day. Upon timely receipt of the statement by the fifth (5th) day of the month, County shall make payment to Contractor on the last day of the month.

F. Federal and State taxes.

(1) Except as provided in subparagraph (2) below, County will not withhold any federal or state income taxes or social security from any payments made by County to Contractor under the terms and conditions of this Agreement.

(2) County will withhold California State income taxes from payments made under this Agreement to non-California resident independent contractors when it is anticipated that total annual payments to Contractor under this Agreement will exceed one thousand four hundred ninety nine dollars ($1,499.00).

(3) Except as set forth above, County has no obligation to withhold any taxes or payments from sums paid by County to Contractor under this Agreement. Payment of all taxes and other assessments on such sums is the sole responsibility of Contractor. County has no responsibility or liability for payment of Contractor's taxes or assessments.

(4) The total amounts paid by County to Contractor, and taxes withheld from payments to non-California residents, if any, will be reported annually to the Internal Revenue Service and the California State Franchise Tax Board. To facilitate this reporting, Contractor shall complete and submit to the County an Internal Revenue Service (IRS) Form W-9 upon executing this Agreement.

4. WORK SCHEDULE.

Contractor's obligation is to perform, in a timely manner, those services and work identified in Attachment **A** which are requested by the County. It is understood by Contractor that the performance of these services and work will require a varied schedule. Contractor will arrange his/her own schedule, but will coordinate with County to ensure that all services and work requested by County under this Agreement will be performed within the time frame set forth by County.

5. REQUIRED LICENSES, CERTIFICATES, AND PERMITS.

A. Any licenses, certificates, or permits required by the federal, state, county, municipal governments, for contractor to provide the services and work described in Attachment A must be procured by Contractor and be valid at the time Contractor enters into this Agreement or as otherwise may be required. Further, during the term of this Agreement, Contractor must maintain such licenses, certificates, and permits in full force and effect. Licenses, certificates, and permits may include, but are not limited to, driver's licenses,

professional licensesor certificates, and business licenses. Such licenses, certificates, and permits will be procured and maintained in force by Contractor at no expense to the County. Contractor will provide County, upon execution of this Agreement, with evidence of current and valid licenses, certificates and permits which are required to perform the services identified in Attachment A. Where there is a dispute between Contractor and County as to what licenses, certificates, and permits are required to perform the services identified in Attachment A, County reserves the right to make such determinations for purposes of this Agreement.

B. Contractor warrants that it is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in covered transactions by any federal department or agency. Contractor also warrants that it is not suspended or debarred from receiving federal funds as listed in the List of Parties Excluded from Federal Procurement or Non-procurement Programs issued by the General Services Administration available at: http://www.sam.gov.

6. OFFICE SPACE, SUPPLIES, EQUIPMENT, ETC.

Contractor shall provide such office space, supplies, equipment, vehicles, reference materials, and telephone service as is necessary for Contractor to provide the services identified in Attachment A to this Agreement. County is not obligated to reimburse or pay Contractor, for any expense or cost incurred by Contractor in procuring or maintaining such items. Responsibility for the costs and expenses incurred by Contractor in providing and maintaining such items is the sole responsibility and obligation of Contractor.

7. COUNTY PROPERTY.

A. Personal Property of County. Any personal property such as, but not limited to, protective or safety devices, badges, identification cards, keys, etc. provided to Contractor by County pursuant to this Agreement are, and at the termination of this Agreement remain, the sole and exclusive property of County. Contractor will use reasonable care to protect, safeguard and maintain such items while they are in Contractor's possession. Contractor will be financially responsible for any loss or damage to such items, partial or total, which is the result of Contractor's negligence.

B. Products of Contractor's Work and Services. Any and all compositions, publications, plans, designs, specifications, blueprints, maps, formulas, processes, photographs, slides, video tapes, computer programs, computer disks, computer tapes, memory chips, soundtracks, audio recordings, films, audio-visual presentations, exhibits, reports, studies, works of art, inventions, patents, trademarks, copyrights, or intellectual properties of any kind which are created, produced, assembled, compiled by, or are the result, product, or manifestation of, Contractor's services or work under this Agreement are, and at the termination of this Agreement remain, the sole and exclusive property of the County. At the termination of the Agreement, Contractor will convey possession and title to all such properties to County.

8. WORKERS' COMPENSATION.

Contractor shall provide Statutory California Worker's Compensation coverage and Employer's Liability coverage for not less than $1,000,000 per occurrence for all employees engaged in services or operations under this Agreement. The County of Inyo, its agents, officers and employees shall be named as additional insured or a waiver of subrogation shall be provided.

9. INSURANCE.

For the duration of this Agreement Contractor shall procure and maintain insurance of the scope and amount specified in Attachment C and with the provisions specified in that attachment.

10. STATUS OF CONTRACTOR.

All acts of Contractor, its agents, officers, and employees, relating to the performance of this Agreement, shall be performed as independent contractors, and not as agents, officers, or employees of County. Contractor, by virtue of this Agreement, has no authority to bind or incur any obligation on behalf of County. Except as expressly provided in Attachment **A**, Contractor has no authority or responsibility to exercise any rights or power vested in the County. No agent, officer, or employee of the Contractor is to be considered an employee of County. It is understood by both Contractor and County that this Agreement shall not under any circumstances be construed or considered to create an employer-employee relationship or a joint venture. As an independent contractor:

A. Contractor shall determine the method, details, and means of performing the work and services to be provided by Contractor under this Agreement.

B. Contractor shall be responsible to County only for the requirements and results specified in this Agreement, and except as expressly provided in this Agreement, shall not be subjected to County's control with respect to the physical action or activities of Contractor in fulfillment of this Agreement.

C. Contractor, its agents, officers, and employees are, and at all times during the term of this Agreement shall, represent and conduct themselves as independent contractors, and not as employees of County.

11. DEFENSE AND INDEMNIFICATION.

Contractor shall defend, indemnify, and hold harmless County, its agents, officers, and employees from and against all claims, damages, losses, judgments, liabilities, expenses, and other costs, including litigation costs and attorney's fees, arising out of, resulting from, or in connection with, the performance of this Agreement by Contractor, or Contractor's agents, officers, or employees. Contractor's obligation to defend, indemnify, and hold the County, its agents, officers, and employees harmless applies to any actual or alleged personal injury, death, or damage or destruction to tangible or intangible property, including the loss of use. Contractor's obligation under this paragraph extends to any claim, damage, loss, liability, expense, or other costs which is caused in whole or in part by any act or omission of the Contractor, its agents, employees, supplier, or any one directly or indirectly employed by any of them, or anyone for whose acts or omissions any of them may be liable.

Contractor's obligation to defend, indemnify, and hold the County, its agents, officers, and employees harmless under the provisions of this paragraph is not limited to, or restricted by, any requirement in this Agreement for Contractor to procure and maintain a policy of insurance.

To the extent permitted by law, County shall defend, indemnify, and hold harmless Contractor, its agents, officers, and employees from and against all claims, damages, losses, judgments, liabilities, expenses, and other costs, including litigation costs and attorney's fees, arising out of, or resulting from, the active negligence, or wrongful acts of County, its officers, or employees.

12. RECORDS AND AUDIT.

A. Records. Contractor shall prepare and maintain all records required by the various provisions of this Agreement, federal, state, county, municipal, ordinances, regulations, and directions. Contractor shall maintain these records for a minimum of four (4) years from the termination or completion of this Agreement. Contractor may fulfill its obligation to maintain records as required by this paragraph by substitute photographs, microphotographs, or other authentic reproduction of such records.

B. Inspections and Audits. Any authorized representative of County shall have access to any books, documents, papers, records, including, but not limited to, financial records of Contractor, which County determines to be pertinent to this Agreement, for the purposes of making audit, evaluation, examination, excerpts, and transcripts during the period such records are to be maintained by Contractor. Further, County has the right, at all reasonable times, to audit, inspect, or otherwise evaluate the work performed or being performed under this Agreement.

13. NONDISCRIMINATION.

During the performance of this Agreement, Contractor, its agents, officers, and employees shall not unlawfully discriminate in violation of any federal, state, or local law, against any employee, or applicant for employment, or person receiving services under this Agreement, because of race, religion, color, national origin, ancestry, physical handicap, medical condition, marital status, age, or sex. Contractor and its agents, officers, and employees shall comply with the provisions of the Fair Employment and Housing Act (Government Code section 12900, et seq.), and the applicable regulations promulgated thereunder in the California Code of Regulations. Contractor shall also abide by the Federal Civil Rights Act of 1964 (P.L. 88-352) and all amendments thereto, and all administrative rules and regulations issued pursuant to said act.

14. CANCELLATION.

This Agreement may be canceled by County without cause, and at will, for any reason by giving to Contractor thirty (30) days written notice of such intent to cancel. Contractor may cancel this Agreement without cause, and at will, for any reason whatsoever by giving thirty (30) days written notice of such intent to cancel to County.

15. ASSIGNMENT.

This is an agreement for the services of Contractor. County has relied upon the skills, knowledge, experience, and training of Contractor as an inducement to enter into this Agreement. Contractor shall not assign or subcontract this Agreement, or any part of it, without the express written consent of County. Further, Contractor shall not assign any monies due or to become due under this Agreement without the prior written consent of County.

16. DEFAULT.

If the Contractor abandons the work, or fails to proceed with the work and services requested by County in a timely manner, or fails in any way as required to conduct the work and services as required by County, County may declare the Contractor in default and terminate this Agreement upon five (5) days written notice to Contractor. Upon such termination by default, County will pay to Contractor all amounts owing to Contractor for services and work satisfactorily performed to the date of termination.

17. WAIVER OF DEFAULT.

Waiver of any default by either party to this Agreement shall not be deemed to be waiver of any subsequent default. Waiver or breach of any provision of this Agreement shall not be deemed to be a waiver of any other or subsequent breach, and shall not be construed to be a modification of the terms of this Agreement unless this Agreement is modified as provided in paragraph twenty-four (24) below.

18. CONFIDENTIALITY.

Contractor further agrees to comply with the various provisions of the federal, state, and county laws, regulations, and ordinances providing that information and records kept, maintained, or accessible by

Contractor in the course of providing services and work under this Agreement, shall be privileged, restricted, or confidential. Contractor agrees to keep confidential all such information and records. Disclosure of such confidential, privileged, or protected information shall be made by Contractor only with the express written consent of the County. Any disclosure of confidential information by Contractor without the County's written consent is solely and exclusively the legal responsibility of Contractor in all respects.

Notwithstanding anything in the Agreement to the contrary, names of persons receiving public social services are confidential and are to be protected from unauthorized disclosure in accordance with Title 45, Code of Federal Regulations Section 205.50, the Health Insurance Portability and Accountability Act of 1996, and Sections 10850 and 14100.2 of the Welfare and Institutions Code, and regulations adopted pursuant thereto. For the purpose of this Agreement, all information, records, and data elements pertaining to beneficiaries shall be protected by the provider from unauthorized disclosure.

19. CONFLICTS.

Contractor agrees that it has no interest, and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of the work and services under this Agreement.

20. POST AGREEMENT COVENANT.

Contractor agrees not to use any confidential, protected, or privileged information which is gained from the County in the course of providing services and work under this Agreement, for any personal benefit, gain, or enhancement. Further, Contractor agrees for a period of two years after the termination of this Agreement, not to seek or accept any employment with any entity, association, corporation, or person who, during the term of this Agreement, has had an adverse or conflicting interest with the County, or who has been an adverse party in litigation with the County, and concerning such, Contractor by virtue of this Agreement has gained access to the County's confidential, privileged, protected, or proprietary information.

21. SEVERABILITY.

If any portion of this Agreement or application thereof to any person or circumstance shall be declared invalid by a court of competent jurisdiction, or if it is found in contravention of any federal, state, or county statute, ordinance, or regulation, the remaining provisions of this Agreement, or the application thereof, shall not be invalidated thereby, and shall remain in full force and effect to the extent that the provisions of this Agreement are severable.

22. FUNDING LIMITATION.

The ability of County to enter this Agreement is based upon available funding from various sources. In the event that such funding fails, is reduced, or is modified, from one or more sources, County has the option to cancel, reduce, or modify this Agreement, or any of its terms within ten (10) days of its notifying Contractor of the cancellation, reduction, or modification of available funding. Any reduction or modification of this Agreement made pursuant to this provision must comply with the requirements of paragraph twenty-four (24) (Amendment).

23. AMENDMENT.

This Agreement may be modified, amended, changed, added to, or subtracted from, by the mutual consent of the parties hereto, if such amendment or change is in written form and executed with the same formalities as this Agreement, and attached to the original Agreement to maintain continuity.

24. NOTICE.

Any notice, communication, amendments, additions, or deletions to this Agreement, including change of address of either party during the terms of this Agreement, which Contractor or County shall be required, or may desire, to make, shall be in writing and may be personally served, or sent by prepaid first class mail to, the respective parties as follows:

County of Inyo
Probation — Department
P.O. Drawer T — Street
Independence, CA 93526 — City and State

Contractor:
California Inst.of Behavioral Health Solutions — Name
2125 19th Street, 2nd floor — Street
Sacramento, CA 95818 — City and State

25. ENTIRE AGREEMENT.

This Agreement contains the entire agreement of the parties, and no representations, inducements, promises, or agreements otherwise between the parties not embodied herein or incorporated herein by reference, shall be of any force or effect. Further, no term or provision hereof may be changed, waived, discharged, or terminated, unless the same be in writing executed by the parties hereto.

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AGREEMENT BETWEEN COUNTY OF INYO

AND California Institute of Behavioral Health Solutions

FOR THE PROVISION OF MRT Facilitator Training **SERVICES**

IN WITNESS THEREOF, THE PARTIES HERETO HAVE SET THEIR HANDS AND SEALS THIS _____ DAY OF _____, _____.

COUNTY OF INYO

By: _____

Dated: _____

CONTRACTOR

By: _____
Signature

Sandra Naylor Goodwin, PhD, MSW, President & CEO
Print or Type Name

Dated: 3.29.16

APPROVED AS TO FORM AND LEGALITY:

County Counsel

_____

APPROVED AS TO ACCOUNTING FORM:

_____
County Auditor

APPROVED AS TO PERSONNEL REQUIREMENTS:

_____
Personnel Services

APPROVED AS TO INSURANCE REQUIREMENTS:

_____
County Risk Manager

AGREEMENT BETWEEN COUNTY OF INYO

AND California Institute of Behavioral Health Solutions
FOR THE PROVISION OF MRT Facilitator Training **SERVICES**

IN WITNESS THEREOF, THE PARTIES HERETO HAVE SET THEIR HANDS AND SEALS THIS _____ DAY OF _____, _____.

COUNTY OF INYO

By: _____

Dated: _____

CONTRACTOR

By: _____
Signature

Sandra Naylor Goodwin, PhD, MSW, President & CEO
Print or Type Name

Dated: 3.29.16

APPROVED AS TO FORM AND LEGALITY:

County Counsel

_____

APPROVED AS TO ACCOUNTING FORM:

_____
County Auditor

APPROVED AS TO PERSONNEL REQUIREMENTS:

_____
Personnel Services

APPROVED AS TO INSURANCE REQUIREMENTS:

_____
County Risk Manager

AGREEMENT BETWEEN COUNTY OF INYO

AND California Institute of Behavioral Health Solutions
FOR THE PROVISION OF MRT Facilitator Training **SERVICES**

IN WITNESS THEREOF, THE PARTIES HERETO HAVE SET THEIR HANDS AND SEALS THIS _____ DAY OF _____, _____.

COUNTY OF INYO

By: _____

Dated: _____

CONTRACTOR

By: _____
Signature

Sandra Naylor Goodwin, PhD, MSW, President & CEO
Print or Type Name

Dated: 3-29-16

APPROVED AS TO FORM AND LEGALITY:

County Counsel

APPROVED AS TO ACCOUNTING FORM:

County Auditor

APPROVED AS TO PERSONNEL REQUIREMENTS:

Personnel Services

APPROVED AS TO INSURANCE REQUIREMENTS:

County Risk Manager

ATTACHMENT A

AGREEMENT BETWEEN COUNTY OF INYO
California Institute of Behavioral Health Solutions

AND _____

MRT Facilitator Training

FOR THE PROVISION OF _____ **SERVICES**

TERM:

FROM: April 11, 2016 **TO:** April 30, 2017

SCOPE OF WORK:

Organize and Convene four (4) day MRT Facilitator Training and a one (1) day Trauma MRT Facilitator Training and provide Implementation Support.

Deliverable Timeline Costs
Coordinate and Convene a four(4) day MRT facilitator Training and a one (1) day MRT Trauma Training for a minimum of ten (10) Inyo county Participants
April 30, 2016

CIBHS will provide a series of 5-6 supervisor consultation calls to monitor MRT implementation, address challenges and data collection progress May through December 2016
CIBHS will provide data collection measures to Inyo County , will provide data analysis and submit one written implementation data evaluation report December 2016
CIBHS will purchase 50 workbooks for group implementation June 2016
Add 10% administrative fee to each deliverable Ongoing

ATTACHMENT B

AGREEMENT BETWEEN COUNTY OF INYO
California Institute of Behavioral Health Solutions

AND _____
MRT Facilitator Training

FOR THE PROVISION OF _____ **SERVICES**

TERM:

FROM: April 11,2016 **TO:** April 30, 2017

SCHEDULE OF FEES:

Organize and Convene four (4) day MRT Facilitator Training and a one (1) day Trauma MRT Facilitator Training and provide Implementation Support

Estimated Budget:

Training
MRT training: Correctional Counseling Institute (CCI) Trainer/ Consultant costs. 10 participants
Trauma MRT: Correctional Counseling Institute (CCI) Trainer/Consultant costs. 10 Participants
Total Training costs: $10,431.82

Implementation Support
Consultation Calls PM Support - 5-6 consultation calls(monthly) with supervisors to monitor implementation, address challenges and data collection, $1,500.00
Outcome Measures and Evaluation $5,000.00
Workbook Purchase for participants - 50 workbooks -$1,250.00
Total Implementation Support costs: $7,750.00

Subtotal $18,181.82
Administrative costs @ 10% $1,818.182
TOTAL: $20,000.00

ATTACHMENT C

AGREEMENT BETWEEN COUNTY OF INYO

AND California Institute of Behavioral Health Solutions

FOR THE PROVISION OF MRT Facilitator Taining **SERVICES**

TERM:

FROM: April 11, 2016 **TO:** April 30, 2017

SEE ATTACHED INSURANCE PROVISIONS

COUNTY OF INYO
HIPAA BUSINESS ASSOCIATE AGREEMENT

This Business Associate Agreement ("Agreement") is made by and between the Inyo County Health and Human Services Behavioral Health Division, referred to herein as Covered Entity ("CE"), and CIBHS, referred to herein as Business Associate ("BA"). This Agreement is effective as of _____, (the "Agreement Effective Date").

RECITALS

CE wishes to disclose certain information to BA pursuant to the terms of the contract between BA and the California Institute of Mental Health ("CIMH"), herein referred to as ("Contract"), some of which may constitute Protected Health Information ("PHI") defined below.

CE and BA intend to protect the privacy and provide for the security of PHI disclosed to BA pursuant to the Contract in compliance with the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191 ("HIPAA"), the Health Information Technology for Economic and Clinical Health Act, Public Law 111-005 ("the HITECH Act"), and regulations promulgated thereunder by the U.S. Department of Health and Human Services (the "HIPAA Regulations") and other applicable laws.

As part of the HIPAA Regulations, the Privacy Rule and the Security Rule (defined below) require CE to enter into a contract containing specific requirements with BA prior to the disclosure of PHI, as set forth in, but not limited to, Title 45, Sections 164.314(a), 164.502(e) and 164.504(e) of the Code of Federal Regulations ("C.F.R.") and contained in this Agreement.

In consideration of the mutual promises below and the exchange of information pursuant to this Agreement, the parties agree as follows:

1. **Definitions**

   a. **Breach** shall have the meaning given to such term under the HITECH Act [42 U.S.C. Section 17921].

   b. **Business Associate** shall have the meaning given to such term under the Privacy Rule, the Security Rule, and the HITECH Act, including but not limited to, 42 U.S.C. Section 17938 and 45 C.F.R. Section 160.103.

   c. **Covered Entity** shall have the meaning given to such term under the Privacy Rule and the Security Rule, including, but not limited to, 45 C.F.R. Section 160.103.

   d. **Data Aggregation** shall have the meaning given to such term under the Privacy Rule, including, but not limited to, 45 C.F.R. Section 164.501.

   e. **Designated Record Set** shall have the meaning given to such term under the Privacy Rule, including, but not limited to, 45 C.F.R. Section 164.501.

   f. **Electronic Protected Health Information** means Protected Health Information that is maintained in or transmitted by electronic media.

g. **Electronic Health Record** shall have the meaning given to such term in the HITECT Act, including, but not limited to, 42 U.S.C. Section 17921.

h. **Health Care Operations** shall have the meaning given to such term under the Privacy Rule, including, but not limited to, 45 C.F.R. Section 164.501.

i. **Privacy Rule** shall mean the HIPAA Regulation that is codified at 45 C.F.R. Parts 160 and 164, Subparts A and E.

j. **Protected Health Information or PHI** means any information, whether oral or recorded in any form or medium: (i) that relates to the past, present or future physical or mental condition of an individual; the provision of health care to an individual; or the past, present or future payment for the provision of health care to an individual; and (ii) that identifies the individual or with respect to which there is a reasonable basis to believe the information can be used to identify the individual, and shall have the meaning given to such term under the Privacy Rule, including, but not limited to, 45 C.F.R. Section 164.501. Protected Health Information includes Electronic Protected Health Information [45 C.F.R. Sections 160.103, 164.501].

k. **Protected Information** shall mean PHI provided by CE to BA or created or received by BA on CE's behalf.

l. **Security Rule** shall mean the HIPAA Regulation that is codified at 45 C.F.R. Parts 160 and 164, Subparts A and C.

m. **Unsecured PHI** shall have the meaning given to such term under the HITECH Act and any guidance issued pursuant to such Act including, but not limited to, 42 U.S.C. Section 17932(h).

2. **Obligations of Business Associate**

a. **Permitted Uses.** BA shall not use Protected Information except for the purpose of performing BA's obligations under the Contract and as permitted under the Contract and Agreement. Further, BA shall not use Protected Information in any manner that would constitute a violation of the Privacy Rule or the HITECH Act if so used by CE. However, BA may use Protected Information (i) for the proper management and administration of BA, (ii) to carry out the legal responsibilities of BA, or (iii) for Data Aggregation purposes for the Health Care Operations of CE [45 C.F.R. Sections 164.504(e)(2)(ii)(A) and 164.504(e)(4)(i)].

b. **Permitted Disclosures.** BA shall not disclose Protected Information except for the purpose of performing BA's obligations under the Contract and as permitted under the Contract and Agreement. BA shall not disclose Protected Information in any manner that would constitute a violation of the Privacy Rule or the HITECH Act if so disclosed by CE. However, BA may disclose Protected Information (i) for the proper management and administration of BA; (ii) to carry out the legal responsibilities of BA; (iii) as required by law; or (iv) for Data Aggregation purposes for the Health Care Operations of CE. If BA discloses Protected Information to a third party, BA must obtain, prior to making any such disclosure, (i) reasonable written assurances from such third party that such Protected Information will be held confidential as provided pursuant to this Agreement and only disclosed as required by law or for the purposes for which was disclosed to such third party, and (ii) a written agreement from such third party to immediately notify BA of any breaches of confidentiality of the Protected Information, to the extent it has obtained knowledge of such breach [42 U.S.C. Section 17932; 45 C.F.R. Sections 164.504(e)(2)(i), 164.504(e)(2)(i)(B), 164.504(e)(2)(ii)(A) and 164.504(e)(4)(ii)].

c. **Prohibited Uses and Disclosures.** BA shall not use or disclose Protected Information for fundraising or marketing purposes. BA shall not disclose Protected Information to a health plan for payment or health care operations purposes if the patient has requested this special restriction, and has paid out of pocket in full for the health care item or service to which the PHI solely relates [42 U.S.C. Section 17935(a)]. BA shall not directly or indirectly receive remuneration in exchange for Protected Information, except with the prior written consent of CE and as permitted by the HITECH Act, 42 U.S.C. section 17935(d)(2); however, this prohibition shall not affect payment by CIMH to BA for services provided pursuant to the Contract.

d. **Appropriate Safeguards.** BA shall implement appropriate safeguards as are necessary to prevent the use or disclosure of Protected Information otherwise than as permitted by the Contract that reasonably and appropriately protect the confidentiality, integrity and availability of the Protected Information, in accordance with 45 C.F.R. Sections 164.308, 164.310, and 164.312. [45 C.F.R. Section 164.504(e)(2)(ii)(B); 45 C.F.R. Section 164.308(b)]. BA shall comply with the policies and procedures and documentation requirements of the HIPAA Security Rule, including, but not limited to, 45 C.F.R. Section 164.316. [42 U.S.C. Section 17931].

e. **Reporting of Improper Access, Use or Disclosure.** BA shall report to CE in writing of any access, use or disclosure of Protected Information not permitted by the Contract and Agreement, and any Breach of Unsecured PHI of which it becomes aware without unreasonable delay and in no case later than ten (10) calendar days after discovery [42 U.S.C. Section 17921; 45 C.F.R. Section 164.504(e)(2)(ii)(C); 45 C.F.R. Section 164.308(b)].

f. **Business Associate's Agents.** BA shall ensure that any agents, including subcontractors, to whom it provides Protected Information, agree in writing to the same restrictions and conditions that apply to BA with respect to such PHI and implement the safeguards required by paragraph c above with respect to Electronic PHI [45 C.F.R. Section 164.504(e)(2)(ii)(D); 45 C.F.R. Section 164.308(b)]. BA shall implement and maintain sanctions against agents and subcontractors that violate such restrictions and conditions and shall mitigate the effects of any such violation (see 45 C.F.R. Sections 164.530(f) and 164.530(e)(1)).

g. **Access to Protected Information.** BA shall make Protected Information maintained by BA or its agents or subcontractors in Designated Record Sets available to CE for inspection and copying within ten (10) days of a request by CE to enable CE to fulfill its obligations under the Privacy Rule, including, but not limited to, 45 C.F.R. Section 164.524 [45 CF.R. Section 164.504(e)(2)(ii)(E)]. If BA maintains an Electronic Health Record, BA shall provide such information in electronic format to enable CE to fulfill its obligations under the HITECH Act, including, but not limited to, 42 U.S.C. Section 17935(e).

h. **Amendment of PHI.** Within ten (10) days of receipt of a request from CE for an amendment of Protected Information or a record about an individual contained in a Designated Record Set, BA or its agents or subcontractors shall make such Protected Information available to CE for amendment and incorporate any such amendment to enable CE to fulfill its obligations under the Privacy Rule, including, but not limited to, 45 C.F.R. Section 164.526. If any individual requests an amendment of Protected Information directly from BA or its agents or subcontractors, BA must notify CE in writing within five (5) days of the request. Any approval or denial of amendment of Protected Information maintained by BA or its agents or subcontractors shall be the responsibility of CE [45 C.F.R. Section 164.504(e)(2)(ii)(F)].

i. **Accounting Rights.** Within ten (10) days of notice by CE of a request for an accounting of disclosures of Protected Information, BA and its agents or subcontractors shall make available to CE the information required to provide an accounting of disclosures to enable CE to fulfill its

obligations under the Privacy Rule, including, but not limited to, 45 C.F.R. Section 164.528, and the HITECH Act, including but not limited to 42 U.S.C. Section 17935(c), as determined by CE. BA agrees to implement a process that allows for an accounting to be collected and maintained by BA and its agents or subcontractors for at least six (6) years prior to the request. However, accounting of disclosures from an Electronic Health Record for treatment, payment or health care operations purposes are required to be collected and maintained for only three (3) years prior to the request, and only to the extent that BA maintains an electronic health record and is subject to this requirement. At a minimum, the information collected and maintained shall include: (i) the date of disclosure; (ii) the name of the entity or person who received Protected Information and, if known, the address of the entity or person; (iii) a brief description of Protected Information disclosed and (iv) a brief statement of purpose of the disclosure that reasonably informs the individual of the basis for the disclosure, or a copy of the individuals' authorization, or a copy of the written request for disclosure. In the event that the request for an accounting is delivered directly to BA or its agents or subcontractors, BA shall within five (5) days of a request forward it to CE in writing. It shall be CE's responsibility to prepare and deliver any such accounting requested. BA shall not disclose any Protected Information except as set forth in Sections 2.b. of this Agreement [45 C.F.R. Sections 164.504(e)(2)(ii)(G) and 165.528].

j. **Governmental Access to Records.** BA shall make its internal practices, books and records relating to the use and disclosure of Protected Information available to CE and to the Secretary of the U.S. Department of Health and Human Services (the "Secretary") for purposes of determining BA's compliance with the Privacy Rule [45 C.F.R. Section 164.504(e)(2)(ii)(H)]. BA shall provide to CE a copy of any Protected Information that BA provides to the Secretary concurrently with providing such Protected Information to the Secretary.

k. **Minimum Necessary.** BA (and its agents or subcontractors) shall request, use and disclose only the minimum amount of Protected Information necessary to accomplish the purpose of the request, use, or disclosure. [42 U.S.C. Section 17935(b); 45 C.F.R. Section 164.514(d)(3)] BA understands and agrees that the definition of "minimum necessary" is in flux and shall keep itself informed of guidance issued by the Secretary with respect to what constitutes "minimum necessary."

l. **Data Ownership.** BA acknowledges that BA has no ownership rights with respect to the Protected Information.

m. **Notification of Breach.** During the term of the Contract, BA shall notify CE within twenty-four (24) hours of any suspected or actual breach of security, intrusion or unauthorized use or disclosure of PHI of which BA becomes aware and/or any actual or suspected use or disclosure of data in violation of any applicable federal or state laws or regulations. BA shall take (i) prompt corrective action to cure any such deficiencies and (ii) any action pertaining to such unauthorized disclosure required by applicable federal and state laws and regulations.

n. **Breach Pattern or Practice by Covered Entity.** Pursuant to 42 U.S.C. Section 17934(b), if the BA knows of a pattern of activity or practice of the CE that constitutes a material breach or violation of the CE's obligations under the Contract or Agreement or other arrangement, the BA must take reasonable steps to cure the breach or end the violation. If the steps are unsuccessful, the BA must terminate the Contract or other arrangement if feasible, or if termination is not feasible, report the problem to the Secretary of DHHS. BA shall provide written notice to CE of any pattern of activity or practice of the CE that BA believes constitutes a material breach or violation of the CE's obligations under the Contract or Agreement or other arrangement within five (5) days of discovery and shall meet with CE to discuss and attempt to resolve the problem as one of the reasonable steps to cure the breach or end the violation.

o. **Audits, Inspection and Enforcement.** Within ten (10) days of a written request by CE, BA and its agents or subcontractors shall allow CE to conduct a reasonable inspection of the facilities, systems, books, records, agreements, policies and procedures relating to the use or disclosure of Protected Information pursuant to this Agreement for the purpose of determining whether BA has complied with this Agreement; provided, however, that (i) BA and CE shall mutually agree in advance upon the scope, timing and location of such an inspection, and (ii) CE shall protect the confidentiality of all confidential and proprietary information of BA to which CE has access during the course of such inspection. The fact that CE inspects, or fails to inspect, or has the right to inspect, BA's facilities, systems, books, records, agreements, policies and procedures does not relieve BA of its responsibility to comply with this Agreement, nor does CE's (i) failure to detect or (ii) detection, but failure to notify BA or require BA's remediation of any unsatisfactory practices, constitute acceptance of such practice or a waiver of CE's enforcement rights under the Contract or Agreement. BA shall notify CE within ten (10) days of learning that BA has become the subject of an audit, compliance review, or complaint investigation by the Office for Civil Rights.

3. **Termination**

a. **Material Breach.** A breach by BA of any provision of this Agreement, as determined by CE, shall constitute a material breach of the Contract and shall provide grounds for immediate termination of the Contract, any provision in the Contract to the contrary notwithstanding. [45 C.F.R. Section 164.504(e)(2)(iii)].

b. **Judicial or Administrative Proceedings.** CE may terminate the Contract, effective immediately, if (i) BA is named as a defendant in a criminal proceeding for a violation of HIPAA, the HITECH Act, the HIPAA Regulations or other security or privacy laws or (ii) a finding or stipulation that the BA has violated any standard or requirement of HIPAA, the HITECH Act, the HIPAA Regulations or other security or privacy laws is made in any administrative or civil proceeding in which the party has been joined.

c. **Effect of Termination.** Upon termination of the Contract for any reason, BA shall, at the option of CE, return or destroy all Protected Information that BA or its agents or subcontractors still maintain in any form, and shall retain no copies of such Protected Information. If return or destruction is not feasible, as determined by CE, BA shall continue to extend the protections of Section 2 of this Agreement to such information, and limit further use of such PHI to those purposes that make the return or destruction of such PHI infeasible. [45 C.F.R. Section 164.504(e)(ii)(2(I)]. If CE elects destruction of the PHI, BA shall certify in writing to CE that such PHI has been destroyed.

4. **Disclaimer**

CE makes no warranty or representation that compliance by BA with this Agreement, HIPAA, the HITECH Act, or the HIPAA Regulations will be adequate or satisfactory for BA's own purposes. BA is solely responsible for all decisions made by BA regarding the safeguarding of PHI.

5. **Amendment**

The parties acknowledge that state and federal laws relating to data security and privacy are rapidly evolving and that amendment of the Contract of Agreement may be required to provide for procedures to ensure compliance with such developments. The parties specifically agree to take such action as is necessary to implement the standards and requirements of HIPAA, the HITECH Act, the Privacy Rule, the Security Rule, and other applicable laws relating to the security or confidentiality of PHI. The parties understand ad agree that CE must receive satisfactory written assurance from BA that BA will adequately

safeguard all Protected Information. Upon the request of either party, the other party agrees to promptly enter into negotiations concerning the terms of an amendment to this Agreement embodying written assurances consistent with the standards and requirements of HIPAA, the HITECH Act, the Privacy Rule, the Security Rule or other applicable laws. CE may terminate the Contract upon thirty (30) days written notice in the event (i) BA does not promptly enter into negotiations to amend the Contract or Agreement when requested by CE pursuant to this Section or (ii) BA does not enter not enter into an amendment to the Contract or Agreement providing assurances regarding the safeguarding of PHI that CE, in its sole discretion, deems sufficient to satisfy the standards and requirements of applicable laws.

6. **Assistance in Litigation of Administrative Proceedings**

BA shall make itself, and any subcontractors, employees or agents assisting BA in the performance of its obligations under the Contract or Agreement, available to CE, at no cost to CE, to testify as witnesses, or otherwise, in the event of litigation or administrative proceedings being commenced against CE, its directors, officers or employees based upon a claimed violation of HIPAA by the BA, the HITECH Act, the Privacy Rule, the Security Rule, or other laws relating to security and privacy, except where BA or its subcontractor, employee or agent is named adverse party.

7. **No Third-Party Beneficiaries**

Nothing express or implied in the Contract or Agreement is intended to confer, nor shall anything herein confer, upon any person other than CE, BA and their respective successors or assigns, any rights, remedies, obligations or liabilities whatsoever.

8. **Effect on Contract**

Except as specifically required to implement the purposes of this Agreement, or to the extent inconsistent with this Agreement, all other terms of the Contract shall remain in full force and effect.

9. **Interpretation**

The provisions of this Agreement shall prevail over any provisions in the Contract that may conflict or appear inconsistent with any provision in this Agreement. This Agreement and the Contract shall be interpreted as broadly as necessary to implement and comply with HIPAA, the HITECH Act, the Privacy Rule and the Security Rule. The parties agree that any ambiguity in this Agreement shall be resolved in favor of a meaning that complies and is consistent with HIPAA, the HITECH Act, the Privacy Rule and the Security Rule.

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement as of the Agreement Effective Date.

COVERED ENTITY

County of Inyo

By: _____

Print Name: Jeff Griffiths

Title: Chair-Inyo County Board of Superv.

Date: April 5, 2016

BUSINESS ASSOCIATE

By: _____

Print Name: Sandra Naylor Goodwin, PhD, MSW

Title: President and CEO

Date: 3-22-16

safeguard all Protected Information. Upon the request of either party, the other party agrees to promptly enter into negotiations concerning the terms of an amendment to this Agreement embodying written assurances consistent with the standards and requirements of HIPAA, the HITECH Act, the Privacy Rule, the Security Rule or other applicable laws. CE may terminate the Contract upon thirty (30) days written notice in the event (i) BA does not promptly enter into negotiations to amend the Contract or Agreement when requested by CE pursuant to this Section or (ii) BA does not enter not enter into an amendment to the Contract or Agreement providing assurances regarding the safeguarding of PHI that CE, in its sole discretion, deems sufficient to satisfy the standards and requirements of applicable laws.

6. **Assistance in Litigation of Administrative Proceedings**

BA shall make itself, and any subcontractors, employees or agents assisting BA in the performance of its obligations under the Contract or Agreement, available to CE, at no cost to CE, to testify as witnesses, or otherwise, in the event of litigation or administrative proceedings being commenced against CE, its directors, officers or employees based upon a claimed violation of HIPAA by the BA, the HITECH Act, the Privacy Rule, the Security Rule, or other laws relating to security and privacy, except where BA or its subcontractor, employee or agent is named adverse party.

7. **No Third-Party Beneficiaries**

Nothing express or implied in the Contract or Agreement is intended to confer, nor shall anything herein confer, upon any person other than CE, BA and their respective successors or assigns, any rights, remedies, obligations or liabilities whatsoever.

8. **Effect on Contract**

Except as specifically required to implement the purposes of this Agreement, or to the extent inconsistent with this Agreement, all other terms of the Contract shall remain in full force and effect.

9. **Interpretation**

The provisions of this Agreement shall prevail over any provisions in the Contract that may conflict or appear inconsistent with any provision in this Agreement. This Agreement and the Contract shall be interpreted as broadly as necessary to implement and comply with HIPAA, the HITECH Act, the Privacy Rule and the Security Rule. The parties agree that any ambiguity in this Agreement shall be resolved in favor of a meaning that complies and is consistent with HIPAA, the HITECH Act, the Privacy Rule and the Security Rule.

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement as of the Agreement Effective Date.

COVERED ENTITY	BUSINESS ASSOCIATE
County of Inyo	
By: _____	By: _____
Print Name: _____	Print Name: Sandra Naylor Goodwin, PhD, MSW
Title: _____	Title: President and CEO
Date: _____	Date: 3.22.14

For Clerk's Use Only:
AGENDA NUMBER

16

AGENDA REQUEST FORM
BOARD OF SUPERVISORS
COUNTY OF INYO

☐ Consent ☒ Departmental ☐ Correspondence Action ☐ Public Hearing

☐ Scheduled Time for ☐ Closed Session ☐ Informational

FROM: Planning Department

FOR THE BOARD MEETING OF: April 12, 2016

SUBJECT: Inyo National Forest Plan Update

RECOMMENDATION: Receive a presentation from staff about coordination with Forest Service staff regarding the Inyo National Forest Plan Update/Revision and provide input.

SUMMARY DISCUSSION: The Inyo National Forest (INF) is drafting an updated INF Plan.[1] The County and the Forest Service have entered into a Memorandum of Understanding designating the County as a Cooperating Agency in developing the Plan, and staff will report on recent activities arising out of its responsibilities in regards thereto. Input from the Board is requested to guide staff in future coordination efforts with Forest Service staff.

OTHER AGENCY INVOLVEMENT: Department of Agriculture, U.S. Forest Service; Mono, Fresno, Madera, and Tuolumne counties; Town of Mammoth Lakes and City of Bishop; other interested persons and organizations.

FINANCING: General fund resources are utilized to monitor planning work in the Forest. Resources for Willdan's assistance with the effort are funded by operating transfer from the Geothermal Royalties fund.

APPROVALS	
COUNTY COUNSEL:	AGREEMENTS, CONTRACTS AND ORDINANCES AND CLOSED SESSION AND RELATED ITEMS *(Must be reviewed and approved by county counsel prior to submission to the board clerk.)*
AUDITOR/CONTROLLER:	ACCOUNTING/FINANCE AND RELATED ITEMS (M*ust be reviewed and approved by the auditor-controller prior to submission to the board clerk.)*
PERSONNEL DIRECTOR:	PERSONNEL AND RELATED ITEMS (Must be reviewed and approved by the director of personnel services prior to submission to the board clerk.)

DEPARTMENT HEAD SIGNATURE:
(Not to be signed until all approvals are received)

Date: 3/25/16

[1] Refer to http://inyoplanning.org/InyoNationalForest.htm for more information about the County's participation in the Plan Update/Revision.

AGENDA REQUEST FORM

BOARD OF SUPERVISORS
COUNTY OF INYO

For Clerk's Use Only:
AGENDA NUMBER
17

☐ Consent ☒ Departmental ☐ Correspondence Action ☐ Public Hearing

☐ Scheduled Time for ☐ Closed Session ☐ Informational

FROM: Inyo County Planning Department

FOR THE BOARD MEETING OF: April 12, 2016

SUBJECT: Bureau of Land Management Planning Rule 2.0

RECOMMENDATION: Review the Bureau of Land Management's Planning Rule 2.0 and provide direction to staff.

SUMMARY DISCUSSION: The Bureau of Land Management (BLM) proposes to update its regulations regarding preparation of land use plans pursuant to the Federal Land Policy and Management Act (FLPMA).[1] The Federal Register Notice for the proposed amendments is attached.[2] The BLM indicates that the proposed Rule will allow it to more readily address certain issues, respond more effectively to environmental and social changes, and make other improvements. The BLM's economic analysis indicates that the proposal would not adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local or tribal governments or communities. It is anticipated that the proposed Rule will be categorically excluded from the requirements of the National Environmental Policy Act.

Staff's preliminary review generally coincides with the BLM's assessment. Staff is presenting the proposed Rule to the Board for its review and input. The due date for input is April 25, 2016, although this may be extended.

ALTERNATIVES: The Board could direct staff to return with draft correspondence for its consideration on April 19 (or another date if the comment period is extended).

OTHER AGENCY INVOLVEMENT: BLM and other agencies participating in BLM's planning.

FINANCING: Resources from the general fund are utilized to monitor BLM's planning activities.

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1 Refer to http://www.blm.gov/flpma/FLPMA.pdf.

2 Refer to http://www.blm.gov/wo/st/en/prog/planning/planning_overview/planning_2_0.html

APPROVALS	
COUNTY COUNSEL:	AGREEMENTS, CONTRACTS AND ORDINANCES AND CLOSED SESSION AND RELATED ITEMS *(Must be reviewed and approved by county counsel prior to submission to the board clerk.)*
AUDITOR/CONTROLLER:	ACCOUNTING/FINANCE AND RELATED ITEMS (*Must be reviewed and approved by the auditor-controller prior to submission to the board clerk.)*
PERSONNEL DIRECTOR:	PERSONNEL AND RELATED ITEMS (Must be reviewed and approved by the director of personnel services prior to submission to the board clerk.)

DEPARTMENT HEAD SIGNATURE:
(Not to be signed until all approvals are received)

Date: 3/25/16

Attachment – Federal Register Notice

FEDERAL REGISTER

Vol. 81 Thursday,

No. 37 February 25, 2016

Part III

Department of the Interior

Bureau of Land Management

43 CFR Part 1600

Resource Management Planning; Proposed Rules

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 1600

[LLWO210000.L1610000]

RIN 1004–AE39

Resource Management Planning

AGENCY: Bureau of Land Management.

ACTION: Proposed rule.

SUMMARY: The Bureau of Land Management (BLM) proposes to amend existing regulations that establish the procedures used to prepare, revise, or amend land use plans pursuant to the Federal Land Policy and Management Act (FLPMA). The proposed rule would enable the BLM to more readily address landscape-scale resource issues, such as wildfire, habitat connectivity, or the demand for renewable and non-renewable energy sources and to respond more effectively to environmental and social changes. The proposed rule would further emphasize the role of science in the planning process and the importance of evaluating the resource, environmental, ecological, social, and economic conditions at the onset of planning. The proposed rule would affirm the important role of other Federal agencies, State and local governments, Indian tribes, and the public during the planning process, and would enhance opportunities for public involvement and transparency during the preparation of resource management plans. Finally, the proposed rule would make revisions to clarify existing text and use plain language to improve the readability of the planning regulations.

DATES: Please submit comments on or before April 25, 2016.

ADDRESSES: You may submit comments by any of the following methods:

Mail: Director (630), Bureau of Land Management, U.S. Department of the Interior, 1849 C Street NW., Room 2134LM, Washington, DC 20240, Attention: 1004–AE39.

Personal or messenger delivery: U.S. Department of the Interior, Bureau of Land Management, 20 M Street SE., Room 2134LM, Attention: Regulatory Affairs, Washington, DC 20003.

Federal eRulemaking Portal: http://www.regulations.gov. Follow the instructions at this Web site.

You may submit comments on the proposed collection of information by fax or electronic mail as follows:

Fax: Office of Management and Budget, Office of Information and Regulatory Affairs, Desk Officer for the Department of the Interior, 202–395–5806.

Electronic mail: oira_submission@omb.eop.gov.

Please indicate "Attention: OMB Control Number 1004–XXXX," regardless of the method used. If you submit comments on the proposed collection of information please provide the BLM with a copy of your comments at one of the addresses shown above.

FOR FURTHER INFORMATION CONTACT: Leah Baker, Branch Chief (Acting), Planning and NEPA, at 202–912–7282, for information relating to the BLM's national planning program or the substance of this proposed rule. For information on procedural matters or the rulemaking process, you may contact Charles Yudson at 202–912–7437. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339, to contact these individuals. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION:

Executive Summary

The BLM initiated this rulemaking as part of a broader effort known as "Planning 2.0" to improve the land use planning procedures required by FLPMA. The BLM follows these procedures to prepare and amend resource management plans that guide future BLM decisions on the public lands. Planning 2.0 responds to a 2011 BLM strategic review that identified challenges and opportunities for the BLM and to recent Executive and Secretarial direction that encourages science-based decision-making; landscape-scale management approaches; adaptive management techniques to manage for uncertainty; and active coordination and collaboration with partners and stakeholders. In this proposed rule, the BLM proposes targeted changes to the existing planning regulations in 43 CFR subparts 1601 and 1610 and explains the rationale.

Background

In 2011, the BLM released a strategic plan titled "Winning the Challenges of the Future: A Roadmap for Success in 2016" (the Roadmap). This plan identified several challenges for the BLM in managing the public lands consistent with its statutory direction "that management be on the basis of multiple use and sustained yield unless otherwise specified by law" (43 U.S.C. 1701(a)(7)). Management of the public lands in the 21st century is made more complex by increasing population growth and urbanization in the West, diversifying use activities on the public lands, demand for renewable and non-renewable energy sources, increasing conflicts between resource uses and conservation objectives, and landscape-scale resource issues such as climate change or wildfire. The Roadmap also identified new opportunities for the BLM due to the broad availability of Internet access and rapid acceleration in technologies as well as heightened expectations for services on the part of those who use and enjoy the public lands. Given these challenges and opportunities, the Roadmap called for a more "nimble" approach to planning that is responsive to a rapidly changing environment and conditions.

In addition, recent Presidential and Secretarial policies and strategic direction emphasize the value in applying landscape-scale management approaches to address climate change, wildfire, energy development, habitat conservation, restoration, and mitigation of impacts on Federal lands. The BLM has developed strategies and tools to support this approach by advancing the role of science in public lands management, standardizing data gathering, developing landscape assessments, requiring monitoring and evaluation to guide adaptive management strategies, and advancing the use of geospatial data and technology.

Through Planning 2.0, the BLM aims to improve the land use planning process in order to apply this policy and strategic direction and to complement related efforts within the BLM. Further, the Planning 2.0 initiative aims to incorporate lessons-learned and best practices developed over the last ten to fifteen years of resource management planning and respond to public sentiment that the planning process is, at times, cumbersome and slow to complete. Specifically, Planning 2.0 seeks to achieve three goals: (1) Improve the BLM's ability to respond to social and environmental change in a timely manner; (2) provide meaningful opportunities for other Federal agencies, State and local governments, Indian tribes, and the public to be involved in the development of BLM resource management plans; and (3) improve the BLM's ability to address landscape-scale resource issues and to apply landscape-scale management approaches. The Planning 2.0 initiative includes this proposed rule and a forthcoming revision of the BLM *Land Use Planning Handbook* (H–1601–1).

Planning 2.0 is informed, in part, by public input. In May 2014, the BLM

announced Planning 2.0, created a Web site (*www.blm.gov/plan2*), issued a press release, and requested public input on ways to improve the land use planning process. The BLM held two facilitated public listening sessions that were available through a live broadcast of the event over the Internet (livestream) in the fall of 2014. The BLM also conducted external outreach to partners and internal outreach to staff. The *Planning 2.0 Public Input Summary Report* (2015) summarizes written comments received by the BLM from over 6,000 groups and individuals.

Statutory and Regulatory Authority

Section 202 of FLPMA (43 U.S.C. 1712) directs the Secretary of the Interior to "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(a)) and outlines requirements for developing and revising land use plans. In particular, section 202(f) (43 U.S.C. 1712(f)) directs the Secretary of the Interior, by regulation, to "establish procedures . . . to give Federal, State, and local governments and the public, adequate notice and opportunity to comment upon and participate in the formulation of plans and programs relating to the management of the public lands." The BLM first developed land use planning regulations in 1979 (44 FR 46386, August 7, 1979). The BLM made significant revisions to the regulations in 1983 (48 FR 20364, May 5, 1983) and revised them again in 2005 (70 FR 14561, March 23, 2005).

Overview of the Proposed Rule

The proposed rule would revise two subparts of the existing regulations, 43 CFR subparts 1601 (Planning) and 1610 (Resource Management Planning). Proposed changes in subpart 1601 would revise the purpose, objective, responsibilities, definitions, and principles sections. Proposed changes in subpart 1610 would describe the general framework for resource management planning, including the components of a resource management plan; update the public notification and public comment provisions; establish an assessment to determine and describe baseline conditions that would occur before initiating the preparation of a resource management plan; establish new opportunities for public involvement earlier in the planning process; clarify plan approval and protest procedures; strengthen the monitoring and evaluation requirements; modify the amendment and maintenance provisions; update the provisions for designating areas of critical environmental concern (ACECs); and make other clarifying edits. These revisions are discussed in detail in the section-by-section analysis of this preamble. In both subparts, we propose changes to improve readability and understanding of the planning regulations to support effective collaboration and public involvement during the planning process.

Responsibilities and Plan Boundaries

The proposed rule would explain the responsibilities for preparing or amending a resource management plan to acknowledge that planning areas may extend beyond traditional BLM administrative boundaries such as Field Offices or States. References to the "Field Manager" would be replaced with the "responsible official," as the BLM official responsible for preparing and amending a resource management plan. References to the "State Director" would be replaced with the "deciding official," as the BLM official responsible for supervisory review, including plan approval.

The proposed rule would make the BLM Director responsible for determining the deciding official and the planning area for resource management plans and for plan amendments that cross State boundaries. For plan amendments that do not cross State boundaries, the deciding official would be responsible for determining the planning area.

Plan Components

Under the existing and proposed regulations, a resource management plan provides management direction that guides future management decisions within a planning area. The proposed rule would explain this function in greater detail by distinguishing between the components of a resource management plan that provide planning-level management direction ("plan components") and "implementation strategies" that would guide future actions consistent with the management direction in the plan ("implementation strategies"). As proposed, plan components would include goals, objectives, designations, resource use determinations, monitoring standards, and, where appropriate, lands identified as available for disposal from BLM administration under section 203 of FLPMA. Implementation strategies would describe potential actions the BLM may take in the future in order to achieve the goals and objectives, as well as procedures for monitoring and evaluating the resource management plan implementation. Implementation strategies would be developed during the planning process but are not plan components in and of themselves.

Under the proposed rule, plan components would be changed through plan amendment or revision procedures where the BLM determined that monitoring and evaluation findings, new high quality information, new or revised policy, a proposed action, or other relevant changes in circumstances warranted a substantive change to management direction. A plan component may be adjusted through maintenance to correct a typographical or mapping error, or to reflect minor changes in mapping or data. Implementation strategies as proposed could be updated at any time without triggering a plan amendment, but would conform with the plan components and would be made available for public review at least 30 days before they can be implemented.

Planning Assessment

The proposed rule would add a new planning assessment requirement before initiating the preparation of a resource management plan or a plan amendment for which an environmental impact statement (EIS) will be prepared (EIS-level amendments). The planning assessment is intended to assist the BLM and the public in understanding the current baseline in regards to resource, environmental, ecological, social, and economic conditions in the planning area. During the planning assessment, the BLM would describe these conditions and current management. The BLM would also identify the role of the public lands in addressing landscape-scale resource issues or in supporting national, regional, or local policies, strategies, or plans. The planning assessment would inform the preparation of the resource management plan or EIS-level amendments.

The planning assessment process would include the BLM arranging for relevant data and information to be gathered, identifying relevant plans or strategies for consideration, providing opportunities for other agencies, State and local governments, Indian tribes, and the public to provide existing data, information, plans, or strategies for consideration in the planning assessment, and identifying relevant public views concerning resource, environmental, ecological, social, or economic conditions of the planning area. The proposed rule would require that the BLM use high quality information (including the best available scientific information) to inform the planning process; any

information submitted for consideration would be required to meet standards for high quality information. As part of the proposed planning assessment, the BLM would evaluate the data and information gathered to assess conditions in the planning area. This information would be summarized in a report made available for public review and, to the extent practical, non-sensitive geospatial information would be made available to the public on the BLM's Web site.

Public Involvement

The proposed rule would use the term "public involvement" instead of "public participation" to be more consistent with the terms used in FLPMA. The proposed rule also would restructure the public involvement provisions in section 1610.2 to indicate more clearly where in the land use planning process the BLM would provide for public notice, public review, or public comment. In the proposed rule, the BLM would make new commitments to announce public involvement opportunities in planning on the BLM Web site and by posting a notice at the BLM offices located within the planning area. The BLM would also notify individuals or groups that ask to receive notice of public involvement opportunities relating to a planning effort by written or electronic means, such as email correspondence.

The proposed rule would add new public involvement opportunities. First, the proposed planning assessment would include an opportunity for other Federal agencies, State and local government, Indian tribes, and the public to provide data or information or to suggest policies, strategies, guidance or plans to inform the BLM planning process and would require the BLM to identify public views in relation to resource, environmental, ecological, social, or economic conditions. Second, the proposed rule would require that BLM offices make the preliminary resource management alternatives, the rationale for alternatives, and the basis for the impacts analysis available for public review in advance of issuing the draft resource management plan and draft EIS. Public review of the preliminary alternatives prior to issuance of the draft resource management plan and draft EIS would enable the public to raise any concerns with the BLM before the BLM conducts the impacts analysis of the management plan alternatives.

Integration With National Environmental Policy Act (NEPA) Requirements

The proposed rule would address several procedural requirements for plan amendments to improve consistency and integration with NEPA procedures. Specifically, the proposed rule would require the publication of a notice of intent (NOI) to prepare a plan amendment to align with the requirements of the Council on Environmental Quality (CEQ) NEPA regulations; and the public comment period on a draft plan amendment to align with the CEQ regulations and guidance regarding public comment on draft EISs. The proposed rule would change the requirements for selecting a preferred alternative to align more closely with the requirements of the Department of the Interior (DOI) NEPA implementation regulations.

Protests

The proposed rule would clarify the protest procedures to provide more detailed information on what constitutes a valid protest issue and for consistency with the proposed terminology for plan components. The BLM would provide a new opportunity for the public to submit protests electronically through methods specified for each resource management plan or plan amendment. The proposed rule would clarify that proposed resource management plans (including plan revisions) and plan amendments are subject to protest. The proposed rule would provide the opportunity for a party that previously participated in the preparation of a resource management plan or plan amendment to identify why a plan component is believed to be inconsistent with Federal laws or regulations applicable to public lands, or the purposes, policies and programs of such laws and regulations before the final decision to approve the plan. The proposed rule would clarify that the focus of a protest is to identify and remedy inconsistency with Federal laws and regulations or the purposes, policies, and programs of such laws and regulations.

Transition From the Existing Planning Process

The proposed rule would address the transition from the existing planning regulations to those that result from this proposal, including resource management plans currently in preparation.

I. Public Comment Procedures

You may submit comments on this proposed rule by mail, personal or messenger delivery, or electronic mail.

Mail: Director (630), Bureau of Land Management, U.S. Department of the Interior, 1849 C Street NW., Room 2134LM, Washington, DC 20240, Attention: Regulatory Affairs, 1004–AE39.

Personal or messenger delivery: U.S. Department of the Interior, Bureau of Land Management, 20 M Street SE., Room 2134LM, Attention: Regulatory Affairs, Washington, DC 20003.

Electronic mail: You may access and comment on the proposed rule at the Federal eRulemaking Portal by following the instructions at that site (see **ADDRESSES**).

Written comments on the proposed rule should be specific, should be confined to issues pertinent to the proposed rule, and should explain the reason for any recommended change. When possible, comments should reference the specific section or paragraph of the proposed rule that the comment is addressing.

The BLM need not consider or include in the Administrative Record for the final rule, comments that it receives after the close of the comment period (see **DATES**) or comments delivered to an address other than those listed above (see **ADDRESSES**).

Comments, including names and street addresses, will be available for public review at the U.S. Department of the Interior, Bureau of Land Management, 20 M Street SE., Room 2134LM, Washington, DC 20003 during regular hours (7:45 a.m. to 4:15 p.m.), Monday through Friday, except holidays. They also will be available at the Federal eRulemaking Portal: *http://www.regulations.gov*. Follow the instructions at this Web site.

You may submit comments on the proposed collection of information by fax or electronic mail as follows:

Fax: Office of Management and Budget, Office of Information and Regulatory Affairs, Desk Officer for the Department of the Interior, 202–395–5806.

Electronic mail: oira_submission@omb.eop.gov.

Please indicate "Attention: OMB Control Number 1004–XXX," regardless of the method used. If you submit comments on the proposed collection of information, please provide the BLM with a copy of your comments at one of the addresses shown above.

Before including your address, telephone number, email address, or other personal identifying information

in your comment, be advised that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask in your comment for the BLM to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

II. Background

The Bureau of Land Management (BLM) manages more than 245 million acres of land, the most of any Federal agency. This land, known as the National System of Public Lands, is primarily located in 12 Western states, including Alaska. The BLM also administers 700 million acres of sub-surface mineral estate throughout the nation. The BLM's mission is to manage and conserve the public lands for the use and enjoyment of present and future generations under the mandate of multiple-use and sustained yield. In Fiscal Year 2014, the BLM generated $5.2 billion in receipts from public lands.

Statutory and Regulatory Authority

The Federal Land Policy and Management Act of 1976 (FLPMA), as amended, is the BLM "organic act" that establishes the agency's mission to manage the public lands on the basis of multiple-use and sustained yield, unless otherwise specified by law. Through FLPMA, the BLM is directed to manage the public lands in a manner which recognizes the nation's need for natural resources from the public lands, provides for outdoor recreation and other human uses, provides habitat for fish and wildlife, preserves and protects certain public lands in their natural condition, and protects the quality of scientific, scenic, historical, ecological, environmental, air and atmospheric, water resource, and archeological values. The BLM develops goals and objectives to guide management through the land use planning process under section 202 of FLPMA.

Section 202(a) of FLPMA requires the Secretary of the Interior, with public involvement, to "develop, maintain, and, when appropriate, revise land use plans which provide by tracts or areas for the use of the public lands." Among other provisions, section 202(c) of FLPMA requires the Secretary, in developing and revising land use plans: To use and observe the principles of multiple use and sustained yield; to use an interdisciplinary approach to achieve integrated consideration of physical, biological, economic, and other sciences; to give priority to the designation and protection of ACECs; to use the inventory of public lands, resources and other values, to the extent it is available; to consider both present and potential uses of public lands; to consider the relative scarcity of values; to weigh long-term benefits against short term benefits; to provide for compliance with applicable pollution control laws; and to coordinate with other Federal departments and agencies, Indian tribes, and the States and local governments.

Section 202(f) of FLPMA directs the Secretary to provide for public involvement and to establish procedures by regulation "to give Federal, State, and local governments and the public, adequate notice and opportunity to comment upon and participate in the formulation of plans and programs relating to the management of the public lands." Under FLPMA, the Secretary administers the public lands through the BLM.

The BLM issued regulations establishing a land use planning system for BLM-managed public lands, as prescribed in FLPMA, in 1979 (44 FR 46386). These regulations established the term "resource management plan" (RMP) for the land use plans mandated by FLPMA, to replace the then-existing "management framework plans." The BLM revised these regulations in 1983 to clarify the planning process and "eliminate burdensome, outdated, and unneeded provisions" (48 FR 20364). These regulations were amended again in 2005 (70 FR 14561) to make clear the role of cooperating agencies in the land use planning process and to emphasize the importance of working with Federal and State agencies and local and tribal governments through cooperating agency relationships in developing, amending, and revising the BLM's resource management plans.

The BLM's Existing Land Use Planning Process

The BLM planning process is a collaborative process, which involves Federal agencies, Indian tribes, State and local governments, and the public at various steps, while retaining decision-making authority within the BLM. Cooperating agencies play an important role in the development of resource management plans. Early in the planning process, the BLM invites eligible governmental entities to serve as cooperating agencies, and the BLM is committed to collaborating with cooperating agencies during several steps of the process. Resource management plans are generally established based on a BLM Field Office or District Office boundary and prepared by an interdisciplinary team under the direction of a BLM field or district manager. The BLM State Directors provide oversight and guidance to the field or district managers and the BLM State Directors approve the resource management plan. The BLM Director provides high-level guidance and renders a decision on any public protests of the proposed plan, and when necessary, inconsistencies with State and local plans that are raised by the Governor through a consistency review process.

As outlined in 43 CFR subparts 1601 and 1610, the steps of the planning process are fully integrated with the requirements of the National Environmental Policy Act (NEPA).[1] The planning process begins with public notice and formal invitation for the public to assist the BLM in the identification of planning issues, concurrent and integrated with the NEPA scoping process. Planning issues are defined in the BLM Land Use Planning Handbook (H–1601–1) as "disputes or controversies about existing and potential land and resource allocations, levels of resource use, production, and related management practices."

Next, the BLM develops criteria to guide the development of the resource management plan. The planning criteria ensure that the resource management plan is tailored to the planning issues and that the BLM avoids unnecessary data collection and analyses. The BLM summarizes the planning issues and planning criteria in a scoping report, which is made available to the public. The BLM continues to refine the planning issues and the planning criteria throughout the development of the draft resource management plan.

To aid in the planning process, the BLM arranges for the collection or assembly of data and information, which are then analyzed to determine the ability of the resources to respond to the planning issues as well as any management opportunities. The resulting "analysis of the management situation" provides the basis for the BLM's development of a range of reasonable alternatives and analysis of the environmental impacts of these alternatives, as required by the NEPA. The BLM presents the range of alternatives in a single integrated draft resource management plan and draft EIS and identifies its preferred alternative.

[1] Council on Environmental quality (CEQ) NEPA implementing regulations require Federal agencies, "to the fullest extent possible," to "[i]ntegrate the requirements of NEPA with other planning and environmental review procedures required by law or by agency practice so that all such procedures run concurrently rather than consecutively" 40 CFR 1500.2(c).

The BLM then makes the draft resource management plan and draft EIS available to the public for a 90-day comment period. At the close of this period, the BLM evaluates the comments received and prepares a proposed resource management plan and final EIS, including responses to any substantive public comments received on the draft resource management plan and draft EIS.

The BLM provides the proposed resource management plan and final EIS to the Governor(s) of any State(s) the plan falls within for a 60-day consistency review period. During this period, the Governor may identify any inconsistencies between State and local plans and the proposed resource management plan. This step, including the process of resolving identified inconsistencies, ensures that BLM has satisfied the FLPMA section 202(a)(9) requirement that the BLM keep apprised of State, local, and tribal land use plans and assist in resolving, to the extent practical and consistent with Federal law, inconsistencies between Federal and non-Federal government plans. Concurrent with the Governor's consistency review, the BLM provides a 30-day period during which members of the public who have an interest that may be adversely affected by the approval of the proposed resource management plan and who participated in the planning process may protest approval of the proposed resource management plan. The BLM Director renders a decision on any protest, which serves as the final decision of the DOI, and is not subject to an administrative appeal.

Following approval of the resource management plan, the BLM conducts monitoring and evaluation at intervals established in the plan to assess the need for maintenance, revision, or amendment of the plan. Maintenance is provided as needed to address minor changes in data. An amendment or plan revision is initiated in response to monitoring and evaluation findings, new data, new or revised policy, a change in circumstances, or a proposed action that would not be in conformance with the approved resource management plan. The BLM undertakes a resource management plan revision when monitoring and evaluation findings, new data, new or revised policy, and changes in circumstances affect the entire plan or major portions of the plan.

The proposed rule would maintain the general process for developing, revising, amending, and maintaining a resource management plan, as described, while proposing specific changes to improve the process in a number of ways.

Why the BLM Is Proposing Changes to the Land Use Planning Process

The proposed rule would respond to needs identified by the BLM and related Presidential and Secretarial direction. In 2011, the BLM released a strategic plan titled "Winning the Challenges of the Future: A Roadmap for Success in 2016" (the Roadmap). This document highlighted the increasing complexity the BLM faces in managing for multiple-use and sustained yield on the public lands. Population growth and urbanization in the West, a diversifying portfolio of use activities, demand for renewable and non-renewable energy sources, and the proliferation of landscape-scale environmental change agents such as climate change, wildfire, or invasive species create challenges that require that the BLM develop new strategies and approaches to effectively manage the public lands. Simultaneously, the rapid acceleration in technologies such as the Internet, telecommunications, and analytical tools, including geospatial tools, have brought new opportunities combined with new expectations for services to be provided by land management agencies. Given the foundational nature of land use planning, a process that establishes direction for future management activities on the public lands, the Roadmap recognized the need for the BLM's resource management plans to address these challenges and respond to emerging opportunities. The Roadmap also recognized the importance of an efficient planning process, one that can effectively integrate new information and new technologies as they become available in order to keep resource management attuned to changing conditions on the ground and newly available information.

Specifically, the Roadmap set the following goal for the BLM to accomplish by the year 2016: "Adopt a proactive and nimble approach to planning that allows us to work collaboratively with partners at different scales to produce highly useful decisions that adapt to the rapidly changing environment and conditions" (page 10). Following the publication of the Roadmap, the BLM chartered a team of BLM managers and planning staff to assess the current status of the BLM's resource management plans and develop recommendations to improve the process for developing resource management plans. The proposed rule, in part, would implement the recommendations for achieving the goals set forth in the Roadmap.

Related Executive and Secretarial Direction

In addition, the proposed rule would respond to and advance direction set forth in several Executive or Secretarial Orders and related policies and strategies. This direction demonstrates an increasing emphasis within the DOI, and the Federal Government, on the use of science-based, collaborative, landscape-scale approaches to natural resource management. Recent Presidential and Secretarial direction provided to DOI bureaus and agencies emphasize the importance of this approach for resource management planning.

Effective collaboration is a central theme in recent Presidential and Secretarial directives, beginning with the President's 2009 Open Government Directive (M–10–06). This directive describes the three principles of transparency, participation, and collaboration as the cornerstone of an open government by promoting accountability to the public, sharing of information, and partnerships and cooperation within the Federal Government, across all levels of government, and between the government and private institutions. In 2012, the Office of Management and Budget (OMB) and the CEQ issued the "Memorandum on Environmental Collaboration and Conflict Resolution." This memorandum directs Federal departments and agencies to ensure they effectively explore opportunities for up-front collaboration in their planning and decision-making processes to address different perspectives and potential conflicts and thereby promote improved outcomes, including fewer appeals and less litigation.

Multiple directives related to climate change also emphasize the importance of collaboration, science, adaptive management, and the need for landscape-scale approaches to resource management. "Secretarial Order 3289—Addressing the Impacts of Climate Change on America's Water, Land, and Other Natural and Cultural Resources," issued on September 14, 2009, and amended on February 22, 2010, directs DOI bureaus and agencies to work together, with other Federal, State, tribal and local governments, and private landowners, to develop landscape-level strategies for understanding and responding to climate change impacts. The Departmental Manual chapter on climate change policy (523 DM 1), issued on December 20, 2012, similarly directs DOI bureaus and agencies to "promote landscape-scale, ecosystem-based management approaches to

enhance the resilience and sustainability of linked human and natural systems." "The Department of the Interior Climate Change Adaptation Plan for 2014" (Climate Change Adaptation Plan), provides guidance for implementing 523 DM 1 and "Executive Order No. 13653—Preparing the United States for the Impacts of Climate Change" (78 FR 66819). The Climate Change Adaptation Plan directs the DOI bureaus and agencies to strengthen existing landscape level planning efforts; use well-defined and established approaches for managing through uncertainty, such as adaptive management; and maintain key ecosystem services, among other important directives. This plan also identifies several guiding principles, including the use of the best available social, physical, and natural science to increase understanding of climate change impacts and active coordination and collaboration with stakeholders.

Likewise, recent directives associated with renewable energy development and mitigation practices emphasize the importance of a collaborative, landscape-scale approach. "Secretarial Order 3285—Renewable Energy Development by the Department of the Interior," issued on March 11, 2009, and amended on February 22, 2010, identified renewable energy production, development, and delivery as one of the Department's highest priorities and called on bureaus and agencies to carry out this priority by collaborating with one another and with governmental and tribal partners, local communities, and private landowners. In particular, this Order highlighted the need to identify and prioritize specific locations that are well-suited to large-scale renewable energy production as well as the electric transmission infrastructure and transmission corridors needed to deliver the energy produced.

A landscape-scale approach to planning is integral to realizing renewable energy development, in addition to other priorities on Federal lands. "Secretarial Order 3330—Improving Mitigation Policies and Practices of the Department of the Interior," issued on October 31, 2013, called for the development of a DOI-wide mitigation strategy, which would use a landscape-scale approach to identify and facilitate investments in key conservation priorities in a region. The April 2014 report, "A Strategy for Improving the Mitigation Policies and Practices of The Department of the Interior," provides direction to implement such an approach. And the Departmental Manual was revised in October 2015, to include direction to all bureaus and agencies for implementation of this approach to resource management (600 DM 6).

The Presidential Memorandum "Mitigating Impacts on Natural Resources from Development and Encouraging Related Private Investment," issued in November 2015, affirmed the importance of applying a landscape-scale approach by directing agencies that "[l]arge-scale plans and analysis should inform the identification of areas where development may be most appropriate, where high natural resource values result in the best locations for protection and restoration, or where natural resource values are irreplaceable" (80 FR 68743).

Finally, "Secretarial Order 3336—Rangeland Fire Prevention, Management and Restoration," issued on January 5, 2015, directs DOI bureaus and agencies to use landscape-scale approaches to address fire prevention, management, and restoration in the Great Basin; and to establish protocols for monitoring the effectiveness of fuels management, post-fire, and long-term restoration treatments and a strategy for adaptive management to modify management practices or improve land treatments when necessary.

Collectively, these directives identify the importance of science-based decision-making; landscape-scale management approaches; adaptive management techniques to manage for uncertainty; and active coordination and collaboration with partners and stakeholders. The BLM believes that changes to the resource management planning process will assist in effectively implementing these directives.

The Planning 2.0 Initiative

Together, the Roadmap and the recent policy and strategic direction described in this preamble informed the BLM's decision to revise its resource management planning process. The BLM's Planning 2.0 initiative responds to this opportunity. Through Planning 2.0, the BLM seeks to improve the resource management planning process, including the development, amendment, and maintenance of resource management plans. The BLM has developed three targeted goals to guide the Planning 2.0 initiative:

Goal 1: Improve the BLM's ability to respond to social and environmental change in a timely manner. This goal addresses the need for land use plans that support effective management when faced with environmental uncertainty, incomplete information, or changing conditions. It is imperative that resource management plans provide clear management direction to guide future management activities on the public lands, while facilitating the use of adaptive, science-based approaches to respond to change when necessary and appropriate. Encompassed in this goal is the need for an efficient planning process so that changes to a resource management plan, when needed, are timely and responsive to the relevant issues.[2]

Goal 2: Provide meaningful opportunities for other Federal agencies, State and local governments, Indian tribes, and the public to be involved in the development of BLM resource management plans. This goal highlights the importance of strong public involvement in the planning process to reduce conflict and disputes over public lands management and develop durable resource management plans. Through the Planning 2.0 initiative, the BLM seeks to establish earlier and more frequent opportunities for public involvement in the planning process and to provide for effective coordination and collaboration with other Federal agencies, State and local governments, tribes, and stakeholders. At the same time, Planning 2.0 affirms the BLM's commitments to collaborating with cooperating agencies, and coordinating with other Federal agencies, State and local governments, and Indian tribes throughout the planning process. Planning 2.0 also affirms the BLM's commitment to working with Resource Advisory Councils (RACs) throughout the planning process (see existing 43 CFR 1610.3–1(g)).

Goal 3: Improve the BLM's ability to address landscape-scale resource issues and to apply landscape-scale management approaches. This goal addresses the need for landscape-scale management approaches to address resource issues that cross traditional administrative boundaries. The BLM manages a diverse range of natural resources, which occur at an equally diverse range of geographic scales, and collaborates with a diversity of partners, stakeholders and communities, who work at different scales. For these reasons, the BLM planning process must be able to consider issues and

[2] An efficient land use planning process under FLPMA advances direction in CEQ NEPA regulations and guidance for seeking efficiencies in the NEPA process. *See, e.g.,* 40 CFR 1500.2(b) and (c) and 1500.5; Memorandum for Heads of Federal Departments and Agencies from Nancy H. Sutley, Chair, Council on Environmental Quality, "Improving the Process for Preparing Efficient and Timely Environmental Reviews under the National Environmental Policy Act" (Mar. 6, 2012), *https://www.whitehouse.gov/sites/default/files/microsites/ceq/improving_nepa_efficiencies_06mar2012.pdf.*

opportunities at multiple scales and across traditional management boundaries.

To achieve these three goals, the BLM is proposing to amend specific provisions of the land use planning regulations (43 CFR part 1600). The proposed regulatory revisions are the subject of this rule. Separately, the BLM also is revising the Land Use Planning Handbook to provide detailed guidance to implement these regulations. We have taken a coordinated approach to ensure that these two efforts mutually support the achievement of the Planning 2.0 goals and provide consistent requirements and guidance for developing and amending resource management plans.

Related BLM Initiatives

In recent years, the BLM has taken several steps toward the goals identified in the "Related Executive and Secretarial Direction" section of this preamble, including tools to aid science-based decision-making; landscape-scale management approaches; the use of adaptive management techniques to manage for uncertainty; and active coordination and collaboration with partners and stakeholders. These steps include crafting new policies and strategies and introducing innovative data and information technology tools. The Planning 2.0 initiative supports the implementation of these other important BLM efforts, and is mutually supported by these other efforts. Here we describe several other BLM efforts and how they relate to the goals of Planning 2.0, even though they are beyond the scope of this rulemaking.

In partnership with the Landscape Conservation Cooperatives (LCCs) and other Federal agencies, the BLM has worked to develop Rapid Ecoregional Assessments (REAs) in the western United States.[3] Each REA synthesizes the best available information about resource conditions and trends within an ecoregion and highlights areas of high ecological value, as well as areas that have high energy development potential and relatively low ecological value, which could be well-suited for siting future energy development. In addition, REAs establish landscape-scale baseline ecological data to help gauge the effect and effectiveness of future management activities. The REAs are an important step in support of adaptive, landscape-scale management approaches,[4] and they provide necessary data and information to support the Planning 2.0 goal to address landscape-scale resource issues and to apply landscape-scale management approaches.

In 2013, the BLM issued the "Draft—Regional Mitigation Manual Section (MS)-1794" as interim guidance, which promotes consideration of mitigation within a broader regional context and development of mitigation strategies. Mitigation strategies identify, evaluate, and communicate potential mitigation needs and mitigation measures in a geographic area. Under this draft guidance, the BLM has worked collaboratively with partners to develop regional mitigation strategies in several key areas while also developing guidance consistent with Secretarial Order 3330. This guidance, which provides for a landscape-scale approach to mitigation, is consistent with the Planning 2.0 goal to apply landscape-scale management approaches. The Planning 2.0 initiative will support effective implementation of the regional mitigation policy by ensuring that resource management plans, like mitigation, are grounded in sound science, applied at a broader regional context, and that the mitigation hierarchy process is applied in the development and implementation of a resource management plan.

The BLM is implementing its "Assessment, Inventory, and Monitoring (AIM) Strategy" (2011), which was developed to standardize data collection and retrieval so information is comparable over time and can be readily accessed and shared. The AIM Strategy provides a process for the BLM to collect quantitative information on the status, condition, trend, amount, location, and spatial pattern of renewable resources on the nation's public lands. The BLM strategy, "Advancing Science in the BLM: An Implementation Strategy" (2015), outlines goals and an action plan for integrating science into multiple-use land management decisions in a consistent manner. Both strategies improve the BLM's ability to employ science-based decision-making and apply adaptive management techniques using standardized monitoring data that can be analyzed and applied at multiple scales. These steps are essential to achieving the Planning 2.0 goals.

In addition, the BLM is implementing its "Geospatial Services Strategic Plan" (GSSP) (2008), which will provide the high-quality mapping products needed to develop and support adaptive, landscape-scale management approaches. The GSSP establishes a governance model for the management of BLM's geospatial information and institutes a structure to coordinate the use of geospatial technology within the BLM. The GSSP also addresses data management, data acquisitions, data standards, and the establishment of corporate data themes. Geospatial transformation is essential for achieving all three Planning 2.0 goals. In addition to supporting science-based, landscape-scale, adaptive management approaches, advances in geospatial technology support the use of new and innovative methods for public involvement. For example, the development and deployment of BLM's ePlanning platform, an online national register for land use planning and NEPA documents, provides a dynamic and interactive link between text, such as land use plans, and the supporting geospatial data. The ePlanning platform enables the BLM to make documents and maps available to the public via the Internet for review and comment and provides a searchable register for NEPA and land use planning projects (*https://eplanning.blm.gov/epl-front-office/eplanning/nepa/nepa_register.do*). The BLM is transitioning to the ePlanning platform for all land use planning and NEPA documents and expects that ePlanning will be deployed throughout the BLM by 2017.

Finally, the BLM is strengthening its commitment to partnerships and cooperating agencies. The BLM's "National Strategy and Implementation Plan to Support and Enhance Partnerships, 2014–2018" (2014), highlights the importance of partnerships to achieving the BLM's mission, and creates a national framework for improved coordination in support of partnerships across the BLM. The updated BLM publication, *A Desk Guide to Cooperating Agency Relationships and Coordination with Intergovernmental Partners* (2012), reaffirmed the BLM's commitment to working with Federal, State, local, and tribal government partners. The Planning 2.0 goal of providing new and enhanced opportunities for collaborative planning will build on these foundational efforts.

[3] The LCCs are a network of 22 public-private partnerships launched under Secretarial Order 3289 to improve the integration of science and management to address climate change and other landscape-scale issues. See *http://lccnetwork.org/about.* Information about the REAs is available at: *http://www.blm.gov/wo/st/en/prog/more/Landscape_Approach/reas.html.*

[4] See BLM *Information Bulletin No. 2012–058, "The Bureau of Land Management's Landscape Approach for Managing the Public Lands" (Apr. 3, 2012), http://www.blm.gov/wo/st/en/info/regulations/Instruction_Memos_and_Bulletins/national_information/2012/IB_2012-058.html.*

Initial Public Involvement in Planning 2.0

The BLM has conducted public outreach and engagement activities as a part of the Planning 2.0 initiative. This outreach is consistent with section 2(c) of "Executive Order 13563—Improving Regulation and Regulatory Review" (76 FR 3822), which encourages agencies to seek the views of those who are likely to be affected by a rulemaking before issuing a proposed rule. The outreach for the overall Planning 2.0 initiative includes the proposed rule and a forthcoming revision of the Land Use Planning Handbook. The BLM launched the Planning 2.0 initiative in May 2014 by seeking public input on how the land use planning process could be improved. The BLM developed a Web site for the initiative (*www.blm.gov/plan2*) and issued a national press release with information on how to provide input to the agency. The BLM held public listening sessions in Denver, Colorado (October 1, 2014) and in Sacramento, California (October 7, 2014). Both meetings were led by a third-party facilitator and were available to remote participants through a live broadcast of the event over the Internet (livestream). The goals of these meetings were to share information about the Planning 2.0 initiative with interested members of the public, to provide a forum for dialogue about the initiative, and to receive input from the public on how best to achieve the goals of the initiative. Summary notes from these meetings and recorded livestream video are available on the Planning 2.0 Web site (*www.blm.gov/plan2*).

The BLM has conducted external outreach to BLM partners and internal outreach to BLM staff in State, District, and Field Offices. External outreach included multiple briefings provided to the Federal Advisory Committee Act chartered RACs; a briefing for State Governor representatives coordinated through the Western Governors Association; a briefing for State Fish and Wildlife Agency representatives coordinated through the Association of Fish and Wildlife Agencies; multiple briefings for other Federal agencies; a webinar for interested local government representatives coordinated through the National Association of Counties; and meetings with other interested parties upon request.

Public Response to Planning 2.0 During Early Engagement

Since May 2014, over 6,000 groups and individuals submitted written comments for BLM's consideration. This information was summarized into a written report and made available on the Planning 2.0 Web site on February 3, 2015. The input received through written submissions and the public listening sessions covered a broad range of topics and opinions, which are summarized in this preamble and described in more detail in the "Planning 2.0 Public Input Summary Report" (2015). The summary report is available on the Planning 2.0 Web site (*www.blm.gov/plan2*). The BLM has worked to consider this information and to find an appropriate balance between different needs and perspectives in the development of the proposed rule.

A large number of comments focused on how to integrate adaptive management into resource management plans. While nearly all comments supported the goal of "a more dynamic and efficient planning process," many commenters were concerned that resource management plans could become so "dynamic" that they become meaningless. Many comments suggested that the BLM establish achievable and measurable objectives to guide future decisions, as well as indicators and thresholds for resource condition in resource management plans. While some commenters believed that the BLM should have the ability to increase or reduce resource protections established in the resource management plan if site-specific conditions warrant, many commenters were concerned that such an adaptive management approach might allow activities that otherwise conflict with the other resource management plan goals and objectives.

Some commenters suggested that efficiencies could be gained by developing standardized decision language, prohibiting overlapping designations, and working with partners to avoid duplication of efforts. Commenters requested that the BLM improve data collection and management by including non-BLM data sources in resource management plans; providing better public access to BLM data; establishing standards for monitoring in resource management plans; designating timeframes to modify management based on monitoring results; and identifying enforceable actions if monitoring does not occur.

Public comments affirmed the value of public participation as essential to the success of any land use plan. Several commenters expressed the need for broad, comprehensive stakeholder participation and requested that the BLM conduct strategic and targeted outreach at the onset of all planning efforts to reach stakeholders. Commenters also encouraged the BLM to collaborate with other Federal agencies, which often manage adjacent lands, and to conduct outreach to Indian tribes.

Numerous commenters suggested two new opportunities for public involvement in the planning process. Outreach before initiating the NEPA scoping process could be used to identify preliminary stakeholders and management issues, solicit input about resource data needed for resource management plan development, and encourage stakeholders to contribute inventory information. Additionally, a public review of preliminary management alternatives could occur between public scoping and the publication of the draft resource management plan and draft EIS to help BLM refine the range of alternatives to address public concern.

The BLM also received comments on different ways to effectively engage the public. Several commenters requested that the BLM leverage Web-, tele-, and video-conference technology to reach a larger audience while also providing meaningful involvement opportunities for members of the public without technological access. Commenters also described a broad range of best practices for public participation and encouraged the BLM to implement these practices in the planning process.

Several commenters proposed instituting a landscape level planning process in which the BLM would evaluate public lands, establish priority areas for conservation and priority areas for development, set desired conditions at the ecoregional level, and then allocate allowable uses and make special designations at the field office level. Conversely, some commenters questioned the utility of landscape level planning. It is important to many stakeholders that resource management plans provide specific, local context, and clearly articulate for local users how the BLM will manage public lands close to them. Some commenters were concerned that it would be shortsighted for the BLM to limit development only to those priority areas identified in an ecoregional plan, as future technological advances could make new unforeseeable areas appropriate for development.

Many comments urged the BLM to integrate the DOI mitigation policy, "Improving Mitigation Policies and Practices of the Department of the Interior" (Secretarial Order 3330), into the land use planning process. Public comments also stated that effective landscape planning should be fully integrated with the NEPA process and provide clear direction for considering State and private lands. At the same time, commenters cautioned that the

BLM should ensure that landscape level planning does not result in time-consuming analysis that overlaps the NEPA analysis that already occurs during a resource management plan revision.

In addition to input on how to meet Planning 2.0 goals, many public comments contained recommendations on how the BLM should address specific resources, uses, and special designations in resource management plans. These comments are summarized in the "Planning 2.0 Public Input Summary Report" (2015), available on the Planning 2.0 Web site (*www.blm.gov/plan2*).

Why the Proposed Rule Is Necessary To Achieve the Goals of Planning 2.0

As part of the Planning 2.0 initiative, the BLM proposes revising specific provisions of the land use planning regulations (43 CFR part 1600). The BLM is also revising the Land Use Planning Handbook. After careful consideration, the BLM believes that such an approach would most effectively advance the goals of the Planning 2.0 initiative by ensuring that the land use planning regulations and the Land Use Planning Handbook provide clear and consistent direction leading to improved stewardship of the public lands and resources. In the following paragraphs we explain how the proposed changes to the planning regulations would serve the overall goals of the Planning 2.0 initiative.

Under the proposed rule, the BLM would distinguish between the planning-level management direction that guides all future management decisions (plan components) and the information that may be included with a resource management plan that describes how the BLM intends to implement future actions consistent with the planning-level management direction (implementation strategies). This distinction is essential for applying a landscape-scale management approach, which requires consideration of a broader regional context when developing planning-level management direction. Such consideration is difficult to achieve when planning-level management direction is integrated with detailed information about implementing future actions. This distinction would also facilitate the use of adaptive-management approaches when developing future actions consistent with the management direction in the resource management plan.

The proposed changes would emphasize that land use planning is grounded in high quality information, including the best available scientific information, and that the future actions taken consistent with a resource management plan should be based on the high quality information at the time the action is proposed.

The proposed changes would also emphasize the importance of assessing resource, environmental, ecological, social, and economic conditions at multiple scales and before initiating the preparation of a resource management plan, in order to apply science-based decision-making and inform management decisions at appropriate scales.

The proposed changes would add new opportunities for collaboration in the land use planning process and emphasize the importance of early public involvement in order to engage different perspectives and ensure planning is responsive to public needs and values. Proposed changes would promote increased communication with and transparency to the public by providing for the use of electronic communications and information technology, in addition to traditional methods of communication. The BLM believes that enhanced collaboration would promote a more efficient planning process and improved outcomes by ensuring that diverse viewpoints are considered early and often. In particular, the BLM anticipates that considering diverse viewpoints early in the planning process, when they can help inform the development of the resource management plan and supporting NEPA analysis, would help the BLM avoid the need to re-start the planning process or supplement the NEPA analysis based on issues raised later in the process after considerable work has been completed. At the same time, the proposed rule would eliminate some **Federal Register** notice requirements and shorten the minimum requirement for the length of public comment periods for draft resource management plans and draft EIS-level amendments to balance the need for an efficient planning process with additional time for new public involvement opportunities and also to promote consistency and integration with the requirements of NEPA. Consistency between overlapping regulatory requirements (such as the requirements of the BLM planning regulations, the DOI NEPA implementation regulations, and the CEQ NEPA regulations) would help to make these requirements less confusing to stakeholders.

In revisions to both subpart 1601 and 1610, the BLM proposes to update existing text to reflect current style guidelines and to use plain language, consistent with the "Presidential Memorandum on Plain Language in Government Writing" (63 FR 31885), which directs Federal Agencies to consider rewriting existing regulations in plain language if the opportunity is available. These changes would facilitate improved readability and understanding of the planning regulations, which would support effective collaboration during the planning process.

Summary of Proposed Changes

(1) Amend the responsibilities section with the addition of the new terms "responsible official" and "deciding official."

(2) Provide for BLM Director determination of the deciding official and the planning area for resource management plans and for plan amendments that cross State boundaries, and deciding official determination of the planning area for all other plan amendments.

(3) Distinguish between "plan components" (*i.e.*, planning-level management direction) and "implementation strategies" which assist in implementing future actions consistent with the plan components.

(4) Require specific and measurable plan objectives to improve implementation, monitoring and evaluation, transparency, and accountability.

(5) Add new public involvement opportunities during the early steps of the planning process, including an opportunity to provide data and other information to inform the planning process and public review of preliminary resource management alternatives, the rationale for alternatives, and the procedures, assumptions, and indicators to be used in the effects analysis ("basis for analysis").

(6) Add new commitments to transparency (*e.g.*, making preliminary alternatives and the rationale for those alternatives available to the public, posting resource management plans online, making protests available to the public, notifying the public before updates are made to an implementation strategy or to plan components through plan maintenance, and making plan evaluations available to the public).

(7) Add a new requirement for an assessment of resource, environmental, ecological, social, and economic conditions which will be made available to the public and provide important baseline information before initiating the preparation of a resource management plan or a plan amendment

for which an EIS will be prepared to inform the amendment.

(8) Remove the requirement to publish a NOI in the **Federal Register** for amendments that require preparation of an environmental assessment (EA) for consistency with NEPA requirements and to facilitate an efficient amendment process.

(9) Reduce the minimum public comment period for draft EIS-level plan amendments from 90 days to 45 days for consistency with NEPA requirements and to facilitate an efficient amendment process. Reduce the minimum public comment period for draft resource management plans from 90 days to 60 days to allow for the addition of new early opportunities for public involvement (*e.g.*, public review of preliminary alternatives) while still maintaining an efficient process.

(10) Replace the requirement that the BLM identify a single preferred alternative in a draft resource management plan and draft EIS with a new requirement that the BLM identify "one or more" preferred alternatives for more consistency with DOI NEPA implementation regulations that apply to draft EISs (43 CFR 46.425(a)).

(11) Affirm the legal requirements for consistency with the land use plans of other Federal agencies, State and local governments, and Indian tribes for consistency with FLPMA and improved clarity.

(12) Amend the protest section to clarify what constitutes a valid protest and the requirements for submitting a protest.

(13) Amend the resource management plan maintenance section to clarify the limitations of its use and to provide transparency to the public when changes are made through plan maintenance.

(14) Amend the ACEC provisions for improved clarity.

(15) Replace the requirement to publish a notice in the **Federal Register** listing each proposed ACEC with a requirement to notify the public of each proposed ACEC.

(16) Remove the requirement to provide a 60 day public comment period on the draft resource management plan or plan amendment when an ACEC is involved for better integration of ACEC consideration into the overall planning process and consistency with NEPA requirements.

(17) Clarify the specific requirements of the Governor's consistency review and provide the BLM Director discretion to notify the public of his or her decision by means other than the **Federal Register**.

III. Section-by-Section Analysis of Proposed Changes

The proposed rule would revise part 1600, including subparts 1601 (Planning) and 1610 (Resource Management Planning). Proposed revisions in subpart 1601 would update and introduce new definitions and revise the purpose, objective, responsibilities, environmental impact statement policy, and principles sections.

Proposed subpart 1610 would be reorganized to improve readability. The proposed revisions would describe guidance and general requirements, and resource management plan components; update the public involvement provisions; establish an assessment of baseline conditions in the planning area before the BLM initiates the preparation of a resource management plan and EIS-level amendments; revise the steps in the planning process to increase transparency and add new opportunities for public involvement; clarify resource management plan approval and protest procedures; modify the monitoring and evaluation, amendment, and maintenance provisions; update the provisions for designating ACECs; and make clarifying edits.

The following paragraphs present a section-by-section analysis of key proposed changes under each subpart compared to the current regulations.

Subpart 1601—Planning

The BLM would make several style changes throughout both subparts, such as replacing the Bureau of Land Management with the acronym "BLM" and the Federal Land Policy and Management Act with the acronym "FLPMA," for improved readability. We would replace the word "title" with "part" throughout both subparts for consistency with current style guidelines. We also would replace the word "shall" with "will" throughout both subparts for improved readability, unless otherwise noted. We would replace "plan" with "resource management plan," where appropriate, and "amendment" with "plan amendment" throughout both subparts to improve consistency and precision in use of terminology.

Finally, we propose to remove most references to resource management plan "revisions" throughout both subparts. Revisions would be included in the definition of a resource management plan (see proposed § 1601.0–5) and must comply with all of the requirements of these regulations for preparing and approving a resource management plan (see proposed § 1610.6–8). Differentiating between the preparation of a new resource management plan and the revision of a resource management plan is unnecessary and confusing. For example, if the BLM revises portions of more than one existing resource management plan, it is unclear whether the resulting resource management plan would be considered a new resource management plan or a revised resource management plan. Under the proposed and existing regulations, there is no substantive difference between a resource management plan and a resource management plan revision, therefore both would be considered a "resource management plan."

Section 1601.0–1 Purpose

The only proposed changes to this section are to introduce the acronym "BLM," which is used throughout the part and to remove the words "and revision" for the reasons previously described. There would be no substantive change to this section.

Section 1601.0–2 Objective

The BLM proposes to revise the stated objectives of resource management planning to reflect FLPMA and remove vague or inaccurate language. In the first sentence, we propose to remove the phrase "maximize resource values for the public through a rational, consistently applied set of regulations and procedures." The term "maximize resource values" is vague and therefore inappropriate in regulations and a "rational, consistently applied set of regulations and procedures" is an objective of developing planning regulations, but not an objective of resource management planning.

Proposed changes to this section would also replace the phrase "concept of multiple use management" in the first sentence of this section with the phrase "principles of multiple use and sustained yield on public lands unless otherwise provided by law." This change is consistent with FLPMA, which directs the BLM to "use and observe the principles of multiple use and sustained yield" in the development and revision of land use plans (43 U.S.C. 1712(c)(1)). The proposed change also acknowledges that in some situations the BLM must use and observe the principles of other legal authorities. For instance, national monuments established under the Antiquities Act of 1906 (16 U.S.C. 431–433) must use and observe the principles specific to their establishment. The word "appropriate" would be removed from before "Federal agencies" in the first sentence. This

word is unnecessary, as any Federal agency may participate in the BLM's planning process; the BLM does not make a determination on which agencies may or may not be appropriate. We propose to specify that an objective of resource management planning is to ensure participation by the public, State and local governments, Indian tribes, and Federal agencies "in the development of resource management plans." There would be no change in existing practice or policy from these proposed changes.

The BLM proposes to add an additional objective of resource management planning to the regulations, which is to "ensure that the public lands be managed in a manner that will protect the quality of scientific, scenic, historical, ecological, environmental, air and atmospheric, water resource, and archeological values; that, where appropriate, will preserve and protect certain public lands in their natural condition; that will provide for outdoor recreation and human use, and which recognizes the Nation's need for domestic sources of minerals, food, timber, and fiber from the public lands." This proposed change would incorporate language from FLPMA (see 43 U.S.C. 1701(a)(8) and (a)(12)) to identify in the planning regulations the general management objectives that apply to the public lands and therefore apply to all resource management plans. While this is a change in the regulations, it would simply affirm statutory direction and not change existing practice or policy.

We propose to remove the final sentence in this section, "resource management plans are designed to guide and control future management actions and development of subsequent, more detailed and limited scope plans for resources and uses." This sentence does not accurately describe the objectives of resource management planning; rather it describes the function of a resource management plan. Under the proposed rule, elements of the removed sentence would be revised and incorporated into the proposed definition for "plan components" (for more information, see the discussion on "plan components" at the preamble for proposed § 1601.0–5).

Section 1601.0–3 Authority

The BLM proposes this section, which is identical to that in the existing regulations.

Section 1601.0–4 Responsibilities

The BLM proposes to revise paragraph (a) of this section to use active voice, stating "[t]he Secretary and the Director provide national level policy and procedure guidance for planning." There would be no change in the meaning of this sentence or in the associated responsibilities. In the second sentence, we propose to establish a new responsibility for the BLM Director to determine the deciding official (a proposed new term defined in § 1601.0–5) and the planning area for resource management plans and for plan amendments that cross State boundaries. This is a change from existing regulations, where the deciding official is the State Director and the default planning area is a field office area, unless otherwise authorized by the State Director (see existing § 1610.1(b)). Although the BLM is able to establish a different planning area under existing regulations, the proposed rule would align with the BLM's intent to no longer rely on the field office area as the default resource management plan boundary and specify that the BLM Director is the appropriate employee to determine the deciding official and the planning area for resource management plans and plan amendments that cross State boundaries.

In making these changes, the BLM acknowledges that conservation, resource management, development activities, or other priorities such as landscape-scale mitigation may benefit from planning area boundaries that cross traditional BLM administrative boundaries and may require greater coordination of land use planning across BLM States and national level programs.

In paragraph (b) of this section, the BLM proposes to replace references to "State Directors" with "deciding officials" and to use active voice by stating "deciding officials provide quality control" instead of existing language which states that "State Directors will provide quality control" to improve readability. There would be minimal changes in the responsibilities associated with this role in the planning process. Although the BLM expects that BLM State Directors would continue to be the deciding official for resource management plans located within their BLM State boundaries (or an equivalent BLM Official should the boundaries of administrative oversight change in the future), in some situations a different deciding official may be appropriate. For example, a single BLM State Director could be the deciding official for a resource management plan or plan amendment that crosses State boundaries, and this would be determined by the BLM Director (see paragraph (a) of this section).

Deciding officials would be responsible for "quality control and supervisory review, including approval, for the preparation and amendment of resource management plans and related [EISs] or [EAs]." Proposed changes would clarify that deciding officials are responsible for quality control and supervisory review of plan amendments, in addition to resource management plans. These proposed changes are consistent with current practice and policy.

We propose to specify that deciding officials would determine the planning area for plan amendments that do not cross State boundaries, consistent with current practice and policy. The BLM requests public comment on the proposed responsibilities for the determination of the planning area for plan amendments. In particular, the BLM requests public comment on whether a different distinction than "crossing State boundaries" should be used to differentiate between amendments where the Director would determine the planning area and amendments where the deciding official would determine the planning area.

We propose to remove the requirement that deciding officials "provide additional guidance, as necessary, for use by Field Managers." This language is unnecessary in the regulations. Deciding officials may provide guidance, as described in proposed § 1610.1–1, but this is only one of their many responsibilities during the planning process that are all encompassed by "supervisory review." It is unnecessary and inappropriate to identify the provision of guidance as a unique responsibility. The BLM intends no change in practice or policy by removing "guidance" from the responsibilities section.

We also propose to remove the requirement that deciding officials "file draft and final [EISs]." This language is unnecessary and redundant with the requirement that deciding officials provide supervisory review for "related [EISs]" which would include supervisory review of filing the documents. Current BLM practice is for the deciding official to delegate the responsibility of filing EISs or EAs. The proposed change would be consistent with current practice.

Proposed changes in paragraph (c) of this section would replace references to "Field Managers" with "responsible officials" (a proposed new term defined in § 1601.0–5) and provide that responsible officials would prepare resource management plans and plan amendments, and related EISs and EAs. As discussed in the preamble to the proposed definitions in 1601.0–5, the term "responsible official" is adapted

from the term used in the DOI NEPA regulations (see 43 CFR 46.30). There would be no change in the responsibilities associated with this role, but the new term would provide the BLM with more flexibility to prepare or amend resource management plans at levels other than a field office.

The proposed changes are intended to facilitate planning across traditional BLM administrative boundaries. For instance, if the planning area for a resource management plan or plan amendment is larger than the BLM Field Office administrative boundary in order to address a landscape-scale resource issue, the BLM Field Manager may not be the most appropriate BLM employee to prepare the resource management plan or plan amendment. These changes are consistent with current practices used by the BLM. There are several examples where a BLM District Manager is the responsible official for the preparation or amendment of a resource management plan, such as the resource management plan currently under preparation for the Carson City District in Nevada.

We propose to include the preparation of related "EAs" as a responsibility of responsible officials. The proposed change would fix an existing inconsistency in the regulations. Responsible officials prepare plan amendments and either an EIS or an EA could be prepared to inform the plan amendment. Responsible officials would therefore be responsible for the preparation of a related EA, in addition to related EISs. The BLM intends no change in practice or policy from this addition.

We propose to remove the final sentence of paragraph (c) of this section, which requires that "State Directors must approve these documents." Under the proposed rule, deciding officials would approve these documents, as discussed in paragraph (b) of this section.

Section 1601.0–5 Definitions

The BLM proposes to add the definitions of fourteen new terms: Deciding official, High quality information, Implementation strategies, Indian tribe, Mitigation, Plan amendment, Plan components, Plan maintenance, Plan revision, Planning area, Planning assessment, Planning issue, Responsible official, and Sustained yield. The BLM proposes to also revise the existing definitions of: Areas of Critical Environmental Concern or ACEC, Conformity or conformance, Cooperating agency, Local government, Officially approved and adopted resource-related (land use) plans, and Resource management plan. The BLM proposes to remove the definitions of: Consistent, Eligible cooperating agency, Field Manager, Guidance, and Resource area or field office. The following paragraphs describe the proposed changes to these definitions and the rationale for each. This analysis does not discuss the definitions of terms that are proposed without amendment.

Areas of Critical Environmental Concern or ACEC. We propose to move the last sentence of this definition ("[t]he identification of a potential ACEC shall not, of itself, change or prevent change of the management or use of public lands.") to the ACEC provisions in § 1610.8–2(b). The proposed change would make the definition of an ACEC in this section more consistent with FLPMA. This sentence is not part of the definition of an ACEC provided in FLPMA and it establishes policy for a potential ACEC; it should therefore be located in the policy provisions governing ACECs. The sentence is most appropriately placed following the description of the criteria for identifying a potential ACEC (§ 1610.8–2(b)). This proposed change would not be a change in practice or policy.

Conformity or conformance. The proposed changes to this section would replace the word "shall" with "will," remove language that an action "shall be specifically provided for in the plan" and replace the phrase "terms, conditions, and decisions" with "plan components" of the approved resource management plan in the definition of conformity or conformance. These proposed changes would be consistent with proposed changes to § 1610.1–2, which refer to plan components instead of "terms, conditions, and decisions." The proposed changes reflect that plan components provide the planning-level management direction that guides all future management actions, thus a proposed action must be consistent with the planning-level management direction. Proposed changes also reflect the fact that although specific actions may be identified in implementation strategies, these strategies are not considered a component of the resource management plan and must also be clearly consistent with the plan components.

The proposed rule would provide a more precise definition of conformance, which would assist the BLM and the public in identifying whether a proposed action is in conformance with an approved resource management plan. The proposed rule would also remove the words "plan amendment" from the end of the definition. These words are not necessary; an approved plan amendment is encompassed by an approved resource management plan (*i.e.*, following approval the plan amendment amends the resource management plan).

Consistent. The proposed rule would remove the definition of the term consistent. This definition is unnecessary as this is commonly used terminology.

Eligible cooperating agency. We propose removing this definition and revising the definition of "cooperating agency" to cite the definition of "eligible governmental entity" in the DOI NEPA regulations (43 CFR 46.225(a)). The DOI definition was promulgated after the BLM Planning regulations were last amended in 2005. No change in meaning or practice is intended; the BLM merely seeks to make the planning regulations consistent with the DOI NEPA regulations.

Cooperating agency. In defining "cooperating agency" for resource management planning purposes, the BLM proposes to modify the existing definition in the planning regulations for improved consistency with the DOI NEPA implementing regulations (43 CFR 46.225(a)) and to clarify existing language. This will make clear that while cooperating agencies are defined under the CEQ NEPA implementing regulations, cooperating agencies have unique roles in the BLM land use planning and NEPA processes and that the BLM defines cooperating agencies in the same way for both processes. Specifically, this section modifies the existing definition in the planning regulations by adding a reference to the definition of "eligible governmental entity" from the DOI NEPA regulations (43 CFR 46.225(a)) and by clarifying that a cooperating agency agrees to participate in the development of an "environmental impact statement or environmental assessment" under NEPA and in the planning process. We propose to delete "written" in the first sentence of this section, because a Federal cooperating agency—unlike State, local, or tribal governments—need not enter into a memorandum of understanding (MOU) or other written agreement to confirm its status under DOI NEPA regulations (see proposed § 1610.3–1(b)(2)).

We also propose to add the words "appropriate" and "scope of their expertise" to the last sentence to indicate that cooperating agencies will participate in the planning process as feasible and "appropriate," given the "scope of their expertise" and constraints of their resources. The added language would reinforce the fact

that cooperating agencies have a broad range of expertise and their participation in the planning process should be appropriate to their particular area of expertise. The BLM intends no change from current practice or policy with these proposed changes.

Deciding official. This proposed new definition refers to the BLM official who is delegated the authority to approve a resource management plan or plan amendment. As discussed throughout this preamble, it replaces the term "State Director" throughout the planning regulations in order to facilitate planning across traditional BLM administrative boundaries.

Field manager. We propose to remove this definition, because we propose to replace references to the Field Manager with "responsible official" or "the BLM" throughout. This change is intended to facilitate planning across traditional BLM administrative boundaries.

Guidance. We propose to remove the definition of guidance, because we believe a definition for the term "guidance" is no longer necessary in the planning regulations. Internal BLM guidance must be in compliance with all applicable laws and regulations, so further restrictions in the definitions section of these regulations is not necessary or appropriate. The removal of unnecessary definitions or language improves readability of the regulations. This proposed change would not be a change in practice or policy.

High quality information. We propose to add this new definition to describe new terminology introduced into proposed §§ 1610.1–1(c) and 1610.4(b). High quality information would be defined as "any representation of knowledge such as facts or data, including the best available scientific information, which is accurate, reliable, and unbiased, is not compromised through corruption or falsification, and is useful to its intended users" (for more information, see the discussion on high quality information at the preamble for proposed § 1610.1–1(c)).

Implementation strategies. We propose to add this new definition to describe new terminology introduced into proposed § 1610.1–3. As proposed, implementation strategies would be strategies that assist in implementing future actions consistent with the plan components. As explained in the preamble for proposed § 1610.1–3, implementation strategies would not be considered a component of the approved resource management plan; rather these optional strategies would be prepared in conjunction with the preparation of a resource management plan to assist in the future implementation of the resource management plan or be developed subsequently, but consistent, with the plan components.

Indian tribe. We propose to add this new definition of Indian tribe for consistency with the Federally Recognized Indian Tribe List Act of 1994 (25 U.S.C. 479a). The planning regulations were promulgated prior to this Act and this new definition would clarify the use of this term. As proposed, the term Indian tribe would refer to federally recognized Indian tribes. This proposed change would not be a change in practice or policy.

In connection with this change, we propose to delete the words "federally recognized" from five locations where the existing regulations refer to "federally recognized Indian tribes." These references were added under the 2005 revision to the regulations (70 FR 14561), but other existing references to Indian tribes were not amended at that time. Consequently, the existing regulations are inconsistent in their use of terminology. The references to "federally recognized" Indian tribes would no longer be necessary as a result of the proposed definition, which includes only federally recognized Indian tribes. The five references are identified and clarified in the corresponding sections of this preamble.

It is important to note that the proposed rule would not affect government-to-government consultation with federally recognized Indian tribes during the preparation or amendment of a resource management plan. The proposed rule also would not affect implementation of the "Department of the Interior Policy on Consultation with Alaska Native Claims Settlement Act (ANCSA) Corporations" (2012). The BLM would continue to conduct government-to-government consultation with federally recognized Indian tribes and would also continue to consult with ANCSA corporations during the preparation and amendment of resource management plans, consistent with DOI policy.

Local government. We propose to replace the existing language for "regulation authority" with "regulatory authority" for improved readability. No change in meaning is intended by this proposal.

Mitigation. We propose to add this new definition of mitigation to explain that mitigation includes the sequence of avoiding impacts, minimizing impacts, and compensating for remaining unavoidable impacts. This sequence is commonly referred to as the "mitigation hierarchy." By including this proposed definition in the planning regulations, the BLM acknowledges that this sequence also applies to the planning process. For example, during the preparation of resource management plans, the BLM first and foremost applies the principle of avoidance through the identification of planning issues and the formulation of alternatives that are guided by the planning issues (*i.e.,* identifying potential impacts and developing alternatives that avoid those potential impacts). During the preparation of a resource management plan, the BLM also identifies mitigation standards, which help to guide the future application of the principles of minimization and then compensation (for more information, see the discussion on mitigation standards at the preamble for proposed § 1610.1–2(a)(2)). The proposed language is consistent with the Departmental Manual chapter on "Implementing Mitigation at the Landscape-scale" (600 DM 6).

Officially approved and adopted land use plans. We propose to replace the phrase "resource related plans" with "land use plans" in this definition and throughout both subparts. The existing terminology of "resource related plans" is vague and it is unclear what constitutes a resource related plan. The proposed terminology of "land use plans" is consistent with section 202 of FLPMA. We also propose to remove the words "policies, programs, and processes" from the definition of officially approved and adopted land use plans. The existing definition is inconsistent with § 1610.3–2, which distinguishes between "officially approved or adopted resource related plans" in existing § 1610.3–2(a) and "officially approved or adopted resource related policies and programs" in existing § 1610.3–2(b), rather than combining them, such as in the existing definition.

This proposed change would mean that the requirements of § 1610.3–2(a) would apply to the "land use plans" of other Federal agencies, State and local governments, and Indian tribes, but would not apply to the "policies, programs, and processes." There would be no regulatory requirements for consistency with the "policies, programs, and processes" of other Federal agencies, State and local governments, and Indian tribes. This proposed change is consistent with section 202(c)(9) of FLPMA. For more information, see the discussion on consistency requirements at the preamble for proposed § 1610.3–2.

Plan amendment. This proposed new definition would clarify that a plan amendment could either be an amendment to an approved resource management plan or a management framework plan. A management framework plan is a land use plan that was prepared and approved prior to FLPMA. In either case, the BLM would be required to follow the same amendment procedures, as described in this part.

Plan components. This proposed new definition identifies plan components as the elements of a resource management plan with which future management actions will be consistent. Although other items could be prepared in conjunction with a resource management plan, such as implementation strategies, they would not be considered a component of the resource management plan (for more information, see the discussions on plan components and implementation strategies in the preamble for proposed §§ 1610.1–2 and 1610.1–3).

Plan maintenance. This proposed new definition would describe plan maintenance as minor changes to an approved resource management plan to correct typographical or mapping errors or reflect minor changes in mapping or data. For example, the BLM might maintain a plan by updating maps in the plan to correct a mistake in the location of a fence line. The BLM also might update maps in the plan to reflect minor changes in data, such as the location of a river that has migrated over time. The proposed language is consistent with existing § 1610.5–4 and proposed § 1610.6–5.

Plan revision. The BLM proposes to include a new definition for plan revisions, as a revision of an approved resource management plan or major portions of the resource management plan. We propose to clarify in this definition that the phrase "preparation or development of a resource management plan," which is used throughout the proposed planning regulations, includes plan revisions. The proposed language would improve understanding that the revision of a resource management plan follows the same procedures as the preparation of a new resource management plan (see proposed § 1610.6–7).

Planning area. This proposed new definition would describe the geographic area for the preparation or amendment of a resource management plan and would replace the existing definition for "resource area or field office." We would replace the terms "resource area" or "field office" with "planning area" throughout the proposed rule. The proposed change is consistent with the terminology the BLM currently uses to describe the geographic area for which resource management plans are prepared (see page 14 of BLM Handbook H–1601–1). Proposed § 1601.0–4 provides revised direction for determination of planning area boundaries. This proposed change would not be a change in practice or policy.

Planning assessment. This proposed new definition would describe an evaluation of relevant resource, environmental, ecological, social, and economic conditions in the planning area, which is developed to describe the current status of lands and resources in the planning area, project demand for those resources, and to assess how these demands can be met consistent with the BLM's multiple use and sustained yield mandate. The assessment will inform the preparation and, as appropriate, the implementation of a resource management plan or revision. Section 1610.4 of this preamble describes the proposed planning assessment step in the planning process, including opportunities for collaboration and public involvement. The planning assessment may also be used during the implementation of a resource management plan. For example, the BLM could use information from a planning assessment to evaluate whether a future proposed action conforms with an objective in the approved resource management plan related to the protection of a sensitive resource and could supplement that information with down-scaled information specific to the project area being considered. The BLM could also use information from a planning assessment to inform the preparation of a travel management plan.

Planning issue. This proposed new definition would identify planning issues as disputes, controversies, or opportunities related to resource management. For example, a planning issue might identify a potential dispute over resource management, such as a popular recreation area that coincides with important cultural sites, habitat, or another multiple use. A planning issue might also identify a potential opportunity, such as an opportunity to control the spread of invasive species through resource management. The proposed new definition would be consistent with current practice and policy.

Public lands. We propose to replace Bureau of Land Management with BLM and to split the existing definition into two sentences for improved readability. These proposed changes would not be a change in practice or policy.

Resource area or field office. We propose to remove this definition, because the resource area or field office no longer would be the "default" planning area. We would replace the terms "resource area" or "field office" with "planning area" throughout the proposed rule.

Resource Management Plan. We propose to simplify the existing definition to say a resource management plan is "a land use plan as described under section 202 of the Federal Land Policy and Management Act of 1976, including plan revisions." Much of the existing language, and a more in depth discussion of what constitutes a resource management plan would be moved to §§ 1610.1–2 and 1610.1–3. "Plan components" and "implementation strategies" described in proposed § 1610.1 would replace the elements generally established in a resource management plan under the existing definition in § 1601.0–5(n). As discussed in § 1610.1 of the preamble, these proposed changes aim to clarify that a resource management plan is a landscape-focused document that guides future management activities. They also aim to distinguish the land use planning-level components of a resource management plan (*i.e.*, plan components) from supporting documents that assist in implementing future actions consistent with the resource management plan (*i.e.*, implementation strategies).

Proposed language would clarify that the term "resource management plan" includes plan revisions. The proposed change would improve understanding that the revision of a resource management plan follows the same procedures as the preparation of a new resource management plan (see proposed § 1610.6–7).

We propose to revise existing language at the end of this definition to read "approval of a resource management plan is not a final implementation decision on actions which require further specific plans, process steps, or decisions under specific provisions of law and regulations." The decision to approve a resource management plan is therefore not an approval of future actions within the planning area that require subsequent plans (such as a mining plan of operations), process steps (such as site-specific NEPA-analysis), or decisions (such as the decision to approve the action based on the site-specific NEPA analysis).

Responsible official. This proposed new term would replace the term "Field

Manager" throughout the planning regulations, acknowledging that the BLM employee authorized to prepare a resource management plan or plan amendment may not always be the Field Manager due to the need to plan across traditional BLM administrative boundaries. The proposed term is based on the definition of "Responsible official" in the DOI NEPA implementing regulations, "the bureau employee who is delegated the authority to make and implement a decision on a proposed action and is responsible for ensuring compliance with NEPA" (43 CFR 46.30). This proposed term, as modified, would only be applicable to the BLM land use planning process; no change to the DOI NEPA implementing regulations is intended. However, note that in the DOI NEPA regulations, the responsible official has the authority to make and implement a decision on a proposed action and is responsible for ensuring compliance with NEPA. We propose to divide these responsibilities between the deciding official and the responsible official for purposes of the planning rule. Under the proposed rule, the responsible official would prepare the resource management plan or plan amendment and related EISs and EAs, and the deciding official would approve the resource management plan.

Sustained yield. This proposed new definition comes from section 103(h) of FLPMA. We propose adding it because the planning regulations already include the statutory definition of multiple use and the principles of multiple use and sustained yield guide the BLM's development and revision of land use plans under section 202(c)(1) of FLPMA absent other applicable law. These regulatory definitions are useful because they are referenced throughout the existing and proposed regulations.

Section 1601.0–6 Environmental Impact Statement Policy

We propose to replace the word "plan" with "resource management plan" and to replace the word "shall" with "will" throughout this section, for the reasons previously described.

Section 1601.0–7 Scope

The BLM proposes this section, which is identical to that in the existing regulations.

Section 1601.0–8 Principles

In the first sentence of this section, we propose edits to replace "shall" with "will" for the reasons previously described, and "the Federal Land Policy and Management act of 1976" with FLPMA. The BLM intends no change in practice or policy from these proposed changes.

The second sentence of this section would be revised to state that the BLM will consider the impacts of resource management plans on resource, environmental, ecological, social and economic conditions at appropriate scales, rather than just on "local economies." This broader range of conditions would include the consideration of impacts to local economies, in addition to the impacts on other conditions. The revised language more accurately describes current practice when considering impacts and would provide useful information for the deciding official. It is also important that these impacts be considered at appropriate scales. For example, it is important that the deciding official is aware of the socioeconomic impacts of a resource of national significance found within the planning area, such as the Federal Helium Reserve, which the BLM administers near Amarillo, Texas. The new language is consistent with the Planning 2.0 goals of addressing landscape-scale resource issues.

Finally, we propose edits to use active voice in the last sentence of this section and to require that the BLM consider the impacts of resource management plans on adjacent or nearby Federal and non-Federal lands, as well as the uses of adjacent or nearby Federal and non-Federal lands. The new language is consistent with the Planning 2.0 goals of addressing landscape-scale resource issues and would facilitate coordination and collaboration with adjacent Federal land managers and landowners, as appropriate.

Subpart 1610—Resource Management Planning

Section 1610.1 Resource Management Planning Framework

We propose to change the heading of § 1610.1 by replacing the word guidance with framework. The broader heading would reflect the entire section as revised.

Many of the provisions of existing § 1610.1 would be found in §§ 1610.1–1, 1610.1–2, and 1610.1–3 of the proposed rule. Those sections are discussed in greater detail as follows.

Section 1610.1–1 Guidance and General Requirements

Proposed § 1610.1–1 would address the development of guidance for resource management planning and general requirements for the preparation and amendment of resource management plans.

Proposed § 1610.1–1(a) contains provisions of existing § 1610.1(a). This section would still refer to planning guidance, but we propose to replace references to "State Director" with "deciding official" and references to "Field Manager" with "responsible official." These changes are consistent with changes made throughout this proposed rule to facilitate planning across traditional BLM administrative boundaries. We propose to specify that the word "plan" refers to a "resource management plan."

Proposed § 1610.1–1(a)(1) contains provisions of existing § 1610.1(a)(1), which explains that guidance may include "Policy established through Presidential, Secretarial, Director, or deciding official approved documents, so long as such policy is consistent with the Federal laws and regulations applicable to public lands." We propose to remove existing language limiting this guidance to "National level policy" to also include policy developed at the deciding official level as another type of guidance that may be developed to help the responsible official prepare a resource management plan. We also propose to remove existing language that provides examples of policy, such as "appropriately developed resource management commitments." These examples are unnecessary in the regulations and do not adequately cover the broad range of policy examples that could be included as guidance. The BLM intends no change in practice or policy from the proposed changes to this section. Rather, the proposed changes are intended to improve readability and reaffirm that the BLM may only develop or apply policy that is consistent with Federal laws and regulations.

Proposed § 1610.1–1(a)(2) contains most of the provisions found in existing § 1610.1(a)(2) with some revisions. We propose to remove existing § 1610.1(a)(3). This section would no longer be necessary because guidance developed at the deciding official level would be incorporated into proposed § 1610.1–1(a)(1). The proposed changes would remove existing requirements for the State Director to reconsider inappropriate guidance during the planning process. This language is vague and confusing, as it does not define what it means for guidance to be "inappropriate." The BLM must comply with the requirements of Federal laws and regulations applicable to public lands and therefore guidance developed to inform the preparation of a resource management plan must also comply with Federal laws and regulations applicable to the public lands.

We propose to remove existing § 1610.1(b), which states "a resource management plan shall be prepared and maintained on a resource or field office area basis, unless the State Director authorizes a more appropriate area." This language is no longer necessary because proposed § 1601.0–4 describes the responsibilities for determining future planning areas. For more information, see the discussion on the determination of planning areas at the preamble for proposed § 1601.0–4.

Proposed § 1610.1–1(b) would contain the provisions of existing § 1610.1(c). The proposed section would make several style changes: Changing "shall" to "will", and abbreviating "Bureau of Land Management" to "BLM" in the last sentence. The first sentence would be revised to read "the BLM will use a systematic interdisciplinary approach in the preparation and amendment of resource management plans to achieve integrated consideration of physical, biological, ecological, social, economic, and other sciences." The proposed language is consistent with section 202(c)(2) of FLPMA and would highlight the objective of using an interdisciplinary approach, as described in FLPMA, as well as the importance of integrated consideration of sciences in the planning process.

In the second sentence of proposed § 1610.1–1(b), we propose to replace the word "disciplines" with "expertise," to reflect that BLM staff may have expertise outside of their formal discipline, and an "interdisciplinary approach" should be based on expertise, not formal disciplines. This proposed change is consistent with current practice. We propose to add the word "resource" before values, to clearly identify what type of values this sentence applies to and to specify that "the expertise of the preparers will be appropriate to . . . the principles of multiple use and sustained yield, or other applicable law." No change in meaning, practice, or policy is intended by these proposed changes.

Finally, we propose to replace "Field Manager" with "responsible official" in the last sentence of proposed § 1610.1–1(b). This change would be consistent with other changes in terminology in this proposed rule.

Proposed § 1610.1–1(c) would state that the BLM will use high quality information to inform the preparation, amendment, and maintenance of resource management plans. High quality information includes the best available scientific information, but the requirement extends to other information as well. For example, "Traditional Ecological Knowledge" (TEK) refers to the knowledge specific to a location acquired by indigenous and local peoples over hundreds and thousands of years through direct contact with the environment. Under the proposed rule, TEK would be considered a type of high quality information that could inform the preparation, amendment, and maintenance of resource management plans, so long as the TEK is relevant to the planning effort and documented using methodologies designed to maintain accuracy and reliability, and to avoid bias, corruption, or falsification, such as ethnographic research methods.

As the BLM considers what constitutes high quality information for purposes of the planning process, the BLM is mindful of its obligations under the Information Quality Act, section 515 of the Treasury and General Government Appropriations Act for Fiscal Year 2001 (Pub. L. 106–554, H.R. 5658), and implementing guidelines of OMB,[5] DOI,[6] and the BLM for "ensuring and maximizing the quality, objectivity, utility, and integrity of information (including statistical information) disseminated by Federal agencies."[7] The descriptions of objectivity, integrity, and utility provided in the BLM guidelines, as well as the principle of using the "best available" information, are particularly instructive with regard to information considered and shared with the public during resource management planning. In the planning process, the BLM also adheres to NEPA requirements for using "high quality" information and "[a]ccurate scientific analysis" (40 CFR 1500.1(b)), and for ensuring the "professional integrity, including scientific integrity, of the discussions and analyses in [EISs]" (40 CFR 1502.24).

In addition, the BLM intends that the March 2015 publication, "Advancing Science in the BLM: An Implementation Strategy," will inform a responsible official's consideration of high quality information. This publication describes several principles and practices that pertain to the identification and consideration of high quality information in resource management planning. They include: Using the best available scientific knowledge relevant to a problem or decision, including peer-reviewed literature where it exists; acknowledging, describing, and documenting assumptions and uncertainties; and using quantitative data when it exists, together with professional scientific expertise from within and outside the BLM.[8] Moreover, all BLM employees are subject to the DOI scientific integrity policy in the Departmental Manual (305 DM 3, Dec. 16, 2014) when they use scientific information for DOI policy, management, or regulatory decisions. This policy states: "Scientific information considered in Departmental decision-making must be robust, of the highest quality, and the result of as rigorous a set of scientific processes as can be achieved. Most importantly, the information must be trustworthy." (305 DM 3, section 3.4).

Together, these requirements, policies, and strategies relating to high quality information, including scientific information, will guide responsible officials as they consider information for planning purposes. The BLM anticipates that including the BLM's commitment to using high quality information in the planning regulations, and operating consistent with Departmental policy on scientific integrity and BLM's strategy for advancing science, would result in greater consistency in how BLM field, district, and State offices identify and use information, including scientific information, throughout the land use planning process. The proposed change would simply reaffirm current practice and policy.

Section 1610.1–2 Plan Components

Proposed § 1610.1–2 would describe the components of a resource management plan. The existing definition of "resource management plan" lists eight elements that a plan "generally establishes" (see existing § 1601.0–5(n)). The proposed rule would revise these elements and divide them into "plan components" and "implementation strategies" (see proposed § 1610.1–3). The plan components would provide planning-level direction with which future management activities and decisions must be consistent (*i.e.*, planning-level management direction). Implementation strategies would provide more detailed

[5] Office of Management and Budget, "OMB Guidelines for Ensuring and Maximizing the Quality, Objectivity, Utility, and Integrity of Information Disseminated by Federal Agencies; Republication," (67 FR 8452).

[6] U.S. Department of the Interior, "Information Quality Guidelines Pursuant To Section 515 Of The Treasury And General Government Appropriations Act For Fiscal Year 2001," *http://www.doi.gov/ocio/information_management/upload/515Guides.pdf.*

[7] Bureau of Land Management, "Information Quality Guidelines—Guidelines for Ensuring and Maximizing the Quality, Objectivity, Utility, and Integrity of Information Disseminated by the Bureau of Land Management," *http://www.blm.gov/style/medialib/blm/national/national_page.Par.7549.File.dat/guidelines.pdf.*

[8] The implementation strategy is available at: *http://www.blm.gov/wo/st/en/info/blm-library/publications/blm_publications/advancing_science.html.*

information to guide how the BLM intends to implement future actions consistent with the planning-level management direction.

Proposed § 1610.1–2 describes the following six "plan components" which every resource management plan will include: Goals, objectives, designations, resource use determinations, monitoring and evaluation standards, and certain lands identified as available for disposal, as applicable. Plan components provide planning-level management direction and would therefore only be changed through plan amendments or revisions under proposed new § 1610.1–2(c), although typographical and mapping errors, or minor changes in mapping or data associated with a plan component could continue to be updated through plan maintenance, consistent with current BLM policy and practice (see proposed § 1610.6–4). The approval of plan components would be subject to protest procedures (see proposed § 1610.6–2).

This proposed distinction between plan components and implementation strategies would facilitate the preparation of landscape-minded resource management plans. The proposed rule would more clearly distinguish between the planning-level management direction reflected in the plan components of an approved resource management plan and related implementation strategies, which facilitate the implementation of future actions consistent with the plan components, but would not be considered a component of the resource management plan. By doing so, the proposed rule would enable the BLM to provide planning-level management direction through the development of plan components, while using adaptive approaches to implement future actions under the plan. It would also provide consistency throughout the BLM in how plans are structured. The following paragraphs discuss plan components in detail.

The six proposed plan components are based on the first four elements and the eighth element described in the existing definition of a resource management plan (see existing §§ 1601.0–5(n)(1) through 1601.0–5(n)(4) and 1601.0–5(n)(8)). Under the proposed rule, these elements would be called plan components and each component would be provided a distinct name and a precise definition to facilitate understanding and consistent implementation.

Proposed §§ 1610.1–2(a)(1) and 1610.1–2(a)(2) describe the first two types of plan components—goals and objectives.

The *goals* of a resource management plan would be broad statements of desired outcomes addressing resource, environmental, ecological, social, and economic characteristics within a planning area or a portion of the planning area. The BLM would direct the management of the land and resources within the planning area toward the goals. This plan component would replace "resource condition goals" described in existing § 1601.0–5(n)(3). We propose to remove the words "resource condition" as goals may address other characteristics within a planning area as well. The BLM intends no change from existing practice; rather, the proposed change would improve consistency and the proposed rule would match current practice.

Second, the *objectives* would replace the "resource condition . . . objectives" described in existing § 1601.0–5(n)(3) and would represent concise statements of desired resource conditions that guide progress toward one or more goals. The proposed rule would establish a new requirement that objectives must be specific and measurable and should have established time-frames for achievement. This would improve the BLM's ability to evaluate whether the objectives are being met and to track progress towards their achievement. Since future resource management actions would be required to conform to the plan components, including the objectives (see the definition of "conformity or conformance" in proposed § 1601.0–5); the proposed requirement for measurable objectives would assist the BLM when determining if a proposed action is in conformance with the resource management plan objectives. For example, if the NEPA analysis revealed that a proposed action would prohibit the achievement of an objective, the proposed action would not be in conformance with the resource management plan.

Measurable objectives would be defined using the most appropriate scale of measurement for that objective. For example, an objective to manage an area as visual resource class one, two, or three is based on an ordinal scale of measurement. An ordinal scale ranks categories in order (1st, 2nd, 3rd, etc.), but there is no relative degree of difference between the categories. In contrast, an objective related to managing for a specific proportion of vegetation cover (*e.g.*, total acreage) is based on a ratio scale of measurement. A ratio scale has a fixed zero value and allows the comparison of differences of values.

To the extent practical, objectives should identify standards to mitigate undesirable effects to resource conditions and should provide integrated consideration of resource, environmental, ecological, social, and economic factors (see 43 U.S.C. 1712(c)(2)). The proposed changes would support implementation of the BLM mitigation policy through the development of standards to be used for mitigating undesirable effects to resource conditions. For example, an objective might identify a mitigation standard for no net loss to a sensitive species would provide a standard to guide future authorizations in avoiding, minimizing, and compensating for any unavoidable remaining impacts to the sensitive species. The proposed changes would also support the use of adaptive management where appropriate, as a measurable objective could identify a threshold that triggers a response, such as the initiation of a plan amendment. If such a threshold were identified as part of a measurable objective, the BLM would use the monitoring and evaluation process to determine whether the threshold had been met (see the discussion on monitoring and evaluation at the preamble for proposed § 1610.6–4).

Although both goals and objectives are currently described in the definition of a resource management plan as an element that is "generally" included (see existing § 1601.0–5(n)), the proposed rule would explicitly require the inclusion of goals and objectives; this proposed change is consistent with current BLM policy established in the existing Land Use Planning Handbook. The proposed rule would also provide clarity on the definition of the terms, which would improve understanding and consistency in implementation.

Proposed § 1610.1–2(b) would describe four additional plan components that are developed either to achieve the goals and objectives of the resource management plan, or to comply with applicable legal requirements or policies, consistent with the principles of multiple use and sustained yield or other applicable law, such as national monuments established under the Antiquities Act of 1906 (16 U.S.C. 431–433), which must use and observe the principles specific to their establishment. These four plan components include designations, resource use determinations, monitoring and evaluation standards, and lands identified as available for disposal, as applicable. These plan components would also provide planning-level management direction while supporting

achievement of the goals and objectives of the resource management plan.

Paragraph (b)(1) of this section describes "*designations,*" which would replace the existing element of a resource management plan described as "land areas for . . . designation, including ACEC designation" (see existing § 1601.0–5(n)(1)). Designations, as proposed, would identify areas of public land where management is directed toward one or more priority resource values or uses. A designation would highlight these areas to clearly communicate the BLM's intention to prioritize these resource values or uses when developing management direction or making future management decisions in the area. Designations would include both "planning designations" which are identified through the BLM land use planning process and "non-discretionary designations" which are identified by the President, Congress, or the Secretary of the Interior pursuant to other legal authorities.

Planning designations would be identified through the BLM land use planning process in order to achieve the goals and objectives of the plan or to comply with applicable legal requirements or policies. An example of existing designations or allocations that would become planning designations that could be identified in order to achieve the goals and objectives of the plan is a research natural area, a special recreation management area, a backcountry conservation area, a wildlife corridor area, or a solar energy zone. An example of a planning designation that would be identified in order to comply with applicable legal requirements or policies is an ACEC. The BLM intends to develop a list of planning designations available for use during the planning process as part of the forthcoming revision of the Land Use Planning Handbook. It is not, however, the BLM's intention that all public lands would be included in a planning designation; rather, the proposed rule and the forthcoming revision of the Land Use Planning Handbook would clarify that this is an existing planning tool that is available during the planning process to highlight and prioritize unique or special areas that require management that is different from surrounding lands.

Non-discretionary designations, in contrast, are identified by the President, Congress, or the Secretary of the Interior pursuant to other legal authorities. For instance, Under the Wilderness Act of 1964, Congress has the exclusive authority to designate or change the boundaries of wilderness areas. The BLM and other Federal land management agencies manage wilderness areas consistent with Congressional direction. The BLM manages National Conservation Areas (NCA) and similarly designated lands such as Cooperative Management and Protection Areas, Outstanding Natural Areas, and one Forest Reserve (the Headwaters Forest Reserve in northern California) pursuant to Congressional direction.

Non-discretionary designations made by the Secretary of the Interior, Congress, or the President are not established or amended through the BLM land use planning process. These non-discretionary designations would, however, be identified in a resource management plan, and management direction for the designation, including plan components, would be developed, consistent with the over-arching direction provided in the proclamation, legislation, or order through which the non-discretionary designation was established.

There would be no substantive change in the proposed rule, other than identifying designations as a plan component and specifying that planning designations can be applied either to achieve the goals and objectives of the resource management plan or to comply with legal requirements or policies. Further, the proposed rule would clarify the difference between a designation and other plan components, such as a resource use determination. The BLM believes that differentiating between resource use determinations and designations in the regulations would help to improve general understanding of terminology.

Resource use determinations are another type of proposed plan component and would replace several existing elements of a resource management plan, including "land areas for limited, restricted, or exclusive use," "allowable resource uses," and "program constraints," (see existing § 1601.0–5(n)). A resource use determination would identify areas of public lands or mineral estate where specific uses are excluded, restricted, or allowed in order to achieve the goals and objectives of the resource management plan or applicable legal requirements or policies. In contrast to designations, which indicate where one or more resources or uses is prioritized over other resources or uses, resource use determinations identify where a use is excluded, restricted, or allowed, but do not identify a priority for one or more multiple-uses. Examples of resource use determinations include: areas identified as available or unavailable for livestock grazing, open or closed to mineral leasing, or open to mineral leasing subject to standard terms and conditions or major or moderate constraints, or open, limited, or closed to Off-Highway-Vehicle use. In most circumstances, a resource use determination indicating that a use is allowed, or allowed with restrictions in an area, would not represent a final decision allowing future use authorizations in the area, rather it would indicate that future authorizations for the activities would be in conformance with the resource management plan and may be considered for approval following site-specific NEPA analysis.

The proposed rule would provide a more precise characterization of land use allowances, exclusions, and restrictions than the existing definition of a resource management plan. This proposed change would improve understanding and consistency in implementation, as well as consistent use of terminology. The BLM intends no substantive change in practice associated with this new terminology; however, under the proposed rule there would be changes in how the various parts of a resource management plan are categorized.

For example, under this proposed rule, some common "management actions" described in resource management plans prepared under the existing planning regulations would be classified as "resource use determinations," such as any explicit restrictions to an allowed use at the land use planning level. For example, mineral lease stipulations such as No Surface Occupancy or Controlled Surface Use would be considered resource use determinations, as these constraints represent restrictions to an allowed use that are explicitly required at the land use planning level. This is important because resource use determinations would be changed only through plan amendments or revisions. This proposed change would not represent a change in current practice under the existing regulations, as planning-level restrictions to an allowed use are currently subject to protest procedures and may be changed only through plan amendments. Rather, the proposed change would ensure that restrictions to an allowed use, using current planning terminology, are classified as a resource use determination under the proposed new definitions.

In addition, under the proposed descriptions of planning designations and resource use determinations, the BLM affirms that both planning designations and resource use

determinations may be defined explicitly by geographic boundaries, or implicitly by describing the specific conditions or criteria under which a resource or use would be prioritized, or a use would be excluded, restricted, or allowed. In situations where a criteria-based approach is used, the BLM would develop maps showing where the criteria apply based on current data and conditions. These options for defining planning designations and resource use determinations are consistent with current practice and do not represent a change from existing policy, though it would represent a change in terminology.

For example, under the existing planning regulations, the BLM applied both approaches when developing the "Approved Resource Management Plan Amendments and Record of Decision (ROD) for Solar Energy Development in Six Southwestern States" (Western Solar Energy Plan). The Western Solar Energy Plan developed a list of areas where utility-scale solar energy development was prohibited. Some of these areas were defined by explicit geographic boundaries, such as lands in the Ivanpah Valley in California and Nevada. Others were defined by the presence of a specific land use designation in an applicable land use plan (*e.g.*, ACECs) or the presence of a specific resource or condition (*e.g.*, designated or proposed critical habitat for ESA-listed species). The geographic boundaries for these areas will change over time as land use plans are revised or amended and new information on resource conditions is developed. For the purposes of the Western Solar Energy Plan and its associated NEPA analysis, the BLM mapped and estimated the acreage for all exclusion areas based on best available information; however, those maps will be updated over time. Through the proposed description of planning designations and resource use determinations, the BLM affirms that an explicit geographic-based approach or an implicit criteria-based approach would both continue to be acceptable for defining a planning designation or a resource use determination.

Monitoring and evaluation standards are another type of plan component. These standards would replace the existing element of a resource management plan entitled "Intervals and standards for monitoring and evaluating the plan to determine the effectiveness of the plan and the need for amendment or revision" (see existing § 1601.0–5(n)(8)). As proposed, monitoring and evaluation standards would include "indicators and intervals for monitoring and evaluation to determine whether the objectives are being met or there is relevant new information that may warrant amendment or revision of the resource management plan." Indicators and intervals for monitoring would be tied directly to the quantifiable objectives to clearly indicate how each objective would be measured (*i.e.*, the indicator) and how often it would be measured (*i.e.*, the interval). Intervals for evaluating the resource management plan would identify the frequency for evaluating the resource management plan in its entirety to determine whether a plan amendment or revision is warranted.

Lands identified as available for disposal from BLM administration under section 203 of FLPMA would constitute the final type of plan component and would replace the existing element of a resource management plan described as "land areas . . . for transfer from Bureau of Land Management Administration" (see existing § 1601.0–5(n)(1)). Section 203 of FLPMA provides for the sale of tracts of public land where the Secretary (implemented by the BLM under delegated authority) determines through the land use planning process that the sale meets specified criteria. The proposed rule would specify that lands identified as available for disposal under section 203 of FLPMA would be considered a plan component, however disposal of lands may not be applicable to every resource management plan. For example, it is unlikely that a resource management plan developed for a national monument or national conservation area would identify lands as available for disposal. As a plan component, identification of lands as available for disposal would only be changed through amendment or revision, consistent with current BLM policy.

The BLM requests public comment on the proposed plan components. In particular, the BLM requests public comment on the distinction between planning designations, which identify areas where specific resources or uses would be prioritized, and resource use determinations, which identify areas where specific uses would be excluded, restricted, or allowed, and whether these two components should be combined into a single plan component. For example, resource use determinations could be revised to be a type of planning designation.

Section 1610.1–3 Implementation Strategies

Proposed § 1610.1–3 describes other types of information, called implementation strategies, that may be developed in conjunction with a resource management plan and included as an appendix to the resource management plan, but do not represent planning level management direction and are not considered components of the resource management plan. Implementation strategies provide examples of how the BLM intends to implement future actions consistent with the planning-level management direction. For example, an implementation strategy might describe an integrated pest management strategy to address invasive species, including potential actions the BLM may take such as active removal of invasive species, and the methods BLM may use to take these actions. This strategy would be designed to achieve a measurable objective, such as a desired plant community composition.

Implementation strategies provide examples of how the BLM might achieve the resource management plan objectives, but in any particular resource management plan they would not provide an exhaustive list of every future action the BLM might take to achieve the resource management plan's objectives. Nor do they represent a commitment or a decision to implement the potential actions described in the implementation strategy. A future implementation decision occurs after adoption of a plan. As a result, future actions associated with, or incorporating an implementation strategy, would not occur until the implementation stage and would therefore require site-specific NEPA analysis and compliance with other relevant laws before a final decision is made and any action is taken.

Unlike the plan components, implementation strategies could be updated at any time to incorporate new information and such updates do not require a plan amendment or plan maintenance (for more information see the discussion at the preamble for paragraph (c) of this section).

Proposed § 1610.1–3 would describe two types of implementation strategies: Management measures and monitoring procedures. The proposed rule affirms that the development of other types of implementation strategies may occur through future policy and guidance, as is currently the case.

Management measures would replace several existing elements of a resource management plan, including "general

management practices needed to achieve the above items," "support action, including such measures as resource protection, access development, realty action, cadastral survey, etc., as necessary to achieve the above," "need for an area to be covered by more detailed and specific plans," and "general implementation sequences, where carrying out a planned action is dependent upon prior accomplishment of another planned action" (see existing § 1601.0–5(n)). As proposed, management measures would identify one or more potential actions the BLM may take or require of permitted activities in order to achieve the resource management plan goals and objectives.

Under this proposed rule, management measures could include resource management practices, best management practices, standard operating procedures, the preparation of more detailed and specific plans, or other measures as appropriate. Management measures developed in conjunction with a resource management plan would not be an exhaustive catalog of possible approaches, but would only describe future actions that the BLM may take, consistent with the plan components. Specific examples of management measures include the application of vegetation treatments to improve wildlife habitat or reduce fuel-loading for wildfire prevention; re-vegetation to achieve restoration objectives; or identification of the need to prepare a travel management plan for a particular area.

As proposed, the BLM would update a list of management measures, as needed, to reflect new information such as changes in resource conditions or a BLM determination that the management measure is not effective in achieving the goals and objectives of the resource management plan based on the results of monitoring and evaluation. The proposed rule would facilitate the use of adaptive approaches for implementation and improve the BLM's ability to respond to and incorporate new information. At the same time, a particular management measure, if and when implemented, would support progress toward the measureable objectives of the resource management plan and must be implemented consistent with all plan components, thus changes made to the list of management measures would be constrained by the parameters of the measurable plan objectives and other plan components. For example, if a management measure described the BLM's intent to implement habitat improvements through vegetation manipulation in an area in order to achieve a vegetation related plan objective, and the results of monitoring and evaluation indicated over time that habitat improvements were resulting in a negative impact on vegetation objectives, the BLM could update the list of management measures to remove or update the ineffective methods. Site-specific NEPA analysis would be conducted before any management measure was implemented.

Management measures, as the rule proposes, might be included with a resource management plan, and would be either examples of, or likely approaches that, indicate to the public how the BLM intends to implement future actions consistent with the plan, but the approval of a resource management plan does not represent a final decision for a management measure nor does it constrain BLM's discretion to develop management measures to apply to future implementation decisions. The final decision for a future action associated with a management measure would occur at the implementation stage and would require site-specific NEPA analysis. Any changes made to the list of management measures described in a resource management plan would be made available for public review at least 30 days prior to their implementation.

In addition, the BLM would provide for any public involvement required by NEPA before authorizing the implementation of site-specific actions. For example, preparation of an EA, or documenting reliance on a categorical exclusion (if available), or determination of NEPA adequacy before authorizing implementation of a vegetation management treatment to improve wildlife habitat; or the preparation of an EIS before authorizing a right-of-way application that incorporated best management practices identified in the resource management plan.

Although management measures would represent a new term and category in the planning regulations, the types of actions that would be included as management measures and the process for updating that information would be consistent with current BLM practice and interpretation of the existing planning regulations. For example, the BLM often provides a list of best management practices associated with permitted activities as an appendix to the resource management plan. The proposed changes would provide clarification in the regulations and improve consistency in implementation across the BLM.

Monitoring procedures would also be a type of implementation strategy under proposed § 1610.1–3(a)(2). Monitoring procedures would describe methods for monitoring the resource management plan, consistent with the monitoring standards (see proposed § 1610.1–2(b)(3)). Under the proposed rule, these procedures would be updated as new information becomes available—either as monitoring technology develops, for instance, or more is known about the resource being monitored. For example, advances in remote sensing and geospatial technologies have provided more accurate and cost effective methods to monitor vegetation and wildlife activity in recent years and will likely continue to improve in the future; under the proposed rule these advances in technology could be incorporated into revised monitoring procedures. For a detailed discussion of monitoring and evaluation, see the preamble for § 1610.6–4.

Proposed § 1610.1–3(b) would state that implementation strategies are not a plan component but are intended to assist the BLM in implementing the plan components. The proposed language affirms that an implementation strategy does not provide planning-level management direction and is therefore not a component of the resource management plan; implementation strategies must, however, be in conformance with the resource management plan. Nonetheless, the BLM intends that implementation strategies would be included as appendices to the resource management plan and made available for public review in conjunction with the publication of the proposed resource management plan (see proposed § 1610.5–5).

Proposed § 1610.1–3(c) would explain that implementation strategies could be updated at any time in the future in response to new information and these updates would not require a plan amendment or the formal public involvement and interagency coordination process described in proposed §§ 1610.2 and 1610.3. This is because implementation strategies are not plan components. Rather, they are simply provided as background information to help the public have a better understanding of what a future site specific implementation action might look like. It is important to note that implementation strategies, and future updates to implementation strategies, would be subject to the high quality information requirement described in proposed § 1610.1–1(c). The BLM would be required to make any changes to implementation

strategies available for public review at least 30 days prior to their implementation, unless notification is provided through site-specific NEPA, to provide transparency to the public.

The BLM requests public comments on the proposed distinction between plan components and implementation strategies. In particular, the BLM requests public comments on the procedures for updating implementation strategies, including the need for, timing and potential scope of public involvement.

Section 1610.2 Public Involvement

In the heading of this section and throughout the planning regulations, the BLM proposes to replace the term "public participation" with "public involvement" to be more consistent with FLPMA. The BLM intends no change in practice or meaning from this proposed revision. Public involvement is central to the BLM land use planning process under FLPMA. Section 202(a) directs the Secretary, "with public involvement" and consistent with FLPMA, to "develop, maintain, and, when appropriate, revise land use plans which provide by tracts or areas for the use of the public lands. . . ." Section 202(f) requires that the Secretary "allow an opportunity for public involvement and by regulation shall establish procedures . . . to give Federal, State, and local governments and the public, adequate notice and opportunity to comment upon and participate in the formulation of plans and programs relating to the management of the public lands." Section 103(d) of FLPMA broadly defines the term "public involvement" as "the opportunity for participation by affected citizens in rule making, decision making, and planning with respect to the public lands, including public meetings or hearings held at locations near the affected lands, or advisory mechanisms, or such other procedures as may be necessary to provide public comment in a particular instance."

The BLM interprets this definition as encompassing notice by varied means, including by making a planning document available electronically (*e.g.,* on the BLM Web site), providing direct notice to individuals or groups that have asked to receive notice about public involvement opportunities (*e.g.,* by electronic means such as email or by U.S. mail), or publishing general notice for the public (*e.g.,* in a local newspaper or in the **Federal Register**). We propose to revise § 1610.2 to indicate more clearly the points in the planning process when the BLM would provide notice through one or more of these means.

In addition, the BLM proposes to distinguish in the regulations between making a document "available for public review" and specifically requesting public comments. Where the BLM makes documents available for public review, the BLM believes it is important for the public to have an opportunity to see the BLM's progress. The public is welcome to bring any questions or concerns to the BLM's attention based on public review and the BLM will consider their input. In these circumstances, however, the BLM is not requesting comments and does not provide a time-period for submission of comments or anticipate formally summarizing or responding to any public comments received. This is not a change from existing practice, but would clarify the BLM's intent when we use this terminology.

In contrast, where the BLM "requests written comments," the BLM will provide a minimum of 30 days for response (see proposed § 1610.2–2(a)). As appropriate, the BLM also summarizes and responds to substantive comments. For example, the BLM summarizes public comments raised during scoping, develops planning issues based on the comments, and issues a scoping report. Similarly, the BLM summarizes and responds to substantive public comments submitted on a draft resource management plan and draft EIS.

In some situations, the BLM may request written comments, but would not provide a written response. For example, the BLM may request public comment on a draft EA-level amendment without issuing a written response. Again, this is not a change from existing practice, but would clarify to the public the BLM's intent when we use this terminology.

We propose to restructure § 1610.2 to clearly indicate the different aspects of public involvement in the land use planning process. General provisions are followed by specific sections, including: Public notice; public comment periods; and availability of the resource management plan. The following table and paragraphs explain the specific proposed changes to § 1610.2 and the supporting rationale. They also request public comments on specific provisions.

TABLE 1—COMPARISON OF PUBLIC INVOLVEMENT OPPORTUNITIES IN EXISTING VS. PROPOSED REGULATIONS

Step in planning process for the preparation of a resource management plan or an EIS-level amendment	Level of public involvement	
	Existing regulations	Proposed regulations
Planning assessment	1610.1: The planning assessment would be a new requirement under the proposed rule, and therefore is not applicable to the existing regulations.	1610.4: The public would be provided opportunities to provide existing data or information or to suggest policies, guidance, or plans for consideration in the planning assessment. The BLM would identify public views in relation to the planning area, which may include public meetings. The planning assessment would be documented in a report, which would be made available for public review. The BLM could waive the requirement to conduct a planning assessment for minor EIS-level amendments or if an existing planning assessment is determined to be adequate.
Identification of planning issues	1610.2(c) and 1610.4–1: The BLM publishes a NOI in the **Federal Register** and publishes a notice in appropriate local media. The public is provided a minimum of 30-days to comment.	1610.2–1(f) and 1610.5–1: Same as existing regulations.

TABLE 1—COMPARISON OF PUBLIC INVOLVEMENT OPPORTUNITIES IN EXISTING VS. PROPOSED REGULATIONS—Continued

Step in planning process for the preparation of a resource management plan or an EIS-level amendment	Level of public involvement	
	Existing regulations	Proposed regulations
Development of planning criteria	1610.4–2: Proposed planning criteria are published in a NOI in the **Federal Register** and made available for public comment through the scoping period and comment on the draft resource management plan.	1610.5–2 and 1610.5–3: Planning criteria would no longer be required under the proposed rule. Instead, the BLM would describe the rationale for the differences between alternatives as well as the basis for analysis. Preliminary versions of both would be made available for public review prior to the publication of the draft resource management plan or EIS-level amendment.
Inventory data and information collection.	1610.4–3: No opportunities for public involvement are provided at this step.	1610.4: This step would be replaced with the planning assessment. The public would be provided opportunities to provide existing data or information or to suggest policies, guidance, or plans for consideration in the planning assessment. The BLM would identify public views in relation to the planning area, which may include public meetings. The planning assessment would be documented in a report, which would be made available for public review.
Analysis of the management situation.	1610.4–4: No opportunities for public involvement are provided at this step.	1610.4: This step would be replaced with the planning assessment. The public would be provided opportunities to provide existing data or information or to suggest policies, guidance, or plans for consideration in the planning assessment. The BLM would identify public views in relation to the planning area, which may include public meetings. The planning assessment would be documented in a report, which would be made available for public review.
Formulation of resource management alternatives.	1610.4–5: No opportunities for public involvement are provided at this step.	1610.5–2: The preliminary alternatives and preliminary rationale for alternatives would be made available for public review before publication of the draft resource management plan or EIS-level amendment.
Estimation of effects of alternatives	1610.4–6: No opportunities for public involvement are provided at this step.	1610.5–3: The preliminary procedures, assumptions, and indicators to be used when estimating the effects of alternatives would be made available for public review before publication of the draft resource management plan or EIS-level amendment.
Preparation of the draft resource management plan and selection of preferred alternatives.	1610.4–7: No opportunities for public involvement are provided at this step.	1610.5–4: Same as existing regulations.
Publication of the draft resource management plan.	1610.2(e): The BLM requests public comment on the draft resource management plan and draft EIS and provides 90 calendar days for response.	1610.2–2: When requesting written comments on a draft resource management plan and draft EIS, the BLM would notify the public and provide at least 60 calendar days for response. When requesting written comments on an EIS-level amendment, the BLM would notify the public and provide at least 45 calendar days for response.
Selection of the proposed resource management plan and preparation of implementation strategies.	1610.4–8: The BLM publishes the proposed resource management plan and final EIS.	1610.5–5: The BLM would publish the proposed resource management plan or plan amendment and final EIS and also would publish any implementation strategies. The BLM expects that the implementation strategies would be included as appendices to the proposed resource management plan.
Protest	1610.5–2: The BLM provides 30 calendar days for the public to protest plan approval. The public must submit a hard-copy of the protest to the BLM.	1610.6–2: The BLM would still provide 30 calendar days for the public to protest plan approval, but the proposed rule would describe more specific requirements on what constitutes a valid protest and allow for dismissal of any protest that does not meet these requirements. The public may submit a hard-copy or an electronic-copy of the protest to the BLM.
Resource management plan approval.	1610.5–1: The BLM must provide public notice and opportunity for comment on any significant change made to the proposed plan before approval of the plan.	1610.6–1: If the BLM intends to select an alternative that is substantially different than the proposed resource management plan or plan amendment, the BLM would notify the public and request written comments on the change before approval of the resource management plan or plan amendment. The BLM would notify the public when a resource management plan or plan amendment has been approved.
Monitoring and evaluation	1610.4–9: No opportunities for public involvement are provided at this step.	1610.6–4: The BLM would document the evaluation of the resource management plan in a report made available for public review.
Plan maintenance	1610.5–4: No opportunities for public involvement are provided at this step.	1610.5–4: When changes are made to an approved resource management plan through plan maintenance, the BLM would notify the public and make the changes available for public review at least 30 days prior to their implementation.

Proposed § 1610.2(a) remains relatively unchanged from existing regulations and would state that the BLM will provide the public with opportunities to become meaningfully involved in and comment on the preparation and amendment of resource management plans. We propose removing references to "related

guidance" in order to focus this provision on the preparation and amendment of resource management plans. During the planning process, the public may submit comments on "related guidance" to the BLM, but the BLM does not provide a separate and distinct comment period for related guidance. For example, the public may comment on related guidance during scoping or as a comment on the draft resource management plan and draft EIS and the BLM would consider this comment. This is not a change in existing practice or policy, but would provide clarity to the public on opportunities for comment.

We also propose to remove language on giving "early notice of planning activities" from this section. This language is vague and unnecessary because proposed § 1610.2–1(e) would carry forward the existing requirement that the BLM notify the public at least 15 days before any public involvement activities. The BLM would provide further advance notice beyond the 15-day requirement to the extent possible, consistent with current practice.

Proposed § 1610.2(a) would also carry forward the existing requirement that public involvement in the planning process conform to the requirements of NEPA and its associated implementing regulations. The word "shall" would be replaced with "will" and the paragraph would be revised to use active voice for improved readability.

Existing § 1610.2(b) requires the BLM to publish a planning schedule early in each fiscal year in order to advise the public of the status of each plan being prepared or scheduled to start during the year, the major planning actions expected during the fiscal year, and the projected new planning starts for the next three fiscal years. The BLM proposes to revise this requirement. Proposed § 1610.2(c) would replace existing § 1610.2(b) and would require the BLM to post the status of each resource management plan in process of preparation or scheduled to be started on the BLM's Web site before the close of each fiscal year. The BLM often does not know its budget, priorities, or on-the-ground needs several years in advance; in recent years the BLM has operated under a continuing resolution to the budget for several months into the fiscal year, and is therefore unable to accurately predict a planning schedule with the specificity required in existing regulations.

The BLM's current practice is to post a planning schedule for resource management plans currently under preparation or approved to initiate preparation of a resource management plan on the national BLM planning Web site when this information is available. The proposed change would give the BLM flexibility in communicating its planning schedule, including by posting the schedule electronically, and would be consistent with current practice. It would also reflect the fact that budgetary constraints and the need to address new and emerging resource issues make it difficult to accurately predict a planning schedule beyond the current fiscal year.

Proposed paragraph (c) of this section would not include the related requirement for requesting public comments on the projected new planning starts so that comments can be considered when refining priorities. The proposed change would make the planning regulations consistent with current BLM practice, but would represent a change from existing regulations.

Proposed § 1610.2(b) would be adapted from § 1610.2(d) and (e) of the existing planning regulations. It would maintain the existing requirement that public involvement activities conducted by the BLM be documented by a record or summary of the principal issues discussed and comments made. It further provides that the record or summary would be available to the public and open for 30 days to any participant who wishes to review the record or summary. There would be no change in BLM operation or impact on the public under the proposed rule. For example, the BLM would continue to prepare a scoping report following the identification of planning issues (see proposed § 1610.5–1) summarizing scoping meetings and written scoping comments under proposed § 1610.2(b).

Existing § 1610.2(c) requires the BLM to publish a Notice in the **Federal Register** whenever beginning any new plan, revision, or amendment. This requirement is carried forward in proposed § 1610.2–1(f) and revised. Proposed § 1610.2–1(f) will be discussed in the corresponding section of this analysis.

Section 1610.2–1 Public Notice

Proposed § 1610.2–1 would describe the requirements for when and how the BLM would provide public notice related to opportunities for public involvement. We also propose to replace the word "shall" with "will" throughout these sections for improved readability.

Proposed § 1610.2–1(a) contains the provisions of existing § 1610.2(f) with edits for consistency with other proposed changes and lists the steps in the planning process when the BLM would notify the public and provide opportunities for public involvement in the preparation of a resource management plan, or an EIS-level amendment, as appropriate, to the areas and people involved. The steps would be: (1) Preparation of the planning assessment, as appropriate; (2) Identification of planning issues; (3) Review of the preliminary resource management alternatives and rationale for alternatives; (4) Review of the procedures, assumptions, and indicators, as outlined in the basis for analysis; (5) Comment on the draft resource management plan; and (6) Protest of the proposed resource management plan. These steps would include new opportunities for public involvement early in the planning process, such as during the planning assessment, as appropriate. The words "as appropriate" are included with the "preparation of the planning assessment" because the planning assessment would not be required for minor EIS-level amendments or when an existing planning assessment is determined to be adequate to inform the preparation of an EIS-level amendment. Each of these new opportunities is addressed in the corresponding section of this section-by-section analysis.

The BLM is also considering the option where the provisions of proposed § 1610.2–1(a) would apply to the preparation of a resource management plan, but would not apply to EIS-level amendments. The BLM recognizes that EIS-level amendments tend to be smaller in scope than the preparation of a resource management plan, and therefore, it may be appropriate to provide different opportunities for public involvement. Under this alternative, the proposed rule would describe the steps when the BLM would notify the public and provide opportunities for public involvement in the preparation of an EIS-level amendment, as appropriate to the areas and people involved. These steps would include: (1) Identification of planning issues; (2) Comment on the draft resource management plan; and (3) Protest of the proposed resource management plan. The BLM requests public comment on this alternative option and whether EIS-level amendments require the same opportunities for public involvement as when the BLM prepares a resource management plan.

Proposed § 1610.2–1(b) would list the steps in the planning process when the BLM would notify the public and provide opportunities for public involvement in the preparation of a plan amendment where an EA is prepared

(EA-level amendment), as appropriate to the areas and people involved. The steps would be: (1) Identification of planning issues; (2) Comment on the draft resource management plan amendment, as appropriate; and (3) Protest of the proposed resource management plan amendment.

The existing regulations do not require that BLM provide opportunities for public involvement during the identification of planning issues for EA-level amendments, however the BLM often chooses to provide such opportunities. Under the proposed rule, public involvement would be required when identifying planning issues for EA-level amendments. The proposed change would support the goal of establishing early opportunities for public involvement in the planning process, including EA-level amendments. The proposed rule would not, however, require that the BLM request public comment on draft EA-level amendments, consistent with the existing regulations. The BLM often chooses to request public comments on draft EA-level amendments, and in such circumstances the public would be provided 30 calendar days for response (see proposed § 1610.2–2(a)).

Proposed § 1610.2–1(c) through (e) would be general provisions that apply whenever the BLM provides public notice relating to the preparation or amendment of a resource management plan. Under proposed § 1610.2–1(c), we propose new requirements that the BLM announce opportunities for public involvement by posting a notice on the BLM Web site and at all BLM offices within the planning area.

These new requirements would be consistent with current practice in many BLM offices and would ensure consistency in implementation throughout the BLM. This new provision would provide certainty to the public on where they could find information on all public involvement opportunities. The BLM anticipates providing additional notifications using formats that are relevant and accessible to the various publics interested in or affected by the planning effort. For example, the BLM could also post an announcement at a local library, post-office, or other frequently visited location; issue a local, regional, or national press release; notify community leaders of the opportunity; or post an announcement using various social media. The use of these additional formats would vary based on the location and public interest in the planning effort.

Proposed § 1610.2–1(d) provides that individuals or groups could ask the BLM to notify them of opportunities for public involvement related to the preparation and amendment of a resource management plan. The BLM would notify those individuals or groups through written or electronic means, such as a letter sent by U.S. mail or email.

Under existing regulations (§ 1610.2(d)), the Field Manager must maintain a mailing list of those individuals or groups known to be interested in or affected by a resource management plan or that have asked to be placed on the list and notify those individuals or groups of public participation activities. The proposed change would remove the requirement for the BLM to maintain a list of groups or individuals "known to be interested in or affected by a resource management plan," which places an unnecessary burden on the BLM to find contact information for groups or individuals that may not be readily available. The proposed rule would instead require the BLM to notify any groups or individuals that have explicitly requested to be notified of opportunities for public involvement.

Finally, under proposed § 1610.2–1(e), the BLM would continue to notify the public at least 15 days before any public involvement activities where the public is invited to attend, such as a public meeting. This requirement is the same as that in § 1610.2(e) of the existing regulations. It is intended to allow members of the public to plan their schedules and make arrangements to attend scoping meetings, "open house" style workshops, or other public meetings that are part of the BLM land use planning process. The BLM would provide further advance notice beyond the 15-day requirement to the extent possible, consistent with current practice.

Proposed § 1610.2–1(f)(1) provides that when initiating the identification of planning issues, in addition to posting a notice on the BLM's Web site and at all BLM offices in the planning area and providing direct notice in writing to those individuals or groups who have requested notification, the BLM would also publish a notice in appropriate local media, including in newspapers of general circulation in the planning area. This requirement would apply regardless of the level of NEPA analysis (*e.g.*, whether the BLM prepares an EA or an EIS).

Proposed § 1610.2–1(f)(2), which applies more narrowly, provides that the BLM would also publish a NOI in the **Federal Register** where a resource management plan or amendment requires the preparation of an EIS. This section would retain existing language stating that the NOI also may constitute the NEPA scoping notice (see 40 CFR 1501.7 and 43 CFR 46.235(a)). We propose to eliminate the existing requirement to publish a **Federal Register** notice at the beginning of every planning effort and to maintain the existing requirement to publish a NOI in the **Federal Register** where the BLM prepares an EIS for a resource management plan or plan amendment. The proposed change would align the BLM planning regulations with NEPA requirements. Publishing a NOI to prepare an EIS for a resource management plan or plan amendment in the **Federal Register** is consistent with NEPA requirements (40 CFR 1501.7 and 1508.22) and CEQ direction that agencies "integrate the NEPA process with other planning at the earliest possible time to insure that planning and decisions reflect environmental values, to avoid delays later in the process, and to head off potential conflicts" (40 CFR 1501.2). Publishing an NOI for these EISs also contributes to an efficient, integrated process by offering an opportunity to integrate planning with NEPA scoping requirements.[9]

This provision, would remove the requirement to publish a NOI in the **Federal Register** where the BLM prepares an EA for a resource management plan amendment. The BLM believes that the proposed change would make the planning process, as well as the NEPA process, less confusing to the public by aligning planning requirements with existing NEPA requirements. For example, a member of the public that has participated in the preparation of an EA associated with a plan amendment might expect an EA that does not require a plan amendment to provide the same public notice. Under the proposed rule, there would be improved consistency between NEPA requirements and planning requirements.

Removing the requirement to publish an NOI for EA-level amendments would also improve efficiency and reduce the cost of amendments that have no

[9] CEQ and DOI NEPA regulations encourage such integration. *See* 40 CFR 1501.7(b)(4) (providing that as part of the NEPA scoping process, a lead agency may "(h)old an early scoping meeting or meetings which may be integrated with any other early planning meeting the agency has") and 43 CFR 46.235(a) (stating that scoping "provides an opportunity to bring agencies and applicants together to lay the groundwork for setting time limits, expediting reviews where possible, integrating other environmental reviews, and identifying any major obstacles that could delay the process").

significant impacts, while the BLM still would provide notice in local media and to interested members of the public through direct communication, such as email. We believe this change would improve the BLM's ability to make minor amendments to plans in a timely manner. However, the BLM requests public comment on whether a requirement to publish an NOI for an EA-level amendment is necessary in the planning regulations, and if so, why.

The proposed rule would not include the existing language from § 1610.2(c) allowing the Field Manager to decide whether it is appropriate to publish a notice in media in adjoining States. This language is no longer needed. As proposed, § 1610.2–1(f) would allow the BLM discretion to identify "appropriate local media," and this encompasses media in adjoining states. There is not expected to be a change implementation of this requirement.

Proposed § 1610.2–1(f)(3) outlines the information that would be included in the notices described in § 1610.2–1(f)(1) and (2) and contains the provisions of existing § 1610.2(c)(1) through (8), respectively, as follows.

There would be no changes to the requirement in proposed paragraph (f)(3)(i) of this section. We propose to specify in proposed paragraph (f)(3)(ii) of this section that the "plan" in reference is a "resource management plan." There would be no changes to the requirement in proposed paragraph (f)(3)(iii) of this section. In proposed paragraph (f)(3)(iv) of this section, we would replace "disciplines" with "expertise," to reflect that BLM staff may have expertise outside of their formal discipline, and an "interdisciplinary approach" should be based on expertise, not formal disciplines. We would also specify that the "plan" in reference is a "resource management plan" and the purpose of having a range of expertise represented is to "achieve an interdisciplinary approach." There would be no substantive change in practice or policy. In proposed paragraph (f)(3)(v), we would add language indicating that the notice should include the kind and extent of public involvement activities "as known at the time." Although there would be no substantive change in practice or policy, this would clarify that the BLM may always provide additional opportunities for public involvement as planning proceeds. There would be no substantive changes to the requirements in proposed paragraphs (f)(3)(vi) through (f)(3)(viii) of this section.

The BLM believes the proposed approach, as described in paragraphs (a) through (f) of this section, would provide an effective method of public notification, because it relies on a combined approach of: (1) Posting such notices on the BLM's Web site and at BLM offices in the planning area; (2) Providing direct notice by email or in writing to those individuals or groups who have requested notification; (3) Providing notice in the **Federal Register** or local media at certain milestones consistent with the requirements of proposed § 1610.2–1(f); and (4) Providing notice using other means, as appropriate. However, the BLM requests public comments on this approach and on what, if any, other means of notification of opportunities for public involvement in land use planning would be appropriate at different points in the planning process and why these methods are preferable to the proposed rule.

Proposed § 1610.2–1(g) contain the provisions of existing § 1610.2(f)(5) and provide that if the BLM intends to select an alternative that is substantially different than the proposed resource management plan, the BLM would notify the public and provide an opportunity for public comment on the change. These requirements are intended to ensure that the public has an opportunity to comment on important changes that are made late in the planning process, such as those that result from protest resolution or the recommendations of a Governor during the Governor's consistency review.

Proposed § 1610.2–1(h) would require the BLM to notify the public when a resource management plan or plan amendment has been approved, consistent with current practice. The BLM expects to post this notification on the BLM Web site, at the local BLM office where the plan was prepared, and by direct notification to those individuals and groups that have asked to receive notice of specific planning efforts. This notification would help those who are interested to stay up-to-date on plans and increase transparency.

Proposed § 1610.2–1(i) would establish a new requirement that the BLM notify the public any time changes are made to an approved resource management plan through plan maintenance and make those changes available to the public at least 30 days before the change is implemented. The proposed change would provide transparency to the public on minor changes made to plan components, such as the correction of typographical or mapping errors or to reflect minor changes in mapping or data. The BLM expects that this notification would be provided by posting the changes to the BLM Web site.

Proposed § 1610.2–1(j) would require that the BLM also notify the public any time a change is made to an implementation strategy and make those changes available to the public at least 30 days before their implementation. This notification would provide transparency to the public on changes to implementation strategies, such as management measures or monitoring procedures (for more information, see the discussion on implementation strategies at the preamble for proposed § 1610.1–3(c)).

Proposed § 1610.2–2(a) through (c) would address the length of public comment periods and would replace most of existing § 1610.2(e). Proposed § 1610.2–2(a) provides that when requesting written comments, the BLM would provide a comment period of at least 30 calendar days, unless a longer period is required by law or regulation. For example, when the BLM requests scoping comments, a minimum 30 day comment period would be required; if the BLM offers a public comment period for a plan amendment where an EA is prepared, a minimum 30 day comment period would be required. This section maintains the requirement from existing § 1610.2(e) to provide at least 30 calendar days for public comment, while clarifying that in certain circumstances the BLM is legally required to offer a longer comment period.

Proposed § 1610.2–2(b) describes the public comment period the BLM would provide for draft EIS-level amendments. Proposed § 1610.2–2(b) states that the BLM would provide at least 45 calendar days for public comment on the draft plan amendment and draft EIS. This would be shorter than the 90-day public comment period that applies to all EIS-level plan amendments under the existing planning regulations, but would be consistent with existing NEPA requirements. The BLM believes that aligning planning requirements with NEPA requirements would make the planning process, as well as the NEPA process, less confusing to the public.

Proposed § 1610.2–2(c) describes the public comment period the BLM would provide for draft resource management plans and draft EISs. Proposed § 1610.2–2(c) states that the BLM would provide at least 60 calendar days for public comment on the draft resource management plan and draft EIS. This would be shorter than the 90-day public comment period that applies to all draft resource management plans under the existing planning regulations. Proposed § 1610.2–2(c) would retain the existing

provision that the public comment period begins when the EPA publishes a notice of availability (NOA) of the draft EIS in the **Federal Register**.

The BLM believes it is appropriate to reduce the length of public comment periods on draft EIS-level amendments and draft resource management plans because the public would be provided an opportunity to review the preliminary resource management alternatives, rationale for alternatives, and the basis for analysis prior to the publication of the draft EIS-level amendment or draft resource management plan (see proposed §§ 1610.5–2 and 1610.5–3). This would be a change from current policy where the public is not provided an opportunity to review these items until the publication of the draft EIS-level amendment or draft resource management plan. The BLM believes that providing earlier opportunities for public review of the resource management alternatives, rationale for alternatives, and the basis for analysis while also reducing the length of public comment periods for draft EIS-level amendments and draft resource management plans, would provide the appropriate balance between providing new opportunities for meaningful public involvement, while still maintaining an efficient timeline for preparing EIS-level amendments and resource management plans.

Because plan amendments are narrower in scope than the preparation of a resource management plan, the BLM believes that it would be appropriate to specify a slightly shorter public comment period for EIS-level amendments than for draft resource management plans in the regulations. The proposed rule would allow responsible officials discretion to offer longer public comment periods or grant extensions as appropriate, on a case-specific basis. The BLM requests public comment on the proposed changes and how the BLM could otherwise maintain an efficient timeline for the preparation of EIS-level amendments and resource management plans while also providing for meaningful public involvement.

Consistent with the existing regulations, the proposed rule would not explicitly address situations where the BLM prepares an EA for a plan amendment (EA-level amendment) and the BLM offers an opportunity for public comment. In this situation, however, the BLM would provide at least 30 calendar days for public comment on the draft plan amendment, unless a longer period is required by law or regulation, consistent with the requirements of proposed § 1610.2–1(c). The public comment period would begin on the date the BLM notifies the public of the availability of the draft plan amendment and EA.

While the BLM often offers a public comment period on an EA-level plan amendment, NEPA does not require one,[10] nor do the existing or proposed planning regulations. There may be situations where there is no public interest in a minor EA-level amendment and a formal public comment period would not be necessary. The forthcoming revision of the Land Use Planning Handbook will provide more detailed guidance on this topic.

The following table provides a comparison of some public involvement opportunities in the proposed rule for EA-level amendments, EIS-level amendments, and resource management plans.

TABLE 2—NOTICE AND COMMENT

Step in the planning process	EA-level amendments	EIS-level amendments	Resource management plans
Planning Assessment.	The BLM would not conduct a planning assessment for EA-level amendments.	To formally initiate the planning assessment, the BLM would post a notice on the BLM Web site and at BLM offices within the planning area, and provide direct notification to those who have requested such notification.	To formally initiate the planning assessment, the BLM would post a notice on the BLM Web site and at BLM offices within the planning area, and provide direct notification to those who have requested such notification.
Plan Initiation	The BLM would publish a notice in appropriate local media, on the BLM Web site, and at BLM offices within the planning area, and provide direct notification to those who have requested such notification.	The BLM would publish a NOI in the **Federal Register** and would publish a notice in appropriate local media, on the BLM Web site, and at BLM offices within the planning area, and provide direct notification to those who have requested such notification.	The BLM would publish a NOI in the **Federal Register** and would publish a notice in appropriate local media, on the BLM Web site, and at BLM offices within the planning area, and provide direct notification to those who have requested such notification.
Identification of planning issues.	The BLM would offer a minimum 30 day comment period.	The BLM would offer a minimum 30 day comment period.	The BLM would offer a minimum 30 day comment period.
Review of the preliminary alternatives, rationale for alternatives, and the basis for analysis.	These steps would not apply to EA-level amendments.	The BLM would post the preliminary alternatives, rationale for alternatives, and the basis for analysis on the BLM Web Site. The BLM would post notice of their availability on the BLM Web site and at BLM offices within the planning area, and provide direct notification to those who have requested such notification.	The BLM would post the preliminary alternatives, rationale for alternatives, and the basis for analysis on the BLM Web Site. The BLM would post notice of their availability on the BLM Web site, and at BLM offices within the planning area, and provide direct notification to those who have requested such notification.

[10] NEPA requires public involvement, to the extent practicable, in the preparation of an environmental assessment, but it need not take the form of a public comment period. 40 CFR 1504.1(b) and 43 CFR 46.305(a); see 40 CFR 1506.6; *BLM National Environmental Policy Act Handbook* (H–1790–1), 8.2, p. 76.

TABLE 2—NOTICE AND COMMENT—Continued

Step in the planning process	EA-level amendments	EIS-level amendments	Resource management plans
Comment on the draft plan or amendment.	If the BLM requests written comment, BLM would offer a minimum 30 day comment period. The BLM would announce the start of the comment period by posting a notice on the BLM Web site and at BLM offices within the planning area, and provide direct notification to those who have requested such notification.	The BLM would offer a 45 day comment period. The BLM would announce the start of the comment period by posting a notice on the BLM Web site and at BLM offices within the planning area, and provide direct notification to those who have requested such notification. The EPA would publish an NOA in the **Federal Register**.	The BLM would offer a 60 day comment period. The BLM would announce the start of the comment period by posting a notice on the BLM Web site and at BLM offices within the planning area, and provide direct notification to those who have requested such notification. The EPA would publish an NOA in the **Federal Register**.
Protest	The BLM would offer a 30 day protest period. The BLM would announce the start of the protest period by posting a notice on the BLM Web site and at BLM offices within the planning area, and provide direct notification to those who have requested such notification.	The BLM would offer a 30 day protest period. The BLM would announce the start of the protest period by posting a notice on the BLM Web site and at BLM offices within the planning area, and provide direct notification to those who have requested such notification. The EPA would publish an NOA in the **Federal Register**.	The BLM would offer a 30 day protest period. The BLM would announce the start of the protest period by posting a notice on the BLM Web site and at BLM offices within the planning area, and provide direct notification to those who have requested such notification. The EPA would publish an NOA in the **Federal Register**.
Comment on a substantive change made after release of a proposed plan or amendment (*i.e.*, if the BLM intends to select an alternative that is substantially different than the proposed plan or amendment).	The BLM would offer a 30 day comment period. The BLM would announce the start of the comment period by posting a notice on the BLM Web site and at BLM offices within the planning area, and provide direct notification to those who have requested such notification.	The BLM would offer a 30 day comment period. The BLM would announce the start of the comment period by posting a notice on the BLM Web site and at BLM offices within the planning area, and provide direct notification to those who have requested such notification.	The BLM would offer a 30 day comment period. The BLM would announce the start of the comment period by posting a notice on the BLM Web site and at BLM offices within the planning area, and provide direct notification to those who have requested such notification.
Plan approval	The BLM would notify the public by posting a notice on the BLM Web site and at BLM offices within the planning area, and provide direct notification to those who have requested such notification.	The BLM would notify the public by posting a notice on the BLM Web site and at BLM offices within the planning area, and provide direct notification to those who have requested such notification.	The BLM would notify the public by posting a notice on the BLM Web site and at BLM offices within the planning area, and provide direct notification to those who have requested such notification.

Section 1610.2–3 Availability of the Resource Management Plan

Proposed § 1610.2–3 addresses the availability of resource management plans. Proposed § 1610.2–3(a) would contain revised language from existing § 1610.2(g) and require that the BLM make copies of the draft, proposed, and approved resource management plan or plan amendment reasonably available for public review. The proposed rule would require, at a minimum, that the BLM make copies of these documents available electronically and at all BLM offices within the planning area.

For example, the BLM could make documents available electronically by posting documents on the BLM Web site, or if high-speed Internet access is limited in an area, by sending participants a Compact Disc or a USB flash drive in the mail. The BLM would also make resource management plans available for public viewing at all BLM offices within the planning area. While this is a change from existing regulations, it is consistent with current practice for most BLM offices. The proposed language would replace the existing requirements to make copies of the resource management plan available at the State, District, and Field office (see existing §§ 1610.2(g)(1) through (3)) and copies of supporting documents available at the office where the plan was prepared. The proposed changes would increase electronic availability of documents and change the BLM offices where the document is required to be available for viewing.

We propose to remove the existing requirement to make "supporting documents" available to the public as this term is vague and it is unclear what is considered a supporting document. The BLM makes key supporting documents, such as a biological opinion or other relevant reports, available to the public as appendices to the resource management plan or plan amendment. These types of supporting documents would therefore be posted on the BLM's Web site or made available at BLM offices within the planning area. The BLM would not, however, post the entire project file, including email records or other types of communication, to the BLM's Web site or make the entire project file available at BLM offices within the planning area. This would be inconsistent with current practice and policy and would place an unnecessary burden on the BLM. These types of supporting documents are made available to the public through other means, such as a Freedom of Information Act request.

The proposed requirements to make resource management plans available electronically reflect that digital technology and Internet access is far more widely available than it was when these regulations were last updated. These proposed requirements would advance BLM policy on transitioning to electronic distribution of NEPA and planning documents (IM 2013–144, Transitioning from Printing Hard Copies

of National Environmental Policy Act and Planning Documents to Providing Documents in Electronic Formats (June 21, 2013), *http://www.blm.gov/wo/st/en/info/regulations/Instruction_Memos_and_Bulletins/national_instruction/2013/IM_2013-144.html*), and with the DOI Environmental Statement Memorandum No. 13–7, "Publication and Distribution of DOI NEPA Compliance Documents via Electronic Methods" (Jan. 7, 2013), *http://www.doi.gov/pmb/oepc/upload/ESM13-7.pdf*. The proposed changes would ensure consistency in how the BLM makes documents available to the public, increase transparency, and help to ensure that the public has access to current versions of plans without missing amendments that only appear in paper copies. Electronic posting of planning documents also may help to reduce high printing costs.

The BLM recognizes, however, that there are many communities with limited technological and Internet availability, such as rural communities and some environmental justice communities.[11] The BLM would continue to work to involve these communities in the development of resource management plans and make associated materials available in the most appropriate formats. For example, resource management plans could be made available at public libraries, community centers, or other locations frequented by local communities.

Proposed § 1610.2–3(b) would clarify the requirements in existing § 1610.2(g) that the BLM would make single printed copies of a resource management plan available to individual members of the public upon request during the public involvement process, and that after the BLM has approved a plan, the BLM may charge a fee for additional printed copies. The BLM is considering an alternative option in the regulations to make these copies available through digital means, such as a compact disc or other digital storage device, instead of printed copies. This option would allow the agency to continue to move away from printing paper copies in the future as technology continues to become more available to the public. The BLM requests public comment on whether making a printed copy of resource management plans available to individual members of the public is necessary, or if a digital copy of resource management plan would be appropriate.

Proposed § 1610.2–3(b) would also maintain the language in existing § 1610.2(g) concerning fees for reproducing requested documents beyond those used as part of the public involvement process, although it refers to a "resource management plan" instead of a "revision" and "public involvement" instead of "public participation." This word change would reflect changes made throughout this proposed rule and the use of the FLPMA term "public involvement." These proposed changes would not be a change in practice or policy.

We propose to remove existing § 1610.2(j) and (k). The BLM prepared the coal program regulations simultaneously with the first land use planning regulations under FLPMA in the late 1970's and certain coal-related provisions remain in 43 CFR subpart 1610. The BLM believes that these coal-related provisions are inappropriate in the planning regulations, as they are either duplicative of the coal program regulations, or reference procedures that are inconsistent with current practice and policy.

Existing § 1610.2(j) requires consultation with surface owners when resource management plans involve areas of potential mining for coal by means other than underground mining. Input and consent from a qualified surface owner is required at the leasing stage under 43 CFR 3427.1, therefore existing 1610.2(j) is duplicative of the consultation requirements at 43 CFR 3427.1 and unnecessary.

Existing § 1610.2(k) would also be removed in the proposed rule. Existing § 1610.2(k) is consistent with a process of "regional coal leasing," described in subpart 3420, which the BLM used in designated coal production regions (defined in § 3400.5) at the time the planning regulations were originally published. Since 1990, all coal production regions have been decertified and the BLM now uses the "lease by application" process described in subpart 3425, where approval for coal leasing is conducted for each individual application, as opposed to at the resource management plan level. Since publication of the resource management plan only designates areas as open to coal leasing and no longer approves coal leases over the entire open area, this public hearing is no longer appropriate. Under the "lease by application" process, a hearing would be held for each coal lease application, consistent with the BLM coal regulations at § 3425.4(a)(1) and current BLM practice. Removing § 1610.2(k) would help reduce confusion, avoid redundancy with existing requirements in the coal regulations, and keep coal specific requirements in the coal regulations, where they are more appropriate. These proposed regulatory changes would not be a change in current practice or policy.[12]

Section 1610.3 Coordination With Other Federal Agencies, State and Local Governments, and Indian Tribes

We propose to remove the words "federally recognized" before Indian tribes throughout §§ 1610.3–1 and 1610.3–2 for consistent use in terminology. These references would no longer be necessary with the inclusion of the proposed definition for Indian tribes in § 1601.0–5. We also propose to replace the word "shall" with "will" throughout these sections, unless otherwise indicated, and to specify that a "plan" is a "resource management plan" for improved readability. These proposed changes would not be a change in practice or policy.

Section 1610.3–1 Coordination of Planning Efforts

The BLM proposes to add introductory language to proposed § 1610.3–1(a) to clarify that this section describes the "objectives of coordination." The BLM proposes to amend § 1610.3–1(a) by replacing the reference to "State Directors and Field Managers" with "the BLM" because the responsibility of coordination are those of the BLM and they extend beyond any individual. The BLM proposes a similar change in proposed § 1610.3–1(c), where "State Directors and District and Area Managers" would be replaced with "[t]he BLM." It is the BLM's responsibility to provide other Federal agencies, State and local governments, and Indian tribes opportunity for review, advice, and suggestion on issues and topics which may affect or influence other agency or other government programs. Elsewhere throughout proposed § 1610.3–1(b) through (f), we would replace references to "Field Manager(s)" with "responsible official(s)" and we would replace references to "State Director(s)" with "deciding official(s)." The new terms,

[11] "Executive Order 12898—Federal Actions to address Environmental Justice in Minority Populations and Low-Income Populations" directs Federal agencies to identify and address disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority populations and low-income populations in the United States (59 FR 7629).

[12] As a separate matter, Secretarial Order 3338 issued on January 15, 2016, requires the BLM to conduct a comprehensive review to modernize the federal coal program, including a discretionary Programmatic Environmental Impact Statement. The regulatory changes proposed above are unrelated to and will not impact the Secretarial Order or the BLM's comprehensive review.

which are defined in proposed § 1601.0–5, would refer to specific official responsibilities.

We propose to add language to the first sentence of proposed § 1610.3–1(a) to clarify that coordination is accomplished "to the extent consistent with Federal laws and regulations applicable to public lands, and the purposes, policies and programs of such laws and regulations." There would be no change from current practice or policy. The BLM only wishes to clarify that BLM must comply with Federal laws and regulations.

In proposed paragraph (a)(3) of this section, the word "practicable" would be replaced with "practical" for improved readability and consistency with FLPMA (see 43 U.S.C. 1712(c)(9)). Proposed paragraph (a)(4) of this section would remove the word "public" from "early public notice" for improved clarity. The BLM intends no change in practice or policy from these proposed changes.

We propose to add introductory language to proposed § 1610.3–1(b) to indicate that this section describes procedures and requirements related to "cooperating agencies." This paragraph would also be broken down into subparagraphs to improve readability and would be revised as follows.

The first sentence of proposed § 1610.3–1(b) would be revised to state "[w]hen preparing a resource management plan, the responsible official will follow applicable regulations regarding the invitation of eligible governmental entities (see 43 CFR 46.225) to participate as cooperating agencies. We would replace "developing" with "preparing" for consistent use in terminology. The BLM intends no change in meaning or practice. We also propose to replace "eligible Federal agencies, State and local governments, and Indian tribes" with "eligible governmental entities" for consistency with the DOI NEPA regulations, and to specify that the responsible official will follow applicable regulations regarding the invitation of eligible governmental entities, including the DOI NEPA regulations at 43 CFR 46.225. The BLM intends no change in practice or policy from these proposed changes.

The second sentence of proposed § 1610.3–1(b) would be revised to reflect the fact that a plan is not amended by an EIS, rather the EIS is prepared to inform the amendment.

We propose to remove the last three sentences of existing § 1610.3–1(b), which state that "State Directors and Field Managers will consider any requests of other Federal agencies, state and local governments, and federally recognized Indian tribes for cooperating agency status. Field Managers who deny such requests will inform the State Director of the denial. The State Director will determine if the denial is appropriate." This existing language is unnecessary with the new proposed language that responsible officials will follow applicable regulations regarding the invitation of eligible governmental entities to participate as cooperating agencies.

Proposed paragraph (b)(1) of this section would describe that a memorandum of understanding (MOU) will be used for a non-Federal cooperating agency and will include a commitment to maintain confidentiality of documents and deliberations prior to their public release. The proposed change is consistent with the DOI NEPA implementation regulations (see 43 CFR 46.225(d)). Although a written agreement is not explicitly required for Federal cooperating agencies, the BLM often chooses to prepare such an agreement to clarify the roles and responsibilities of all parties. No change in practice or policy is intended by the addition of proposed paragraph (b)(1).

Proposed paragraph (b)(2) would identify the various steps during the planning process when the responsible official would collaborate with cooperating agencies. The BLM promulgated regulations in 2005 (70 FR 14561), which required BLM Field Managers to collaborate with cooperating agencies at steps throughout the planning process (see existing § 1610.4). The proposed change would consolidate these references that are currently inserted throughout existing § 1610.4 and identify additional steps where cooperating agencies would be involved, including the preparation of the planning assessment and the preparation of the proposed resource management plan and implementation strategies. The BLM intends no change in practice or policy by consolidating these references; rather, the BLM believes that consolidating these references provides improved readability and clarity. The BLM, however, requests public comment on this proposed change and whether the existing format (*i.e.*, cooperating agency references incorporated throughout § 1610.4) or the consolidation of cooperating agency references, as proposed, provides better clarity and readability.

Under the proposed rule, the BLM would provide an additional role for cooperating agencies during the new planning assessment step. While NEPA regulations require a lead agency to invite cooperating agencies to participate in the NEPA process "at the earliest possible time" (40 CFR 1501.6(a)(1); *see* 43 CFR 46.200(a) and (b)), the BLM recognizes that eligible governmental entities may be reluctant to agree to serve as cooperating agencies for a planning effort before the scoping process yields a fuller understanding of the scope of the plan or revision and the supporting NEPA analysis.

The BLM further recognizes that DOI NEPA regulations and the proposed rule (see paragraph (b)(1) of this section) would require the BLM to work with non-Federal cooperating agencies to develop a MOU that outlines agencies' respective roles, assignments, schedules, and other commitments and such a cooperating agency MOU may not yet be completed during the planning assessment step.

Nonetheless, the BLM does not foresee any problems working with eligible governmental entities without an MOU during the planning assessment step, because this step primarily involves information gathering by the BLM. Additionally, the BLM believes the planning assessment would afford the BLM and eligible governmental entities alike valuable time to build working relationships and share information that would inform the planning assessment and contribute to the formation of fruitful cooperating agency relationships. However, the BLM may need to withhold confidential information, such as locations of sensitive cultural resources, until an MOU has been formalized. The BLM requests comments on how to engage with eligible governmental entities during the proposed planning assessment step, prior to memorializing a cooperating agency relationship.

We propose to add introductory language to proposed § 1610.3–1(c) to indicate that this section describes general "coordination requirements" and to divide the existing paragraph (c) into three separate paragraphs (proposed paragraphs (c), (c)(1), and (c)(2)) for improved readability.

Proposed paragraph (c)(1) of this section would provide that "deciding officials should seek the input of the Governor(s) on the timing, scope and coordination of resource management planning; definition of planning areas; scheduling of public involvement activities; and resource management opportunities and constraints on public lands." Proposed changes would replace "policy advice" with "input" because the topics listed in this provision are not "policy," therefore the phrase "policy advice" is inaccurate. We propose to replace "plan components" with

"resource management planning" because the existing language would be inconsistent with new terminology and definitions in the proposed rule (see proposed § 1610.1–2). We proposed to replace "multiple use" with "resource management" because the Governor may provide input on other types of resource management besides multiple use. For example, the Governor may wish to provide input on management related to wildfire or the spread of invasive species, and the BLM would consider such input. The BLM intends no change from current practice or policy from these proposed changes.

The BLM proposes to remove existing § 1610.3–1(d). This section is unnecessary and inappropriate in the regulations. FLPMA provides direction that BLM's resource management plans must be consistent with State, local, and tribal land use plans to the extent practical and to the extent consistent with Federal laws and regulations. Any guidance developed to inform the preparation of a resource management plan would also be required to be consistent with Federal law (see proposed § 1610.1–1(a)(1)), and would therefore be mindful of FLPMA requirements for consistency. Further, guidance is an internal BLM process, which does not constitute a formal decision regarding resource management.

Proposed § 1610.3–1(c)(3) would contain the provisions of existing § 1610.3–1(e) and would be revised to reflect proposed changes to § 1610.2 concerning public involvement and to use active voice for improved readability. The proposed rule would specify that State procedures for coordination with Federal agencies would be followed, "if such procedures exist." The BLM intends no change in practice or policy from this added language; rather, we would clarify that such procedures can only be followed if they exist.

The second sentence of proposed § 1610.3–1(c)(3) would be revised to state that "[t]he responsible official will notify Federal agencies, the elected heads of county boards, other local government units, and elected government officials of Indian tribes that have requested to be notified or that the responsible official has reason to believe would be interested in the resource management plan or plan amendment." We would clarify that heads of county boards are "elected" and would replace "Tribal Chairmen" and "Alaska Native Leaders" with "elected government officials of Indian tribes" to reflect the fact that not all government officials of Indian tribes are referred to as "Chairmen" and for consistent use in terminology. The proposed definition of "Indian tribe" would encompass "Tribal Chairmen" and "Alaska Native Leaders." No change in practice or policy is intended by these proposed word changes. The second sentence would also rephrase the existing requirement for BLM to notify Federal agencies, the elected heads of county boards, other local government units, and elected government officials of Indian tribes that the responsible official has reason to believe would be "concerned with" the resource management plan or plan amendment to those that would be "interested in" the resource management plan or plan amendment. This would be consistent with current BLM practice and would reflect the fact that the BLM believes that any interest in the resource management plan or amendment, not just concern, warrants notification.

Proposed § 1610.3–1(c)(4) would contain the provisions of existing § 1610.3–1(f). We propose to replace "resource management plan proposals" with "resource management plans and plan amendments" to clarify that this step refers to all of the opportunities for public involvement described in § 1610.2, and not just the "proposed" resource management plan. The BLM intends no change from current practice or policy.

We propose to revise and move the final sentence of existing § 1610.3–1(f) to proposed § 1610.3–2(a)(3). The existing language refers to consistency requirements and is therefore more appropriately addressed in § 1610.3–2.

Proposed § 1610.3–1(d) would contain the provisions of existing § 1610.3–1(g). We propose to add introductory language to proposed § 1610.3–1(d) to indicate that this section describes requirements related to "resource advisory councils." No substantive changes are proposed to this section.

Section 1610.3–2 Consistency Requirements

The BLM proposes to replace the word "shall" with "will" throughout this section for improved readability.

We propose to revise existing § 1610.3–2(a) to read as follows: "Resource management plans will be consistent with officially approved or adopted land use plans of other Federal agencies, State and local governments and Indian tribes to the maximum extent the BLM finds practical and consistent with the purposes of FLPMA and other Federal law and regulations applicable to public lands, and the purposes, policies and programs of such laws and regulations." The proposed language would reflect FLPMA requirements for consistency with the land use plans of other Federal agencies, State and local governments and Indian tribes (see section 202(c)(9) of FLPMA). Proposed language would specify that these land use plans must be "officially approved or adopted" (see the definition for "officially approved or adopted land use plans" in proposed § 1601.0–5). These proposed changes would represent a change from current regulations, but would be consistent with current BLM practice and statutory direction provided by FLPMA.

We propose to remove existing § 1610.3–2(b). The existing section exceeds the statutory requirements of section 202(c)(9) of FLPMA by providing that in the absence of officially approved and adopted plans, resource management plans should be consistent with "policies and programs" of other Federal agencies, State and local governments, and Indian tribes. The BLM believes that such "policies and programs" should be reflected in the land use plans of other Federal agencies, State and local governments, and Indian tribes, and therefore would be adequately considered through the consideration of their land use plans. Further, it is inappropriate for the BLM to seek consistency with policies and programs that may or may not be officially approved or adopted by the Federal agencies, State and local governments, and Indian tribes. We also propose to remove references to consistency with "policies and programs" from throughout § 1610.3–2. The proposed changes represent a change from the existing regulations.

Proposed § 1610.3–2(a)(1) would revise and replace existing section 1610.3–2(c). The first two references to "State Directors and Field Managers" in the first sentence would be replaced with "the BLM," because the requirement to keep apprised of State and local governmental and Indian tribal policies, plans, and programs is attributed to the BLM, rather than specific employees. We would also replace "practicable" with "practical" for improved readability. These proposed changes would not be a change in practice or policy.

Proposed § 1610.3–2(a)(1) would specify that "BLM will, to the extent practical, keep apprised of the officially approved and adopted land use plans of State and local governments and Indian tribes and give consideration to those plans that are germane in the development of resource management plans." We would remove the words "policies and programs" (for more

information, see the discussion on consistency for existing § 1610.3–2(b)) and add language requiring that BLM consider those plans that are germane to the resource management plan. The proposed changes would be consistent with section 202(c)(9) of FLPMA.

Proposed § 1610.3–2(a)(2) contains a provision from existing § 1610.3–2(c). We propose to replace "accountable for ensuring consistency" with "required to address the consistency requirements of this section." The BLM cannot "ensure" consistency, but seeks consistency to the extent practical and to the extent consistent with Federal laws and regulations and the purposes, policies, and programs of such laws and regulations. For example, if a State, local, or tribal land use plan was not consistent with a Federal law, the BLM would not be able to ensure consistency with the State, local, or tribal land use plan. The BLM also proposes to replace the reference to State Directors and Field Managers ("they") with "responsible official," thereby providing that the BLM will not be accountable for addressing the consistency requirements of 1610.3–2 if the "responsible official" has not received written notice of an apparent inconsistency from State and local governments or Indian tribes, rather than "State Directors and Field Managers." Because the responsible official would be the BLM employee who is delegated the authority to prepare a resource management plan or plan amendment, it is important that the responsible official receives written notice of an apparent inconsistency so that it can be considered during the planning process. The BLM cannot ensure that notice sent to someone other than the responsible official would be redirected and delivered in a reasonable time-frame, although we would attempt to do so to the best of our ability.

The proposed change would provide clarity to State and local government officials and Indian tribes of the appropriate BLM official to notify of inconsistencies; however, it would also reduce the number of individuals that could be notified under the existing regulations from two individuals (the State Director and Field Manager) to one individual in the proposed rule (the responsible official). The BLM believes that the proposed change would improve the BLM's ability to consider potential inconsistencies at the earliest time possible, thereby promoting efficiency in the planning process.

Proposed § 1610.3–2(a)(3) would contain the provisions of existing § 1610.3–1(f). There would be no substantive changes to this section except to use active voice and consistent terminology for improved readability.

In other provisions of proposed § 1610.3–2 references to "Field Manager(s)" would be replaced with "responsible official(s)" and references to "State Director(s)" would be replaced with "deciding official(s)" to reflect these individuals' roles or responsibilities.

Proposed § 1610.3–2(b) contains the provisions of existing § 1610.3–2(e). Proposed changes would provide consistency with edits made throughout § 1610.3–2 and make clarifying edits to the existing Governor's consistency review provision. These changes are intended to provide clarity and ensure consistency with current BLM practice and with FLPMA. The proposed changes would help to eliminate confusion in the existing provision. The proposed rule would also break these provisions into multiple paragraphs to improve readability.

The proposed section would replace references to "State Director" with "deciding official" consistent with the new terms used throughout these proposed regulations and would replace "shall" with "will" for improved readability, unless otherwise noted. There would be no change in practice or policy.

The proposed rule would specify that the document submitted to the Governor by the deciding official would identify "relevant" known inconsistencies with "officially approved and adopted land use plans of State and local governments." Proposed changes would limit the inconsistencies identified by the deciding official to those that are relevant and to inconsistencies with officially approved and adopted land use plans, consistent with proposed §§ 1601.0–5 and 1610.3–2(a).

Proposed § 1610.3–2(b)(1) would state that within 60 days after receiving a proposed plan or amendment, the Governor(s) may submit a written document to the deciding official identifying inconsistencies with the officially approved and adopted land use plans of State and local governments and provide recommendations to remedy them. Proposed new language would clarify that the Governor's recommendations should address identified inconsistencies with State and local plans, rather than other aspects of a resource management plan. This language would not preclude the BLM from considering or responding to a Governor's recommendations on other subjects, but it would underscore that the BLM's focus at this late stage of the planning process is on consistency with State or local plans. There would be no change in meaning or practice associated with the proposed change other than focusing the Governor's review on consistency with officially approved and adopted State and local plans.

Proposed § 1610.3–2(b)(1)(ii) would introduce a new provision, where the Governor may waive or shorten the 60-day consistency review period in writing. This provision would facilitate a more efficient planning process by reducing the length of the review period in situations where the Governor has no comments to submit. For example, if representatives from the Governor's Office participated as cooperators and found the plan to be adequately consistent with officially approved and adopted State and local plans, then the Governor may have no further comments and wish to expedite the review period. This change is consistent with current practice under the existing regulations, as the Governor is not precluded from waiving or shortening the consistency review period under the existing regulations. The addition of this language, however, would provide more transparency to the public on the Governor's consistency review process and affirm the availability of this option for the Governor.

The BLM welcomes public comments and suggestions on ways to improve the Governor's consistency review to make it more effective and efficient for both the Governor and the BLM. In this proposed rule, the BLM has identified additional opportunities early in the process to identify the officially approved and adopted land use plans of State and local governments or Indian tribes and resolve inconsistencies between those plans and the resource management plan alternatives that the BLM would consider. In light of these early opportunities, the BLM is considering whether to adjust the timeline or appeal process for the Governor's consistency review and requests public comments and suggestions on these issues.

Proposed § 1610.3–2(b)(2) would retain existing language that the plan or amendment would be presumed to be consistent if the Governor(s) does not respond to the BLM within the 60-day period, however, revisions would improve readability. There would be no change in practice or meaning associated with these revisions.

Proposed § 1610.3–2(b)(3) would clarify existing language and reflect terms used in this proposed rule. It would provide that "[i]f the document submitted by the Governor(s) recommends substantive changes that

were not considered during the public involvement process, the BLM will notify the public and provide opportunity for public comment on these changes." This would clarify that the public must be provided an opportunity to comment on any changes recommended by the Governor that were not previously considered during the public involvement process before the Director renders a decision. While this would not be a change from BLM practice under existing regulations, the proposed clarifications provide a more precise description of the public's opportunity to comment on the Governor's recommended changes to remedy inconsistencies.

Under proposed § 1610.3–2(b)(4), the deciding official (revised from the State Director) would notify the Governor(s) in writing of his or her decision regarding the Governor(s)' recommendations. We propose new requirements that the notification include the deciding official's reason for the decision and that the notification be mandatory, replacing the existing requirement to notify the Governor only if their recommendations are not accepted. These proposed changes would not be a change in practice or policy, other than ensuring that the Governor is notified of any decision related to the Governor's recommendations.

Proposed paragraph (b)(4)(i) of this section would maintain the existing process by which the Governor(s) may submit a written appeal to the BLM Director within 30 days after receiving the deciding official's decision.

Proposed paragraphs (b)(4)(ii) of this section would replace existing language requiring the BLM Director to accept the recommendations of the Governor(s) if the BLM Director determines that the recommendations "provide for a reasonable balance between the national interest and the State's interest." We propose to instead state that the BLM Director will consider the Governor(s)' comments in rendering a decision. The proposed change would be consistent with current practice and reflect that the BLM Director must consider many factors when rendering a decision, including whether the Governor(s)' recommendations are consistent with Federal laws and regulations applicable to public lands, such as FLPMA.

Proposed paragraph (b)(4)(ii) of this section would retain the existing requirement, with clarifying edits, that the BLM Director will notify the Governor(s) in writing of his or her decision regarding the appeal. In addition, proposed paragraph (b)(4)(ii) of this section would replace the existing requirement to publish the reasons for the BLM's decision in the **Federal Register** with commitments to notify the public of the decision and to make the written decision available to the public. The BLM would instead provide this notification on the BLM Web site, by posting a notice at BLM offices within the planning area, by sending an email to the mailing list, or by other means as appropriate.

The BLM believes that it would be appropriate to move away from relying on **Federal Register** notices for this purpose, given that Internet communications are both readily available and widely used. Further, at this late stage of the planning process, individuals or organizations interested in the planning effort would have had many opportunities to request to be added to the mailing list (see proposed § 1610.2–1(d)) to receive notifications related to the planning effort. Removal of the requirement to publish a notice in the **Federal Register** would provide for a more efficient planning process by removing an unnecessary step in the process. However, the BLM requests public comments on whether a notice in the **Federal Register** at this step is advisable.

Section 1610.4 Planning Assessment

Existing § 1610.4 consists only of the section heading "Resource management planning process." This section is revised as follows.

Proposed § 1610.4, "Planning assessment," would combine and revise the existing steps for inventory data and information collection (existing § 1610.4–3) and the analysis of the management situation (AMS) (existing § 1610.4–4) into a new planning assessment step. The planning assessment would occur before the BLM initiates the preparation of a resource management plan and would be consistent with the nature, scope, scale, and timing of the planning effort. This change would result in a more informed scoping process; however, several existing provisions would be removed because they would no longer be relevant at this early stage. These changes are described in detail at each corresponding section of the proposed planning assessment.

The proposed planning assessment would include new opportunities for public involvement, coordination with other Federal agencies, State and local governments, and Indian tribes, and collaboration with cooperating agencies. The BLM anticipates that greater coordination, collaboration and public involvement, particularly early in the planning process, would result in efficiencies by ensuring that the BLM considers a wide range of relevant policies, information, and perspectives even before scoping.[13]

The proposed planning assessment is intended to help the BLM better understand resource, environmental, ecological, social, and economic conditions, and identify public views and resource management priorities for the planning area. The planning assessment would occur early in the process, before the formal initiation of a planning effort and before the steps that the BLM traditionally has taken first—namely, the identification of issues and the development of planning criteria. The BLM believes that conducting an upfront assessment would provide useful baseline information to inform subsequent steps, such as the preparation of a preliminary purpose and need statement, the identification of planning issues, and the formulation of resource management alternatives. The planning assessment would include new opportunities for collaboration and public involvement and measures that would increase transparency. Further, the proposed planning assessment would be similar to the assessment procedures in the U.S. Forest Service 2012 Planning Rule (*see* 36 CFR 219.6(a)), and would therefore create a new opportunity for inter-agency coordination.

Proposed § 1610.4 serves as an introduction and provides that the planning assessment would be required before the BLM initiates the preparation of a resource management plan.

Proposed § 1610.4–1(a) would address "information gathering" and would replace and enhance the existing inventory data and information collection requirements (see existing § 1610.4–3), providing that the responsible official would follow the four requirements described in proposed paragraphs (a)(1) through (a)(4) of this section.

Under paragraph (a)(1) of this section, the responsible official would arrange for relevant resource, environmental, ecological, social, economic, and institutional data or information to be

[13] *See* OMB and President's CEQ Memorandum on Environmental Collaboration and Conflict Resolution (Sept. 7, 2012), 4.b., p. 3 ("Given possible cost savings through improved outcomes, fewer appeals and less litigation, department and agency leadership should identify and support upfront investments in collaborative processes and conflict resolution . . .") and 5, p. 4 (Federal departments and agencies should prioritize integrating collaboration and conflict resolution objectives and "a focus on up-front collaboration as a key principle in agency mission statements and strategic plans"), available at: *https://ceq.doe.gov/ceq_regulations/OMB_CEQ_Env_Collab_Conflict_Resolution_20120907.pdf.*

gathered, or assembled if it is already available, in a manner that aids application in the planning process. This would replace language in existing § 1610.4–3 that requires the BLM to "arrange for resource, environmental, social, economic and institutional data and information to be collected or assembled if already available." We propose to replace the word "collected" with "gathered" to avoid potential confusion with the information collection requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). We propose to include "the identification of potential ACECs" in this step to specify when potential ACECs should be identified (see proposed § 1610.8–2). It is important to note that as planning proceeds the BLM may identify the need for additional information gathering or new information may become available. The BLM would consider this new information, such as the identification of a potential ACEC, to the best of our ability.

Proposed paragraph (a)(1) of this section would encompass the BLM's statutory obligation for inventory of "public lands and their resource and other values," as described in section 201(a) of FLPMA, and would also provide for the gathering and consideration of the best available scientific information, or other types of high quality information, provided by sources outside of the BLM.

The proposed rule would not carry forward language from existing § 1610.4–3 requiring that "new information and inventory data. . . emphasize significant issues and decisions with the greatest potential impact." At this early stage in the planning process, the BLM recognizes that all significant issues may not yet be known and without conducting a broad assessment, the BLM may not be able to reasonably identify all of the significant issues. At the same time, the BLM must conduct a planning assessment based on reasonable budgets and timeframes, and therefore must limit the scope of its data and information gathering to that which is "relevant" to the incipient planning process. The BLM intends that "relevant" data and information would include inventory of the land and resources (see 43 U.S.C. 1711(a)) and any other available high quality information, including the best available scientific information relevant to the planning process and necessary to address the applicable factors described in proposed § 1610.4(c).

We propose to include a provision to avoid unnecessary data-gathering, similar to the existing provision in the development of planning criteria regulations (see existing § 1610.4–2(a)(2)). The BLM intends to emphasize that inventory data and information gathered for the planning assessment should be geared to inform the overall planning process, including subsequent monitoring and implementation of the resource management plan. The responsible official would determine what information is relevant to the planning process based on available resources and existing requirements, such as inventory of the land and resources that is required under FLPMA, the previous results of monitoring and evaluation, or existing assessments or strategies that overlay the planning area.

In paragraph (a)(2) of this section, we propose a new regulatory requirement, consistent with current practice, that the responsible official "[i]dentify relevant national, regional, or local policies, guidance, strategies or plans for consideration in the planning assessment," such as Executive Orders issued by the President, Secretarial Orders issued by the Secretary of the Interior, DOI or BLM policy, BLM Director or deciding official guidance, mitigation strategies, interagency initiatives, State or multi-State resource plans, or local government resource plans. Recent examples might include: Secretarial Order 3336—*Rangeland Fire Prevention, Management and Restoration* (Jan. 5, 2015); the *National Cohesive Wildland Fire Management Strategy* (Apr. 2014) (*http://www.forestsandrangelands.gov/strategy*); the BLM *Regional Mitigation Strategy for the Dry Lake Solar Energy Zone* (Mar. 2014) (*https://www.blm.gov/epl-front-office/projects/nepa/42096/52086/56778/Regional_Mitigation_Strategy_for_the_Dry_Lake_Solar_Energy_Zone,_Technical_Note_444_(March_2014).pdf*); a State wildlife action plan such as the Nevada Wildlife Action Plan which was prepared by the Nevada Department of Wildlife and approved by the U.S. Fish and Wildlife Service (*http://www.ndow.org/Nevada_Wildlife/Conservation/Nevada_Wildlife_Action_Plan/*); or a community wildfire protection plan (*http://www.forestsandrangelands.gov/communities/cwpp.shtml*).

Identifying such policies and strategies up front is important because successful planning needs to be informed by, and advance, policies and strategies that cross traditional administrative boundaries. This step would also enable the BLM Director and the deciding official to provide guidance on resource management priorities for a planning effort before the formal initiation of the planning effort (see proposed § 1610.1–1(a)).

In paragraph (a)(3) of this section, we propose to add a new regulatory requirement that the responsible official "[p]rovide opportunities for other Federal agencies, State and local governments, Indian tribes and the public to provide existing data and information or suggest other policies, guidance, strategies, or plans" for the BLM to consider in the planning assessment. For example, a State wildlife agency might ask the BLM to consider a conservation plan for a sensitive species; a member of the public might ask the BLM to consider the results of a peer-reviewed study relevant to the planning area; or a recreation user group might ask the BLM to consider data identifying areas of high recreation use in the planning area. This opportunity would be provided through a general request for information from the public. In addition to accepting written input, the BLM may provide opportunities through in-person meetings or workshops, webinars, collaborative Web sites, or other innovative information gathering techniques.

This proposed requirement would establish a new public involvement opportunity during the planning assessment, which would support the Planning 2.0 goal to provide new and enhanced opportunities for collaborative planning. It would also help the BLM consider relevant data and information in the planning assessment.

Proposed paragraph (a)(4) of this section would require that the BLM identify relevant public views concerning resource, environmental, ecological, social, or economic conditions of the planning area. The BLM anticipates that these views would be identified by hosting public meetings, although the BLM may also use other techniques, such as a collaborative Web site, for example. Proposed paragraph (a)(4) would help the Bureau to better understand public values in relation to the planning area, including what is important to the public, where important areas are located, and why these areas and values are important to members of the public. Under current practice, the BLM identifies public views during the identification of planning issues. By providing this opportunity during the planning assessment, the BLM would be able to summarize public views in the planning assessment report (see proposed § 1610.4(d)). This would provide increased transparency, would help to inform the preparation of a

preliminary purpose and need statement, and would help to focus the identification of planning issues.

The BLM requests public comments on whether the regulations should describe any other types of information that may be relevant to the planning assessment.

Proposed § 1610.4 (b) would address "information quality" for the planning assessment. The responsible official would evaluate the data and information gathered or provided to the BLM to determine if it is "high quality information appropriate for use in the planning assessment, and to identify any data gaps or further information needs." In this new step, the BLM would evaluate what information is high quality and therefore appropriate for use in the planning assessment, as discussed in the preamble to proposed §§ 1601.0–5 and 1610.1–1(c). Although the BLM currently uses high quality information to inform the planning process, we believe that including this new step in the planning regulations is important because it clearly communicates to the public that any information submitted to the BLM must meet this standard in order to be further considered in the planning assessment. After identifying the information appropriate for use in the planning assessment, the responsible official, in collaboration with any cooperating agencies, would use this information to assess the resource, environmental, ecological, social, and economic conditions of the planning area.

Proposed § 1610.4(c) would describe the factors that the responsible official would consider when assessing the resource, environmental, ecological, social, and economic conditions of the planning area for the planning assessment. The responsible official would consider and document these factors whenever they are applicable, however, the responsible official would not be limited to the proposed factors.

These factors would contain elements from the nine factors in § 1610.4–4(a) through (i) of the existing planning regulations, which outline the AMS. The proposed planning assessment would also include some factors that were not included in the existing regulations regarding the AMS (see existing § 1610.4–4). These new factors are intended to help inform the planning process and include types of information the BLM may already consider under the existing regulations. The inclusion of these factors in the regulations would provide the public with a better understanding of the types of information that would be considered during the preparation of a resource management plan. The BLM anticipates no direct impacts to the public from these proposed additions. The following paragraphs highlight the proposed changes and rationale.

Proposed paragraph (c)(1) of this section would revise existing § 1610.4–4(a), providing that the BLM consider "the types of resource management authorized by FLPMA and other relevant authorities" during the planning assessment. We propose to replace Federal Land Policy and Management Act with the acronym FLPMA, replace "resource use and protection" with "resource management" and replace "legislation" with "authorities." There would no change in meaning or practice associated with these edits.

Proposed paragraph (c)(2) of this section would include "land status and ownership, existing resource uses, infrastructure, and access patterns in the planning area." This factor, although often included in the AMS under current practice, is not identified in the current regulations and would provide important baseline information on current uses within the planning area to inform the identification of planning issues and the formulation of alternatives, and to identify opportunities or need for cross-boundary collaboration with adjacent landowners.

Proposed paragraph (c)(3) of this section would refer to current resource, environmental, ecological, social, and economic conditions, and any known trends related to these conditions. This information is typically included in the AMS under current practice, but is not identified in the current regulations. It is important that current conditions serve as a starting point for the planning assessment. This information provides the basis for the affected environment and assists in the identification of planning issues and formulation of a reasonable range of alternatives for analysis. Trends in resource or other conditions, such as economic trends, wildlife population trends, or recreation use trends, could also provide useful information for the planning process. If this information were available, the BLM would consider it during the planning assessment.

Proposed paragraph (c)(4) of this section would refer to "known resource thresholds, constraints, or limitations." This would modify and expand on existing § 1610.4–4(i), which refers to "critical threshold levels which should be considered in the formulation of planned alternatives." Known resource thresholds would be identified based on the best available scientific information. For instance, a known threshold might include a minimum viable population number for an endangered species as determined by the U.S. Fish and Wildlife Service, or a minimum area of critical habitat, such as breeding grounds or winter range, as determined by peer-reviewed scientific research. The BLM believes this concept is important to the planning process because it would inform the development of plan components in the resource management plan, including disturbance limits, mitigation standards, or decision points for applying adaptive management. For example, a land use plan could establish an objective to support viable populations for a sensitive species by protecting important habitat. If a known threshold for the species was identified in the planning assessment, this information could be used to establish a decision point to consider a plan amendment if the population numbers dropped below the threshold.

Proposed paragraph (c)(4) of this section would also refer to known resource constraints or limitations. Under this new provision, the BLM would identify any known constraints or limitations to resource management that should be considered in order to effectively manage resources consistent with its multiple use and sustained yield mandate, including any known and potential conflicts between multiple uses. For example, the BLM may identify uses that are known to be incompatible with important habitat for a sensitive species based on the best available scientific information in order to provide for the long-term sustainability of the species.

The BLM would also identify any related or indirect constraints to resource management. For example, wildfire propensity in an area might provide a constraint to future allowed uses, because in addition to use disturbance, the protection of habitat for a sensitive species could also be affected by natural disturbance; or rights-of-way corridors might be constrained by natural features in certain areas, limiting where a transmission corridor could be located on the landscape. The BLM does not anticipate that all resource limitations would be identified at this stage of planning; many would be identified later through the formulation of alternatives and the estimation of their effects. At this early stage in planning, the BLM would identify known limitations based on best available scientific information, such as peer-reviewed research. This information would be useful to inform the identification of planning issues and

resource management alternatives, and would promote a transparent and efficient planning process.

Proposed paragraph (c)(5) of this section would refer to areas of potential importance within the planning area. This information is typically included in the AMS under current practice, but is not identified in the current regulations. The identification of these areas would inform the identification of planning issues and the formulation of alternatives. The following paragraphs describe the different types of "areas of importance" that would be included. Although a planning assessment could describe other areas of importance, the BLM requests public comment on any other areas of importance that should be required in the planning regulations.

Proposed paragraph (c)(5)(i) of this section would refer to areas of tribal, traditional, or cultural importance. These could include areas important for subsistence use, important cultural sites, traditional cultural properties, or a cultural landscape. Although the BLM would identify these areas during the planning assessment, sensitive or confidential areas may not be made available to the public or included in the planning assessment report.

Proposed paragraph (c)(5)(ii) of this section would refer to habitat for special status species, including state and/or federally listed threatened and endangered species.

Proposed paragraph (c)(5)(iii) of this section would refer to other areas of key fish and wildlife habitat such as big game wintering and summer areas, bird nesting and feeding areas, habitat connectivity or wildlife migration corridors, and areas of large and intact habitat. The identification of these areas is important at the onset of planning, as fish and wildlife habitat often crosses jurisdictional-boundaries and conservation of such habitat may require landscape-scale management approaches.

Proposed paragraph (c)(5)(iv) of this section would refer to areas of ecological importance, such as areas that increase the ability of terrestrial and aquatic ecosystems within the planning area to adapt to, resist, or recover from change. For example, areas of ecological importance might include refugia identified to help sensitive species respond to the effects of climate change or wetlands that help to buffer the effects of weather fluctuations by storing floodwaters and maintaining surface water flow during dry periods.

Proposed paragraph (c)(5)(v) of this section would refer to lands with wilderness characteristics, candidate wild and scenic rivers, or areas of significant scenic value.

Proposed paragraph (c)(5)(vi) of this section would refer to areas of significant historical value, including paleontological sites.

Proposed paragraph (c)(5)(vii) of this section would refer to existing designations in the planning area, such as wilderness, wilderness study areas, wild and scenic rivers, national scenic or historic trails, or existing ACECs.

Proposed paragraph (c)(5)(viii) of this section would refer to areas with potential for renewable or non-renewable energy development or energy transmission.

Proposed paragraph (c)(5)(ix) of this section would refer to areas of importance for recreation activities or access. These might include high use recreation sites or areas with limited access points.

Proposed paragraph (c)(5)(x) of this section would refer to areas of importance for public health and safety, such as abandoned mine lands or natural hazards.

Proposed paragraph (c)(6) of this section would refer to dominant ecological processes, disturbance regimes, and stressors, such as drought, wildland fire, invasive species, and climate change. This information is not identified in the current regulations, but would be useful to inform the formulation of alternatives and assess the need for adaptive management approaches or cross-boundary collaboration with other land managers. For example, halting the spread of invasive species may require collaboration between adjacent landowners such as the BLM, the USFS, or willing private landowners.

Proposed paragraph (c)(7) of this section would be adapted from the beginning of existing § 1610.4–4(d), which directs BLM to consider the "estimated sustained levels of the various goods, services and uses that may be attained" and would instead refer to identifying the "various goods and services that people obtain from the planning area, including ecological services." In this proposed factor, the phrase "goods and services" would include the many ecological services (*i.e.*, ecosystem services) that are provided by the public lands, in addition to the "principal or major uses" described in section 103(l) of FLPMA and other multiples uses.

"Ecosystem goods and services include a range of human benefits resulting from appropriate ecosystem structure and function, such as flood control from intact wetlands and carbon sequestration from healthy forests. Some involve commodities sold in markets, for example, (forest products resulting from) timber production. Others, such as wetlands protection and carbon sequestration, do not commonly involve markets, and thus reflect nonmarket values." [14] The "principal or major uses" described in section 103(l) of FLPMA include domestic livestock grazing, fish and wildlife development and utilization, mineral exploration and production, rights-of-way, outdoor recreation, and timber production.

As proposed, this section would only refer to "goods and services," and remove the word "uses," because "uses" in this context are encompassed by the phrase "goods and services." This proposed change would help to avoid confusion with the development of resource use determinations, which are also referred to as "allowable uses" in the existing Land Use Planning Handbook. At this early stage in the planning process, the BLM believes it is appropriate to identify the goods and services that people could obtain from the planning area, but it is not yet appropriate to establish allowable uses (resource use determinations). The proposed word change would help to avoid confusion, but there is no intended change in meaning.

Proposed paragraph (c)(7)(i) of this section would also incorporate language from existing § 1610.4(g), which directs the BLM to consider the "degree of local dependence on resources from public lands." The BLM would instead consider the degree of local, regional, national, or international dependence on goods and services. "Resources" would be replaced with "goods and services" to provide a more precise explanation of what the BLM considers in regards to those resources. For example, the BLM could identify the degree of local dependence on potable water from groundwater recharge in the planning area (*i.e.*, local dependence on a service associated with water resources). The BLM believes that use of more precise terminology in the regulations will improve understanding of this provision; no change in meaning is intended by this proposed word change.

In addition to the degree of local dependence on goods and services, the BLM may also consider the degree of regional, national, or international

[14] See BLM Instruction Memorandum No. 2013–131 (Change 1), "Guidance on Estimating Nonmarket Environmental Values," Attachment 1–2, "Estimating Nonmarket Environmental Values" (Sep. 12, 2013), *http://www.blm.gov/wo/st/en/info/regulations/Instruction_Memos_and_Bulletins/national_instruction/2013/IM_2013-131__Ch1.print.html.*

dependence on goods and services. This is particularly important when planning across traditional administrative boundaries and implementing landscape-scale management approaches. Examples of regional or national dependence include goals for renewable energy generation on Federal lands under the President's Climate Action Plan (June 2013), (*https://www.whitehouse.gov/sites/default/files/image/president27sclimateactionplan.pdf*), and the Nation's reliance on the BLM-administered Federal Helium Reserve (*http://www.blm.gov/nm/st/en/prog/energy/helium_program.html*).

Proposed paragraph (c)(7)(ii) would incorporate language from existing § 1610.4–4(c) and would refer to "available forecasts and analyses related to the supply and demand for these goods and services." We propose to broaden this provision to include both supply and demand and to apply to "goods and services," including ecological services, instead of "resource demands." Proposed paragraph (c)(7)(iii) of this section would refer to "the estimated sustained levels of the various goods and services that may be produced based on a sustained yield basis." For example, the BLM could estimate the sustained levels of potable water from groundwater recharge based on the current and projected rainfall averages for an area.

This factor is adapted from existing § 1610.4–4(d) which links estimated sustained levels to those that may be attained "under existing biological and physical conditions and under differing management practices and degrees of management intensity which are economically viable under benefit cost or cost effectiveness standards prescribed in national or State Director [deciding official] guidance." We propose to simplify the language in this factor for improved readability and understanding. At this early stage in the planning process, the BLM believes that the planning assessment should focus on the capability of resources to provide goods and services on a sustained yield basis. This information is important for the development of resource management plans based on the principles of multiple use and sustained yield and would assist the BLM in developing a range of alternatives that is consistent with our FLPMA mandate.

In addition to these changes, we propose to remove some of the factors that are currently described in § 1610.4–4 regarding the AMS and not include them in the planning assessment.

The proposed planning assessment would not include "specific requirements and constraints to achieve consistency with policies, plans and programs of other Federal agencies, State and local government agencies and Indian tribes" (see existing § 1610.4–4(e)). At this early stage in the process, the BLM would identify these plans, but would not have sufficient information to identify "requirements and constraints" related to consistency, as the BLM would not yet be developing resource management alternatives. This step is more appropriately considered when developing the draft resource management plan.

Paragraph (c) of this section would also not include "[o]pportunities to meet goals and objectives defined in national and State Director guidance" (see existing § 1610.4–4(b)). This language would no longer be necessary, because proposed § 1610.4(a)(2) would direct the responsible official to identify BLM guidance that is relevant to the planning assessment. This proposed section would ensure that the responsible official considers BLM guidance.

We would also not carry forward into the planning assessment "Opportunities to resolve public issues and management concerns" (see existing § 1610.4–4(f)). The planning assessment would typically be conducted before the identification of planning issues and the BLM may not yet have the information necessary to resolve public issues and management concerns. The BLM would instead identify these opportunities during the formulation of alternatives (see proposed § 1610.5–2). We believe that this is the appropriate step to consider these opportunities because it allows the BLM to consider more than one opportunity and compare their impacts through the effects analysis (see proposed § 1610.4–5). The proposed change would be consistent with current practice and policy, as the AMS is currently prepared after the identification of planning issues.

We also propose removing "the extent of coal lands which may be further considered under provisions of § 3420.2–3(a) of this title" from the existing regulations (see existing § 1610.4–4(h)) because it references a regulation that does not currently exist (§ 3420.2–3(a)). Removing § 1610.4–4(h) would help reduce confusion, avoid redundancy with existing requirements in the coal regulations, and keep coal specific requirements in the coal regulations, where they are more appropriate. These proposed changes would not be a change in practice or policy.

Proposed § 1610.4(d) states that the responsible official would document the planning assessment in a report made available for public review and this report would include the identification and rationale for potential ACECs. The responsible official would post the report on the BLM Web site and make copies available at BLM offices within the planning area and other locations, as appropriate. The proposed provision would introduce a new requirement for the BLM, as the current regulations do not require the AMS be made available to the public. The planning assessment report would be made available before scoping so that it can inform the scoping process and help in the identification of planning issues. The BLM intends that the planning assessment would inform stakeholders' input throughout the development of the resource management plan and provide increased transparency to the planning process.

Proposed § 1610.4(d) would also establish that, to the extent practical, the BLM should make non-sensitive geospatial information used in the planning assessment available to the public on the BLM's Web site. The proposed change would provide for public transparency and support meaningful public involvement in the planning process.

Finally, proposed § 1610.4(e) would require that the BLM conduct a planning assessment before initiating the preparation of an EIS-level amendment. The planning assessment would only apply to the geographic area being considered for amendment and the content of the planning assessment would only include information relevant to the plan amendment. For example, if the BLM was considering an amendment solely to a visual resource class, the planning assessment would only consider information relevant to a potential change in visual resource class within the geographic area of the potential amendment. The deciding official would have the discretion to waive the requirement to conduct a planning assessment for EIS-level amendments for minor amendments or if an existing planning assessment is determined to be adequate. For example, if a resource management plan was recently completed and there was no significant new information of relevance to the plan amendment, the existing planning assessment would be determined adequate and used to inform the preparation of the EIS-level amendments. Similarly, if an EIS-level amendment was proposing "minor" changes to a plan component, then a planning assessment may not be necessary.

The BLM is also considering including a specific regulatory provision

that a planning assessment would be required before the BLM prepares a resource management plan and optional when the BLM prepares an EIS-level amendment. Under such a provision, the BLM would assess the need for a planning assessment for EIS-level amendments on a case-by-case basis. The BLM requests public comment on the proposed planning assessment requirements for EIS-level amendments.

Section 1610.5 Preparation of a Resource Management Plan

This section serves as an introduction to §§ 1610.5–1 through 1610.5–5, which outline the process the BLM would follow when preparing a resource management plan, or an EIS-level plan amendment, under section 202 of FLPMA. These sections would be based on existing § 1610.4 "Resource management planning process." Other revisions from the existing regulations are discussed in the appropriate sections of this preamble.

The BLM proposes to remove existing § 1610.4–2 "Development of Planning Criteria." This section would no longer be necessary under the proposed rule. Existing paragraph (a)(1) of this section would be incorporated into proposed new § 1610.5–2(b). Existing paragraph (a)(2) of this section would be incorporated into proposed §§ 1610.4(a)(1) and 1610.5–3(a). For more information, see the discussion at the preamble for proposed §§ 1610.4(a)(1), 1610.5–2(b), and 1610.5–3(a)). The BLM also proposes to remove existing §§ 1610.4–3 "Inventory data and information collection" and 1610.4–4 "Analysis of the management situation" and combine many of the provisions into new § 1610.4 "Planning assessment." Finally, we propose to remove existing § 1610.4–9 "Monitoring and evaluation" and incorporate many of the provisions into proposed § 1610.6–4.

We propose to remove the words "federally recognized" before Indian tribes throughout these sections for consistent use in terminology. These references would no longer be necessary with the inclusion of the proposed definition for Indian tribes in § 1601.0–5. We propose to remove the phrase "in collaboration with any cooperating agencies" from throughout these sections. These references would be consolidated and moved to proposed § 1610.3–1(b)(3) (for more information, see the discussion on "cooperating agencies" at proposed § 1610.3–1(b)(3). We propose to replace "shall" with "will" throughout these sections for improved readability.

Section 1610.5–1 Identification of Planning Issues

The BLM proposes to base this section on existing § 1610.4–1, with revisions to clarify existing text, ensure consistency with other proposed changes, and to require the preparation of a preliminary purpose and need statement.

Proposed paragraph (a) of this section would establish a new requirement for the BLM to prepare a preliminary statement of purpose and need and to make this statement available for public review when initiating the identification of planning issues. The statement of purpose and need would be informed by Director and deciding official guidance, public views, the planning assessment, the results of previous monitoring and evaluation, and Federal laws and regulations, and the purposes, policies, and programs of such laws and regulations. Preparation of a statement of purpose and need is currently required under the DOI NEPA implementation regulations (see 43 CFR 46.415(a) and 46.420(a)(1)). The proposed rule would establish a new additional requirement that the preliminary statement of purpose and need be made available to the public before the identification of planning issues. The proposed change would provide transparency to the public and support the Planning 2.0 goal to provide earlier opportunities for public involvement.

Although the BLM would not formally request public comment on the preliminary statement of purpose and need, the public would be welcome to provide feedback. This is important because the statement of purpose and need informs the development of all subsequent steps in the preparation of a resource management plan. For example, the BLM does not formulate or analyze a resource management alternative (see §§ 1610.5–2 and 1610.5–3) unless it is consistent with the statement of purpose and need.

Proposed paragraph (b) of this section is based on existing § 1610.4–1. In this section, the BLM would remove "[a]t the outset of the planning process," due to the new planning assessment and the preparation of a preliminary statement of purpose and need, both of which would occur prior to the identification of planning issues. An upfront planning assessment would result in more information on resource, environmental, ecological, social and economic conditions for the planning area being available to the public and the BLM during the identification of planning issues. There would be no impact from this proposed change, other than the availability of more information at this point in the process.

The type of suggestions provided by the public would be revised from the existing regulations (see existing § 1610.4–1) to include "concerns, needs, opportunities, conflicts, or constraints related to resource management." We propose to remove "resource use, development, and protection opportunities" as these are encompassed by the proposed language and are therefore unnecessary. There would be no change from current practice.

The final sentence of proposed paragraph (b) of this section would state that the identification of planning issues "should be integrated" with the scoping process required by regulations implementing the NEPA. The proposed language would not represent a change in practice or policy, rather we would clarify that although the identification of planning issues should be integrated with the NEPA scoping process, these are two distinct steps with distinct regulatory requirements. The BLM must comply with the planning regulations and the regulations implementing the NEPA during the preparation or amendment of a resource management plan.

Proposed paragraph (b) of this section would also reflect new terms used throughout this proposed rule. The term "Field Manager" would be replaced with "responsible official" to maintain consistency with other proposed changes. The term "planning issue" would replace "issues" for consistency with the newly added definition for planning issues (see § 1601.0–5) and to clarify what type of "issues" are intended. The term "information" would be added, to clarify that the BLM analyzes data and information when we determine planning issues, consistent with current BLM practice. The "planning assessment," as proposed, would replace the existing examples of other available data. The planning assessment would include the existing examples, thus the proposed change would be consistent with new terminology introduced in the proposed rule (see proposed § 1610.4), but would not represent a change from current practice in the types of available data and information that the BLM analyzes.

Here, and throughout the proposed rule, we use the term "information" consistent with the definition of information provided in the OMB "Guidelines for Ensuring and Maximizing the Quality, Objectivity, Utility, and Integrity of Information Disseminated by Federal Agencies" (67 FR 8452). " 'Information' means any

communication or representation of knowledge such as facts or data, in any medium or form, including textual, numerical, graphic, cartographic, narrative, or audiovisual forms." As discussed in § 1610.1–1(c) of this preamble, the BLM uses "high quality" information, which is meant to include the best available science, to inform the resource management planning process. The BLM intends no change in practice with the changes to proposed § 1610.5–1, other than to provide increased transparency by making a preliminary statement of purpose and need available to the public.

Section 1610.5–2 Formulation of Resource Management Alternatives

Proposed § 1610.5–2 would be based on existing § 1610.4–5. We propose to revise the heading of this section to read "[f]ormulation of resource management alternatives." The proposed change would add the words "resource management" to more precisely describe the alternatives and for consistent use in terminology. No change in practice or policy is intended by the proposed change.

Paragraph (a) of this section describes the requirements for developing resource management alternatives. In the first sentence in paragraph (a) of this section, the BLM proposes to add introductory language indicating that this section describes "[a]lternatives development," for improved readability and to remove the phrase, "At the direction of the Field Manager," because it is the obligation of the BLM, not of any individual, to consider all reasonable resource management alternatives and develop several for detailed study. The BLM proposes to add the abbreviation "alternatives" for "resource management alternatives" for improved readability.

Proposed paragraph (a)(1) of this section would require that the alternatives developed be informed by Director or deciding official guidance, the planning assessment, and the planning issues. Proposed language would replace the existing requirement that alternatives "reflect the variety of issues and guidance applicable to resource uses." The proposed language is consistent with other proposed changes and more accurately describes the information that informs the development of alternatives. The statement of purpose and need would also inform the development of alternatives, but this would occur through the planning issues. There would be no substantive change from current practice or policy, other than the availability of the planning assessment to inform the development of alternatives.

Proposed paragraph (a)(2) of this section would be based on the fourth sentence of existing § 1610.4–5, and would state that "[i]n order to limit the total number of alternatives analyzed in detail to a manageable number for presentation and analysis, reasonable variations may be treated as sub-alternatives." We propose to replace the phrase "all reasonable variations shall be treated as subalternatives" with "reasonable variations may be treated as subalternatives." The proposed change would provide the BLM flexibility to develop subalternatives when appropriate, but would not explicitly require the use of subalternatives. In some instances, it may be appropriate to develop a new alternative, rather than a subalternative. In other situations, a subalternative may not be necessary because it is already covered under the full spectrum of examples in existing alternatives. The proposed changes would be consistent with CEQ guidance that "when there are a very large number of alternatives, only a reasonable number of examples, covering the full spectrum of examples, must be analyzed." [15] The BLM intends no change from current practice or policy from this proposed revision.

Proposed paragraph (a)(3) of this section would be based on the fifth sentence of existing § 1610.4–5. Under this proposed paragraph, the BLM would include a no action alternative. We propose to replace "resource use" with "resource management" because the no-action alternative applies to resource management in general, and not just resource use. There would be no change in practice or policy from the proposed change.

Proposed paragraph (a)(4) of this section would be based on the sixth sentence of existing § 1610.4–5. Under this proposed paragraph, the BLM would note in the resource management plan any alternatives that are eliminated from detailed study, along with the rationale for their elimination. No substantive changes would be made to this sentence.

Proposed new paragraph (b) of this section would establish a new requirement that the BLM describe the rationale for the differences between alternatives. This requirement would incorporate and expand on the requirements of existing § 1610.4–2(a)(1) that the resource management plan be "tailored to the issues previously identified." The proposed rationale for alternatives would include: A description of how each alternative addresses the planning issues, consistent with the principles of multiple use and sustained yield, or other applicable law; a description of management direction that is common to all alternatives; and a description of how management direction varies across alternatives to address the planning issues. The BLM believes that the rationale for alternatives would provide transparency to the public on the reasons for the formulation of alternatives and would ensure that the resource management plan is "tailored to the issues previously identified."

Proposed paragraph (c) of this section would add a new public involvement opportunity. The responsible official would make the preliminary resource management alternatives and the preliminary rationale for these alternatives available for public review prior to the publication of the draft resource management plan and draft EIS. The BLM intends that the preliminary alternatives and rationale for alternatives ordinarily would be made available for public review prior to the estimation of effects of alternatives.

This public review would serve as a "check" of the preliminary alternatives and would afford the public an opportunity to bring to the BLM's attention any possible alternatives that may have been overlooked before the BLM conducts the environmental impact analysis and prepares a draft resource management plan and draft EIS. The BLM anticipates that this review would increase efficiency by avoiding the need to re-do or supplement NEPA analyses if alternatives are identified during the public comment period on the draft resource management plan and draft EIS. Accordingly, the BLM would build time for this public review of preliminary alternatives and rationale for alternatives into their planning schedules. This public review would also increase transparency in the BLM's planning process.

As previously discussed, the BLM does not request written comments when making documents available for public review. However, the public is welcome to contact the BLM with any appropriate concerns.

We expect that generally the preliminary alternatives and rationale for alternatives would be posted on the BLM's Web site and made available at BLM offices within the planning area. The BLM may consider hosting public

[15] "Forty Most Asked Questions Concerning CEQ's National Environmental Policy Act Regulations." 46 FR 18026. *http://energy.gov/sites/prod/files/G-CEQ-40Questions.pdf.*

meetings to discuss the alternatives and the forthcoming revision of the Land Use Planning Handbook will describe situations in which the BLM might hold public meetings.

Nonetheless, in some situations, such as when the BLM is under an accelerated schedule to address time-sensitive resource management concerns, the public review of preliminary alternatives and rationale for alternatives may not be practical. For example, a resource management plan amendment might require an accelerated schedule to address the rapid proliferation of a new use in an area which contains sensitive resources. The BLM is therefore considering the alternative options of requiring a public review of preliminary alternatives "to the extent practical" or requiring a public review of preliminary alternative when preparing a resource management plan, but not for EIS-level amendments. The BLM requests public comment on whether the public review of preliminary alternatives and rationale for alternatives should be required in all situations, including EIS-level amendments.

Proposed paragraph (d) of this section would state that the BLM may change the preliminary alternatives and the preliminary rationale for alternatives as planning proceeds, if it determines that public suggestions or other new information make such changes necessary. The proposed language supports BLM's intent to consider public input on the preliminary alternatives and make changes accordingly.

Section 1610.5–3 Estimation of Effects of Alternatives

Proposed § 1610.5–3 would be based on existing § 1610.4–6 and incorporate elements of existing § 1610.4–2(a)(2).

Proposed paragraph (a) of this section would establish a new requirement that the responsible official identify the procedures, assumptions, and indicators that will be used to estimate the environmental, ecological, social, and economic effects of the alternatives considered in detail. These procedures, assumptions, and indicators would be referred to as the "basis for analysis." Although this would be a new requirement in the planning regulations, there are existing examples where the BLM has developed a "basis for analysis" before conducting an effects analysis. For example, in the preparation of the western Oregon resource management plans, the BLM described the analytical methodology the BLM intended to use to estimate the effects of alternatives and made this available to the public.

Paragraph (a)(1) of this section would require that the responsible official make the preliminary basis for analysis available for public review prior to the publication of the draft resource management plan and draft EIS. The BLM expects that in most situations this information would be made available to the public concurrently with the preliminary alternatives and rationale for alternatives and prior to conducting the effects analysis. As previously discussed, the BLM does not request written comments when making documents available for public review. However, the public is welcome to contact the BLM with any appropriate concerns.

For the same reasons described as for the preliminary alternatives, the BLM is considering requiring a public review of the basis for analysis "to the extent practical" or requiring a public review of the basis for analysis when preparing a resource management plan, but not for plan amendments. The BLM requests public comment on whether the public review of the basis for analysis should be required every time the BLM prepares a resource management plan or an EIS-level amendment.

This paragraph is adapted from an existing requirement of § 1610.4–2(a)(2) that the "BLM avoids unnecessary . . . analyses." The BLM believes that identifying the basis for analysis and making that information available to the public would provide a more precise description in the regulations of how to avoid unnecessary analyses than existing language. The proposed change would also support the Planning 2.0 goal to provide early opportunities for meaningful public involvement.

Proposed paragraph (a)(2) of this section would explain that the BLM could change the preliminary basis for analysis as planning proceeds to respond to new information, including public suggestions.

Proposed paragraph (b) of this section is adapted from existing § 1610.4–6 and adds the introductory phrase "[e]ffects analysis" for improved readability. The term "Field Manager" would be replaced with "responsible official" for the reasons previously explained. The word "shall" would be replaced with "will" throughout this section for improved readability.

In the first sentence of paragraph (b) of this section, "physical, biological, economic, and social effects" would be replaced with "environmental, ecological, economic, and social effects" for consistent use in terminology. The proposed language encompasses the existing terminology. The BLM intends no change in practice or policy from the proposed change in terminology.

In the second sentence of paragraph (b) of this section, the proposed rule would replace "planning criteria" with "basis for analysis" and add "planning assessment." The proposed language would state, "the estimation of effects must be guided by the basis for analysis, the planning assessment, and procedures implementing NEPA." Planning criteria would no longer be required under the proposed rule; the planning assessment and the basis for analysis would instead provide the appropriate information to guide the effects analysis. Proposed changes would incorporate new terminology used in the proposed rule.

Section 1610.5–4 Preparation of the Draft Resource Management Plan and Selection of Preferred Alternatives

This section would be based on existing § 1610.4–7. This proposed section replaces references to the "Field Manager" with "responsible official," references to "State Director" with "deciding official," and makes grammatical edits. The heading of the section would be revised to include the new provision in paragraph (a) of this section regarding the preparation of the draft resource management plan.

Proposed paragraph (a) of this section would state that the responsible official will prepare a draft resource management plan based on the Director and deciding official guidance, the planning assessment, the planning issues, and the estimation of the effects of alternatives. This new language would highlight the unique step in the BLM land use planning process of preparing a draft resource management plan, consistent with current practice, and it would facilitate public understanding of the planning process outlined in § 1610.5. There would be no change from existing requirements associated with this new language, other than to reflect new terminology in this proposed rule and more broadly describe the information the BLM would use to prepare the draft resource management plan and draft EIS.

Proposed paragraph (a) of this section would further state that the draft resource management plan and draft EIS would evaluate the alternatives, identify one or more preferred alternatives, and explain the rationale for the preference. We propose to remove "estimate their effects according to the planning criteria" because planning criteria would no longer be prepared under the proposed rule and the estimation of effects of alternatives is already

addressed in proposed § 1610.5–4. We also propose edits that would allow the responsible official to select "one or more" preferred alternatives. This would be a change from existing text that directs the field manager to select one preferred alternative. The explicit acknowledgement of "one or more" preferred alternatives would make the planning regulations more consistent with the DOI NEPA regulations (43 CFR 46.425(a)), which were promulgated after the BLM Planning regulations were last amended.

The BLM is also considering whether to further revise paragraph (a) of this section for consistency with the DOI NEPA regulations, to read: ". . . identify the preferred alternative or alternatives, if one or more exist." Under this alternative, the BLM might select a single preferred alternative, multiple preferred alternatives, or no preferred alternative. The BLM expects that in most situations a single preferred alternative would be selected, consistent with current practice; however, there may be instances in which either several may be identified, or where none of the alternatives are preferred. The latter instances, in particular, are rare, and usually occur when a plan amendment is being initiated in conjunction with decision-making regarding a site-specific proposal, and it is unclear which of possibly several project alternatives, each designed to reduce adverse environmental consequences, might be preferred. For this reason, the BLM is also considering whether to include a specific regulatory provision addressing these circumstances, to clarify that these are the only kinds of instances in which a preferred alternative need not be identified. The BLM requests public comment on these three alternative options for selection of preferred alternatives.

Regardless of which approach is carried forward into the final rule, the forthcoming revision of the Land Use Planning Handbook will provide more detailed guidance on the selection of preferred alternatives.

Finally, we would replace the requirement to select a preferred alternative that "best meets Director and State Director guidance" with a requirement to explain the rationale for the preferred alternative(s). There are many factors that might influence the selection of a preferred alternative, in addition to Director or deciding official guidance, such as assessment findings, public involvement, local planning priorities, and identified planning issues. The preferred alternative(s) must be consistent with Federal laws, regulation, and policy guidance, and would represent the alternative that the deciding official believes is most responsive to the planning issues and the planning assessment, which includes Director and deciding official guidance.

Proposed paragraph (b) of this section would be based on existing § 1610.4–7 with clarifying edits. "Draft plan and [EIS]" would be replaced with "draft resource management plan and draft [EIS]." "Governor" would be pluralized to acknowledge that a resource management plan may cross State boundaries and in that situation the draft resource management plan should be provided to the Governors of all States involved. We propose to add a reference to proposed § 1610.3–1(c) to improve readability of the regulations text. There would be no change in practice or policy from these proposed edits.

1610.5–5 Selection of the Proposed Resource Management Plan and Preparation of Implementation Strategies

Proposed § 1610.5–5 would be based on existing § 1610.4–8. The BLM proposes to revise the heading to this section to include "preparation of implementation strategies." Proposed changes to paragraph (a) of this section would replace the reference to the "Field Manager," stating that the "responsible official" would evaluate the comments received after publication of the draft resource management plan and draft EIS and would prepare the proposed resource management plan and final EIS.

Proposed paragraph (b) of this section would provide that the responsible official prepare implementation strategies for the proposed resource management plan, as appropriate. The proposed language would clarify that should the responsible official determine that implementation strategies are appropriate, then this is the step during the preparation of a resource management plan when these strategies are developed. As previously described, implementation strategies assist in implementing future actions consistent with the plan components, but the implementation strategies are not a component of the resource management plan. Implementation strategies describe potential actions that the BLM may take in the future or methods for monitoring, but the BLM would not make a decision on future actions associated with an implementation strategy until conducting site-specific NEPA analysis. The BLM would prepare implementation strategies for the proposed resource management plan, as appropriate. The BLM would not prepare implementation strategies for draft resource management alternatives and would not be required to conduct NEPA analysis for the implementation strategies.

Proposed paragraph (c) of this section would require that the deciding official publish the proposed resource management plan and file the final EIS with the EPA. The proposed rule would no longer detail the BLM's internal review process. We propose removing references to internal steps such as "supervisory review" because these are better established through BLM policy. There would be no change to existing policy or practice, but the proposed rule would leave the BLM with discretion about how to conduct its internal review process.

Proposed paragraph (c) of this section would also provide that the BLM publish any implementation strategies prepared for the proposed resource management plan in conjunction with the proposed resource management plan. The BLM expects that in most situations the implementation strategies would be published as appendices to the proposed resource management plan. In unique circumstances, however, the implementation strategies may be published after the proposed resource management plan.

Section 1610.6 Resource Management Plan Approval, Implementation and Modification

Proposed § 1610.6 is adapted from existing § 1610.5. We propose to replace "use" with "implementation" in the heading to proposed § 1610.6 to more accurately describe the provisions of this section. We also propose to replace the word "shall" with "will," unless otherwise noted, throughout these sections for improved readability. The BLM intends no change from current practice or policy.

Section 1610.6–1 Resource Management Plan Approval and Implementation

This section is adapted from existing § 1610.5–1. We propose to replace "and administrative review" with "and implementation" in the heading of this section to focus this section on resource management plan approval and implementation. Similarly, we propose to delete the existing first paragraph, which refers to internal procedures such as "supervisory review and approval." The BLM's internal review procedures are better established through BLM policy.

Paragraphs (a), (b), and (c) of this section contain the provisions of existing § 1610.5–1. The BLM proposes edits to this section to improve understanding of existing requirements, but does not anticipate any change in implementation from existing regulations.

Under proposed paragraph (a) of this section, the deciding official would approve a resource management plan, or EIS-level amendment, no earlier than 30 days after the EPA publishes a **Federal Register** notice of the filing of the final EIS. This is an existing part of the process and regulations, but the proposed rule would use "deciding official" instead of the State Director, to maintain consistency with other proposed changes. We propose to remove the existing provision that approval depends on "final action on any protest that may be filed" as this requirement is already addressed in 1610.6–1(b) and in the protest procedures at 1610.6–2(b). This provision would be removed because it, like existing paragraph (a), refers to the BLM's internal review process. This proposed revision would not be a change in practice or policy.

Proposed § 1610.6–1(b) would contain some language from existing paragraph (b), with some clarifying edits. In addition to existing provisions stating that plan approval would be withheld until after protests have been resolved, paragraph (b) of this proposed section would also clarify an existing requirement to provide public notice and opportunity for public comment if the BLM intends to select a different alternative, or portion of an alternative, than the proposed resource management plan or plan amendment. Such a change may result from the BLM's decision on a protest or from the BLM's consideration of inconsistencies identified by a Governor. The proposed rule would revise this sentence to explain "if, after publication of a proposed resource management plan or plan amendment, the BLM intends to select an alternative that is encompassed by the range of alternatives in the final [EIS] or [EA] but is substantially different than the proposed resource management plan or plan amendment, the BLM will notify the public and request written comments on the change before the resource management plan or plan amendment is approved." The proposed language would more precisely describe what is meant by the existing phrase "any significant change made to the proposed plan." The BLM intends no change from current practice or policy; rather the proposed change would provide a more precise description of existing requirements.

Proposed § 1610.6–1(c) contains language from the last sentence of existing paragraph (b) of existing § 1610.5–1 and provides that the approval of a resource management plan or a plan amendment for which an EIS is prepared must be documented in a concise public ROD, consistent with NEPA requirements (40 CFR 1505.2). Current language refers to "the approval," and the proposed change would specify that a ROD would be prepared for approval of a resource management plan or EIS-level amendment. Approvals of EA-level amendments need not be documented in a ROD; however, current BLM policy requires the preparation of a decision record to document these decisions (see BLM NEPA Handbook, H–1790–1).

Section 1610.6–2 Protest Procedures

Proposed § 1610.6–2 contains the protest procedures found at existing § 1610.5–2. The BLM proposes to amend this section to update the procedures for the public's submission and the BLM's action on protests of a resource management plan or plan amendment.

Under the introductory text in proposed paragraph (a) of this section, we propose to clarify that a person who participated in the preparation of the resource management plan or plan amendment and has an interest which "may be adversely affected" by the approval of a proposed resource management plan or plan amendment may protest such approval. We propose to replace "planning process" with "the preparation of the resource management plan or plan amendment" to more precisely describe what steps of the "planning process" apply to paragraph (a) and for consistency with other proposed changes. Under current practice, the BLM generally considers the "planning process" to mean the preparation of a resource management plan or plan amendment. Under the proposed rule, we wish to clarify that the preparation of a resource management plan is just one step of the planning process. Other steps include the planning assessment, the approval of the resource management plan, the implementation of the resource management plan, monitoring and evaluation, and future modification of the resource management plan through plan maintenance, amendment, or revision. A person may only submit a protest, however, if they participated in the preparation of the resource management plan or plan amendment.

We also propose to remove language stating that any person who has an interest which "is or may be" adversely affected by the approval or amendment of a resource management plan may protest such approval or amendment. Instead, we would state that any person who has an interest which "may be" adversely affected by the approval of a proposed resource management plan or plan amendment may protest such approval. We would replace the phrase "is or may be" with "may be" to eliminate duplicative and unnecessary language. An interest that "may be adversely affected" includes an already affected interest. The proposed change would improve readability only; the BLM intends no change to the meaning of this provision.

Existing § 1610.5–2(a)(1) would be split into paragraphs (a)(1) and (a)(2) of proposed § 1610.6–2 and would contain requirements for filing protests, including new provisions for electronic submission.

Proposed paragraph (a)(1) of this section, "Submission," would describe the procedures for submitting a protest. A new provision would state that the protest may be filed as a hard-copy or electronically and the responsible official would specify protest filing procedures for a resource management plan or plan amendment (beyond these general requirements in the planning regulations). Under the existing regulations, a protest must be filed as a hard-copy. Although the BLM would continue to accept hard-copy protest submissions, providing an additional option for electronic submission would reduce a burden on the public by reducing the expense associated with mailing a hard-copy. An electronic format would also streamline the processing of protests, since the protest would already be digitized, thereby eliminating a step from the process. Further, a protest sent by mail may take many days to arrive at the appropriate BLM office and delay the start of the BLM's protest resolution process. Electronic options for protest submission would promote a more efficient protest resolution process. The proposed rule provides flexibility for how protests would be submitted electronically to the BLM. The BLM expects to provide an electronic submission option either through email submission or through the BLM Web site.

Although the BLM believes that electronic submission will promote efficiency, it is also important to note that providing an electronic option for protest submission could also lead to an increased burden on the agency by increasing the number of protest submissions, such as form letters. In this

situation, it would take additional time to process protests. Under current practice, the BLM summarizes protest issues and provides a single response to each issue, regardless of how many times the issue was raised. We intend to continue this practice, thus a possible increase in form letters would not lead to an increase in the number of responses or the complexity of the final protest resolution report.

Proposed paragraph (a)(2) of this section, "Timing," would maintain the existing time periods for submitting a protest, but make edits for improved readability and understanding. There would be no changes to existing requirements. For resource management plans and EIS-level amendments, protests must be filed within 30 days after the date the EPA publishes a NOA of the final EIS in the **Federal Register**. For EA-level amendments, protests must be filed within 30 days after the date the BLM notifies the public of the availability of the proposed plan amendment.

Proposed § 1610.6–2(a)(3), "Content Requirements," would outline the required content of a protest. Proposed paragraph (a)(3)(i) of this section would include a new requirement that protesting parties include their email address (if available) in addition to other identifying information in the protest letter in order to facilitate BLM communications with protesting parties in the event of a question regarding a protest or its filing. It often is easier to communicate by email than by telephone and this requirement would be in line with the BLM's acceptance of protests electronically under proposed § 1610.6–2(a)(1).

Proposed paragraph (a)(3)(ii) of this section would require a statement of how the protestor participated in the planning assessment or the preparation of the resource management plan. This would be a change from existing language that requires a statement of the issue or issues being protested, which would be included in proposed paragraph (a)(2)(iii) of this section. Although existing paragraph (a) states that only a person who participated in the preparation of a resource management plan may submit a protest, proposed paragraph (a)(3)(ii) would place the burden on the protestor to demonstrate their eligibility for submitting a protest. This proposed requirement would make it easier for the BLM to determine eligibility to protest and more efficiently respond to all protests.

Proposed paragraph (a)(3)(iii) would replace the requirement to provide a "statement of the part or parts of the plan or amendment being protested" with a new requirement to identify the plan component(s) believed to be inconsistent with Federal laws or regulations applicable to public lands, or the purposes, policies and programs of such laws and regulations. The proposed change would be consistent with other proposed changes (see proposed § 1610.1–2). Plan components provide planning-level management direction. The final decision to approve a resource management plan or plan amendment represents the final decision to approve the planning level management direction, which will guide all subsequent management decisions.

In contrast, implementation strategies are not subject to protest because they are not a component of the resource management plan. These strategies describe how the BLM may implement future actions that are consistent with the resource management plan, but consideration of a proposed implementation-level action, along with an implementation strategy comes at the implementation stage when the future action is taken. For example, management measures describes actions the BLM may take to implement a future action consistent with the plan components, but the final decision to implement the action would come at a later point in time and would require site-specific NEPA analysis. The decision to implement the future action associated with the implementation strategy would be subject to appeal, or other administrative remedy as appropriate, when that future decision is approved. A management measure to apply a habitat improvement in an area, for example, would require site-specific NEPA analysis and an associated decision. The site-specific decision would be subject to an appeals process at that time.

Proposed paragraph (a)(3)(iv) would require the protest to include a concise explanation of why the plan component(s) is believed to be inconsistent with Federal laws or regulations applicable to public lands, or the purposes, policies and programs of such laws and regulations, and identification of the associated issue(s) raised during the planning process. This provision would replace the final sentence of existing paragraph (a)(1)(iv) of this section. We are proposing to require that protests include more specific grounds for challenging a plan component than the existing regulations, which require only "(a) concise statement explaining why the State Director's decision is believed to be wrong." More specific grounds for protests would help the BLM to identify, understand, and respond thoughtfully to valid protest issues, such as inconsistencies with Federal laws or regulations.

This proposed change would also provide a more clear distinction between the protest process and the earlier public comment period on a draft resource management plan and draft EIS. The earlier public comment period offers an opportunity to comment on a wide variety of matters relating to a draft plan. The protest procedures, in contrast, are intended to focus the BLM Director's attention on aspects of a proposed resource management plan that may be inconsistent with legal requirements or policies. The proposed changes are not a change from existing practice or policy. The BLM believes that the proposed change would more effectively communicate to the public what the BLM considers when addressing protests.

Proposed paragraph (a)(3)(v) of this section retains the existing requirement that protests include a copy of all documents addressing the issue(s) raised that the protesting party submitted during the planning process or an indication of the date the issue(s) were discussed for the record. These documents or dates would assist the BLM in responding to protests.

Proposed paragraph (a)(4) of this section on "availability" would establish a new requirement that protests would be made available to the public upon request and this would be independent of existing requirements under the Freedom of Information Act. This commitment would demonstrate the value the BLM places on public involvement in resource management planning. The BLM intends for this commitment to ensure transparency and consistency in practice. The BLM is exploring how to make protests available in a timely and efficient manner, including by posting all protest submissions to the BLM Web site, and welcomes public comments on this issue.

Proposed paragraph (b) of this section would reiterate the existing requirement in existing § 1610.6–1(b) that the BLM Director render a decision on all protests before approving a resource management plan or plan amendment, except as otherwise provided in 1610.6–1(b) that approval would be withheld on any portion of a resource management plan or plan amendment where the protest has not been resolved. This means that the BLM could choose to approve the portions of the resource management plan not being protested, while withholding approval on the portion being protested, until final

action has been completed on such protest. Although this does not represent a change in existing policy, we believe that including this requirement with the provisions related to protests will improve understanding of the requirements associated with protests. We propose removing "promptly" from this requirement, as the term is vague and does not account for the many variables that affect timelines for protest resolution, including the magnitude and complexity of protest issues, as well as available budgets and competing workloads. This edit clarifies that the timeline to resolve the protest varies extensively across planning efforts. This proposed revision is not a change in practice or policy; the BLM will continue to resolve protests as quickly as possible.

Proposed paragraph (b) would further provide that the BLM notify protesting parties of the decision and would make both the decision and the reasons for the decision on the protest available to the public. The BLM expects that these typically would be posted on the BLM Web site and shared with individuals or groups that have requested email notice in conjunction with the preparation or amendment of a resource management plan. We propose removing the requirement that the BLM send its decision on a protest to the protesting parties by certified mail, return receipt requested. The BLM believes that the wide availability and ease of use of the Internet and electronic communications make these means of notifying the public well-suited for sharing protest decisions with the public. Electronic communications allow the BLM flexibility to make protest decisions available to a potentially large number of protesting parties or members of the public without an overly burdensome workload. These means would also be consistent with BLM policy promoting the use of electronic communications in the land use planning process.[16] Nonetheless, where Internet access is limited or protesting parties or members of the public express concerns about electronic communications, the BLM would provide notice by other means, as necessary.

The final sentence of proposed paragraph (b) would reflect existing § 1610.5–2(b) and explain that the BLM Director's decision is the final decision of the Department of the Interior. This decision may be subject to judicial review. The BLM proposes to change "shall be" to "is," to comply with more recent style conventions and improve readability. However, there would be no substantive change to this paragraph.

Proposed paragraph (c) of this section would add a new provision stating that the BLM Director may dismiss any protest that does not meet the requirements of this section. For example, the BLM may dismiss protests where protestors lack standing or protests that are incomplete or untimely. The proposed text does not represent a change in requirements or in existing practice. The BLM Director may currently dismiss protests that do not meet the regulatory requirements. The BLM believes that adding this text would more effectively communicate to potential protestors that their protest may be dismissed if it does not meet the requirements for submission.

Section 1610.6–3 Conformity and Implementation

Proposed § 1610.6–3 would be based on existing § 1610.5–3. In proposed paragraph (a) of this section, we propose to remove the phrase "as well as budget or other action proposals to higher levels in the Bureau of Land Management and Department." All future authorizations and actions must conform to the approved resource management plan, thus this language is confusing and unnecessary. No change from current practice is intended by this proposed change. We also propose to add the words "plan components," stating "All future resource management authorizations and actions . . . must conform to the plan components of the approved resource management plan." The proposed edits would be consistent with the definition of "plan components" in proposed § 1601.0–5 and the requirements of proposed § 1610.1–2 and would more precisely describe how the BLM interprets conformance.

In paragraph (b) of this section, we propose specifying that the "plan" referenced is a "resource management plan" and that the requirements of this section also apply following the approval of a plan amendment. We propose replacing "Field Manager" with the "BLM." As previously described, replacing the "Field Manager" with the "BLM" acknowledges responsibilities that might be fulfilled by a BLM employee other than a Field Manager.

Throughout this section, we propose replacing "shall" with "will," unless otherwise noted. Proposed revisions throughout this section would only be for improved readability or improved understanding of existing practice or policy.

Section 1610.6–4 Monitoring and Evaluation

Proposed new § 1610.6–4 would address monitoring and evaluation of resource management plans following their approval and would incorporate much of the existing language from existing § 1610.4–9 with edits for consistency with other proposed changes. The BLM would monitor and evaluate the resource management plan in accordance with the monitoring and evaluation standards and the monitoring procedures (see proposed §§ 1610.1–2(b)(3) and 1610.1–3(a)(2)) to determine whether there is sufficient cause to warrant amendment or revision of the resource management plan or for other purposes, such as evaluating the effectiveness of implementation strategies.

The final sentence of proposed § 1610.6–4 would establish a new requirement that the BLM document the evaluation of the resource management plan in a report made available for public review. The BLM believes that sharing this information with the public would provide transparency during the implementation of a resource management plan.

Section 1610.6–5 Maintenance

Proposed § 1610.6–5 would be based on existing § 1610.5–4 to explain the reasons for updating resource management plans through plan maintenance and to identify the parameters for plan maintenance. Under both existing and proposed regulations, maintenance represents minor changes and updates to a resource management plan that would not change any fundamental aspects of the plan. As proposed, maintenance would not change a plan component, except to correct typographical or mapping errors or to reflect minor changes in mapping or data. Unless otherwise indicated, we propose to replace "shall" with "will" throughout this section for improved readability.

We propose to delete "and supporting components" from the first sentence of this section to avoid confusion. The existing regulations are unclear on what is meant by "supporting components" in this provision. Supporting information, such as a visual resources

[16] BLM, Instruction Memorandum No. 2013–144, "Transitioning from Printing Hard Copies of National Environmental Policy Act and Planning Documents to Providing Documents in Electronic Formats" (June 21, 2013), *http://www.blm.gov/wo/st/en/info/regulations/Instruction_Memos_and_Bulletins/national_instruction/2013/IM_2013-144.html*); DOI Office of Environmental Policy and Compliance, Environmental Statement Memorandum No. 13–7, "Publication and Distribution of DOI NEPA Compliance Documents via Electronic Methods" (Jan. 7, 2013), *http://www.doi.gov/pmb/oepc/upload/ESM13-7.pdf.*

inventory or a model predicting wildfire propensity, can be updated at any point in time; such a change is not considered plan maintenance as it does not constitute a change to the resource management plan itself. Further, the BLM would not consider supporting information such as the planning assessment or an implementation strategy to be a component of the approved resource management plan because they do not provide planning-level management direction. Rather, the planning assessment provides baseline information to inform the preparation of a resource management plan and the implementation strategies assist in implementing future actions consistent with the resource management plan. These types of support information can be updated at any point in time and such a change is not considered plan maintenance because it does not constitute a change to the resource management plan itself.

We also propose to replace "shall be maintained" with "may be maintained" in the first sentence. The proposed change would reflect the fact that plans are maintained as necessary, and the BLM has the discretion to assess the urgency of the need to maintain the plan when weighed against available budgets and competing workload priorities.

The proposed rule would also revise the areas described in the regulations that may be updated through plan maintenance. We propose to expand existing language stating that plans are maintained as necessary to "reflect minor changes in data" with language stating the plans would be maintained as necessary "to correct typographical or mapping errors or to reflect minor changes in mapping or data." The proposed language provides a more precise and accurate description of changes that are made using plan maintenance under the existing regulations.

We propose to remove language limiting maintenance "to further refining or documenting a previously approved decision incorporated in the plan" as well as language indicating that "maintenance must not result in the expansion in the scope of resource uses or restrictions, or change the terms, conditions, and decisions of the approved plan." Instead, the proposed rule would state that maintenance must not change a plan component of the approved resource management plan, except to correct typographical or mapping errors, or to reflect minor changes in data. The proposed change would make the maintenance provisions consistent with other proposed changes. The plan components would encompass the "scope of resource uses or restrictions" and the "terms, conditions, and decisions" of the approved resource management plan, therefore there would be no substantive change from current policy.

Existing language is retained which indicates that maintenance is not considered a plan amendment and therefore does not require the same public involvement, interagency coordination, or NEPA analysis as plan amendments. This language is still relevant and applicable because plan components (*i.e.*, the management-level direction of the approved plan) could not be changed through plan maintenance other than to correct typographical or mapping errors or reflect minor changes in mapping or data.

We propose to replace the words "shall not" with "does not" where the existing regulations state that maintenance "shall not" require the formal public involvement and interagency coordination process described under §§ 1610.2 and 1610.3. This proposed change would deviate from other proposed changes where we would replace "shall" with "will." No change in meaning or practice is intended by the proposed change. The BLM believes that in this sentence, the proposed language provides better readability and ease of understanding.

Finally, we propose to remove existing language which requires maintenance to be documented in plans and supporting records and instead add a new requirement for the BLM to notify the public when changes are made to an approved resource management plan through plan maintenance and make those changes available to the public at least 30 days prior to their implementation. While the proposed rule does not specify how the BLM would do so, we anticipate that changes would be posted on the BLM Web site and available at BLM offices within the planning area, with direct notice sent to those individuals and groups that have requested such notice. The forthcoming revision of the Land Use Planning Handbook will provide more detailed guidance on how the BLM will make different types of plan maintenance available to the public. The BLM requests public comment on whether and if so how plan maintenance should be made available to the public.

Section 1610.6–6 Amendment

Proposed § 1610.6–6 would be based on existing § 1610.5–5. We propose to amend this section by updating language to be consistent with other changes in this proposed rule. Unless otherwise indicated, "shall" would be replaced with "will" or "must," for improved readability.

Paragraph (a) of this section would revise the undesignated introductory text in existing § 1610.5–5 to explain that a plan component may be changed through amendment. This represents a change from the existing regulations, which provide that a resource management plan may be changed by amendment. The proposed change is necessary for consistency with changes to § 1610.1, which distinguish between plan components and implementation strategies. As explained in § 1610.1–2 of this preamble, plan components would represent management level direction and would only be changed through amendment or revision.

We propose that an amendment "may" be initiated when the BLM determines that monitoring and evaluation findings, new high quality information, including best available scientific information, new or revised policy, a proposed action, "or other relevant changes in circumstances" warrant a change to one or more plan components of the approved plan. The proposed change would replace "shall be initiated" with "may be initiated" to reflect the fact that the BLM must consider available budgets and competing workload priorities when making the determination to initiate a plan amendment.

We also propose edits to make this section easier to read, clarifying that an amendment must be made "in conjunction" with an EA or EIS. We would replace the word "through" with "in conjunction" because the EA or EIS informs the amendment, but is not the mechanism through which the amendment is made. We propose to clarify that the procedures for plan amendments include public involvement (see proposed § 1610.2), interagency coordination and consistency (see § 1610.3), and protest procedures (see proposed § 1610.6–2). We would retain the existing provision that the BLM must evaluate the effect of the amendment on the plan and that if the amendment under consideration is in response to a specific proposal, the requisite analysis for the proposal and the amendment may occur simultaneously. This is consistent with NEPA regulations asking Federal agencies to integrate NEPA with other planning processes (see 40 CFR 1500.2(c) and 1500.4(k)).

Proposed paragraph (b) of this section concerns an amendment for which an EA does not disclose significant impacts and would be revised by replacing references to the "Field Manager" with

the "responsible official" or the "BLM." It would also replace a reference to the "State Director" with the "deciding official." These changes would be consistent with new terms used throughout this proposed rule. This section would also provide that upon approval of a plan amendment, the BLM would issue a public notice of the action taken, and that an amendment may be implemented 30 days after such notice. There would be no substantive changes to this paragraph or the BLM's implementation of it.

We propose to eliminate the existing requirement that the amendment process follow the same procedures as for preparing and approving a resource management plan. Instead, the proposed rule would identify in relevant sections where EIS-level amendments follow the same procedures for preparing and approving a resource management plan. Although the same procedures would be required for most steps of preparing a resource management plan, the proposed change would allow for EIS-level amendments to have a different time period for public comment on the draft plan amendment than for draft resource management plans. EIS-level plan amendments would be subject to a 45-day public comment period on the draft plan amendment and draft EIS, instead of a 60-day public comment period on a draft resource management plan and draft EIS (see proposed § 1610.2–2). The BLM believes the 45-day public comment period, which is consistent with the CEQ requirement (see 40 CFR 1506.10(c)) would be sufficient for many amendments and that this shorter public comment period would improve efficiency when an amendment is warranted. However, the regulations would not prevent the BLM from offering a longer public comment period or extending the public comment period on a draft resource management plan amendment and draft EIS in any particular case, if the planning process would benefit from more than 45 days for public comments. We expect to provide more detailed guidance in the forthcoming revision of the Land Use Planning Handbook on situations that may warrant a longer comment period than the minimum required under NEPA.

We also propose to remove existing language that consideration for an EIS-level amendment is limited to "that portion of the plan being amended." This existing language contradicts the requirement from proposed paragraph (a) that the "effect of the amendment on other plan components must be evaluated." For example, if an amendment would preclude the BLM from achieving other goals and objectives of the approved resource management plan that are not explicitly addressed in the amendment, this is important information for the BLM to be aware of.

Paragraph (c) of this section would be adapted from the existing provision of § 1610.5–5(b) that "if several plans are being amended simultaneously, a single [EIS] may be prepared to cover all amendments" for improved readability. Instead, this provision would state that "if the BLM amends several resource management plans simultaneously, a single programmatic [EIS] or [EA] may be prepared to address all amendments."

Section 1610.6–7 Revision

Proposed § 1610.6–7 would be based on existing § 1610.5–6. We propose to revise this section to improve readability and more clearly explain when the BLM would prepare a revision. In the first sentence of the section the clause that states "a resource management plan shall be revised . . ." would be replaced with "the BLM may revise a resource management plan. . . ." The proposed rule would use active voice to clearly show that the BLM would be revising the plan, but it also changes the text from a requirement "shall" to the discretionary term "may." In both existing regulations and this proposed rule, the revision would occur "as necessary." This change would reflect the fact that the BLM must consider many factors including available budgets, competing workload priorities, and development of new policy when making the determination to revise a resource management plan. While this is a change in the regulations, current BLM practice does take these factors into account when determining what is necessary, so no change in implementation is expected. The proposed rule would more clearly demonstrate this to the public.

The proposed changes would also state that in addition to monitoring and evaluation findings, new data, or new or revised policy, "other relevant changes in circumstances" that affect an entire plan or major portions of a plan may require a plan revision. This does not represent a change in practice, but rather reflects the fact that other changes in circumstances could warrant a plan revision. For example, proliferation of the demand for energy development in an area could result in a plan revision if the BLM believed that a plan revision was necessary to adequately address this demand and consider impacts at a regional-scale. This section would maintain the existing requirement that revisions must comply with all of the requirements of the planning regulations for preparing and approving a resource management plan, with minor edits to improve readability.

Section 1610.6–8 Situations Where Action Can Be Taken Based on Another Agency's Plan, or a Land Use Analysis

Proposed § 1610.6–8 would be based on existing § 1610.5–7. We propose minor edits in this section with no intended change in practice or policy. We would replace the "Bureau of Land Management" with the "BLM," which has already been introduced in this part. We would also replace a reference to the "Field Manager" to "the BLM," as the action described applies more to the agency than any particular individual. We would replace "use" with "rely on" for more accurate use of language.

The BLM proposes to replace "there are situations of mixed ownership" with "including mixed ownership" in the first sentence of proposed 1610.6–8 for improved readability. No change in meaning is intended by this proposed change.

We propose to add a reference to tribal plans in proposed paragraph (a) of this section, which lists those other agency plans that may be used as the basis for a BLM action. We also propose to replace "public participation" with "public involvement," consistent with FLPMA and proposed changes throughout this proposed rule.

We propose to add language to paragraphs (a) and (b) of this section clarifying that in order for the BLM to rely on or adopt another agency's plan, that plan must be consistent with "Federal laws and regulations applicable to public lands, and the purposes, policies and programs of such laws and regulations." For example, the other agency's plan must comply with NEPA. The proposed change would be consistent with current practice and policy.

We propose to remove "to comply with law and policy applicable to public lands" from proposed paragraph (b) because that language would no longer be necessary with the added text.

We propose to remove the final sentence of existing § 1610.5–7 which provides that "The decision to approve the land use analysis and to lease coal is made by the Departmental official who has been delegated the authority to issue coal leases." This language is unnecessary in the planning regulations.

Finally, the reference to § 1610.5–2 would be updated to reflect other changes under this proposed rule. No change in meaning is intended by updating this reference.

Section 1610.7 Management Decision Review by Congress

Proposed § 1610.7 would be based on existing § 1610.6 with minor revisions. We propose replacing the "Federal Land Policy and Management Act" with "FLPMA," the "Bureau of Land Management" with the "BLM," and replacing "shall" with "will" in this section for improved readability. In the second sentence of this section, however, we propose to replace "[t]his report shall not be required" to "[t]his report is not required" for improved readability and ease of understanding. We propose to clarify that this report is not required prior to approval of a resource management plan which, if fully or partially implemented, would result in elimination "of use(s)." No change in meaning is intended with these proposed changes.

Section 1610.8 Designation of Areas

Proposed § 1610.8 would contain the provisions of existing § 1610.7 without amendment.

Section 1610.8–1 Designation of Areas Unsuitable for Surface Mining

Proposed § 1610.8–1 would be based on existing § 1610.7–1. We propose replacing references to the "Field Manager" and the "Bureau of Land Management" with the "BLM" in this section. The Field Manager commitments described in this section are those of the BLM, not any one individual. We also propose replacing the word "shall" with "will" throughout this section, unless otherwise indicated, for improved readability. No change in meaning is intended with these proposed changes.

Section 1610.8–2 Designation of Areas of Critical Environmental Concern

Proposed § 1610.8–2 would be based on existing § 1610.7–2. The BLM proposes revising the language throughout existing § 1610.7–2 to use plain language, including changing "shall" to "will," or in some instances "shall" to "must" for improved readability.

Proposed paragraph (a) of this section would contain the undesignated introductory language in existing § 1610.7–2, revised as follows. "Areas of critical environmental concern" would be replaced with the abbreviation "ACEC" for improved readability. The existing language stating that potential ACECs are identified and considered throughout the resource management planning process would be removed and instead we would state that "Areas having potential for ACEC designation and protection management will be identified through inventory of public lands and during the planning assessment." The proposed change would reflect the fact that FLPMA directs the BLM to identify potential ACECs through the inventory of public lands (see section 201(a) of FLPMA) and consider them for designation through land use planning (see section 202(c)(3) of FLPMA). When the BLM prepares a resource management plan or an EIS-level amendment, potential ACECs would be identified during the planning assessment (see proposed § 1610.4(a)(1)). However the BLM may also conduct inventory at times not associated with the preparation or amendment of a resource management plan, and potential ACECs could be identified at those times as well. The BLM intends no change in practice or policy by the proposed revisions, other than to identify that potential ACECs would be identified during a planning assessment, a new proposed step in the planning process.

Proposed paragraph (a) of this section would also include language from existing 1610.7–2(a), which describes the criteria for identifying a potential ACEC. We would replace "shall" with "will" to read "[t]he inventory data will be analyzed to determine whether there are areas containing resources, values, systems or processes or hazards eligible for further consideration for designation as an ACEC."

We propose to maintain the existing descriptions of the "relevance" and "importance" criteria in proposed paragraphs (a)(1) and (a)(2) of this section, though "shall" would be replaced with "must" and we would remove the phrase "this generally requires more than local significance" from the description of importance. This phrase is vague and unnecessary in the regulations. There are many existing examples where an area of local significance has been determined to meet the "importance" criteria. The proposed change would be consistent with FLPMA and would improve understanding that the importance criteria is based on the degree of significance (*i.e.*, substantial significance and values) and a local value, resource, system, process, or hazard could have "substantial" significance.

Proposed paragraph (b) of this section would address the designation of ACECs and would provide that potential ACECs would be considered for designation during the preparation or amendment of a resource management plan. This would replace language in existing § 1610.7–2 stating that ACECs are "considered throughout the resource management planning process." Proposed paragraph (b) would also contain the provision that "[t]he identification of a potential ACEC shall not, in of itself, change or prevent change of the management or use of public lands," which would be moved from the existing definition of "Areas of Critical Environmental Concern or ACEC" in 1601.0–5(a) to this section. The term "shall" would be replaced with "does" for improved readability. No change in meaning is intended by this proposed revision. This provision belongs with the ACEC provisions and this placement avoids including substantive regulatory provisions in the definitions.

We propose new additional language at the end of proposed paragraph (b) which would provide that "[p]otential ACECs require special management attention (when such areas are developed or used or no development is required) to protect and prevent irreparable damage to the important historic, cultural, or scenic values, fish and wildlife resources or other natural system or process, or to protect life and safety from natural hazards." The proposed language is consistent with FLPMA (see section 103(a)) and would provide useful information in regards to designating ACECs. The BLM intends no change in practice or policy from adding this language; rather, the planning regulations would reflect existing statutory direction.

In addition, we propose dividing existing § 1610.7–2(b) into two paragraphs (proposed § 1610.8–2(b)(1) and (2)) to distinguish more clearly between the BLM's notice of potential ACECs and the formal designation of ACECs in the approved plan.

Proposed § 1610.8–2(b)(1) would maintain the existing requirement, with clarifying edits, that upon release of a draft resource management plan or plan amendment involving a potential ACEC, the BLM would notify the public and include a list of each potential ACEC and any special management attention which would follow a formal designation. For clarification purposes, we would replace the term "upon approval" with "upon release" so that this step is not confused with the formal approval of the proposed plan. This would not represent a change to existing practice. We also propose replacing the term "proposed ACEC" with "potential ACEC" in order to avoid confusion with the proposed resource management plan. The BLM provides notice of potential ACECs upon release of a draft resource management plan or plan amendment, rather than upon release of a proposed resource management plan

or plan amendment. The BLM intends no change in practice or policy from this proposed word change. We also propose to replace "resource use limitations" with "special management attention." The proposed language would be based on the definition of an ACEC provided in FLPMA (section 103(a)) and would also reflect the fact that special management attention is not restricted to resource use limitations. For example, special management attention might include objectives related to plant species composition to maintain habitat for a wildlife resource.

We propose removing the requirements in existing § 1610.7–2(b) to publish a **Federal Register** notice and provide a 60-day public comment period on a potential ACEC designation. Instead, the BLM would be required to notify the public and provide a public comment period appropriate to the level of BLM action (see proposed § 1610.2–1). The proposed planning process provides opportunity to consider impacts to potential ACECs through the development of a range of alternatives and to effectively assess whether special management attention is needed. The proposed planning process also provides substantial opportunity for public involvement. We believe that consistency between ACEC requirements and the other steps of the planning process would be less confusing and would more effectively integrate ACEC consideration into the planning process.

Under the proposed rule, the BLM would notify the public of each potential ACEC and any special management attention which would occur if it were formally designated, by posting a notice on the BLM Web site and at the BLM office where the plan is being prepared (see proposed § 1610.2–1(c)), and through written or email correspondence to those individuals or groups who have requested to receive updates throughout the planning process (see proposed § 1610.2–1(d)).

This proposed change would also mean that for the preparation of a resource management plan, the BLM would provide a 60-day comment period; for EIS-level amendments the BLM would provide a 45-day comment period; and for EA-level amendments, the BLM would not be required to provide a public comment period, however, if the BLM did provide a public comment period it would provide a minimum 30-day comment period (see proposed § 1610.2–2(a)). In most situations the BLM chooses to provide a public comment period for EA-level amendments, however, the proposed change acknowledges that there may be situations where there is no public interest in a draft plan amendment and it would therefore not benefit from a public comment period. In such situations, the planning regulations would not require that the BLM offer a public comment period. For example, an EA-level amendment could be initiated to extend ACEC designation to a recently acquired in-holding within an existing ACEC that was acquired expressly for that purpose. In this situation, there might be no need for or public interest in a comment period.

Paragraph (b)(2) of this section would maintain the existing provision with clarifying edits that the approval of a resource management plan or plan amendment that contains an ACEC constitutes formal designation of an ACEC. We propose to remove the phrase "plan revision" as this would be included in the definition of a resource management plan (see proposed § 1601.0–5). This paragraph would also replace the existing requirement for the approved plan to include "general management practices and uses, including mitigation measures" with a new requirement to include "any special management attention" identified to protect the designated ACEC. The proposed change would reflect the definition of an ACEC provided in FLPMA (section 103(a)). Under the proposed rule, the BLM would provide "special management attention," as required by FLPMA, through the development of plan components. For example, special management attention could include goals, measurable objectives, mitigation standards (as part of a measurable objective), or resource use determinations, among others.

Implementation strategies could also be developed, as needed, to assist in implementing the special management attention provided through the plan components. For example, the BLM may identify specific management measures to achieve vegetation objectives in the ACEC. This represents a change from the existing regulations, which requires inclusion of "general management practices" when providing special management attention. The BLM believes that the new requirement for plan objectives to be measurable (see § 1610.1–2(a)(2)) provides a more effective method to apply special management attention because it allows the BLM to track progress toward the achievement of the objective while incorporating new science and information when implementing specific management measures.

Section 1610.9 Transition Period

Proposed § 1610.9 would contain the provisions of existing § 1610.8, amended as follows. Existing provisions of § 1610.8 address the transition from management framework plans, the land use plans the BLM prepared beginning in 1969 under authorities that predated FLPMA, to resource management plans, which the BLM has prepared and approved under FLPMA and the planning regulations first adopted in 1979. We propose edits in existing § 1610.8(a) and (b) to refer to "public involvement" instead of "public participation" and to refer to the "responsible official" instead of the "Field Manager," consistent with changes made throughout this proposed rule. We also use "will" or "must" instead of "shall" for improved readability.

We propose to clarify in paragraph (a)(1) that management framework plans may be the basis for considering proposed action if the management framework plan is in compliance with the principle of multiple use and sustained yield "or other applicable law." We would add "or other applicable law" because in some situations the BLM must be in compliance with the principles of other legal authorities. For instance, national monuments established under the Antiquities Act of 1906 (16 U.S.C. 431–433) must comply with the principles specific to their establishment. We propose to remove existing § 1610.8(a)(2). This provision is no longer necessary. The BLM would instead rely on proposed § 1610.9(a)(2) when considering proposed actions under a management framework plan.

Proposed new § 1610.9(c) and (d) would address the transition from resource management plans approved under the existing regulations, which first became effective on September 6, 1979 (44 FR 46386) and which were updated with revisions that became effective on July 5, 1983 (48 FR 20364) and April 22, 2005 (55 FR 14561), to resource management plans that will be prepared, revised, or amended under these regulations when they are final.

In considering the transition provisions, it is important to remember that this proposed rule would make changes to the procedures the BLM uses to prepare, revise, or amend resource management plans, and provide more detailed guidance in areas where the current regulations are vague, unclear, or silent. This proposed rule does not change the nature of a resource management plan itself (*i.e.*, a document developed to guide future management

activities on the public lands). Additionally, although we are proposing new terms for the contents of a plan (*e.g.*, plan components), the contents of a plan will not differ substantially from the contents of existing plans. For instance, plan objectives developed under this proposed rule would likely be more specific and measurable than many plan objectives developed under the existing regulations. Nonetheless, plan objectives developed under either set of regulations would guide the BLM's management of the public lands across varied programs.

Accordingly, proposed § 1610.9(c)(1) would discuss how the BLM would evaluate whether a proposed action, such as an oil and gas lease sale, is in conformance with a resource management plan once final regulations resulting from this proposal become effective. We propose that when considering whether a proposed action is in conformance with a resource management plan, the BLM will use an existing resource management plan (*i.e.*, one approved by the BLM before the final regulations that result from this proposal become effective) until it is superseded by a resource management plan or amended by a plan amendment prepared under these regulations when they are final. In such circumstances, the proposed action must either be specifically provided for in the plan or clearly consistent with the terms, conditions, and decisions of the approved plan. Resource management plans prepared under the existing regulations do not identify plan components, thus an evaluation for whether a proposed action is in conformance with the plan must use the terminology that was in place when the plan was approved.

Proposed § 1610.9(c)(2) would address how to evaluate whether an action is in conformance with a resource management plan after the plan has been amended under the proposed regulations. In such circumstances, the amended portions of the plan would use new terminology and identify plan components, whereas the remainder of the plan would not use new terminology. A proposed action must therefore either be consistent with the plan components (proposed new terminology) or the terms, conditions, and decisions of the plan (existing terminology).

Proposed § 1610.9(d) would address resource management plans that are currently being prepared, revised, or amended. We propose that if the preparation, revision, or amendment of a resource management plan was or is formally initiated by publication of a NOI in the **Federal Register** before the final regulations that result from this proposed rule become effective, the BLM may complete the resource management plan or plan amendment under the planning regulations promulgated in 1979 (44 FR 46386) and amended in 1983 (48 FR 20364) and in 2005 (55 FR 14561). This approach would allow BLM offices that have initiated planning to continue with their efforts without the need to re-start or re-do steps in the planning process. This would avoid duplicative efforts and it respects the time that the BLM, other agencies, stakeholders, and members of the public have invested in planning that will be in-progress when the final regulations that result from this proposal become effective. The BLM requests comments on the new transition provisions in § 1610.8(c) and (d).

Procedural Matters

Regulatory Planning and Review (Executive Orders 12866 and 13563)

Executive Order 12866 provides that the Office of Information and Regulatory Affairs (OIRA) will review all significant rules. The Office of Information and Regulatory Affairs has determined that this proposed rule is not significant.

Executive Order 13563 reaffirms the principles of Executive Order 12866 while calling for improvements in the nation's regulatory system to promote predictability, to reduce uncertainty, and to use the best, most innovative, and least burdensome tools for achieving regulatory ends. The Executive Order directs agencies to consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public where these approaches are relevant, feasible and consistent with regulatory objectives. Executive Order 13563 emphasizes further that regulations must be based on the best available science and that the rulemaking process must allow for public participation and an open exchange of ideas. We have developed this proposed rule in a manner consistent with these requirements.

Regulatory Flexibility Act

This proposed rule would not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The Small Business Administration (SBA) has developed size standards to carry out the purposes of the Small Business Act, which can be found in 13 CFR 121.201. For a specific industry identified by the North American Industry Classification System (NAICS), small entities are defined by the SBA as an individual, limited partnership, or small company considered at "arm's length" from the control of any parent company, which meet certain size standards. The size standards are expressed either in number of employees or annual receipts. The proposed rule could affect any entity that elects to participate in the BLM's planning process. The industries most likely to be directly affected are listed in the table below along with the relevant SBA size standards. Other industries, such as transportation or manufacturing, may be indirectly affected and are not listed below.

Industry	Size standards in millions of dollars	Size standards in number of employees
Beef Cattle Ranching and Farming	$0.75	
Forest Nurseries and Gathering of Forest Products	11.0	
Logging		500
Oil and Gas Extraction		500
Mining (except Oil and Gas)		500
Drilling Oil and Gas Wells		500
Support Activities for Oil and Gas Operations	38.5	
Support Activities for Coal Mining	20.5	
Support Activities for Metal Mining	20.5	
Support Activities for Nonmetallic Minerals (except Fuels)	7.5	
Hydroelectric Power Generation		500
Fossil Fuel Electric Power Generation		750
Solar, Wind, Geothermal Power Generation		250

Industry	Size standards in millions of dollars	Size standards in number of employees
Electric Bulk Power Transmission and Control	.....	500
Electric Power Distribution	.....	1000
Natural Gas Distribution	.....	500
Environmental Consulting Services	15.0	.....
Other Amusement and Recreation Industries	7.5	.....
Environment, Conservation and Wildlife Organizations	15.0	.....

These industries may include a large, though unquantifiable, number of small entities. In addition to determining whether a substantial number of small entities are likely to be affected by this rule, the BLM must also determine whether the rule is anticipated to have a significant economic impact on those small entities. The proposed rule is largely administrative in nature and would only affect internal BLM procedures. The direct impacts on the public would be increased opportunities for voluntary public involvement. The magnitude of the impact on any individual or group, including small entities, is expected to be negligible. The actual impacts cannot reasonably be predicted at this stage, as they will depend on the specific context of each planning effort. However, there is no reason to expect that these changes, when implemented across all future planning efforts, would place undue burden on any specific individual or group, including small entities.

Based on the available information, we conclude that the proposed rule would not have a significant economic effect on a substantial number of small entities. Therefore, a final Regulatory Flexibility Analysis is not required, and a Small Entity Compliance Guide is not required. The BLM prepared a preliminary economic and threshold analysis as part of the record, which is available for review.

Small Business Regulatory Enforcement Fairness Act (SBREFA)

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule is administrative in nature and affects the BLM's land use planning process and procedures.

This rule does not have an annual effect on the economy of $100 million or more. These procedures and costs are existing requirements and it would be speculative to estimate how many protests the BLM would receive as a result of this proposed rule.

This rule will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions. There would be no impact to any prices as a result of this proposed rule.

This rule does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises. This rule is administrative in nature and only impacts the BLM's land use planning process and procedures. The BLM prepared a preliminary economic and threshold analysis as part of the record, which is available for review.

Unfunded Mandates Reform Act

This rule does not impose an unfunded mandate on State, local, or tribal governments, or the private sector of more than $100 million per year. This rule does not have a significant or unique effect on State, local or tribal governments or the private sector. This rule is administrative in nature and only impacts the BLM's land use planning process and procedures. A statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 *et seq.*) is not required.

Takings (Executive Order 12630)

This rule does not affect a taking of private property or otherwise have taking implications under Executive Order 12630. This rule is administrative in nature and only impacts internal BLM procedures. A takings implication assessment is not required.

Federalism (Executive Order 13132)

Under the criteria in section 1 of Executive Order 13132, this rule does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement. A federalism summary impact statement is not required.

A Federalism assessment is not required because the rule would not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

The only provisions that could possibly have an effect on States, is the Governor's consistency review and the increased public involvement opportunities, but these provisions would only have minimal impacts, if any.

In the Governor's consistency review, the proposed rule would not significantly impact Governors or change the existing requirements of this section. This section is revised only to clarify an existing process that has caused some confusion. The only change from existing requirements is 1610.3–2(b)(1)(ii), which would allow the Governor to waive or reduce the 60 day period during which the Governor may identify inconsistencies. This could provide a benefit to the Governor in some situations where the timely approval of a plan or amendment is necessary. The BLM is requesting comments on potentially reducing this time period in certain situations. However, as proposed, this time period would not be adjusted other than as previously discussed in proposed § 1610.3–2(b)(1)(ii). Please see the discussion on the Governor's consistency review at the preamble for proposed § 1610.3–2(b)(1)(ii).

The proposed rule could also add more opportunities for public involvement, including through the planning assessment (see § 1610.4), which could result in more engagement with State and local governments.

Neither of these instances would have a significant adverse effect on State governments.

Civil Justice Reform (Executive Order 12988)

This rule complies with the requirements of Executive Order 12988. Specifically this rule: (a) Meets the criteria of section 3(a) requiring that all regulations be reviewed to eliminate errors and ambiguity and be written to minimize litigation; and (b) Meets the criteria of section 3(b)2 requiring that all regulations be written in clear language and contain clear legal standards.

Consultation With Indian Tribes (Executive Order 13175 and Departmental Policy)

This rule complies with the requirements of Executive Order 13175

and Department of the Interior Secretarial Order 3317. Specifically, in conjunction with preparation of this proposed rule, the BLM initiated consultation with potentially affected tribes. Examples of consultation to date include written correspondence and meetings/discussions about objectives of this rulemaking effort with representatives of tribal governments.

Paperwork Reduction Act (44 U.S.C. 3501 et seq.)

The Paperwork Reduction Act (PRA) (44 U.S.C. 3501–3521) provides that an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information, unless it displays a currently valid OMB control number. Collections of information include requests and requirements that an individual, partnership, or corporation obtain information, and report it to a Federal agency. See 44 U.S.C. 3502(3); 5 CFR 1320.3(c) and (k).

This proposed rule contains information collection requirements that are subject to review by OMB under the Paperwork Reduction Act (44 U.S.C. 3501–3520). Collections of information include any request or requirement that persons obtain, maintain, retain, or report information to an agency, or disclose information to a third party or to the public (44 U.S.C. 3502(3) and 5 CFR 1320.3(c))

An information collection request for this proposed rule has been submitted to OMB for review in accordance with 44 U.S.C. 3507(d). The information collection request is intended to correct the erroneous omission of such a request when the planning regulations at 43 CFR part 1600 were originally promulgated. The proposed rule does not significantly alter the information collection activities in the existing planning regulations.

A copy of the information collection request may be obtained from the BLM by electronic mail request to Shasta Ferranto at *sferranto@blm.gov* or by telephone request to 202–912–7352. The information collection request also may be viewed online at *http://www.reginfo.gov/public/do/PRAMain.*

The BLM requests comments on the following subjects:

1. Whether the collection of information is necessary for the proper functioning of the BLM, including whether the information will have practical utility;

2. The accuracy of the BLM's estimate of the burden of collecting the information, including the validity of the methodology and assumptions used;

3. The quality, utility, and clarity of the information to be collected; and

4. How to minimize the information collection burden on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other forms of information technology.

If you would like to comment on the information collection requirements of this proposed rule, please send your comments directly to OMB, with a copy to the BLM, as directed in the **ADDRESSES** section of this preamble. Please identify your comments with "OMB Control Number 1004–XXXX." OMB is required to make a decision concerning the collection of information contained in this proposed rule between 30 to 60 days after publication of this document in the **Federal Register**. Therefore, a comment to OMB is best assured of having its full effect if OMB receives it by March 28, 2016.

Summary of Proposed Information Collection Activities

- *Title:* Resource Management Planning (43 CFR part 1600).
- *Forms:* None.
- *OMB Control Number:* This request for a new control number is for an ongoing collection of information.
- *Description of Respondents:* Participants in the BLM land use planning process (including Governors of States; individuals; households; businesses; associations; and State, local, and tribal governments).
- *Respondents' Obligation:* Required to obtain or retain a benefit.
- *Abstract:* The BLM is requesting a new control number in a proposed rule that would revise existing regulations on procedures used to prepare, revise, or amend land use plans in accordance with FLPMA. This information collection request includes activities that have been ongoing without a control number.
- *Frequency of Collection:* On occasion.
- *Estimated Number of Respondents Annually:* 131.
- *Estimated Annual Burden Hours:* 1,965 hours.
- *Estimated Total Non-Hour Cost:* None.

Consistency

Section 202(c)(9) of FLPMA requires that the Secretary of the Interior "assist in resolving, to the extent practical, inconsistencies between Federal and non-Federal Government plans." This responsibility is delegated to the BLM Director and accomplished, in part, through the "Governor's Consistency Review" process described in proposed § 1610.3–2(b). This information collection activity is necessary for this process and for compliance with section 202(c)(9) of FLPMA.

Proposed § 1610.3–2(b) would provide an opportunity for Governors of affected States to identify possible inconsistencies between officially approved and adopted land use plans of State and local governments and proposed resource management plans (RMPs) or proposed amendments to RMPs and management framework plans (MFPs). Following receipt of a proposed resource management plan or plan amendment from the BLM, Governors would have a period of 60 days to submit to the deciding official a written document that:

- Identifies any inconsistencies with officially approved and adopted land use plans of State and local governments; and
- Recommends remedies for the identified inconsistencies.

The proposed regulations would provide that the BLM deciding official would notify the Governor in writing of his or her decision regarding these recommendations and the reasons for this decision. Within 30 days of this decision, the Governor would be authorized to appeal this decision to the BLM Director. The BLM Director would consider the Governor(s)' comments in rendering a final decision.

Protests

Section 202(f) of FLPMA requires that the Secretary of the Interior "allow an opportunity for public involvement and by regulation . . . establish procedures . . . to give Federal, State, and local governments and the public, adequate notice and opportunity to comment upon and participate in the formulation of plans and programs relating to the management of public lands." The protest process described in proposed § 1610.6–2 would authorize protests of proposed land use plans and plan amendments before such plans or plan amendments are approved. The collection of information would assist the BLM in complying with section 202(f) of FLPMA. Proposed § 1610.6–2 would provide an opportunity for any person who participated in the preparation of the resource management plan or plan amendment to protest the approval of proposed RMPs and proposed amendments to RMPs and MFPs to the Director of the BLM. The following information would be required for submission of a valid protest:

1. The protestor's name, mailing, address, telephone number, and email address (if available). The BLM would need this information in order to contact the protestor.

2. The protestor's interest that may be adversely affected by the planning process. This information would help the BLM understand whether or not the protestor is eligible to submit a protest.

3. How the protestor participated in the preparation of the resource management plan or plan amendment. This information would help the BLM determine whether or not the protestor is eligible to submit a protest.

4. The plan component or components believed to be inconsistent with Federal laws or regulations applicable to public lands, or the purposes, policies and programs of such laws and regulations. This information is necessary because the approval of a resource management plan is the final decision for the Department of the Interior. Plan components represent planning-level management direction with which all future decisions within a planning area must be consistent, thus it is important for the BLM to know if a plan component is believed to be inconsistent with Federal laws or regulations applicable to public lands, or the purposes, policies and programs of such laws and regulations.

5. A concise explanation of why the plan component is believed to be inconsistent with Federal laws or regulations applicable to public lands, or the purposes, policies and programs of such laws and regulations and of the associated issue or issues that were raised during the preparation of the resource management plan or plan amendment. This information would be essential to the BLM's understanding of the protest and decision to grant or dismiss the protest.

6. Copies of all documents addressing the issue or issues that were submitted during the planning process by the protesting party or an indication of the date the issue or issues were discussed for the record. This information would help the BLM to understand the protest and to reach a decision.

The BLM Director would be required to render a decision on the protest before approval of any portion of the resource management plan or plan amendment being protested. The Director's decision would be the final decision of the Department of the Interior.

Estimated Hour Burdens

The estimated hour burdens of the proposed supplemental collection requirements are shown in the following table. Included in the burden estimates are the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing each component of the proposed information collection requirements.

ESTIMATES OF ANNUAL HOUR BURDENS

A. Type of response	B. Number of responses	C. Hours per response	D. Total hours (Column B × Column C)
Consistency Requirements (43 CFR 1610.3–2(b))	27	15	405
Protest Procedures/Governments (43 CFR 1610.6–2)	16	15	240
Protest Procedures/Individuals and Households (43 CFR 1610.6–2)	32	15	480
Protest Procedures/Businesses and Associations (43 CFR 1610.6–2)	56	15	840
Totals	131		1,965

National Environmental Policy Act

The BLM does not believe this rule would constitute a major Federal action significantly affecting the quality of the human environment, and has prepared preliminary documentation to this effect, explaining that a detailed statement under the National Environmental Policy Act of 1969 (NEPA) would not be required because the rule is categorically excluded from NEPA review. This rule would be excluded from the requirement to prepare a detailed statement because, as proposed, it would be a regulation entirely procedural in nature. (For further information see 43 CFR 46.210(i)). We have also determined, as a preliminary matter, that the rule does not involve any of the extraordinary circumstances listed in 43 CFR 46.215 that would require further analysis under NEPA.

Documentation of the proposed reliance upon a categorical exclusion has been prepared and is available for public review with the other supporting documents for this proposed rule.

Effects on the Energy Supply (Executive Order 13211)

This rule is not a significant energy action under the definition of Executive Order 13211. This rule is administrative in nature and affects the BLM's internal procedures. There would be no impact on the development of energy on public lands. A statement of Energy Effects is not required.

Author

The principal authors of this rule are Kerry Rodgers and Shasta Ferranto of the Division of Decision Support, Planning and NEPA, Washington Office, Bureau of Land Management, Department of the Interior. They were assisted by Charles Yudson of the Division of Regulatory Affairs, Washington Office, Bureau of Land Management, Department of the Interior.

List of Subjects in 43 CFR Part 1600

Administrative practice and procedure, Coal, Environmental impact statements, Environmental protection, Intergovernmental relations, Public lands, State and local governments.

Dated: February 9, 2016.

Janice M. Schneider,

Assistant Secretary, Land and Minerals Management.

43 CFR Chapter II

For the reasons set out in the preamble, the Bureau of Land Management proposes to amend 43 CFR by revising part 1600 to read as follows:

PART 1600—PLANNING, PROGRAMMING, BUDGETING

Subpart 1601—Planning

Sec.

1601.0–1 Purpose.
1601.0–2 Objective.
1601.0–3 Authority.
1601.0–4 Responsibilities.
1601.0–5 Definitions.
1601.0–6 Environmental impact statement policy.
1601.0–7 Scope.
1601.0–8 Principles.

Subpart 1610—Resource Management Planning

1610.1 Resource management planning framework.
1610.1–1 Guidance and general requirements.
1610.1–2 Plan components.
1610.2 Public involvement.
1610.2–1 Public notice.
1610.2–2 Public comment periods.
1610.2–3 Availability of the resource management plan.
1610.3 Coordination with other Federal agencies, State and local governments, and Indian tribes.
1610.3–1 Coordination of planning efforts.
1610.3–2 Consistency requirements.
1610.4 Planning assessment.
1610.5 Preparation of a resource management plan.
1610.5–1 Identification of planning issues.
1610.5–2 Formulation of resource management alternatives.
1610.5–3 Estimation of effects of alternatives.
1610.5–4 Preparation of the draft resource management plan and selection of preferred alternatives.
1610.5–5 Selection of the proposed resource management plan and preparation of implementation strategies.
1610.6 Resource management plan approval, implementation and modification.
1610.6–1 Resource management plan approval and implementation.
1610.6–2 Protest procedures.
1610.6–3 Conformity and implementation.
1610.6–4 Monitoring and evaluation.
1610.6–5 Maintenance.
1610.6–6 Amendment.
1610.6–7 Revision.
1610.7 Management decision review by Congress.
1610.8 Designation of areas.
1610.8–1 Designation of areas unsuitable for surface mining.
1610.8–2 Designation of areas of critical environmental concern.
1610.9 Transition period.

Authority: 43 U.S.C. 1711–1712

Subpart 1601—Planning

§ 1601.0–1 Purpose.

The purpose of this subpart is to establish in regulations a process for the development, approval, maintenance, and amendment of resource management plans, and the use of existing plans for public lands administered by the Bureau of Land Management (BLM).

§ 1601.0–2 Objective.

The objective of resource management planning by the BLM is to promote the principles of multiple use and sustained yield on public lands unless otherwise provided by law, ensure participation by the public, State and local governments, Indian tribes and Federal agencies in the development of resource management plans, and ensure that the public lands be managed in a manner that will protect the quality of scientific, scenic, historical, ecological, environmental, air and atmospheric, water resource, and archeological 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; that will provide for outdoor recreation and human occupancy and use, and which recognizes the Nation's need for domestic sources of minerals, food, timber, and fiber from the public lands.

§ 1601.0–3 Authority.

These regulations are issued under the authority of sections 201 and 202 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1711–1712); the Public Rangelands Improvement Act of 1978 (43 U.S.C. 1901); section 3 of the Federal Coal Leasing Amendments Act of 1976 (30 U.S.C. 201(a)); sections 522, 601, and 714 of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201 *et seq.*); and the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*).

§ 1601.0–4 Responsibilities.

(a) The Secretary and the Director provide national level policy and procedure guidance for planning. The Director determines the deciding official and the planning area for the preparation of each resource management plan. The Director also determines the deciding official and the planning area for plan amendments that cross State boundaries.

(b) Deciding officials provide quality control and supervisory review, including approval, for the preparation and amendment of resource management plans and related environmental impact statements or environmental assessments. The deciding official determines the planning area for plan amendments that do not cross State boundaries.

(c) Responsible officials prepare resource management plans and plan amendments and related environmental impact statements or environmental assessments.

§ 1601.0–5 Definitions.

As used in this part, the term:

Areas of Critical Environmental Concern or ACEC means areas within the public lands where special management attention is required (when such areas are developed or used or where no development is required) to protect and prevent irreparable damage to important historic, cultural, or scenic values, fish and wildlife resources, or other natural systems or processes, or to protect life and safety from natural hazards.

Conformity or conformance means that a resource management action will be clearly consistent with the plan components of the approved resource management plan.

Cooperating agency means an eligible governmental entity (see 43 CFR 46.225(a)) that has entered into an agreement with the BLM to participate in the development of an environmental impact statement or environmental assessment as a cooperating agency under the National Environmental Policy Act and in the planning process as described in § 1610.3–1 of this part. The BLM and the cooperating agency will work together under the terms of the agreement. Cooperating agencies will participate in the various steps of the BLM's planning process as feasible and appropriate, given the scope of their expertise and constraints of their resources.

Deciding official means the BLM official who is delegated the authority to approve a resource management plan or plan amendment.

High quality information means any representation of knowledge such as facts or data, including the best available scientific information, which is accurate, reliable, and unbiased, is not compromised through corruption or falsification, and is useful to its intended users.

Implementation strategies means strategies that assist in implementing future actions consistent with the plan components of the approved resource management plan. An implementation strategy is not a plan component.

Indian tribe means an Indian tribe under section 102 of the Federally Recognized Indian Tribe List Act of 1994 (25 U.S.C. 479a).

Local government means any political subdivision of the State and any general purpose unit of local government with resource planning, resource management, zoning, or land use regulatory authority.

Mitigation means the sequence of avoiding impacts, minimizing impacts, and compensating for remaining unavoidable impacts.

Multiple use means the management of the public lands and their various resource values so that they are utilized in the combination that will best meet the present and future needs of the American people; making the most judicious use of the lands for some or all of these resources or related services over areas large enough to provide sufficient latitude for periodic

adjustments in use to conform to changing needs and conditions; the use of some lands for less than all of the resources; a combination of balanced and diverse resource uses that takes into account the long term needs of future generations for renewable and non-renewable resources, including, but not limited to, recreation, range, timber, minerals, watershed, wildlife and fish, and natural scenic, scientific and historical values; and harmonious and coordinated management of the various resources without permanent impairment of the productivity of the lands and the quality of the environment with consideration being given to the relative values of the resources and not necessarily to the combination of uses that will give the greatest economic return or the greatest unit output.

Officially approved and adopted land use plans means land use plans prepared and approved by other Federal agencies, State and local governments, and Indian tribes pursuant to and in accordance with authorization provided by Federal, State, or local constitutions, legislation, or charters which have the force and effect of State law.

Plan amendment means an amendment to an approved resource management plan or management framework plan (see § 1610.6–6).

Plan components means the elements of a resource management with which future management actions will be consistent.

Plan maintenance means minor change(s) to an approved resource management plan to correct typographical or mapping errors or to reflect minor changes in mapping or data (see § 1610.6–5).

Plan revision means a revision of an approved resource management plan that affects the entire resource management plan or major portions of the resource management plan (see § 1610.6–7). Preparation or development of a resource management plan includes plan revisions.

Planning area means the geographic area for the preparation or amendment of a resource management plan.

Planning assessment means an evaluation of relevant resource, environmental, ecological, social, and economic conditions in the planning area. A planning assessment is developed to inform the preparation and, as appropriate, the implementation of a resource management plan.

Planning issue means disputes, controversies, or opportunities related to resource management.

Public means affected or interested individuals, including consumer organizations, public land resource users, corporations and other business entities, environmental organizations and other special interest groups, and officials of State, local, and Indian tribal governments.

Public lands means any lands or interest in lands owned by the United States and administered by the Secretary of the Interior through the BLM. Public lands do not include lands located on the Outer Continental Shelf and lands held for the benefit of Indians, Aleuts, and Eskimos.

Resource management plan means a land use plan as described under section 202 of the Federal Land Policy and Management Act of 1976 (FLPMA), including plan revisions. Approval of a resource management plan is not a final implementation decision on actions which require further specific plans, process steps, or decisions under specific provisions of law and regulations.

Responsible official means a BLM official who is delegated the authority to prepare a resource management plan or plan amendment.

Sustained yield means the achievement and maintenance in perpetuity of a high-level annual or regular periodic output of the various renewable resources of the public lands consistent with multiple use.

§ 1601.0–6 Environmental impact statement policy.

Approval of a resource management plan is considered a major Federal action significantly affecting the quality of the human environment. The environmental analysis of alternatives and the proposed resource management plan will be accomplished as part of the resource management planning process and, wherever possible, the proposed resource management plan will be published in a single document with the related environmental impact statement.

§ 1601.0–7 Scope.

(a) These regulations apply to all public lands.

(b) These regulations also govern the preparation of resource management plans when the only public land interest is the mineral estate.

§ 1601.0–8 Principles.

The development, approval, maintenance, amendment, and revision of resource management plans will provide for public involvement and will be consistent with the principles described in section 202 of FLPMA. Additionally, the BLM will consider the impacts of resource management plans on resource, environmental, ecological, social, and economic conditions at appropriate scales. The BLM also will consider the impacts of resource management plans on, and the uses of, adjacent or nearby Federal and non-Federal lands, and non-public land surface over federally-owned mineral interests.

Subpart 1610—Resource Management Planning

§ 1610.1 Resource management planning framework.

§ 1610.1–1 Guidance and general requirements.

(a) Guidance for preparation and amendment of resource management plans may be provided by the Director and deciding official, as needed, to help the responsible official prepare a specific resource management plan. Such guidance may include the following:

(1) Policy established through Presidential, Secretarial, Director, or deciding official approved documents, so long as such policy is consistent with the Federal laws and regulations applicable to public lands; and

(2) Analysis requirements, planning procedures, and other written information and instructions required to be considered in the planning process.

(b) The BLM will use a systematic interdisciplinary approach in the preparation and amendment of resource management plans to achieve integrated consideration of physical, biological, ecological, social, economic, and other sciences. The expertise of the preparers will be appropriate to the resource values involved, the issues identified during the issue identification and environmental impact statement scoping stage of the planning process, and the principles of multiple use and sustained yield, or other applicable law. The responsible official may use any necessary combination of BLM staff, consultants, contractors, other governmental personnel, and advisors to achieve an interdisciplinary approach.

(c) The BLM will use high quality information to inform the preparation, amendment, and maintenance of resource management plans.

§ 1610.1–2 Plan components.

(a) Plan components guide future management actions within the planning area. Resource management plans will include the following plan components:

(1) *Goals.* A goal is a broad statement of desired outcomes addressing resource, environmental, ecological, social, or economic characteristics within a planning area, or a portion of

the planning area, toward which management of the land and resources should be directed.

(2) *Objectives.* An objective is a concise statement of desired resource conditions developed to guide progress toward one or more goals. An objective is specific, measurable, and should have established time-frames for achievement. To the extent practical, objectives should also:

(i) Identify standards to mitigate undesirable effects to resource conditions; and

(ii) Provide integrated consideration of resource, environmental, ecological, social, and economic factors.

(b) Resource management plans also will include the following plan components in order to achieve the goals and objectives of the resource management plan, or applicable legal requirements or policies, consistent with the principles of multiple use and sustained yield or other applicable law:

(1) *Designations.* A designation identifies areas of public land where management is directed toward one or more priority resource values or uses.

(i) Planning designations are identified through the BLM's land use planning process in order to achieve the goals and objectives of the resource management plan or applicable legal requirements or policies such as the designation of areas of critical environmental concern (ACEC) (see § 1610.8–2).

(ii) Non-discretionary designations are designated by the President, Congress, or the Secretary of the Interior pursuant to other legal authorities.

(2) *Resource use determinations.* A resource use determination identifies areas of public lands or mineral estate where specific uses are excluded, restricted, or allowed, in order to achieve the goals and objectives of the resource management plan or applicable legal requirements or policies.

(3) *Monitoring and evaluation standards.* Monitoring and evaluation standards identify indicators and intervals for monitoring and evaluation to determine whether the resource management plan objectives are being met or there is relevant new information that may warrant amendment or revision of the resource management plan.

(4) Lands identified as available for disposal from BLM administration under section 203 of FLPMA, as applicable.

(c) A plan component may only be changed through a resource management plan amendment or revision, except to correct typographical or mapping errors or to reflect minor changes in data.

§ 1610.1–3 Implementation strategies.

(a) A resource management plan may also include, but is not limited to, the following types of implementation strategies:

(1) *Management measures.* A management measure is one or more potential action(s) the BLM may take in order to achieve the goals and objectives of the resource management plan. Management measures may include, but are not limited to, resource management practices, best management practices, standard operating procedures, provision for the preparation of more detailed and specific plans, or other measures as appropriate;

(2) *Monitoring procedures.* Monitoring procedures describe methods for monitoring the resource management plan (see § 1610.6–4 of this part).

(b) Implementation strategies are not a plan component. Implementation strategies are intended to assist the BLM to carry out the plan components.

(c) Implementation strategies may be updated at any time if the BLM determines that relevant new information is available. Updates to an implementation strategy do not require a plan amendment or the formal public involvement and interagency coordination process described under §§ 1610.2 and 1610.3. The BLM will make updates to an implementation strategy available for public review at least 30 days prior to their implementation.

§ 1610.2 Public involvement.

(a) The BLM will provide the public with opportunities to become meaningfully involved in and comment on the preparation and amendment of resource management plans. Public involvement in the resource management planning process will conform to the requirements of the National Environmental Policy Act and associated implementing regulations.

(b) Public involvement activities conducted by the BLM will be documented by a record or summary of the principal issues discussed and comments made. The record or summary of the principal issues discussed and comments made will be available to the public and open for 30 days to any participant who wishes to review the record or summary.

(c) Before the close of each fiscal year, the BLM will post the status of each resource management plan in process of preparation or scheduled to be started to the BLM's Web site.

§ 1610.2–1 Public notice.

(a) When the BLM prepares a resource management plan or amends a resource management plan and prepares an environmental impact statement to inform the amendment, the BLM will notify the public and provide opportunities for public involvement appropriate to the areas and people involved during the following steps in the planning process:

(1) Preparation of the planning assessment, as appropriate (see § 1610.4);

(2) Identification of planning issues (see § 1610.5–1);

(3) Review of the preliminary resource management alternatives and preliminary rationale for alternatives (see § 1610.5–2(c));

(4) Review of the basis for analysis (see § 1610.5–3(a)(1));

(5) Comment on the draft resource management plan (see § 1610.5–4); and

(6) Protest of the proposed resource management plan (see §§ 1610.5–5 and 1610.6–2).

(b) When the BLM amends a resource management plan and prepares an environmental assessment to inform the amendment, the BLM will notify the public and provide opportunities for public involvement appropriate to the areas and people involved during the following steps in the planning process:

(1) Identification of planning issues (see § 1610.6–6(a));

(2) Comment on the draft resource management plan amendment, as appropriate (see § 1610.6–6(a)); and

(3) Protest of the proposed resource management plan amendment (see §§ 1610.5–5 and 1610.6–2).

(c) The BLM will announce opportunities for public involvement by posting a notice on the BLM's Web site, at all BLM offices within the planning area, and at other public locations, as appropriate.

(d) Individuals or groups may request to be notified of opportunities for public involvement related to the preparation or amendment of a resource management plan. The BLM will notify those individuals or groups through written or electronic means.

(e) The BLM will notify the public at least 15 days before any public involvement activities where the public is invited to attend, such as a public meeting.

(f) When initiating the identification of planning issues (see § 1610.5–1), in addition to the public notification requirements of §§ 1610.2–1(c) and 1610.2–1(d), the BLM will notify the public as follows:

(1) When the BLM initiates the preparation of a plan amendment and

an environmental assessment will be prepared to inform the amendment, the BLM will publish a notice in appropriate media, including newspapers of general circulation in the planning area.

(2) When the BLM initiates the preparation of a resource management plan, or a plan amendment and an environmental impact statement will be prepared to inform the amendment, the BLM will also publish a notice of intent in the **Federal Register**. This notice may also constitute the scoping notice required by regulation for the National Environmental Policy Act (40 CFR 1501.7).

(3) This notice will include the following:

(i) Description of the proposed planning action;

(ii) Identification of the geographic area for which the resource management plan is to be prepared;

(iii) The general types of issues anticipated;

(iv) The expertise to be represented and used to prepare the resource management plan, in order to achieve an interdisciplinary approach (see § 1610.1–1(b));

(v) The kind and extent of public involvement opportunities to be provided, as known at the time;

(vi) The times, dates, and locations scheduled or anticipated for any public meetings, hearings, conferences, or other gatherings, as known at the time;

(vii) The name, title, address, and telephone number of the BLM official who may be contacted for further information; and

(viii) The location and availability of documents relevant to the planning process.

(g) If, after publication of a proposed resource management plan or plan amendment, the BLM intends to select an alternative that is encompassed by the range of alternatives in the final environmental impact statement or environmental assessment, but is substantially different than the proposed resource management plan or plan amendment, the BLM will notify the public and request written comments on the change before the resource management plan or plan amendment is approved (see § 1610.6–1(b)).

(h) The BLM will notify the public when a resource management plan or plan amendment has been approved.

(i) When changes are made to an approved resource management plan through plan maintenance, the BLM will notify the public and make the changes available for public review at least 30 days prior to their implementation.

(j) When changes are made to an implementation strategy, the BLM will notify the public and make the changes available for public review at least 30 days prior to their implementation.

§ 1610.2–2 Public comment periods.

(a) Any time the BLM requests written comments during the preparation or amendment of a resource management plan, the BLM will notify the public and provide for at least 30 calendar days for response, unless a longer period is required by law or regulation.

(b) When requesting written comments on a draft plan amendment and an environmental impact statement is prepared to inform the amendment, the BLM will provide at least 45 calendar days for response. The 45-day period begins when the Environmental Protection Agency publishes a notice of availability of the draft environmental impact statement in the **Federal Register**.

(c) When requesting written comments on a draft resource management plan and draft environmental impact statement, the BLM will provide at least 60 calendar days for response. The 60-day period begins when the Environmental Protection Agency publishes a notice of availability of the draft environmental impact statement in the **Federal Register**.

§ 1610.2–3 Availability of the resource management plan.

(a) The BLM will make copies of the draft, proposed, and approved resource management plan or plan amendment reasonably available to the public. At a minimum, the BLM will make copies of these documents available electronically and at all BLM offices within the planning area.

(b) Upon request, the BLM will make single printed copies of the draft or proposed resource management plan or plan amendment available to individual members of the public during the public involvement process. After the BLM approves a resource management plan or plan amendment, the BLM may charge a fee for additional printed copies. Fees for reproducing requested documents beyond those used as part of the public involvement activities and other than single printed copies of the resource management plan or plan amendment may be charged according to the Department of the Interior schedule for Freedom of Information Act requests in 43 CFR part 2.

§ 1610.3 Coordination with other Federal agencies, State and local governments, and Indian tribes.

§ 1610.3–1 Coordination of planning efforts.

(a) *Objectives of coordination.* In addition to the public involvement prescribed by § 1610.2, and to the extent consistent with Federal laws and regulations applicable to public lands, and the purposes, policies and programs of such laws and regulations, the following coordination is to be accomplished with other Federal agencies, State and local governments, and Indian tribes. The objectives of this coordination are for the BLM to:

(1) Keep apprised of non-BLM plans;

(2) Assure that the BLM considers those plans that are germane in the development of resource management plans for public lands;

(3) Assist in resolving, to the extent practical, inconsistencies between Federal and non-Federal government plans;

(4) Provide for meaningful public involvement of other Federal agencies, State and local government officials, both elected and appointed, and Indian tribes, in the development of resource management plans, including early notice of final decisions that may have a significant impact on non-Federal lands; and

(5) Where possible and appropriate, develop resource management plans collaboratively with cooperating agencies.

(b) *Cooperating agencies.* When preparing a resource management plan, the responsible official will follow applicable regulations regarding the invitation of eligible governmental entities (see 43 CFR 46.225) to participate as cooperating agencies. The same requirement applies when the BLM amends a resource management plan and prepares an environmental impact statement to inform the amendment.

(1) When a cooperating agency is a non-Federal agency, a memorandum of understanding will be used and will include a commitment to maintain the confidentiality of documents and deliberations during the period prior to the public release by the BLM of any documents, including drafts (see 43 CFR 46.225(d)).

(2) The responsible official will collaborate with cooperating agencies, as feasible and appropriate given their interests, scope of expertise and the constraints of their resources, during the following steps in the planning process:

(i) Preparation of the planning assessment (see § 1610.4);

(ii) Identification of planning issues (see § 1610.5–1);

(iii) Formulation of resource management alternatives (see § 1610.5–2);

(iv) Estimation of effects of alternatives (see § 1610.5–3);

(v) Preparation of the draft resource management plan (see § 1610.5–4); and

(vi) Preparation of the proposed resource management plan and implementation strategies (see § 1610.5–5).

(c) *Coordination requirements.* The BLM will provide Federal agencies, State and local governments, and Indian tribes opportunity for review, advice, and suggestion on issues and topics which may affect or influence other agency or other government programs.

(1) To facilitate coordination with State governments, deciding officials should seek the input of the Governor(s) on the timing, scope, and coordination of resource management planning; definition of planning areas; scheduling of public involvement activities; and resource management opportunities and constraints on public lands.

(2) Deciding officials may seek written agreements with Governors or their designated representatives on processes and procedural topics such as exchanging information, providing advice and participation, and timeframes for receiving State government participation and review in a timely fashion. If an agreement is not reached, the deciding official will provide opportunity for Governor and State agency review, advice, and suggestions on issues and topics that the deciding official has reason to believe could affect or influence State government programs.

(3) The responsible official will notify relevant State agencies of opportunities for public involvement in the preparation and amendment of resource management plans consistent with State procedures for coordination of Federal activities for circulation among State agencies, if such procedures exist. The responsible official also will notify Federal agencies, the elected heads of county boards, other local government units, and elected government officials of Indian tribes that have requested to be notified or that the responsible official has reason to believe would be interested in the resource management plan or plan amendment. These notices will be issued simultaneously with the public notices required under § 1610.2–1 of this part.

(4) The BLM will provide Federal agencies, State and local governments, and Indian tribes the time period prescribed under § 1610.2 of this part for review and comment on resource management plans and plan amendments.

(d) *Resource advisory councils.* When an advisory council has been formed under section 309 of FLPMA for the area addressed in a resource management plan or plan amendment, the BLM will inform that council, seek its views, and consider them throughout the planning process.

§ 1610.3–2 Consistency requirements.

(a) Resource management plans will be consistent with officially approved or adopted land use plans of other Federal agencies, State and local governments, and Indian tribes to the maximum extent the BLM finds practical and consistent with the purposes of FLPMA and other Federal law and regulations applicable to public lands, and the purposes, policies and programs of such laws and regulations.

(1) The BLM will, to the extent practical, keep apprised of officially approved and adopted land use plans of State and local governments and Indian tribes and give consideration to those plans that are germane in the development of resource management plans.

(2) The BLM is not required to address the consistency requirements of this section if the responsible official has not been notified, in writing, by State and local governments or Indian tribes of an apparent inconsistency.

(3) If a Federal agency, State and local government, or Indian tribe notifies the responsible official, in writing, of what they believe to be specific inconsistencies between the BLM resource management plan and their officially approved and adopted land use plans, the resource management plan documentation will show how those inconsistencies were addressed and, if possible, resolved.

(4) Where the officially approved and adopted land use plans of State and local government differ from each other, those of the higher authority will normally be followed.

(b) *Governor's consistency review.* Prior to the approval of a proposed resource management plan or plan amendment, the deciding official will submit to the Governor of the State(s) involved, the proposed resource management plan or plan amendment and will identify any relevant known inconsistencies with the officially approved and adopted land use plans of State and local governments.

(1) The Governor(s) may submit a written document to the deciding official within 60 days after receiving the proposed resource management plan or plan amendment that:

(i) Identifies inconsistencies with officially approved and adopted land use plans of State and local governments and provides recommendations to remedy the identified inconsistencies; or

(ii) Waives or reduces the 60-day period.

(2) If the Governor(s) does not respond within the 60-day period, the resource management plan or plan amendment is presumed to be consistent.

(3) If the document submitted by the Governor(s) recommends substantive changes that were not considered during the public involvement process, the BLM will notify the public and request written comments on these changes.

(4) The deciding official will notify the Governor(s) in writing of his or her decision regarding these recommendations and the reasons for this decision.

(i) The Governor(s) may submit a written appeal to the Director within 30 days after receiving the deciding official's decision.

(ii) The Director will consider the Governor(s)' comments in rendering a final decision. The Director will notify the Governor(s) in writing of his or her decision regarding the Governor's appeal. The BLM will notify the public of this decision and make the written decision available to the public.

§ 1610.4 Planning assessment.

Before initiating the preparation of a resource management plan the BLM will, consistent with the nature, scope, scale, and timing of the planning effort, complete a planning assessment.

(a) *Information gathering.* The responsible official will:

(1) Arrange for relevant resource, environmental, ecological, social, economic, and institutional data and information to be gathered, or assembled if already available, including the identification of potential ACECs (see § 1610.8–2). Inventory data and information will be gathered in a manner that aids the planning process and avoids unnecessary data-gathering;

(2) Identify relevant national, regional, or local policies, guidance, strategies or plans for consideration in the planning assessment. These may include, but are not limited to, executive or Secretarial orders, Departmental or BLM policy, Director or deciding official guidance, mitigation strategies, interagency initiatives, and State or multi-state resource plans;

(3) Provide opportunities for other Federal agencies, State and local

governments, Indian tribes, and the public to provide existing data and information or suggest other policies, guidance, strategies, or plans described under paragraph (a)(2) of this section, for the BLM's consideration in the planning assessment; and

(4) Identify relevant public views concerning resource, environmental, ecological, social, or economic conditions of the planning area.

(b) *Information quality.* The responsible official will evaluate the data and information gathered under paragraph (a) of this section to determine if it is high quality information appropriate for use in the planning assessment and to identify any data gaps or further information needs.

(c) *Assessment.* The responsible official will assess the resource, environmental, ecological, social, and economic conditions of the planning area. At a minimum, the responsible official will consider and document the following factors in this assessment when they are applicable:

(1) Resource management authorized by FLPMA and other relevant authorities;

(2) Land status and ownership, existing resource uses, infrastructure, and access patterns in the planning area;

(3) Current resource, environmental, ecological, social, and economic conditions, and any known trends related to these conditions;

(4) Known resource thresholds, constraints, or limitations;

(5) Areas of potential importance within the planning area, including:

(i) Areas of tribal, traditional, or cultural importance;

(ii) Habitat for special status species, including State and/or federally-listed threatened and endangered species;

(iii) Other areas of key fish and wildlife habitat such as big game wintering and summer areas, bird nesting and feeding areas, habitat connectivity or wildlife migration corridors, and areas of large and intact habitat;

(iv) Areas of ecological importance, such as areas that increase the ability of terrestrial and aquatic ecosystems within the planning area to adapt to, resist, or recover from change;

(v) Lands with wilderness characteristics, candidate wild and scenic rivers, or areas of significant scenic value;

(vi) Areas of significant historical value, including paleontological sites;

(vii) Existing designations located in the planning area, such as wilderness, wilderness study areas, wild and scenic rivers, national scenic or historic trails, or ACECs;

(viii) Areas with potential for renewable or non-renewable energy development or energy transmission;

(ix) Areas of importance for recreation activities or access;

(x) Areas of importance for public health and safety, such as abandoned mine lands or natural hazards;

(6) Dominant ecological processes, disturbance regimes, and stressors, such as drought, wildland fire, invasive species, and climate change; and

(7) The various goods and services, including ecological services, that people obtain from the planning area such as:

(i) The degree of local, regional, national, or international importance of these goods and services;

(ii) Available forecasts and analyses related to the supply and demand for these goods and services; and

(iii) The estimated levels of these goods and services that may be produced on a sustained yield basis.

(d) *Planning assessment report.* The responsible official will document the planning assessment in a report made available for public review, which includes the identification and rationale for potential ACECs. To the extent practical, any non-sensitive geospatial information used in the planning assessment should be made available to the public on the BLM's Web site.

(e) *Plan amendments.* Before initiating the preparation of a plan amendment for which an environmental impact statement will be prepared, the BLM will complete a planning assessment for the geographic area being considered for amendment. The deciding official may waive this requirement for minor amendments or if an existing planning assessment is determined to be adequate.

§ 1610.5 Preparation of a resource management plan.

When preparing a resource management plan, or a plan amendment for which an environmental impact statement will be prepared, the BLM will follow the process described in §§ 1610.5–1 through 1610.5–7.

§ 1610.5–1 Identification of planning issues.

(a) The responsible official will prepare a preliminary statement of purpose and need, which briefly indicates the underlying purpose and need to which the BLM is responding (see 43 CFR 46.420). This statement will be informed by Director and deciding official guidance (see § 1610.1–1(a)), public views (see § 1610.4(a)(4)), the planning assessment (see § 1610.4(c)), the results of any previous monitoring and evaluation within the planning area (see § 1610.6–4), Federal laws and regulations applicable to public lands, and the purposes, policies, and programs of such laws and regulations. The BLM will initiate the identification of planning issues by notifying the public and making the preliminary statement of purpose and need available for public review.

(b) The public, other Federal agencies, State and local governments, and Indian tribes will be given an opportunity to suggest concerns, needs, opportunities, conflicts or constraints related to resource management for consideration in the preparation of the resource management plan. The responsible official will analyze those suggestions and other available data and information, such as the planning assessment (see § 1610.4–1), and determine the planning issues to be addressed during the planning process. Planning issues may be modified during the planning process to incorporate new information. The identification of planning issues should be integrated with the scoping process required by regulations implementing the National Environmental Policy Act (40 CFR 1501.7).

§ 1610.5–2 Formulation of resource management alternatives.

(a) *Alternatives development.* The BLM will consider all reasonable resource management alternatives (alternatives) and develop several complete alternatives for detailed study. The decision to designate alternatives for further development and analysis remains the exclusive responsibility of the BLM.

(1) The alternatives developed will be informed by the Director and deciding official guidance (see § 1610.1(a)), the planning assessment (see § 1610.4), and the planning issues (see § 1610.5–1).

(2) In order to limit the total number of alternatives analyzed in detail to a manageable number for presentation and analysis, reasonable variations may be treated as sub-alternatives.

(3) One alternative will be for no action, which means continuation of present level or systems of resource management.

(4) The resource management plan will note any alternatives identified and eliminated from detailed study and will briefly discuss the reasons for their elimination.

(b) *Rationale for alternatives.* The resource management plan will describe the rationale for the differences between alternatives. The rationale will include:

(1) A description of how each alternative addresses the planning

issues, consistent with the principles of multiple use and sustained yield, or other applicable law;

(2) A description of management direction that is common to all alternatives; and

(3) A description of how management direction varies across alternatives to address the planning issues.

(c) *Public review of preliminary alternatives.* The responsible official will make the preliminary alternatives and the preliminary rationale for alternatives available for public review prior to the publication of the draft resource management plan and draft environmental impact statement.

(d) *Changes to preliminary alternatives.* The BLM may change the preliminary alternatives and preliminary rationale for alternatives as planning proceeds if it determines that public suggestions or other new information make such changes necessary.

§ 1610.5–3 Estimation of effects of alternatives.

(a) *Basis for analysis.* The responsible official will identify the procedures, assumptions, and indicators that will be used to estimate the environmental, ecological, social, and economic effects of implementing each alternative considered in detail.

(1) The responsible official will make the preliminary procedures, assumptions, and indicators available for public review prior to the publication of the draft resource management plan and draft environmental impact statement.

(2) The BLM may change the procedures, assumptions, and indicators as planning proceeds if it determines that public suggestions or other new information make such changes necessary.

(b) *Effects analysis.* The responsible official will estimate and display the environmental, ecological, economic, and social effects of implementing each alternative considered in detail. The estimation of effects will be guided by the basis for analysis, the planning assessment, and procedures implementing the National Environmental Policy Act. The estimate may be stated in terms of probable ranges where effects cannot be precisely determined.

§ 1610.5–4 Preparation of the draft resource management plan and selection of preferred alternatives.

(a) The responsible official will prepare a draft resource management plan based on Director and deciding official guidance, the planning assessment, the planning issues, and the estimation of the effects of alternatives. The draft resource management plan and draft environmental impact statement will evaluate the alternatives, identify one or more preferred alternatives, and explain the rationale for the preference. The decision to select a preferred alternative remains the exclusive responsibility of the BLM. The resulting draft resource management plan and draft environmental impact statement will be forwarded to the deciding official for publication and filing with the Environmental Protection Agency.

(b) This draft resource management plan and draft environmental impact statement will be provided for comment to the Governor(s) of the State(s) involved, and to officials of other Federal agencies, State and local governments, and Indian tribes that the deciding official has reason to believe would be interested (see § 1610.3–1(c)). This action constitutes compliance with the requirements of § 3420.1–7 of this title.

§ 1610.5–5 Selection of the proposed resource management plan and preparation of implementation strategies.

(a) After publication of the draft resource management plan and draft environmental impact statement, the responsible official will evaluate the comments received and prepare the proposed resource management plan and final environmental impact statement.

(b) The responsible official will prepare implementation strategies for the proposed resource management plan, as appropriate.

(c) The deciding official will publish these documents and file the final environmental impact statement with the Environmental Protection Agency.

§ 1610.6 Resource management plan approval, implementation and modification.

§ 1610.6–1 Resource management plan approval and implementation.

(a) The deciding official may approve the resource management plan or plan amendment for which an environmental impact statement was prepared no earlier than 30 days after the Environmental Protection Agency publishes a notice of availability of the final environmental impact statement in the **Federal Register**.

(b) Approval will be withheld on any portion of a resource management plan or plan amendment being protested (see § 1610.6–2) until final action has been completed on such protest. If, after publication of a proposed resource management plan or plan amendment, the BLM intends to select an alternative that is encompassed by the range of alternatives in the final environmental impact statement or environmental assessment, but is substantially different than the proposed resource management plan or plan amendment, the BLM will notify the public and request written comments on the change before the resource management plan or plan amendment is approved.

(c) The approval of a resource management plan or a plan amendment for which an environmental impact statement is prepared will be documented in a concise public record of the decision (see 40 CFR 1505.2).

§ 1610.6–2 Protest procedures.

(a) Any person who participated in the preparation of the resource management plan or plan amendment and has an interest which may be adversely affected by the approval of a proposed resource management plan or plan amendment may protest such approval. A protest may raise only those issues which were submitted for the record during the preparation of the resource management plan or plan amendment (see §§ 1610.4 and 1610.5).

(1) *Submission.* The protest must be in writing and must be filed with the Director. The protest may be filed as a hard-copy or electronically. The responsible official will specify protest filing procedures for each resource management plan or plan amendment, including the method the public may use to submit a protest electronically.

(2) *Timing.* For resource management plans or plan amendments for which an environmental impact statement was prepared, the protest must be filed within 30 days after the date the Environmental Protection Agency published the notice of availability of the final environmental impact statement in the **Federal Register**. For plan amendments for which an environmental assessment was prepared, the protest must be filed within 30 days after the date that the BLM notifies the public of availability of the amendment.

(3) *Content requirements.* The protest must:

(i) Include the name, mailing address, telephone number, email address (if available), and interest of the person filing the protest;

(ii) State how the protestor participated in the preparation of the resource management plan or plan amendment;

(iii) Identify the plan component(s) believed to be inconsistent with Federal laws or regulations applicable to public

lands, or the purposes, policies and programs of such laws and regulations;

(iv) Concisely explain why the plan component(s) is believed to be inconsistent with Federal laws or regulations applicable to public lands, or the purposes, policies, and programs of such laws and regulations and identify the associated issue or issues raised during the preparation of the resource management plan or plan amendment; and

(v) Include a copy of all documents addressing the issue or issues that were submitted during the planning process by the protesting party or an indication of the date the issue or issues were discussed for the record.

(4) *Availability.* Upon request, the Director will make protests available to the public.

(b) Except as otherwise provided in § 1610.6–1(b), the Director will render a written decision on all protests before approval of the resource management plan or plan amendment. The Director will notify protesting parties of the decision. The decision on the protest and the reasons for the decision will be made available to the public. The decision of the Director is the final decision of the Department of the Interior.

(c) The Director may dismiss any protest that does not meet the requirements of this section.

§ 1610.6–3 Conformity and implementation.

(a) All future resource management authorizations and actions, and subsequent more detailed or specific planning, will conform to the plan components of the approved resource management plan.

(b) After a resource management plan or plan amendment is approved, and if otherwise authorized by law, regulation, contract, permit, cooperative agreement, or other instrument of occupancy and use, the BLM will take appropriate measures, subject to valid existing rights, to make operations and activities under existing permits, contracts, cooperative agreements, or other instruments for occupancy and use, conform to the plan components of the approved resource management plan or plan amendment within a reasonable period of time. Any person adversely affected by a specific action being proposed to implement some portion of a resource management plan or plan amendment may appeal such action pursuant to 43 CFR 4.400 at the time the specific action is proposed for implementation.

(c) If a proposed action is not in conformance with a plan component, and the deciding official determines that such action warrants further consideration before a resource management plan revision is scheduled, such consideration will be through a resource management plan amendment in accordance with § 1610.6–6 of this part.

(d) More detailed and site specific plans for coal, oil shale and tar sand resources will be prepared in accordance with specific regulations for those resources: part 3400 of this title for coal; part 3900 of this title for oil shale; and part 3140 of this title for tar sand. These activity plans will be in conformance with land use plans prepared and approved under the provisions of this part.

§ 1610.6–4 Monitoring and evaluation.

The BLM will monitor and evaluate the resource management plan in accordance with the monitoring and evaluation standards and monitoring procedures to determine whether there is sufficient cause to warrant amendment or revision of the resource management plan. The responsible official will document the evaluation of the resource management plan in a report made available for public review.

§ 1610.6–5 Maintenance.

Resource management plans may be maintained as necessary to correct typographical or mapping errors or to reflect minor changes in mapping or data. Maintenance will not change a plan component of the approved resource management plan, except to correct typographical or mapping errors or to reflect minor changes in mapping or data. Maintenance is not considered a resource management plan amendment and does not require the formal public involvement and interagency coordination process described under §§ 1610.2 and 1610.3 of this part or the preparation of an environmental assessment or environmental impact statement. When changes are made to an approved resource management plan through plan maintenance, the BLM will notify the public and make the changes available for public review at least 30 days prior to their implementation.

§ 1610.6–6 Amendment.

(a) A plan component may be changed through amendment. An amendment may be initiated when the BLM determines monitoring and evaluation findings, new high quality information, new or revised policy, a proposed action, or other relevant changes in circumstances, such as changes in resource, environmental, ecological, social, or economic conditions, warrants a change to one or more of the plan components of the approved resource management plan. An amendment will be made in conjunction with an environmental assessment of the proposed change, or an environmental impact statement, if necessary. When amending a resource management plan, the BLM will provide for public involvement (see § 1610.2), interagency coordination and consistency (see § 1610.3), and protest (see § 1610.6–2). In all cases, the effect of the amendment on other plan components will be evaluated. If the amendment is being considered in response to a specific proposal, the effects analysis required for the proposal and for the amendment may occur simultaneously.

(b) If the environmental assessment does not disclose significant impacts, the responsible official may make a finding of no significant impact and then make a recommendation on the amendment to the deciding official for approval. Upon approval, the BLM will issue a public notice of the action taken on the amendment. If the amendment is approved, it may be implemented 30 days after such notice.

(c) If the BLM amends several resource management plans simultaneously, a single programmatic environmental impact statement or environmental assessment may be prepared to address all amendments.

§ 1610.6–7 Revision.

The BLM may revise a resource management plan, as necessary, when monitoring and evaluation findings (§ 1610.4–9), new data, new or revised policy, or other relevant changes in circumstances affect the entire resource management plan or major portions of the resource management plan. Revisions will comply with all of the requirements of this part for preparing and approving a resource management plan.

§ 1610.6–8 Situations where action can be taken based on another agency's plan, or a land use analysis.

These regulations authorize the preparation of a resource management plan for whatever public land interests exist in a given land area, including mixed ownership where the public land estate is under non-Federal surface, or administration of the land is shared by the BLM and another Federal agency. The BLM may rely on the plans or the land use analysis of other agencies when split or shared estate conditions exist in any of the following situations:

(a) Another agency's plan (Federal, tribal, State, or local) may be relied on

as a basis for an action only if it is comprehensive and has considered the public land interest involved in a way comparable to the manner in which it would have been considered in a resource management plan, including the opportunity for public involvement, and is consistent with Federal laws and regulations applicable to public lands, and the purposes, policies and programs of such laws and regulations.

(b) After evaluation and review, the BLM may adopt another agency's plan for continued use as a resource management plan so long as the plan is consistent with Federal laws and regulations applicable to public lands, and the purposes, policies, and programs of such laws and regulations, and an agreement is reached between the BLM and the other agency to provide for maintenance and amendment of the plan, as necessary.

(c) A land use analysis may be relied on to consider a coal lease when there is no Federal ownership interest in the surface or when coal resources are insufficient to justify plan preparation costs. The land use analysis process, as authorized by the Federal Coal Leasing Amendments Act, consists of an environmental assessment or impact statement, public participation as required by § 1610.2, the consultation and consistency determinations required by § 1610.3, the protest procedure prescribed by § 1610.6–2, and a decision on the coal lease proposal. A land use analysis meets the planning requirements of section 202 of FLPMA.

§ 1610.7 Management decision review by Congress.

FLPMA requires that any BLM management decision or action pursuant to a management decision which totally eliminates one or more principal or major uses for 2 or more years with respect to a tract of 100,000 acres or more, will be reported by the Secretary to Congress before it can be implemented. This report is not required prior to approval of a resource management plan which, if fully or partially implemented, would result in such an elimination of use(s). The required report will be submitted as the first action step in implementing that portion of a resource management plan which would require elimination of such a use.

§ 1610.8 Designation of areas.

§ 1610.8–1 Designation of areas unsuitable for surface mining.

(a)(1) The planning process is the chief process by which public land is reviewed to assess whether there are areas unsuitable for all or certain types of surface coal mining operations under section 522(b) of the Surface Mining Control and Reclamation Act. The unsuitability criteria to be applied during the planning process are found in § 3461.1 of this title.

(2) When petitions to designate land unsuitable under section 522(c) of the Surface Mining Control and Reclamation Act are referred to the BLM for comment, the resource management plan, or plan amendment if available, will be the basis for review.

(3) After a resource management plan or plan amendment is approved in which lands are assessed as unsuitable, the BLM will take all necessary steps to implement the results of the unsuitability review as it applies to all or certain types of coal mining.

(b)(1) The resource management planning process is the chief process by which public lands are reviewed for designation as unsuitable for entry or leasing for mining operations for minerals and materials other than coal under section 601 of the Surface Mining Control and Reclamation Act.

(2) When petitions to designate lands unsuitable under section 601 of the Surface Mining Control and Reclamation Act are received by the BLM, the resource management plan, if available, will be the basis for determinations for designation.

(3) After a resource management plan or plan amendment in which lands are designated unsuitable is approved, the BLM will take all necessary steps to implement the results of the unsuitability review as it applies to minerals or materials other than coal.

§ 1610.8–2 Designation of areas of critical environmental concern.

(a) Areas having potential for ACEC designation and protection will be identified through inventory of public lands and during the planning assessment. The inventory data will be analyzed to determine whether there are areas containing resources, values, systems or processes, or hazards eligible for further consideration for designation as an ACEC. In order to be a potential ACEC, both of the following criteria must be met:

(1) *Relevance.* There must be present a significant historic, cultural, or scenic value; a fish or wildlife resource or other natural system or process; or natural hazard; and

(2) *Importance.* The value, resource, system, process, or hazard described in paragraph (a)(1) of this section must have substantial significance and values. This generally requires qualities of special worth, consequence, meaning, distinctiveness, or cause for concern. A natural hazard can be important if it is a significant threat to human life or property.

(b) Potential ACECs will be considered for designation during the preparation or amendment of a resource management plan. The identification of a potential ACEC does not, in of itself, change or prevent change of the management or use of public lands. Potential ACECs require special management attention (when such areas are developed or used or no development is required) to protect and prevent irreparable damage to the important historic, cultural, or scenic values, fish and wildlife resources or other natural system or process, or to protect life and safety from natural hazards.

(1) Upon release of a draft resource management plan or plan amendment involving a potential ACEC, the BLM will notify the public of each potential ACEC and any special management attention which would occur if it were formally designated.

(2) The approval of a resource management plan or plan amendment that contains an ACEC constitutes formal designation of an ACEC. The approved plan will include a list of all designated ACECs, and include any special management attention identified to protect the designated ACECs.

§ 1610.9 Transition period.

(a) Until superseded by resource management plans, management framework plans may be the basis for considering proposed actions as follows:

(1) The management framework plan must be in compliance with the principle of multiple use and sustained yield, or other applicable law, and must have been developed with public involvement and governmental coordination, but not necessarily precisely as prescribed in §§ 1610.2 and 1610.3 of this part.

(2) For proposed actions a determination will be made by the responsible official whether the proposed action is in conformance with the management framework plan. Such determination will be in writing and will explain the reasons for the determination.

(i) If the proposed action is in conformance with the management framework plan, it may be further considered for decision under procedures applicable to that type of action, including the regulatory provisions of the National Environmental Policy Act.

(ii) If the proposed action is not in conformance with the management framework plan, and if the proposed

action warrants further consideration before a resource management plan is scheduled for preparation, such consideration will be through an amendment to the management framework plan under the provisions of § 1610.6–6 of this part.

(b)(1) If an action is proposed where public lands are not covered by a management framework plan or a resource management plan, an environmental assessment or an environmental impact statement, if necessary, plus any other data and analysis deemed necessary by the BLM to make an informed decision, will be used to assess the impacts of the proposal and to provide a basis for a decision on the proposal.

(2) A land disposal action may be considered before a resource management plan is scheduled for preparation, through a planning analysis, using the process described in § 1610.6–6 of this part for amending a plan.

(c)(1) When considering whether a proposed action is in conformance with a resource management plan, the BLM will use an existing resource management plan approved prior to April 25, 2016 until it is superseded by a resource management plan or plan amendment prepared under the regulations in this part. In such circumstances, the proposed action must either be specifically provided for in the resource management plan or clearly consistent with the terms, conditions, and decisions of the approved plan.

(2) If a resource management plan is amended by a plan amendment prepared under the regulations in this part, a future proposed action must either be consistent with the plan components of the approved resource management plan or the terms, conditions, and decisions of the approved resource management plan.

(d) If the preparation, revision, or amendment of a plan was formally initiated by issuance of a notice of intent in the **Federal Register** prior to April 25, 2016, the BLM may complete and approve the resource management plan or plan amendment pursuant to the requirements of this part or to the provisions of the planning regulations in 43 CFR part 1600 (revised as of October 1, 2015).

[FR Doc. 2016–03232 Filed 2–24–16; 8:45 am]

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For Clerks Use Only

AGENDA NUMBER

18

AGENDA REQUEST FORM

BOARD OF SUPERVISORS
COUNTY OF INYO

[] Consent [X] Departmental [] Correspondence Action [] Public Hearing

[] Scheduled Time for [] Closed Session [] Informational

FROM: Sheriff's Department

FOR THE BOARD MEETING OF: **April 12, 2016**

SUBJECT: Request to fill (1) one vacant Deputy Sheriff position.

DEPARTMENTAL RECOMMENDATION:

Request the Board find that consistent with the adopted Authorized Review Policy:

1) The availability of funding for these requested positions comes from the General Fund, as certified by the Sheriff, and concurred by the County Administrator and the Auditor-Controller; and
2) Where internal candidates may meet the qualifications for the positions and the positions could possibly be filled by an internal recruitment, but an open recruitment is more appropriate to ensure the positions are filled with the most qualified applicants; and
3) Approve the open recruitment and hiring of (1) one Deputy Sheriff position (Range 67SA-SC $4,149 – $5,565) and authorize up to the E step for a qualified lateral applicant.

CAO RECOMMENDATION:

SUMMARY DISCUSSION:

On March 16, 2016 the Sheriff's Office had a deputy sheriff's position become vacant due to a separation. We request that your board authorizes, pursuant to the candidate qualifications and experience, the hiring of (1) one qualified lateral/certificated candidate up to the D step, or an internal and open recruitment for an entry level applicant. Hiring of this (1) one Deputy position falls within the Sheriff's current authorized strength.

ALTERNATIVES:

Deny the filling of (1) one Deputy Sheriff position.

OTHER AGENCY INVOLVEMENT:

Personnel Department
Auditor's office

FINANCING:

This Deputy position is included in the Board approved 2016-2017 Sheriff's Safety budget 022710.

APPROVALS	
COUNTY COUNSEL:	AGREEMENTS, CONTRACTS AND ORDINANCES AND CLOSED SESSION AND RELATED ITEMS *(Must be reviewed and approved by county counsel prior to submission to the board clerk.)* Approved: _____ Date_____
AUDITOR/CONTROLLER:	ACCOUNTING/FINANCE AND RELATED ITEMS (*Must be reviewed and approved by the auditor-controller prior to submission to the board clerk.)* Approved: yes Date 4/1/2016
PERSONNEL DIRECTOR:	PERSONNEL AND RELATED ITEMS (Must be reviewed and approved by the director of personnel services prior to submission to the board clerk.) Approved: J Date 3/31/16

DEPARTMENT HEAD SIGNATURE:
(Not to be signed until all approvals are received) William Lutze by JA Date: 4/1/16