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[3411-15-P]

## **DEPARTMENT OF AGRICULTURE**

### **Forest Service**

**RIN: 0596-AD16**

### **Proposed Directive for National Saw Program Policy**

**AGENCY:** Forest Service, USDA.

**ACTION:** Notice of proposed directive; request for public comment.

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**SUMMARY:** The Forest Service proposes to revise Forest Service Manual (FSM) 2350 to establish guidance for the National Saw Program and associated monitoring protocols and require their use on National Forest System (NFS) lands. The proposed revisions establish national training, evaluation, and certification requirements for the use of chain saws and crosscut saws by employees, volunteers, training consultants, and cooperators on NFS lands. The National Saw Program, which includes these directives, training, and other associated materials, would provide a consistent framework for conducting saw activities on NFS lands. Public comment is invited and will be considered in the development of the final directive. The proposed directive can be viewed in its entirety at [http://www.fs.fed.us/sites/default/files/2358-Saw-Policy-TA1-6-11-15\\_0.pdf](http://www.fs.fed.us/sites/default/files/2358-Saw-Policy-TA1-6-11-15_0.pdf).

**DATES:** Comments must be received, in writing, on or before [Insert date 60 days from date of publication in the **FEDERAL REGISTER**].

**ADDRESSES:** Submit comments electronically by following the instructions at the Federal eRulemaking portal at <http://www.regulations.gov> or submit comments via

facsimile to 703-605-5131. Please identify facsimiled comments by including “Saw Program Directive” on the cover sheet or first page. Comments may also be submitted via mail to National Saw Policy Program Comments, USDA Forest Service, Attn: Jonathan Stephens, Recreation, Heritage and Volunteer Resources, 201 14<sup>th</sup> Street, SW, Washington, D.C. 20250. If comments are submitted electronically, duplicate comments should not be sent by mail. Please confine comments to issues pertinent to the proposed directive, explain the reasons for any recommended changes, and, where possible, reference the specific section and wording being addressed.

All comments, including names and addresses when provided, will be placed in the record and will be made available for public inspection and copying. The public may inspect the comments received on the proposed directive at the USDA Forest Service Headquarters, located in the Yates Federal Building at 201 14th Street, SW, Washington, D.C., on regular business days between 8:30 a.m. and 4:30 p.m. Visitors are encouraged to call ahead at 202-205-1701 to facilitate entry into the building.

**FOR FURTHER INFORMATION CONTACT:** Jonathan Stephens, National Trails Program Manager, 202-205-1701 or [jstephens02@fs.fed.us](mailto:jstephens02@fs.fed.us). Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service at 800-877-8339 between 8:00 a.m. and 8:00 p.m., Monday through Friday.

**SUPPLEMENTARY INFORMATION:** The development of a national saw policy will allow the Forest Service to facilitate the safe use of chain saws and crosscut saws while optimizing the critical skills and cooperative opportunities for trail maintenance and other projects on NFS lands. The proposed FSM 2358 provides direction on sawyer qualifications, training, evaluation, and certification requirements for Forest Service

employees, volunteers, training consultants, and cooperators using either chain saws or crosscut saws on NFS lands. This proposed directive would supersede all existing Forest Service regional supplements to Forest Service Handbook (FSH) 6709.11, section 22.48. Sawyers who are certified when the proposed directive becomes effective would not be subject to the certification requirements in the proposed directive until their certification expires.

### **Overview of the Proposed Directive**

The following provides an overview of the proposed directive for the Forest Service's National Saw Program.

*Training and Certification.* Under the proposed directive, the Forest Service would allow the use of saws on NFS lands only if the sawyer has successfully completed sawyer training and field evaluation, possesses a valid National Sawyer Certification Card, and meets any other specified qualifications to perform assigned saw work safely, including current training on first aid and cardiopulmonary resuscitation (CPR). Sawyers would receive certification upon successful completion of required sawyer training and a field proficiency evaluation. The issuance of a National Sawyer Certification Card documents the sawyer's certification and qualifies the sawyer to work on NFS lands within the restrictions noted on the card. A Crosscut Sawyer Trainee may occasionally use a crosscut saw, but for bucking only (bucking is sawing logs and limbs into shorter lengths) and only under the immediate supervision of a certified sawyer.

*Forest Service Cooperators.* Forest Service agreements with cooperators (other than those working under interagency fire management cooperative agreements) would provide that cooperators are responsible for sawyer training and certification of their

employees and volunteers in accordance with this proposed directive. Cooperators could take Nationally Recognized Sawyer Training Courses (NRSTCs) offered by the Forest Service or could train and certify their volunteers and employees through NRSTCs offered by Forest Service-recommended cooperator Sawyer Evaluators and Sawyer Instructors.

*Scope of Certification.* Sawyers would be precluded from performing saw activities outside the limits of their certification or qualifications, except during formal evaluation proceedings or under the immediate supervision of a higher Qualified Sawyer.

*No Guarantee of Certification.* Completion of classroom, field proficiency, and evaluation requirements could result in certification, certification with restrictions, or no certification.

*Minimum Eligible Sawyer Age.* Under the proposed directive, chain saw sawyers would have to be at least 18 years of age (29 CFR part 570, subpart E). Crosscut sawyers should be at least 16 years of age.

*National Database.* The Forest Service is developing a web-based database to track Forest Service sawyer certifications nationwide. The name of the sawyer, contact information, and certification level will be entered into the database and will be accessible by authorized Forest Service and cooperator employees. The system will allow the Forest Service and cooperators to verify that employees, volunteers, training consultants, and cooperators intending to operate saws on NFS lands have met the requirements of this proposed directive to achieve their specific sawyer certification level. The database will establish consistency and avoid redundancy in training and certification requirements for sawyers working on NFS lands.

*Information Collection Requirements.* The Forest Service has developed two forms for evaluating sawyers: one for chain saws and one for crosscut saws. In accordance with 5 CFR 1320.3(h)(1), these forms do not entail an information collection to the extent they require sawyers who are being evaluated to affirm that they have completed and will maintain first aid and cardiopulmonary resuscitation (CPR) training, and to indicate whether they give the Forest Service permission to share their sawyer qualifications and add their e-mail address to a mailing list shared with other Federal agencies and non-Federal organizations so that they can be contacted about saw project opportunities in their area. Furthermore, in accordance with 5 CFR 1320.3(h)(7), the evaluation forms do not entail an information collection to the extent they document examinations designed to test the aptitude, abilities, or knowledge of the persons tested and involve the collection of information for identification or classification in connection with those examinations. The National Sawyer Certification Card does not entail any information collections, as it is completed by the Forest Service without any additional information from the public beyond what is collected on the sawyer evaluation forms.

## **Regulatory Certifications**

### *Environmental Impact*

This proposed directive would revise the administrative policies and procedures for using crosscut saws and chain saws on NFS lands. Agency regulations at 36 CFR 220.6(d)(2) (73 FR 43093) exclude from documentation in an environmental assessment or impact statement “rules, regulations, or policies to establish Service-wide administrative procedures, program processes, or instructions.” The Agency has concluded that these directives fall within this category of actions and that no

extraordinary circumstances exist which would require preparation of an environmental assessment or environmental impact statement.

### *Regulatory Impact*

This proposed directive has been reviewed under USDA procedures and Executive Order (E.O.) 12866 on regulatory planning and review. It has been determined that this is not an economically significant action. This proposed directive, which would clarify national Agency saw policy, would not have an annual effect of \$100 million or more on the economy, nor would it adversely affect productivity, competition, jobs, the environment, public health and safety, or State or local governments. This proposed directive would not interfere with an action taken or planned by another agency, nor would it raise new legal or policy issues. The proposed directive also would not alter the budgetary impact of entitlement, grant, user fee, or loan programs or the rights and obligations of beneficiaries of those programs.

This proposed directive has been considered in light of E.O. 13272 regarding proper consideration of small entities and the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), which amended the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). A small entities flexibility assessment has determined that this action will not have a significant economic impact on a substantial number of small entities as defined by SBREFA. This proposed directive focuses on NFS saw program activities and would impose no requirements on small or large entities.

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

The Agency has considered this directive under the requirements of E.O. 13132 on federalism and has determined that the proposed directive conforms with

the federalism principles set out in this E.O.; would not impose any compliance costs on the States; and would 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.

In conjunction with E.O. 13175, entitled “Consultation and Coordination with Indian Tribal Governments,” USDA Departmental Regulation on Tribal Consultation, Coordination and Collaboration, and Forest Service Handbook 1509.13, Chapter 10 – Consultation with Tribes, the Agency invites Tribes to consult on the proposed directive during this public comment period. Tribal consultation will continue for 90 additional days after the close of the public comment period, giving Tribes 150 total days to discuss the proposed directive. Other opportunities to engage Tribes will be explored including information sharing via websites and notices to major tribal associations and groups with interest in use of chainsaws and crosscut saws. Forest Service regional offices have information on the proposed directive to guide consultation with Tribes in the regions. Tribes interested in requesting a consultation may contact their regional foresters’ office.

#### *No Taking Implications*

The Agency has analyzed the proposed directive in accordance with the principles and criteria contained in E.O. 12630. The Agency has determined that the proposed directive would not pose the risk of a taking of private property.

#### *Civil Justice Reform*

The proposed directive has been reviewed under E.O. 12988, titled “Civil Justice

Reform.” Upon adoption 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 the proposed directive; and (3) administrative proceedings would not be required before parties could file suit in court to challenge its provisions.

#### *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 this 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.

#### *Energy Effects*

The Agency has reviewed the directive under E.O. 13211, titled “Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use.” The Agency has determined that the proposed directive would not constitute a significant energy action as defined in the Executive Order.

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

This proposed directive does not contain any additional 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 and therefore imposes no additional paperwork burden on the public. 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.

Dated: June 9, 2015.

Mary Wagner  
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U. S. Forest Service

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