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Organization:

Title:

Comments:

The following are comments on proposed Forest Service Handbook 1109.12; Directive System Handbook; Providing Notice and Opportunity to Comment on Forest Service Directives.

FSH 1109.12 31.12

I recommend that the final directive not include the following as examples of directives that will not require public notice and opportunity to comment:

a. Implement a court order, statute, regulation, executive order, or memorandum of understanding that the Forest Service lacks discretion to interpret;

Comment: Directives should be used to clarify ambiguities that may arise with implementation of any of the listed umbrella direction. Where there is the potential for a disagreement on the interpretation of a court order, statute, regulation, executive order direction, the public should be given an opportunity to comment. MOUs in all cases should not be listed, since MOUs are not necessary an authority.

b. Make a purely technical change to be consistent with applicable law;

Comment: The term "purely technical" is ambiguous. Where there is any disagreement or vagueness of the scientific accuracy regarding the proposed directive, the public should be given an opportunity to comment.

c. Reinforce the agency's preexisting interpretation of an existing rule or directive;

Comment: This part should apply only when existing direction has been formulated following 36 CFR 216 processes and should never be used to modify direction to address new information or changed conditions.

FSH 1109.12 31.2

Comment: The Forest Service should include a table that clearly identifies those directives that will provide for an opportunity public review and comments if or when revised or supplemented. The following directives is a partial list of those directives that formulate significant standards, criteria, or guidelines applicable to Forest Service programs (16 U.S.C. 1612(a); 36 CFR Part 216) and should be included in this table: FSM 1110, FSH 1109.12, FSM 1920, FSH 1909.12, FSM 1950, FSH 1909.15, FSM 1970, FSH 1909.17, FSM 2210, FSM 2310, FSM 2320, FSM 2330, FSM 2340, FSM 2350, FSH 2309.18, FSM 2360, FSM 2370, FSM 2380, FSM 2410, FSM 2510, FSM 2520, FSM 2530, FSM 2540, FSM 2620, FSM 2630, and FSM 2670. Any future FSH that is associated with the FSM direction that is listed above should also allow for public review and comment (e.g., Recreation Planning Handbook).

FSH 1109.32

Comment: I recommend that the agency integrate providing notice and opportunity to comment on proposed directives with the Schedule of Proposed Action listings. It would be more convenient for the public to locate notice of opportunities to comment in one central location than formulating a new notification process. The Forest Service Regulations and Policies webpage could provide a weblink to the SOPA listing webpage.