

Regulatory Certifications

Executive Order 12866. Executive Order (EO) 12866 provides that the Office of Information and Regulatory Affairs (OIRA) in the Office of Management and Budget would review all significant directives. OIRA has determined that this proposed directive is not significant.

Executive Order 13771. This proposed directive has been reviewed in accordance with EO 13771 on reducing regulation and controlling regulatory costs and has been designated as an “other action” for purposes of the EO.

Congressional Review Act. Pursuant to the Congressional Review Act (5 U.S.C. 801 *et seq.*), OIRA has designated this proposed directive as not a major rule as defined by 5 U.S.C. 804(2).

National Environmental Policy Act. The proposed directive would set forth direction for the State and Private Forestry Landscape Scale Restoration Program and would implement Section 8102 of the Agriculture Improvement Act of 2018. Agency regulations at 36 CFR 220.6(d)(2) (73 FR 43093) 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 Department has concluded that this proposed directive falls within this category of actions and that no extraordinary circumstances exist which would require preparation of an EA or EIS.

Regulatory Flexibility Act Analysis. The Department has considered the proposed directive under the requirements of the Regulatory Flexibility Act (5 U.S.C. 602 *et seq.*). This proposed directive would not have any direct effect on small entities as defined by the Regulatory Flexibility Act. The proposed directive would not impose recordkeeping requirements on small entities; would not affect their competitive position in relation to large entities; and would not affect their cash flow, liquidity, or ability to remain in the market. Therefore, the Department has determined that this proposed directive would not have a significant economic impact on a substantial number of small entities pursuant to the Regulatory Flexibility Act.

Federalism. The Department has considered the proposed directive under the requirements of EO 13132, *Federalism*. The Department has determined that the proposed directive conforms with the federalism principles set out in this EO; would not impose any compliance costs on the states; and would not have substantial direct effects on the states, on the relationship between the Federal government and the states, or on the distribution of power and responsibilities among the various levels of government. Therefore, the Department has concluded that the proposed directive does not have Federalism implications.

Consultation with Tribal Governments. The Department has determined that national tribal consultation is necessary for the proposed directive. The directive sets forth direction for the State and Private Forestry Landscape Scale Restoration Program and would implement Section 8102 of the Agriculture Improvement Act of 2018 (2018 Farm Bill).

No Takings Implications. The Department has analyzed the proposed directive in accordance with the principles and criteria in EO 12630, *Governmental Actions and Interference with*

Constitutionally Protect Property Rights. The Department has determined that the proposed directive would not pose the risk of a taking of private property.

Energy Effects. The Department has reviewed the proposed directive under EO 13211, *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use*. The Department has determined that the proposed directive would not constitute a significant energy action as defined in EO 13211.

Civil Justice Reform. The Department has analyzed the proposed directive in accordance with the principles and criteria in EO 12988, *Civil Justice Reform*. Upon issuance of the proposed directive, (1) all state and local laws and regulations that conflict with the proposed directive or that impede its full implementation would be preempted; (2) no retroactive effect would be given to this proposed directive; and (3) it would not require administrative proceedings before parties may file suit in court challenging its provisions.

Unfunded Mandates. Pursuant to Title II of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538), signed into law on March 22, 1995, the Department has assessed the effects of the proposed directive on state, local, and tribal governments and the private sector. The proposed directive would not compel the expenditure of \$100 million or more by any state, local, or tribal government or anyone in the private sector. Therefore, a statement under section 202 of the Act is not required.

Controlling Paperwork Burdens on the Public. The proposed directive does not contain any recordkeeping 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.