

## **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 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 implement the requirements in section 512 of the Federal Land Policy and Management Act (FLPMA), 43 U.S.C. 1772, which governs the development, review, and approval of proposed operating plans and agreements for vegetation management, inspection, and operation and maintenance of powerline facilities on National Forest System (NFS) lands inside the linear right-of-way for powerline facilities and on NFS lands adjacent to either side of the right-of-way. 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 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 Forest Service 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 Forest Service 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 Forest Service has considered the proposed directive under the requirements of EO 13132, *Federalism*. The Forest Service 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 Forest Service has concluded that the proposed directive does not have federalism implications.

Consultation with Tribal Governments. The Forest Service has determined that national tribal consultation is not necessary for the proposed directive. The proposed directive, which would implement requirements in FLPMA for operating plans and agreements for powerline facilities on NFS lands, is programmatic and does not have any direct effects on tribes.

No Takings Implications. The Forest Service has analyzed the proposed directive 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 directive would not pose the risk of a taking of private property.

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

Civil Justice Reform. The Forest Service 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 Forest Service 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.