

## **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 will review all significant directives. OIRA has determined that these proposed directives are not significant.

Executive Order 13771. The proposed directives have been reviewed in accordance with EO 13771 on reducing regulation and controlling regulatory costs and have 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 these proposed directives as not major rules as defined by 5 U.S.C. 804(2).

National Environmental Policy Act. The proposed directives would address requirements for authorizing vegetation management pilot projects conducted under section 8630 of the Agriculture Improvement Act of 2018 (section 8630 of the 2018 Farm Bill), 43 U.S.C. 1772 note, by non-federal entities on National Forest System (NFS) lands that are not covered by a special use authorization for a powerline facility or natural gas pipeline. Agency regulations at 36 CFR 220.6(d)(2) (73 FR 43093) exclude from documentation in an environmental assessment (EA) or environmental impact statement (EIS) “rules, regulations, or policies to establish Service-wide administrative procedures, program processes, or instructions.” The Forest Service has concluded that these proposed directives fall 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 Forest Service has considered the proposed directives under the requirements of the Regulatory Flexibility Act (5 U.S.C. 602 *et seq.*). These proposed directives would not have any direct effect on small entities as defined by the Regulatory Flexibility Act. The proposed directives 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 Forest Service has determined that these proposed directives would not have a significant economic impact on a substantial number of small entities pursuant to the Regulatory Flexibility Act.

Federalism. The Forest Service has considered the proposed directives under the requirements of EO 13132, *Federalism*. The Forest Service has determined that the proposed directives conform 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 Forest Service has concluded that the proposed directives do not have federalism implications.

Consultation with Tribal Governments. The Forest Service has determined that national tribal consultation is not necessary for the proposed directives. The proposed directives, which would address requirements for authorizing vegetation management pilot projects conducted under section 8630 of the 2018 Farm Bill by non-federal entities on NFS lands that are not covered by

a special use authorization for a powerline facility or natural gas pipeline, are programmatic and do not have any direct effects on tribes.

No Takings Implications. The Forest Service has analyzed the proposed directives in accordance with the principles and criteria in EO 12630, *Governmental Actions and Interference with Constitutionally Protected Property Rights*. The Forest Service has determined that the proposed directives would not pose the risk of a taking of private property.

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

Civil Justice Reform. The Forest Service has analyzed the proposed directives in accordance with the principles and criteria in EO 12988, *Civil Justice Reform*. Upon issuance of the proposed directives, (1) all state and local laws and regulations that conflict with the proposed directives or that impede their full implementation would be preempted; (2) no retroactive effect would be given to the proposed directives; and (3) they would not require administrative proceedings before parties may file suit in court challenging their 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 Forest Service has assessed the effects of the proposed directives on state, local, and tribal governments and the private sector. The proposed directives 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 new permit clause in Chapter 50 of the Special Uses Handbook, Forest Service Handbook 2709.11, contains information collection requirements as defined in 5 CFR Part 1320 and is being published for public comment in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) and its implementing regulations at 5 CFR Part 1320.