

is listed under the heading **ADDRESSES** at the beginning of this notice).

Done in Washington, DC, this 29th day of September 2009.

**Kevin Shea,**

*Acting Administrator, Animal and Plant Health Inspection Service.*

[FR Doc. E9-23947 Filed 10-2-09; 8:45 am]

**BILLING CODE 3410-34-P**

## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

[Docket No. APHIS-2009-0073]

#### Notice of Availability of a Bovine Tuberculosis Program Concept Paper

**AGENCY:** Animal and Plant Health Inspection Service, USDA.

**ACTION:** Notice of availability and request for comments.

**SUMMARY:** We are advising the public that the Animal and Plant Health Inspection Service is making a concept paper describing a new direction for the bovine tuberculosis program available for public review and comment. The cooperative Federal-State-industry effort to eradicate bovine tuberculosis from cattle in the United States has made significant progress since the program's inception in 1917. However, several challenges impede eradication. The concept paper we are making available presents our current thinking about changes we are considering for the bovine tuberculosis to address these challenges.

**DATES:** We will consider all comments that we receive on or before December 4, 2009.

**ADDRESSES:** You may submit comments by either of the following methods:

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov/fdmspublic/component/main?main=DocketDetail&d=APHIS-2009-0073> to submit or view comments and to view supporting and related materials available electronically.

- *Postal Mail/Commercial Delivery:* Please send two copies of your comment to Docket No. APHIS-2009-0073, Regulatory Analysis and Development, PPD, APHIS, Station 3A-03.8, 4700 River Road Unit 118, Riverdale, MD 20737-1238. Please state that your comment refers to Docket No. APHIS-2009-0073.

*Reading Room:* You may read any comments that we receive on this docket in our reading room. The reading room is located in room 1141 of the USDA South Building, 14th Street and

Independence Avenue, SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690-2817 before coming.

*Other Information:* Additional information about APHIS and its programs is available on the Internet at <http://www.aphis.usda.gov>.

**FOR FURTHER INFORMATION CONTACT:** Dr. Alecia Naugle, National Tuberculosis Program Coordinator, Ruminant Health Programs, VS, APHIS, 4700 River Road Unit 43, Riverdale, MD 20737; (301) 734-6954.

#### SUPPLEMENTARY INFORMATION:

##### Background

Bovine tuberculosis (TB) is a contagious and infectious granulomatous disease caused by the bacterium *Mycobacterium bovis*. Although commonly defined as a chronic debilitating disease, bovine TB can occasionally assume an acute, rapidly progressive course. While any body tissue can be affected, lesions are most frequently observed in the lymph nodes, lungs, intestines, liver, spleen, pleura, and peritoneum. Although cattle are considered to be the true hosts of *M. bovis*, the disease has been reported in several other species of both domestic and nondomestic animals, as well as in humans.

At the beginning of the past century, bovine TB caused more losses of livestock than all other livestock diseases combined. This prompted the establishment in the United States of the National Cooperative State/Federal Bovine Tuberculosis Eradication Program for bovine TB in livestock.

In carrying out the national eradication program, the Animal and Plant Health Inspection Service (APHIS) issues and enforces regulations. The regulations require the testing of cattle, bison, and captive cervids for bovine TB, define the Federal bovine TB status levels for States or zones (accredited-free, modified accredited advanced, modified accredited, accreditation preparatory, and nonaccredited), provide the criteria for attaining and maintaining those status levels, and contain testing and movement requirements for cattle, bison, and captive cervids leaving States or zones of a particular status level. These regulations are contained in 9 CFR part 77 and in the Bovine Tuberculosis Eradication Uniform Methods and Rules, 1999, which is incorporated by reference into the regulations.

This document announces the availability of a concept paper, "A New

Approach for Managing Bovine Tuberculosis: Veterinary Services' Proposed Action Plan." Bovine TB has significant animal health, public health, and international trade consequences. The cooperative Federal-State-industry effort to eradicate this disease from cattle in the United States has made significant progress since the program's inception in 1917. However, several challenges impede eradication. This concept paper presents the current thinking of the APHIS' Veterinary Services (VS) about changes we are considering for the TB program to address these challenges.

The concept paper provides an action plan that:

1. Enhances efforts to mitigate disease transmission from wildlife and imported animals;
2. Enhances bovine TB surveillance through a comprehensive national surveillance plan and accelerated development of new diagnostic tests;
3. Expands disease management options and control strategies;
4. Modernizes the regulatory framework to allow VS to better focus resources; and
5. Transitions the bovine TB program from a State classification system to a science-based zoning approach.

The bovine TB concept paper may be viewed on the Internet at the Regulations.gov Web site (see **ADDRESSES** above for instructions on accessing *Regulations.gov*). You may request paper copies of the document by calling or writing to the person listed under **FOR FURTHER INFORMATION CONTACT**. Please refer to the title of the document when requesting copies. The document is also available for review in our reading room (information on the location and hours of the reading room is listed under the heading **ADDRESSES** at the beginning of this notice).

Done in Washington, DC, this 29th day of September 2009.

**Kevin Shea,**

*Acting Administrator, Animal and Plant Health Inspection Service.*

[FR Doc. E9-23948 Filed 10-2-09; 8:45 am]

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## DEPARTMENT OF AGRICULTURE

### Forest Service

#### Continental Divide National Scenic Trail Comprehensive Plan; FSM 2350

**AGENCY:** Forest Service, USDA.

**ACTION:** Notice of final amendments to comprehensive plan and final directives.

**SUMMARY:** The Forest Service is amending the Continental Divide National Scenic Trail (CDNST) Comprehensive Plan and internal agency directives at Forest Service Manual (FSM) 2350. The CDNST Comprehensive Plan provides overall direction for the development, management, and use of the CDNST. FSM 2350 guides policy, development, and management of the CDNST on National Forest System lands. This notice discusses the changes to the CDNST Comprehensive Plan, responds to comments received from the public, and makes final changes to FSM 2350.

**DATES:** *Effective Date:* The amendments to the CDNST Comprehensive Plan and the implementing directives at FSM 2350 are effective November 4, 2009.

**FOR FURTHER INFORMATION CONTACT:** Greg Warren, CDNST National Administrator, (303) 275-5054, [gwarren@fs.fed.us](mailto:gwarren@fs.fed.us).

**SUPPLEMENTARY INFORMATION:**

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**1. Background**

*History and Administration of the CDNST*

The CDNST was established by the National Parks and Recreation Act of 1978 (Pub. L. No. 95-625, 92 Stat. 3467), which amended the National Trails System Act of 1968 (16 U.S.C. 1241-1251). The National Parks and Recreation Act:

- Established the CDNST between the Montana-Canada and New Mexico-Mexico borders;
- Provided for administration of the CDNST by the Secretary of Agriculture, in consultation with the Secretary of the Interior;
- Despite the general prohibition on motor vehicle use by the public on National Scenic Trails (16 U.S.C. 1246(c)), provided for motor vehicle use on road segments of the CDNST in accordance with applicable regulations (16 U.S.C. 1244(a)(5)); and
- Described management of recreation and other uses along the CDNST so as not to interfere with the nature and purposes for which the CDNST was established (16 U.S.C. 1246(c)).

The Chief of the Forest Service adopted the 1976 CDNST Study Report and 1977 CDNST Final Environmental Impact Statement on August 5, 1981 (40 FR

150) pursuant to the National Trails System Act (16 U.S.C. 1244(b)).

The National Trails System Act requires the Secretary of Agriculture, in consultation with other affected Federal agencies, the governors of affected states, and the relevant advisory council established pursuant to the Act, to prepare a comprehensive plan for the management and use of the CDNST (16 U.S.C. 1244(f)). The Forest Service goal in 1981 for the CDNST Comprehensive Plan was to provide a uniform trail management program reflecting the purposes of the CDNST while providing for use and protection of the natural and cultural resources along the CDNST. The Chief of the Forest Service approved the Comprehensive Plan for the CDNST in 1985.

The CDNST crosses Federal lands administered by the United States Department of Agriculture, Forest Service, and the United States Department of the Interior, Bureau of Land Management, and National Park Service. The Regional Forester of the Rocky Mountain Region is the lead Forest Service official for coordinating matters concerning the study, planning, and operation of the CDNST (FSM 2353.04).

Federal interagency trail programs generally are coordinated through an interagency memorandum of understanding (MOU) governing the National Trails System (06-SU-11132424-196). Programs specific to the CDNST are developed and coordinated through the CDNST Interagency Leadership Council (Council), consisting of Regional Foresters for the Forest Service, State Directors for the Bureau of Land Management, and a Regional Director for the National Park Service. The Council provides leadership and oversight to complete and sustain the CDNST and ensures consistent, coordinated, and effective programs for the CDNST.

*The Nature and Purposes of the CDNST*

A 1997 memorandum from the Deputy Chief of the Forest Service to Regional Foresters states:

As the CDNST is further developed, it is expected that the trail will eventually be relocated off of roads for its entire length.

The memorandum further states:

It is the intent of the Forest Service that the CDNST will be for non-motorized recreation. \* \* \* Allowing motorized use on these newly constructed trail segments would substantially interfere with the nature and purpose of the CDNST.

This memorandum clarifies the Forest Service's intent with respect to motor vehicle use on newly constructed

CDNST trail segments. In addition, this memorandum identifies the importance of understanding the nature and purposes of the CDNST in establishing direction governing its development and management.

In 2004, the Council adopted the following guiding principles for the CDNST:

Complete the Trail to connect people and communities to the Continental Divide by providing scenic, high-quality, primitive hiking and horseback riding experiences, while preserving the significant natural, historic, and cultural resources along the Trail.

In 2005, the three participating Federal agencies executed an interagency MOU (05-MU-11020000-071) to address CDNST programs and management consistent with the 2004 guiding principles for the CDNST. The cooperative work under the MOU led to development of these amendments.

These final amendments and directives revise the nature and purposes of the CDNST to track those identified in the 1976 CDNST Study Report and 1977 CDNST Final Environmental Impact Statement. The CDNST Study Report states:

The primary purpose of this trail is to provide a continuous, appealing trail route, designed for the hiker and horseman, but compatible with other land uses. \* \* \* One of the primary purposes for establishing the Continental Divide National Scenic Trail would be to provide hiking and horseback access to those lands where man's impact on the environment has not been adverse to a substantial degree and where the environment remains relatively unaltered. Therefore, the protection of the land resource must remain a paramount consideration in establishing and managing the trail. There must be sufficient environmental controls to assure that the values for which the trail is established are not jeopardized. \* \* \* The basic goal of the trail is to provide the hiker and rider an entree to the diverse country along the Continental Divide in a manner, which will assure a high quality recreation experience while maintaining a constant respect for the natural environment. \* \* \* The Continental Divide Trail would be a simple facility for foot and horseback use in keeping with the National Scenic Trail concept as seen in the Appalachian and Pacific Crest Trails.

The amended CDNST Comprehensive Plan and its implementing directives will more accurately reflect the nature and purposes of the CDNST and the requirements of the National Trails System Act (16 U.S.C. 1244(f)). As work on the CDNST progresses, further revisions to the CDNST Comprehensive Plan may be required. For additional information on CDNST programs, visit <http://www.fs.fed.us/cdt>.

## 2. Public Comments and Responses

On June 12, 2007, the Forest Service published in the **Federal Register** for public notice and comment the proposed amendments to the 1985 CDNST Comprehensive Plan and accompanying Forest Service directives (72 FR 112). The 60-day public comment period was extended for 60 days (72 FR 148).

The Forest Service received over 8,000 letters or electronic mail in response to the proposed amendments and directives. The respondents fell into the following categories:

*Motor vehicle organizations:* 7.

*Mountain biking organizations:* 5.

*National scenic trail organizations:* 6.  
*Recreation or conservation organizations:* 10.

*City, county, and elected officials:* 2.

*Unaffiliated, unique response:* approximately 800.

*Other (principally mountain biking enthusiasts, who submitted comments in the form of the same electronic mail):* approximately 7,200.

Many respondents supported the proposed amendments and directives. Most respondents were concerned about access for motor vehicles and bicycles.

*Nature and Purposes Statement; Proposed FSM 2353.42, Paragraph 4 (Final Amendments to the CDNST Comprehensive Plan, All Chapters; FSM 2353.42, in the Final Directives)*

*Comments.* One respondent believed that the 1985 CDNST Comprehensive Plan had to remain unchanged to preserve its integrity for current and future issues.

Another respondent observed that the proposed nature and purposes statement for the CDNST appeared to derive, appropriately, from a number of sources, including section 3(a)(2) of the National Trails System Act, the 1976 CDNST Study Report, and the 1977 CDNST Final Environmental Impact Statement.

Some respondents requested modification of the proposed nature and purposes statement to provide for high-quality scenic, bicycling, and motorized opportunities, as well as high-quality scenic, primitive hiking and horseback riding opportunities. Other respondents stated that activities such as cross-country skiing and snowshoeing should be considered comparable to hiking with respect to the nature and purposes of the CDNST.

Several respondents claimed that the nature and purposes of the CDNST were modified by a 1983 amendment of the National Trails System Act to include other uses, such as bicycling.

Another respondent stated that the proposed nature and purposes statement omitted part of the policy statement for National Scenic Trails from the National Trails System Act, specifically, the policy that National Scenic Trails are to provide for maximum outdoor recreation potential and conservation of natural, historic, and cultural resources.

Another respondent recommended removing the phrase "non-motorized" from the statement on the grounds that the word "primitive" is sufficient to provide for a quiet, nature-based experience for hikers and equestrians. Other respondents wanted the word "primitive" removed on the grounds that it was ambiguous.

Another respondent noted that the proposed amendments to the CDNST Comprehensive Plan and FSM 2350 should apply to the extent applicable to provisions that were not specifically referenced. Therefore, this respondent believed that the amended CDNST Comprehensive Plan and directives should state that the amendments to the plan and directives supersede any other provisions of the plan and directives to the extent of any inconsistency.

*Response:* The amendments to the 1985 CDNST Comprehensive Plan and corresponding directives are to ensure that the nature and purposes of the CDNST track those in the 1976 CDNST Study Report and 1977 CDNST Final Environmental Impact Statement, which were prepared pursuant to the National Trails System Act (16 U.S.C. 1244(b)). The 1976 CDNST Study Report states:

The primary purpose of this trail is to provide a continuous, appealing trail route, designed for the hiker and horseman, but compatible with other land uses. \* \* \* One of the primary purposes for establishing the Continental Divide National Scenic Trail would be to provide hiking and horseback access to those lands where man's impact on the environment has not been adverse to a substantial degree and where the environment remains relatively unaltered. Therefore, the protection of the land resource must remain a paramount consideration in establishing and managing the trail. There must be sufficient environmental controls to assure that the values for which the trail is established are not jeopardized. \* \* \* The basic goal of the trail is to provide the hiker and rider an entree to the diverse country along the Continental Divide in a manner, which will assure a high-quality recreation experience while maintaining a constant respect for the natural environment. \* \* \* The Continental Divide Trail would be a simple facility for foot and horseback use in keeping with the National Scenic Trail concept as seen in the Appalachian and Pacific Crest Trails.

Thus, the 1976 CDNST Study Report states that the primary purpose of the CDNST is to provide a high-quality

recreation experience for hiking and horseback riding.

Consistent with the National Trails System Act, the 1976 CDNST Study Report, and the 1977 CDNST Final Environmental Impact Statement, the amended CDNST Comprehensive Plan states that the nature and purposes of the CDNST are to provide for high-quality scenic, primitive hiking and horseback riding opportunities and to conserve natural, historic, and cultural resources along the CDNST corridor. The amended CDNST Comprehensive Plan and final directives implementing the amendments to the CDNST Comprehensive Plan on National Forest System lands provide that backpacking, nature walking, day hiking, horseback riding, nature photography, mountain climbing, cross-country skiing, and snowshoeing are compatible with the nature and purposes of the CDNST (final amendments to the CDNST Comprehensive Plan, Chapter IV(B)(5); FSM 2353.44b, para. 8, in the final directives). The amendments to the CDNST Comprehensive Plan and directives ensure consistency with the nature and purposes of the CDNST in the context of right-of-way acquisition, land management planning, scenery management, recreation resource management, motor vehicle use, trail and facility standards, and carrying capacity.

The 1983 amendment to the National Trails System Act, which added 16 U.S.C. 1246(j), does not modify the nature and purposes of the CDNST. The added subsection simply lists uses and vehicles that may be permitted on National Trails generally.

The National Trails System Act states that all National Scenic Trails must be so located to provide for maximum outdoor recreation potential and conservation of natural, historic, and cultural resources (16 U.S.C. 1242(a)(2)). This requirement is reflected in the nature and purposes statement in the amended CDNST Comprehensive Plan, which states that the nature and purposes of the CDNST are to provide for high-quality scenic, primitive hiking and horseback riding opportunities and to conserve natural, historic, and cultural resources along the CDNST corridor. Where possible, the CDNST will be located in primitive or semi-primitive non-motorized settings, which will further contribute to providing for maximum outdoor recreation potential and conservation of natural, historic, and cultural resources in the areas traversed by the CDNST (FSM 2353.44b, para. 8, in the final directives).

The Forest Service has removed the words "non-motorized" and

“recreational” from the nature and purposes statement for the CDNST, as these words were redundant. “High-quality scenic, primitive hiking and horseback riding” are non-motorized recreation opportunities. The Agency has not removed the word “primitive” from the nature and purposes statement, as it is not redundant and is not ambiguous. It means “of or relating to an earliest or original stage or state.” Webster’s II New Riverside University Dictionary 934 (1984). Preferred recreation settings, including primitive or semi-primitive non-motorized categories, are delineated in the Forest Service’s Recreation Opportunity Spectrum system (FSM 2311.1) and described in the CDNST Comprehensive Plan, Chapter IV(B)(5).

The amendments to the 1985 CDNST Comprehensive Plan apply throughout the document to the extent applicable, not just to the provisions that are specifically referenced in the amendments. The Forest Service agrees that this intent should be expressly stated. Therefore, the Agency has added the following statement to the amendments:

To the extent there is any inconsistency between the foregoing revisions and any other provisions in the 1985 CDNST Comprehensive Plan, the foregoing revisions control.

*Land Management Planning; Proposed FSM 2353.43, Paragraph 1 (FSM 2353.44b, Paragraph 1, in the Final Directives)*

*Comments:* Some respondents requested that land management plans include standards as well as guidelines for the CDNST, as is the case with the Appalachian National Scenic Trail, to ensure that the CDNST is protected in accordance with requirements of the National Trails System Act.

One respondent supported identifying management areas for the CDNST. Another respondent requested clarification on delineating CDNST management areas in wilderness. Another respondent requested that management areas extend one-quarter mile from either side of the CDNST.

*Response:* The Agency has revised proposed FSM 2353.43, para. 1 (FSM 2353.44b, para. 1, in the final directives) to provide for adopting standards and guidelines in land management plans for administrative units traversed by the CDNST and to clarify the guidance for delineating a management area. Specifically, the final directives provide that, except where the CDNST traverses a wilderness area and is governed by wilderness management prescriptions (36 CFR Part 293), these land

management plans must prescribe desired conditions, objectives, standards, and guidelines for the CDNST corridor by establishing a management area for the CDNST that is broad enough to protect natural, scenic, historic, and cultural features (FSH 1909.12).

With regard to management areas for National Trails, H.R. Rep. No 90–1631 on the National Trails System Act states:

The rights-of-way for the trails will be of sufficient width to protect natural, scenic, cultural, and historic features along the trails and to provide needed public use facilities. The rights-of-way will be located to avoid established uses that are incompatible with the protection of a trail in its natural condition and its use for outdoor recreation.

1968 U.S. Code Cong. & Admin. News 3855, 3863–3864, 3867.

Further, Executive Order (E.O.) 13195 states:

Federal agencies will \* \* \* protect, connect, promote, and assist trails of all types \* \* \*. This will be accomplished by \* \* \* protecting the trail corridors associated with National Scenic Trails \* \* \* to the degree necessary to ensure that the values for which [the] trail was established remain intact.

To give local managers discretion to address site-specific conditions, the final directives do not prescribe minimum widths for the CDNST corridor. Rather, consistent with the legislative history for the National Trails System Act and E.O. 13195, FSM 2353.44b, para. 1a, in the final directives states that the land management plan for administrative units through which the CDNST traverses must, except where the CDNST is located in a wilderness area and is governed by wilderness management prescriptions, establish a management area for the CDNST that is broad enough to protect natural, scenic, historic, and cultural features (FSH 1909.12). FSM 2353.44b, para. 2b, in the final directives contains the same requirement for CDNST unit plans, provided that this requirement is not already met in the applicable land management plan or wilderness management prescriptions.

*CDNST Unit Plans; Proposed FSM 2353.43, Paragraph 2 (FSM 2353.44b, Paragraph 2, in the Final Directives)*

*Comments:* Respondents were mostly supportive of requiring development of unit plans to meet the site-specific requirements of the National Trails System Act. However, some respondents expressed concerns about requiring site-specific analysis at the level of an administrative unit for mountain biking on the CDNST. These respondents believed that this analysis

would be time-consuming and burdensome and should instead be conducted at the regional level. Some respondents proposed including a definition for “carrying capacity” or using different terminology for that term, such as “type and volume of use.”

*Response:* The provisions of the final directives governing unit plans establish guidance for site-specific planning for the CDNST consistent with the National Trails System Act, the 1976 CDNST Study Report, and the 1977 Final Environmental Impact Statement. Decisions regarding whether to allow certain types of uses on the CDNST will be best decided through land management planning and appropriate environmental analysis.

Section 5(f)(1) of the National Trails System Act (16 U.S.C. 1244(f)(1)) requires carrying capacity to be established for the CDNST. The Agency is removing the definition for “carrying capacity” from the 1985 CDNST Comprehensive Plan and replacing it with a statement that provides for using the Limits of Acceptable Change (described in Forest Service General Technical Report INT–GTR–371 and other publications) or a similar system to establish carrying capacity, consistent with the nature and purposes of the CDNST and the applicable land management plan (final amendments to the CDNST Comprehensive Plan, Chapter IV(B)(9); FSM 2353.44b, para. 2f, in the final directives).

*Monitoring; New FSM 2353.44b, Paragraphs 1c, 2g, and 3, in the Final Directives*

*Comments:* Respondents requested an increased emphasis on monitoring conditions on the CDNST.

*Response:* The Agency has added several provisions on monitoring in the final directives. FSM 2353.44b, para. 1c, requires that the land management plan for an administrative unit through which the CDNST passes establish a monitoring program to evaluate the condition of the CDNST in the management area. FSM 2353.44b, para. 2g, requires each unit plan for the CDNST to establish monitoring programs to evaluate the site-specific conditions of the CDNST. FSM 2353.44b, para. 3, requires that implementation of a CDNST unit plan be monitored by establishing a program to evaluate and report on the overall condition of the segment of the CDNST that traverses that unit as related to the nature and purposes of the CDNST. Monitoring will ensure that the ROS for the primary uses of the CDNST allows for high-quality recreational experiences.

*Scenery Management; Proposed FSM 2353.43, Paragraph 3, and FSM 2353.44, Paragraph 1 (Final Amendments to the CDNST Comprehensive Plan, Chapter IV(B)(4); FSM 2353.44b, Paragraph 7, in the Final Directives)*

*Comments:* Respondents supported the direction on scenery management in the proposed directives, but suggested more emphasis on middle ground and background scenic quality. Other respondents wanted the proposed directives to address restoration of degraded ecosystems.

*Response:* For scenery management purposes, the CDNST is categorized as a concern level 1 route, with a scenic integrity objective as high or very high. The Forest Service's Scenery Management System (SMS) (FSM 2382.1; *Landscape Aesthetics: A Handbook for Scenery Management*, Agricultural Handbook 701, 1995, <http://www.fs.fed.us/cdt>) and the Visual Management System (VMS) in Bureau of Land Management Manual 8400 sufficiently address middle ground and background scenic quality. Therefore, additional scenery management direction in the final plan amendments and directives is unnecessary. The scenery and visual management objectives in the SMS and VMS provide for a high degree of protection and restoration of natural resources within the CDNST corridor.

*Recreation Opportunity Spectrum; Proposed FSM 2353.43, Paragraph 4, and FSM 2353.44, Paragraph 2 (Final Amendments to the CDNST Comprehensive Plan, Chapter IV(B)(5); FSM 2353.44b, Paragraph 8, in the Final Directives)*

*Comments:* Respondents supported using the Recreation Opportunity Spectrum (ROS) in managing the CDNST. However, some respondents wanted the entire CDNST corridor to reflect primitive or semi-primitive conditions.

One respondent stated that where a segment of the CDNST must be located in an ROS setting that is not primitive or semi-primitive, management guidelines for that segment should include as a long-term goal changing the setting to primitive or semi-primitive.

Other respondents wanted the amended CDNST Comprehensive Plan and implementing directives to provide that when any new segment of the CDNST is classified as non-motorized in an area that has historically been motorized a replacement trail should be classified as motorized.

Some respondents suggested that the CDNST Comprehensive Plan and

implementing directives state that motorized use is incompatible with the nature and purposes of the CDNST.

*Response:* The CDNST Comprehensive Plan amendments and implementing directives is to encourage location of the CDNST in primitive or semi-primitive non-motorized areas, which will maximize the recreation potential of the areas along the CDNST. Management objectives for the setting and uses of the CDNST corridor will be further prescribed through land management planning to address desired future conditions. CDNST segments will be developed and managed according to ROS objectives prescribed through land management planning, guided by the amended CDNST Comprehensive Plan. The CDNST is a concern level 1 route with a scenic integrity objective of high or very high (final amendments to the CDNST Comprehensive Plan, Chapter IV(B)(4); FSM 2353.44b, para. 7), which will help ensure that the ROS setting in the CDNST corridor will be maintained or improved.

To address recreation needs and opportunities for all trail users, CDNST plans typically will be prepared in conjunction with travel management or similar site-specific plans. For clarity, the Agency has added a provision in the amended CDNST Comprehensive Plan, Chapter IV(B)(5), and in FSM 2353.44b, para. 8, of the final directives listing the recreation activities that are compatible with the nature and purposes of the CDNST, per the 1976 CDNST Study Report.

Consistent with the National Trails System Act, the 1976 CDNST Study Report, and the 1977 CDNST Environmental Impact Statement, motor vehicle use is prohibited on the CDNST, other than in accordance with Chapter IV(B)(6) of the amended CDNST Comprehensive Plan and FSM 2353.44b, para. 11, in the final directives.

*Constructing Segments of the CDNST; Proposed FSM 2353.43, Paragraph 5 (Removed From the Amended CDNST Comprehensive Plan and Final Directives)*

*Comments:* Several respondents expressed concern that the direction in proposed FSM 2353.43, para. 5, to limit construction of CDNST segments could affect the ability to select the optimum location for the CDNST and could adversely affect motor vehicle use. Another respondent requested that the CDNST be located on existing trails where they are adequate to meet the needs of the CDNST. Respondents also stated that the proposed amendments and directives should not diminish the

ability to establish side and connecting trails for the CDNST.

*Response:* The Agency has removed the direction regarding construction of CDNST segments from the amended CDNST Comprehensive Plan and final directives, since issues concerning development of the CDNST can be appropriately addressed through environmental analysis associated with land and resource management plans and site-specific plans.

*Motor Vehicle Use; Proposed FSM 2353.43, Paragraph 6; Management of Motor Vehicle Use That May Be Allowed; Proposed FSM 2353.44, Paragraph 4; Management of Motor Vehicle Use That Shall Be Allowed; Proposed FSM 2353.44, Paragraph 5 (Final Amendments to the CDNST Comprehensive Plan, Chapter IV(B)(6); Consolidated into FSM 2353.44b, Paragraph 11, in the Final Directives)*

*Comments:* One respondent stated that the separate provisions in the proposed directives governing motor vehicle use that "may be allowed" versus motor vehicle use that "shall be allowed" were confusing, particularly since both provisions contained similar prerequisites for allowing motor vehicle use.

One respondent stated that the National Trails System Act prohibits the use of motor vehicles by the public on National Scenic Trails and that the issue of motor vehicle use on these trails was muddled by the authorizing provision for the CDNST, which allows motor vehicle use on the CDNST in accordance with regulations promulgated by the appropriate Secretary.

Several respondents expressed concern that allowing off-highway vehicle use on the CDNST would increase use conflicts and undermine the nature and purposes of the CDNST to provide high-quality hiking, horseback, and other non-motorized recreation opportunities. Another respondent believed that there would never be a situation where motor vehicle use on the CDNST would not substantially interfere with its nature and purposes. Another respondent commented that the proposed amendments to the CDNST Comprehensive Plan and accompanying directives needed to state that motor vehicle use is incompatible with the nature and purposes of the CDNST and that although motor vehicle use may be allowable on the CDNST in specific situations, it should be minimized to comply with the intent of the National Trails System Act. Another respondent

opposed granting exceptions to the Act's prohibition on motor vehicle use.

Other respondents recognized that motor vehicle use may be permissible on certain segments of the CDNST in some situations. One respondent suggested that motor vehicle use could be allowed on the CDNST if necessary to meet emergencies. Other respondents supported motor vehicle use on the CDNST by land users, such as timber sale purchasers, as provided in the National Trails System Act.

One respondent requested that the provisions regarding allowing preexisting motor vehicle use include as deciding factors the date of construction of the trail segment and the type of motor vehicle use, such as the vehicle class allowed on the segment. Another respondent believed that use of the term "substantially" in relation to other uses' interference with the nature and purposes of National Scenic Trails in section 7(c) of the National Trails System Act (16 U.S.C. 1246(c)) demonstrates an intent to accommodate motorized use on National Scenic Trails where appropriate, as long as it does not impair the overall quality of the non-motorized purposes of the trail. In addition, one respondent interpreted this section of the Act to provide that the proper time for determining whether motor vehicle use has been allowed on a segment to be included in the CDNST is when it is added to the trail. Another respondent requested that the proposed amendments to the CDNST Comprehensive Plan and the proposed directives allow motor vehicle use where it existed as of the date of establishment of the CDNST, consistent with the 1985 CDNST Comprehensive Management Plan.

*Response:* A fundamental purpose of the CDNST Comprehensive Plan amendments and their implementing directives is to address provisions in the National Trails System Act regarding motor vehicle use. Section 7(c) of the National Trails System Act (16 U.S.C. 1246(c)) contains a prohibition on motor vehicle use on National Scenic Trails. However, section 7(c) also contains several exceptions to the prohibition. Notwithstanding section 7(c) of the Act, the authorizing provisions for the CDNST in section 5(a)(5) of the National Trails System Act (16 U.S.C. 1244(a)(5)) allow motor vehicle use on roads that are established as segments of the CDNST, in accordance with regulations promulgated by the Forest Service at 36 CFR part 212, subparts B and C. The provisions governing motor vehicle use in the final amendments to the CDNST Comprehensive Plan and the final directives are consistent with sections

5(a)(5) and 7(c) of the National Trails System Act (16 U.S.C. 1244(a)(5) and 1246(c)). Specifically, the final amendments and directives prohibit motor vehicle use on the CDNST, other than:

- (1) When necessary to meet emergencies;
- (2) When necessary to enable adjacent landowners or those with valid outstanding rights to have reasonable access to their lands or rights;
- (3) For the purpose of allowing private landowners who have agreed to include their lands in the CDNST by cooperative agreement to use or cross those lands or adjacent lands from time to time in accordance with Federal regulations;
- (4) On a motor vehicle route that crosses the CDNST, as long as that use will not substantially interfere with the nature and purposes of the CDNST;
- (5) When designated in accordance with 36 CFR Part 212, Subpart B, on National Forest System lands or is allowed on public lands and
  - (a) The vehicle class and width were allowed on that segment of the CDNST prior to November 10, 1978, and the use will not substantially interfere with the nature and purposes of the CDNST or
  - (b) That segment was constructed as a road prior to November 10, 1978; or
  - (6) In the case of over-snow vehicles, is allowed in accordance with 36 CFR Part 212, Subpart C, on National Forest System lands or is allowed on public lands and the use will not substantially interfere with the nature and purposes of the CDNST.

(Final amendments to the CDNST Comprehensive Plan, Chapter IV(B)(6); FSM 2353.44b, para. 11, in the final directives.)

For clarity, the Agency has consolidated the provisions in the final amendments to the CDNST Comprehensive Plan and directives that govern motor vehicle use (final amendments to the CDNST Comprehensive Plan, Chapter IV(B)(6); FSM 2353.44b, para. 11, in the final directives). The first four provisions for allowing motor vehicle use are derived from section 7(c) of the National Trails System Act (16 U.S.C. 1246(c)). The fifth and sixth provisions derive from the Forest Service's travel management regulation (36 CFR part 212, subparts B and C). The fifth provision takes into account preexisting motor vehicle use by vehicle class and width and uses the date of establishment of the CDNST as the reference point.

To the extent appropriate, motor vehicle use on the CDNST will be addressed in land and resource management plans and site-specific plans.

*Motor Vehicle Use Restrictions; Proposed FSM 2353.44b, Paragraph 6 (Removed From the Final Amended CDNST Comprehensive Plan and Directives)*

*Comments:* Respondents were confused about the intent of this proposed direction. However, they generally supported mitigation of impacts from motor vehicle use. Some respondents believed that this provision was unnecessary because of the Forest Service's travel management rule.

*Response:* This provision has been removed from the final CDNST Comprehensive Plan and directives. The Forest Service's travel management rule at 36 CFR parts 212 and 261 and its implementing directives provide adequate direction for management of motor vehicle use on the CDNST.

*Locating the CDNST on Roads; Proposed FSM 2353.43, Paragraph 7 (Final Amendments to the CDNST Comprehensive Plan, Chapter IV(B)(5); FSM 2353.44b, Paragraph 8, in the Final Directives)*

*Comments:* Many respondents stated that the CDNST should not be located on roads because roads are open to motor vehicle use, which is incompatible with the nature and purposes of the CDNST. One respondent stated that it might have been necessary, when Congress authorized the CDNST in 1978, to locate segments of the trail on motorized routes to maintain its continuity, but now it should be moved from these routes to permanently protected, non-motorized routes designed and built for use by hikers and equestrians. Another respondent stated that roads should be used for the CDNST only if no other practicable public right-of-way is available.

Some respondents were concerned about implementation of section 5(a)(5) of the National Trails System Act (16 U.S.C. 1244(a)(5)), which provides that notwithstanding section 7(c) of the Act (16 U.S.C. 1246(c)), which generally prohibits motor vehicle use on the CDNST, subject to certain exceptions, motor vehicle use on roads that are segments of the CDNST is permitted in accordance with regulations promulgated by the appropriate Secretary. Specifically, some respondents believed that an unintended consequence of the proposed plan amendments and directives could be to require an affirmative determination regarding motor vehicle use. Another respondent believed that the proposed plan and directives might unduly limit the discretion of the Secretary to

promulgate regulations governing motor vehicle use on CDNST road segments.

*Response:* Consistent with the prohibition on motor vehicle use in section 7(c) of the National Trails System Act (16 U.S.C. 1246(c)), the final amendments to the CDNST Comprehensive Plan and the final directives provide that a CDNST segment may be located on a road only where it is primitive and offers recreational opportunities comparable to those provided by a trail with a Designed Use of Pack and Saddle Stock, provided that the CDNST may have to be located on or across motorized routes because of the inability to locate the trail elsewhere (final amendments to the CDNST Comprehensive Plan, Chapter IV(B)(6); FSM 2353.44b, para. 8).

The Forest Service has promulgated regulations governing designation of roads, trails, and areas for motor vehicle use at 36 CFR part 212, subpart B. These regulations do not require designation of particular routes and areas for motor vehicle use. Rather, these regulations require creation of a system of routes and areas designated for motor vehicle use. Once routes and areas are designated for motor vehicle use on a particular administrative unit or ranger district, motor vehicle use that is inconsistent with those designations is prohibited (36 CFR 261.13).

Consistent with these regulations, the final plan amendments and directives provide that use of motor vehicles other than over-snow vehicles is allowed on the CDNST when it is designated in accordance with 36 CFR part 212, subpart B, and (a) the designated vehicle class and width were allowed on that segment of the CDNST prior to November 10, 1978 (the date of establishment of the CDNST), and the use will not substantially interfere with the nature and purposes of the CDNST; or (b) the designated segment was constructed as a road prior to November 10, 1978. Use of over-snow vehicles is allowed on the CDNST consistent with 36 CFR part 212, subpart C.

*Locating the CDNST in a Wilderness Area; Proposed FSM 2353.43, Paragraphs 8 (FSM 2353.44b, Paragraph 4, in the Final Directives)*

*Comments:* Respondents were mostly supportive of locating the CDNST in wilderness areas. One respondent suggested stating that generally the CDNST could be located in a wilderness area, so as to make it easier to avoid locating a segment in a wilderness area when it would result in potential adverse effects on natural resources. Some respondents expressed concerns regarding management of the CDNST in

wilderness study areas and wilderness areas.

*Response:* The final directives at FSM 2353.44b, para. 4, give trail managers discretion to locate the CDNST inside or outside a wilderness area. Recreational use in wilderness areas is governed by wilderness regulations and management prescriptions. In addition, the final directives provide that when the CDNST is located in a congressionally designated wilderness study area or an area recommended for designation as a wilderness area in the applicable land management plan, the CDNST must be managed so as to leave the area unimpaired for inclusion in the National Wilderness Preservation System.

*Easements; Proposed FSM 2353.43, Paragraph 9 (FSM 2353.44b, Paragraphs 5 and 6, in the Final Directives)*

*Comments:* Many respondents supported locating the CDNST within the scope of permanent easements. Another respondent stated that the proposed directives should require easements for the CDNST to be wide enough to allow for use and management of the trail.

*Response:* The National Trails System Act limits the Forest Service's ability to locate the CDNST within the scope of easements. Specifically, section 5(a)(5) of the Act (16 U.S.C. 1244(a)(5)) states that no land or interest in land outside the boundaries of a Federally administered area may be acquired by the Federal Government for the CDNST without the owner's consent. This limitation is included in "Acquisition of Non-Federal Interests in Land," Chapter IV(B)(3) of the final amended CDNST Comprehensive Plan and in FSM 2353.44b, para. 5, of the final directives.

However, the final directives state that where the CDNST crosses private property, it should be located within the scope of a permanent easement (FSM 5460.3). In addition, FSM 2353.44b, para. 5, in the final directives requires that CDNST access needs be addressed in assessing adjustments to land ownership in an administrative unit. FSM 2353.44b, para. 1a, requires the land management plan for an administrative unit through which the CDNST passes to establish a management area for the CDNST that is broad enough to protect natural, scenic, historic, and cultural features, except where the management area would overlap with a wilderness area. The scope of the management area will guide acquisition of easements for the CDNST.

*Cooperative Agreements; new FSM 2353.44b, Paragraph 6, in the Final Directives*

*Comments:* Some respondents suggested addressing cooperative agreements with state and local governments in this section of the proposed directives.

*Response:* The Agency has added a new provision at FSM 2353.44b, para. 6, which provides for execution of cooperative agreements with other Federal agencies and State, local, and tribal governments for CDNST purposes, in accordance with section 7(h) of the National Trails System Act (16 U.S.C. 1246(h)).

*Designed Use; Proposed FSM 2353.43, Paragraph 10 (FSM 2353.44b, Paragraph 9, in the Final Directives)*

*Comments:* Respondents generally supported the direction on Designed Use in proposed FSM 2353.43, para. 10. Designed Use is the Managed Use that requires the most demanding design, construction, and maintenance parameters and that determines which design, construction, and maintenance parameters will apply to a trail (FSM 2353.05). A Managed Use is a mode of travel that is actively managed and appropriate on a trail, based on its design and management (FSM 2353.05).

Some respondents expressed concerns about assigning a Designed Use of Hiker/Pedestrian to some segments of the CDNST and requested that all of the CDNST have a Designed Use of Pack and Saddle Stock. Some respondents expressed concerns regarding availability of water sources for hikers and equestrians along the CDNST.

*Response:* The 1976 CDNST Study Report allows for some segments of the CDNST to have a Designed Use of Hiker/Pedestrian, and some segments with that Designed Use exist along the CDNST. However, the goal is for new CDNST segments to have a Designed Use of Pack and Saddle Stock. Consistent with this intent, FSM 2353.44b, para. 9 in the final directives, provides that segments of the CDNST generally should fall into Trail Class 2 or 3 and have a Designed Use of Pack and Saddle Stock, but that a CDNST segment may fall into Trail Class 1, 2, or 3 and have a Designed Use of Hiker/Pedestrian where a substantial safety or resource concern exists or the direction for the management area provides only for hiker/pedestrian use. In addition, FSM 2353.44b, para. 9, in the final directives provides that where a CDNST segment has a Designed Use of Hiker/Pedestrian, trail managers must consider establishing side trails to accommodate

pack and saddle stock needs. With regard to available water sources, this same paragraph in the final directives provides that if the interval between natural water sources is excessive, trail managers must consider developing and protecting water sources for hikers and pack and saddle stock use.

*Bicycle Use; Proposed FSM 2353.44, Paragraph 7 (Final Amendments to the CDNST Comprehensive Plan, Chapter IV(B)(5); FSM 2353.44b, Paragraph 10, in the Final Directives)*

*Comments:* One respondent stated that proposed FSM 2353.44, para. 7, adequately addressed mountain bike use where it cannot be avoided on the CDNST, but should establish a systematic framework for monitoring mountain bike use to determine thresholds that impair hiking and equestrian experiences. Several respondents requested that the proposed amendments to the CDNST Comprehensive Plan and directives address not only mountain bike use, but other non-motorized uses as well. Other respondents stated that the proposed amendments to the CDNST Comprehensive Plan should give all non-motorized uses consideration with respect to whether they are allowed on the CDNST.

One respondent believed that mountain bike use on the CDNST always would substantially interfere with the quality of hiking and equestrian experiences and that substantial safety issues arise when all these uses are combined. Another respondent was concerned about cumulative effects from mountain bike use and stated that it would be difficult, if not impossible, to analyze effects if mountain bike use is considered segment by segment. Some respondents requested that the section on bicycle use be removed.

Another respondent suggested that bicycling be described as an appropriate and established use on the CDNST that is consistent with the intent of Congress and the nature and purposes of the trail. Based on their understanding of the letter and spirit of the National Trails System Act, other respondents requested revising the proposed amendments to the CDNST Comprehensive Plan and directives to allow mountain bike use, except where the CDNST traverses a wilderness area.

*Response:* Consistent with section 7(c) of the National Trails System Act (16 U.S.C. 1246(c)), the final amendments to the CDNST Comprehensive Plan, Chapter IV(B)(5), and the final directives at FSM 2353.44b, para. 10, provide that bicycle use may be allowed on the

CDNST if the use is consistent with the applicable land and resource management plan and will not substantially interfere with the nature and purposes of the CDNST.

Monitoring regarding the CDNST generally is addressed in FSM 2353.44b, para. 1c, 2g, and 3, in the final directives. Other non-motorized uses are addressed in Chapter IV(B)(5) in the amended CDNST Comprehensive Plan, and in FSM 2353.44b, para. 8, in the final directives, which states that backpacking, nature walking, day hiking, horseback riding, nature photography, mountain climbing, cross-country skiing, and snowshoeing are compatible with the nature and purposes of the CDNST.

The amended CDNST Comprehensive Plan and its implementing directives do not make site-specific determinations regarding use of the CDNST. Rather, the amended plan and directives provide a framework for managing the CDNST. Mountain bike and other possible uses of the CDNST will be addressed through land management and unit plans.

*Bicycle Use Mitigation; Proposed FSM 2353.44, Paragraph 8 (Removed From the Final Amended CDNST Comprehensive Plan and Directives)*

*Comments:* Some respondents agreed that the Forest Service should avoid management practices that promote bicycle use on the CDNST.

Many other respondents did not support proposed FSM 2353.44, para. 8. These respondent noted that bicycling use on non-wilderness segments of the CDNST deserves fair consideration and believed that there are many non-wilderness segments where bicycling could occur.

Other respondents asked that this section be removed, since they believed that mitigation of mountain bike use on the CDNST should be addressed at the level of an administrative unit.

*Response:* The Agency has removed this direction from the final amended CDNST Comprehensive Plan and directives, since mitigation of bicycle use can be adequately addressed through requisite environmental analysis, land management and unit plans, and monitoring of the CDNST.

#### *General Comment and Responses*

*Comments:* One respondent believed that competitive running and mountain biking events on the CDNST are incompatible with high-quality scenic, primitive hiking and horseback riding opportunities.

*Response:* The desirability of competitive events on the CDNST typically will be addressed through land

and resource management plans and site-specific plans. In addition, competitive events that involve an entry fee or 75 or more people require a special use permit and are subject to environmental analysis, which will determine whether the proposed activity would substantially interfere with the nature and purposes of the CDNST.

*Comments:* Respondents recommended defining "affirmative determination," "materially different," and "substantially interfere."

*Response:* The term "affirmative determination" does not appear in the final amended CDNST Comprehensive Plan and directives. The Agency does not believe definitions for "materially different" and "substantially interfere" are necessary or appropriate, as these terms are used in their ordinary sense and could apply in a variety of factual situations. These terms will be applied case specifically based on applicable land and resource management plans, as well as applicable carrying capacity and the nature and purposes of the CDNST.

*Comments:* One respondent requested that the proposed amendments to the CDNST Comprehensive Plan and proposed directives be revised to comply with E.O. 13266, Activities to Promote Personal Fitness.

*Response:* The Forest Service believes that the nature and purposes of the CDNST to provide for high-quality hiking and equestrian opportunities are consistent with E.O. 13266.

#### *Regulatory Impact*

*Comments:* Some respondents believed that the proposed amendments to the CDNST Comprehensive Plan and the proposed directives would have a significant economic impact in two counties if mountain bikes were precluded from the CDNST.

*Response:* Neither the proposed nor the final plan amendments and directives preclude mountain bike use on the CDNST. Rather, the final Comprehensive Plan amendments and directives state that bicycle use may be allowed on the CDNST if the use is consistent with the applicable land and resource management plan and will not substantially interfere with the nature and purposes of the CDNST (final amendments to the CDNST Comprehensive Plan, Chapter IV(B)(5), and FSM 2353.44b, para. 10).

### **3. Regulatory Certifications**

#### *Environmental Impact*

The final amendments to the CDNST Comprehensive Plan and corresponding directives will provide guidance to

agency officials implementing the National Trails System Act. The final amendments are consistent with the nature and purposes of the CDNST identified in the 1976 CDNST Study Report and 1977 CDNST Final Environmental Impact Statement adopted by the Forest Service in 1981 (40 FR 150). The final amendments and directives will be applied through land management planning and project decisions following requisite environmental analysis.

Forest Service regulations at 36 CFR 220.6(d)(2) exclude from documentation in an environmental assessment or environmental impact statement "rules, regulations, or policies to establish Service-wide administrative procedures, program processes, or instructions." The Forest Service has concluded that the final amendments and directives fall within this category of actions and that no extraordinary circumstances exist that require documentation in an environmental assessment or environmental impact statement.

#### *Regulatory Impact*

The final amendments to the 1985 CDNST Comprehensive Plan and corresponding final directives at FSM 2350 have been reviewed under USDA procedures and E.O. 12866 on regulatory planning and review. The final amendments and directives will not have an annual effect of \$100 million or more on the economy, nor will they adversely affect productivity, competition, jobs, the environment, public health and safety, or State and local governments. The final amendments and directives will not interfere with any action taken or planned by another agency, nor will they raise new legal or policy issues. Finally, the final amendments and directives will not alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of beneficiaries of such programs. Accordingly, the final amendments and directives are not subject to review by the Office of Management and Budget under E.O. 12866.

#### *Regulatory Flexibility Act Analysis*

The Agency has considered the final amendments to the 1985 CDNST Comprehensive Plan and corresponding final directives at FSM 2350 in light of the Regulatory Flexibility Act (5 U.S.C. 602 *et seq.*). The final amendments and directives will not have any effect on small entities as defined by the Regulatory Flexibility Act. The final amendments and directives will not directly affect small businesses, small

organizations, and small governmental jurisdictions. Therefore, the Agency has determined that the final amendments and directives will not have a significant economic impact on a substantial number of small entities pursuant to the Regulatory Flexibility Act because the final amendments and directives will not impose record-keeping requirements on small entities; will not affect their competitive position in relation to large entities; and will not affect their cash flow, liquidity, or ability to remain in the market.

#### *No Takings Implications*

The Agency has analyzed the amendments to the 1985 CDNST Comprehensive Plan and corresponding final directives at FSM 2350 in accordance with the principles and criteria contained in E.O. 12630. The Agency has been determined that the final amendments and directives will not pose the risk of a taking of private property.

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

The Forest Service has considered the amendments to the 1985 CDNST Comprehensive Plan and corresponding final directives at FSM 2350 under the requirements of E.O. 13132 on federalism and has determined that the final amendments and directives conform with the federalism principles set out in this E.O.; will not impose any compliance costs on the States; and will not have substantial direct effects on the States, the relationship between the Federal government and the States, or the distribution of power and responsibilities among the various levels of government. Therefore, the Agency has determined that no further assessment of federalism implications is necessary. Moreover, the final amendments and directives will not have Tribal implications as defined by E.O. 13175, Consultation and Coordination with Indian Tribal Governments, and therefore advance consultation with Tribes is not required.

#### *Energy Effects*

The Agency has reviewed E.O. 13211 on actions concerning regulations that significantly affect the energy supply and has determined that the final amendments to the 1985 CDNST Comprehensive Plan and corresponding final directives at FSM 2350 will not constitute a significant energy action as defined in the E.O.

#### *Unfunded Mandates*

Pursuant to Title II of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538), the Agency has assessed the effects of the final amendments to the 1985 CDNST Comprehensive Plan and corresponding final directives at FSM 2350 on State, local, and Tribal governments and the private sector. The final amendments and directives will not compel the expenditure of \$100 million or more by a State, local, or Tribal government or anyone in the private sector. Therefore, a statement under section 202 of the act is not required.

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

The final amendments to the 1985 CDNST Comprehensive Plan and corresponding final directives at FSM 2350 do not contain any record-keeping or reporting requirements or other information collection requirements as defined in 5 CFR part 1320 that are not already required by law or not already approved for use. Accordingly, the review provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) and its implementing regulations at 5 CFR part 1320 do not apply.

#### **4. Final Amendments to the CDNST Comprehensive Plan**

1. *Nature and Purposes.* For all chapters of the 1985 CDNST Comprehensive Plan, the Agency is revising the nature and purposes statement as follows:

Administer the CDNST consistent with the nature and purposes for which this National Scenic Trail was established. The CDNST was established by an Act of Congress on November 10, 1978 (16 USC 1244(a)). The nature and purposes of the CDNST are to provide for high-quality scenic, primitive hiking and horseback riding opportunities and to conserve natural, historic, and cultural resources along the CDNST corridor.

2. *Acquisition of Non-Federal Interests in Land.* The Agency is removing in its entirety "Rights-of-Way Acquisition on Non-Federal Lands," Chapter IV(B)(3), pages 40–44, in the 1985 CDNST Comprehensive Plan and replacing it with the following statement under "Acquisition of Non-Federal Interests in Land," Chapter IV(B)(3), in the 2009 CDNST Comprehensive Plan:

Do not acquire any non-federal land or interest in land for the CDNST without the owner's consent. Do not acquire in fee title more than an average of one quarter mile on either side of the CDNST.

3. *Visual Resource Management.* The Agency is adding the following

statements under "Visual Resource Management," Chapter IV(B)(4), in the 2009 CDNST Comprehensive Plan:

Scenery along the CDNST may be managed using the Scenery Management System (FSM 2382.1; *Landscape Aesthetics: A Handbook for Scenery Management*, Agricultural Handbook 701, 1995, <http://www.fs.fed.us/cdt>). The CDNST is a concern level 1 route, with a scenic integrity objective of high or very high, depending on the trail segment.

**4. Recreation Resource Management.** The Agency is removing the following statement from pages 51–52 in the 1985 CDNST Comprehensive Plan:

Each agency will manage the CDNST in accordance with the recreation management objectives and prescriptions set forth in their respective land and resource management plans for the specific management area through which the trail passes.

The Agency is adding the following statements under "Recreation Resource Management Along the CDNST," Chapter IV(B)(5), in the 2009 CDNST Comprehensive Plan:

Manage the CDNST to provide high-quality scenic, primitive hiking and pack and saddle stock opportunities. Backpacking, nature walking, day hiking, horseback riding, nature photography, mountain climbing, cross-country skiing, and snowshoeing are compatible with the nature and purposes of the CDNST. Bicycle use may be allowed on the CDNST (16 U.S.C. 1246(c)) if the use is consistent with the applicable land and resource management plan and will not substantially interfere with the nature and purposes of the CDNST.

Use the Recreation Opportunity Spectrum (ROS) in delineating and integrating recreation opportunities in managing the CDNST. Where possible, locate the CDNST in primitive or semi-primitive non-motorized ROS classes, provided that the CDNST may have to traverse intermittently through more developed ROS classes to provide for continuous travel between the Montana-Canada and New-Mexico-Mexico borders.

Locate a CDNST segment on a road only where it is primitive and offers recreational opportunities comparable to those provided by a trail with a Designed Use of Pack and Saddle Stock, provided that the CDNST may have to be located on or across motorized routes because of the inability to locate the trail elsewhere.

**5. Motor Vehicle Use** (16 U.S.C. 1244(a)(5) and 1246(c); 36 CFR Part 212, Subpart B). The Agency is removing in its entirety the direction on motor vehicle use in Chapter IV(B)(6), pages 55–58, of the 1985 CDNST Comprehensive Plan.

The Agency is adding the following direction under "Motor Vehicle Use on the CDNST," Chapter IV(B)(6), in the 2009 CDNST Comprehensive Plan:

Motor vehicle use by the general public is prohibited on the CDNST, unless that use is

consistent with the applicable land management plan and:

a. Is necessary to meet emergencies;  
b. Is necessary to enable adjacent landowners or those with valid outstanding rights to have reasonable access to their lands or rights;

c. Is for the purpose of allowing private landowners who have agreed to include their lands in the CDNST by cooperative agreement to use or cross those lands or adjacent lands from time to time in accordance with Federal regulations;

d. Is on a motor vehicle route that crosses the CDNST, as long as that use will not substantially interfere with the nature and purposes of the CDNST;

e. Is designated in accordance with 36 CFR Part 212, Subpart B, on National Forest System lands or is allowed on public lands and:

(1) The vehicle class and width were allowed on that segment of the CDNST prior to November 10, 1978, and the use will not substantially interfere with the nature and purposes of the CDNST or

(2) That segment of the CDNST was constructed as a road prior to November 10, 1978; or

f. In the case of over-snow vehicles, is allowed in accordance with 36 CFR Part 212, Subpart C, on National Forest System lands or is allowed on public lands and the use will not substantially interfere with the nature and purposes of the CDNST.

**6. Trail and Facility Standards.** The Agency is removing the following statement from page 61 of the 1985 CDNST Comprehensive Plan:

In keeping with the National Scenic Trails concept, the trail should be regarded as a simple facility for the hiker and horseman, and where already existing and appropriate, for trail bikers and recreational four-wheel drive use.

The Agency is adding the following statement under "Trail and Facility Standards," Chapter IV(B)(8), in the 2009 CDNST Comprehensive Plan:

Any development of and associated facilities for the CDNST should be minimal and appropriate for hiker/pedestrian and pack and saddle stock use.

**7. Carrying Capacity.** The Agency is removing the definition of "carrying capacity" from page E-4 and the following statement from page 69 of the 1985 CDNST Comprehensive Plan:

Forest Service and BLM managers will use the carrying capacity guidelines respectively, developed for each Recreation Opportunity Spectrum class through with the CDNST passes.

The Agency is adding the following statements under "Carrying Capacity," Chapter IV(B)(9), in the 2009 CDNST Comprehensive Plan:

Establish a carrying capacity for the CDNST that accommodates its nature and purposes. The Limits of Acceptable Change or a similar system may be used for this purpose.

**8. Inconsistencies.** To the extent there is any inconsistency between the foregoing revisions and any other provisions in the 1985 CDNST Comprehensive Plan, the foregoing revisions control.

## 5. Final Amendments to FSM 2350

The final directives implementing the amendments to the 1985 CDNST Comprehensive Plan as applied to National Forest System lands are posted at <http://www.fs.fed.us/cdt>. The FSM can be found on the Internet at <http://www.fs.fed.us/im/directives/fsm/2300/2350.doc>. The final directives add a reference to the CDNST Comprehensive Plan as an authority in FSM 2353.01d; add administration of the CDNST as a responsibility of forest and grassland supervisors in FSM 2353.04i, para. 13; add the nature and purposes of the CDNST in FSM 2353.42; and add detailed direction in FSM 2353.44b governing implementation of the CDNST on National Forest System lands.

Approved: September 24, 2009.

**Hank Kashdan,**

*Associate Chief, Forest Service.*

[FR Doc. E9-23873 Filed 10-2-09; 8:45 am]

BILLING CODE 3410-11-P

## DEPARTMENT OF AGRICULTURE

### Natural Resources Conservation Service

#### Fredonia Flood Retarding Structure Rehabilitation Project, Coconino County, AZ

**AGENCY:** Natural Resources Conservation Service.

**ACTION:** Notice of a Finding of No Significant Impact.

**SUMMARY:** Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Regulations (40 CFR part 1500); and the Natural Resources Conservation Service (NRCS) Regulations (7 CFR part 650); the Natural Resources Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Fredonia Flood Retarding Structure (FRS) Rehabilitation Project, Coconino County, Arizona.

**FOR FURTHER INFORMATION CONTACT:** David L. McKay, State Conservationist, USDA-NRCS, 230 North First Avenue, Suite 509, Phoenix, Arizona 85003, telephone: (602) 280-8801.

**SUPPLEMENTARY INFORMATION:** The environmental assessment of this