

has been determined that this amendment will not have a significant economic impact on a substantial number of small entities as defined by the act because the amendment will not impose record-keeping requirements on them; it will not affect their competitive position in relation to large entities; and it will not affect their cash flow, liquidity, or ability to remain in the market. The amendment will establish accessibility guidelines that will apply internally to the Forest Service and that will have no direct effect on small businesses. No small businesses have been awarded contracts for construction or reconstruction of recreation facilities covered by these accessibility guidelines.

#### *No Takings Implications*

This amendment has been analyzed in accordance with the principles and criteria contained in Executive Order 12630. It has been determined that this amendment does not pose the risk of a taking of private property.

#### *Civil Justice Reform*

This amendment has been reviewed under Executive Order 12988 on civil justice reform. After adoption of this amendment, (1) All State and local laws and regulations that conflict with this amendment or that impede its full implementation will be preempted; (2) no retroactive effect will be given to this amendment; and (3) it will 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), which the President signed into law on March 22, 1995, the agency has assessed the effects of this amendment on State, local, and Tribal governments and the private sector. This amendment will 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.

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

The agency has considered this amendment under the requirements of Executive Order 13132 on federalism and has determined that the amendment conforms with the federalism principles set out in this Executive Order; will not impose any compliance costs on the States; and will 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.

Moreover, this amendment does not have Tribal implications as defined by Executive Order 13175, "Consultation and Coordination with Indian Tribal Governments," and therefore advance consultation with Tribes is not required.

#### *Energy Effects*

This amendment has been reviewed under Executive Order 13211 of May 18, 2001, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use." It has been determined that this amendment does not constitute a significant energy action as defined in the Executive Order.

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

This amendment does not contain any record-keeping 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.

Dated: April 10, 2006

**Dale N. Bosworth,**

*Chief, Forest Service.*

[FR Doc. E6-7775 Filed 5-19-06; 8:45 am]

**BILLING CODE 3410-11-P**

## **DEPARTMENT OF AGRICULTURE**

### **Forest Service**

**RIN 0596-AB92**

### **Forest Service Trail Accessibility Guidelines and Integration of Direction on Accessibility Into Forest Service Manual 2350**

**AGENCY:** Forest Service, USDA.

**ACTION:** Notice of issuance of final directive.

**SUMMARY:** The Forest Service is issuing a final directive as an amendment to Forest Service Manual 2350, Trail, River, and Similar Recreation Opportunities to ensure that new or altered trails designed for hiker/pedestrian use on National Forest System lands are developed to maximize accessibility for all people, including people with disabilities,

while recognizing and protecting the unique characteristics of the natural setting of each trail. The amendment guides Forest Service employees regarding compliance with the Forest Service Trail Accessibility Guidelines (FSTAG) and directs that these trails comply with the FSTAG and applicable Federal laws, regulations, and guidelines. In addition, the amendment clarifies agency procedures and policies related to the accessibility of trails. The FSTAG is linked to and referenced in this amendment.

The Architectural and Transportation Barriers Compliance Board (Access Board) is preparing to publish for public notice and comment proposed accessibility guidelines for outdoor developed areas that would apply to Federal agencies subject to the Architectural Barriers Act. When the Access Board finalizes its accessibility guidelines for outdoor developed areas, the Forest Service will revise the FSTAG to incorporate the Access Board's standards where those provisions are a higher standard, as supplemented by the Forest Service. The supplementation will ensure the agency's application of equivalent or higher guidelines and universal design, as well as consistent use of agency terminology and processes.

**DATES:** This final directive is effective May 22, 2006.

**ADDRESSES:** The full text of the amendment is available electronically on the World Wide Web at <http://www.fs.fed.us/im/directives>. The administrative record for this final amendment is available for inspection and copying at the office of the Director, Recreation and Heritage Resources Staff, USDA Forest Service, 4th Floor Central, Sidney R. Yates Federal Building, 1400 Independence Avenue, SW., Washington, DC, from 8:30 a.m. to 4 p.m., Monday through Friday, except holidays. Those wishing to inspect the administrative record are encouraged to call Janet Zeller at (202) 205-9597 beforehand to facilitate access to the building.

**FOR FURTHER INFORMATION CONTACT:** Janet Zeller, Recreation and Heritage Resources Staff, USDA Forest Service, (202) 205-9597.

#### **SUPPLEMENTARY INFORMATION:**

##### **1. Background**

Although the Forest Service is committed to ensuring accessibility of agency facilities and programs to serve all employees and visitors, as well as to comply with the Architectural Barriers Act of 1968 and section 504 of the Rehabilitation Act of 1973, agency

accessibility requirements for outdoor recreation areas have not been integrated into the Forest Service Directives System. In addition, no accessibility guidelines have completed the rulemaking process that apply to the construction or alteration of trails designed hiker/pedestrian use within the National Forest System (NFS), while considering the uniqueness of the setting and maximizing accessibility for persons with disabilities.

In 1999, using a regulatory negotiation committee (Reg Neg Committee), the Access Board completed draft accessibility guidelines to address outdoor developed areas, including trails. However, the Access Board was not able to complete the rulemaking process for the guidelines at that time. The Forest Service determined that it needed accessibility guidelines for trails that would comply with the public notice and comment process for Forest Service directives pursuant to 36 CFR part 216. Based on the Reg Neg Committee's draft accessibility guidelines, the Forest Service developed the FSTAG. Application of the FSTAG will ensure that the full range of trail opportunities continues to be provided, from primitive, long-distance trails to highly developed trails and popular scenic overlooks. All Interagency Trail Data Standards trail classes and terminology will remain unchanged. The FSTAG will apply only in the NFS.

Like the Reg Neg Committee's draft guidelines, the FSTAG applies to trails designed for hiker/pedestrian use, establishes only one level of accessibility, and includes specific conditions for departure and exceptions when necessary to preserve the uniqueness of each trail or when application of the technical provisions would cause a change in a trail's setting or in the purpose or function for which a trail was designed. Thus, most primitive trails would not be subject to the FSTAG. However, the FSTAG could apply to portions of these trails where they pass through a more urban area. The FSTAG contains exceptions that would prevent accessibility from being pointlessly applied piecemeal throughout a trail when access between segments is not possible. In addition, the FSTAG requires accessibility to special features where possible.

The Access Board plans to publish a notice of proposed rulemaking (NPRM) seeking public comment on proposed accessibility guidelines for outdoor developed areas. The NPRM will contain the Reg Neg Committee's draft accessibility guidelines and will apply to Federal agencies subject to the Architectural Barriers Act. The Forest

Service will work with the Access Board and the other federal land management agencies as the Access Board develops final accessibility guidelines for outdoor developed areas. When the Access Board finalizes its accessibility guidelines for outdoor developed areas, the Forest Service will revise the FSTAG to incorporate the Access Board's standards, as supplemented by the Forest Service. The supplementation will ensure the agency's application of equivalent or higher guidelines and universal design, as well as consistent use of agency terminology and processes.

In a related notice published elsewhere in this part of today's **Federal Register**, the agency is publishing notice of a final directive to require compliance with the Forest Service Outdoor Recreation Accessibility Guidelines (FSORAG), which apply to new or reconstructed outdoor developed recreation areas. The FSTAG and FSORAG are both available electronically on the World Wide Web at <http://www.fs.fed.us/recreation/programs/accessibility>.

Copies also may be obtained by writing to the USDA Forest Service, Attn: Accessibility Program Manager, Recreation and Heritage Resources Staff, Stop 1125, 1400 Independence Avenue, SW., Washington, DC 20250-0003.

## 2. Public Comments on the Proposed Interim Directive

On February 17, 2005, the Forest Service published the proposed interim directive in the **Federal Register** (70 FR 32) for public notice and comment. The proposed interim directive was also posted electronically on the World Wide Web on the **Federal Register** site at <http://www.fs.fed.us/programs/recreation/accessibility>. The Forest Service received 79 letters or electronic messages in response to the proposed interim directive. Each respondent was grouped in one of the following categories:

Nonprofit Organizations: 38  
Businesses: 1  
Federal Agencies: 6  
Federal Agency Employees: 21  
Individuals (unaffiliated or unidentifiable): 13

Most respondents generally supported the FSTAG. One respondent was not supportive. One respondent opposed access by people with disabilities on Federally managed lands. Another respondent expressed general opposition to any improved access based on the belief that improved access would lead to more hunting. Many respondents commented on specific

sections of the FSTAG. The spelling, pagination, and other similar nonsubstantive comments that respondents shared were appreciated and have been incorporated into the FSTAG.

## General Comments

Many respondents commented that the FSTAG is superior in its recognition of situations encountered in trail building and its detailed explanations, use of terminology employed by the trails community, and step-by-step implementation processes. All respondents who commented on format strongly supported separating the FSTAG from the FSORAG, as well as integration of the scoping and technical provisions in each document. Respondents appreciated the appendices containing the overview of the FSTAG implementation process, related technical provisions from the FSORAG, and provisions from the Architectural Barriers Act Accessibility Standards cited in the FSTAG.

*Comment:* Many respondents expressed the need for a more user-friendly document that details the process of applying the FSTAG.

*Response:* The Forest Service *Accessibility Guidebook for Outdoor Recreation and Trails (Guidebook)* is expected to be available on the Forest Service's Web site by the spring of 2006 at <http://www.fs.fed.us/recreation/programs/accessibility>. The *Guidebook* will explain the FSTAG in simple terms, with examples of how to apply the guidelines, helpful graphics and photographs, and design tips.

*Comment:* Several respondents expressed a concern that the FSTAG would be changed to apply to all trails in the NFS as well as trail maintenance.

*Response:* The Architectural Barriers Act applies only to new or altered facilities, elements, and constructed features and to the routes that connect them. Although section 504 of the Rehabilitation Act applies to all agency programs, it also requires that there be no fundamental alteration of those programs for purposes of making them accessible. Therefore, the scope of the FSTAG, which applies to new or altered trails as long as the character or experience of the trail is not changed, will not be broadened to include all trails in the NFS or trail maintenance.

*Comment:* Several respondents commented on the need for supplemental educational materials and training opportunities for the FSTAG, both for Forest Service employees and trail volunteers.

*Response:* The Forest Service has offered centralized training on the

FSTAG and FSORAG. However, attendance revealed that cooperators and volunteers had difficulty meeting the travel and time constraints for the training. Therefore, in addition to developing the *Guidebook*, the Forest Service will offer to provide training locally when trail cooperators provide the opportunity at a meeting or training session. Because the FSTAG applies only to construction or alteration of trails, not to trail maintenance, the FSTAG will be used in designing, constructing, and altering trails. The FSTAG will not be used by cooperators and volunteers performing trail maintenance.

*Comment:* Several respondents expressed the concern that an accessible trailhead or trails will allow all-terrain and other motor vehicles to be used on nonmotorized trails.

*Response:* Nothing in the FSTAG permits the use of a motorized vehicle on a trail restricted to nonmotorized use. However, a person who uses a wheelchair as defined in 36 CFR 212.1 (70 FR 68264, November 9, 2005) is permitted anywhere foot travel is permitted.

To prevent use of motor vehicles in nonmotorized areas and on nonmotorized trails on NFS lands, gates, rocks, berms, posts, or other restrictive devices may be used. However, under section 504 of the Rehabilitation Act, people with disabilities may not be denied participation in an agency program open to all other people. Thus, when foot travel is allowed beyond a restrictive device, as at a trailhead, at least 32 inches of clearing width must be provided around or through the device to ensure that a person in a wheelchair can travel beyond the restriction. Thirty-two inches of clearing width has been deemed sufficient, since that is the minimum width required for a door under the Architectural Barriers Act Accessibility Standards. If the trail beyond the entry point does not meet the criteria for applicability of the FSTAG, there is no requirement to make the trail accessible simply because there is a clearing width of 32 inches at the trailhead.

A wheelchair or mobility device, including one that is battery-powered, is a device that is designed solely for use by a mobility-impaired person for locomotion and that is suitable for use in an indoor pedestrian area. "Designed solely for use by a mobility-impaired person for locomotion" means that the wheelchair was designed and manufactured solely for use for mobility by a person with a disability. Thus, "wheelchair or mobility device" does not include a motorized unit that has

been retrofitted to make it useable by a person with a disability. "Suitable for use in an indoor pedestrian area" means useable inside a home, mall, courthouse, or other indoor pedestrian area.

*Comment:* Several respondents questioned how the FSTAG will affect trail maintenance backlogs.

*Response:* Since the FSTAG does not apply to trail maintenance, the FSTAG will not affect trail maintenance backlogs.

*Comment:* Several respondents expressed concern that the FSTAG will require increased maintenance on trails.

*Response:* Routine maintenance on a trail that is accessible is not required to occur more frequently solely because the trail was constructed in compliance with the FSTAG. Trail maintenance is conducted in accordance with the standards established for each trail based on its trail class and designed use. While accessible trails are likely to be within the trail classes that receive more frequent maintenance based on the established maintenance standards for those trail classes, there may be a period when a trail segment does not meet conditions for accessibility or availability due to normally occurring conditions in the outdoor environment, such as fallen branches.

*Comment:* Several respondents expressed concern that the Interagency Trail Data Standards (ITDS) designation of managed use of hiker/pedestrian was not correct because managed use does not address the technical aspects of a trail's design and construction. These respondents believed that the ITDS designation of designed use of hiker/pedestrian would be more appropriate.

*Response:* "Managed use" and "designed use" are terms used in the Interagency Trail Data Standards and the Forest Service's trail classification system. Managed uses of a trail are the modes of travel for which the trail is actively managed. The designed use of a trail is determined by the managed use that requires the most demanding design, construction, and maintenance parameters. The Forest Services agrees that the FSTAG should apply to trails with a designed use, rather than a managed use, of hiker/pedestrian because the FSTAG applies to construction and alteration of trails, not to management of trails. Accordingly, the FSTAG has been revised to provide that it applies to trails with a designed use of hiker/pedestrian.

*Comment:* All comments on the requirement that buildings (such as toilets and shelters) be accessible if they are constructed in conjunction with a

trail subject to the FSTAG were supportive.

*Response:* The construction of any building is a disturbance to the setting. Designing a building that is appropriate to the setting and is accessible takes planning, but ensures that all people can use it. The resulting structure is large enough for any person to fit through the door and turn around inside while carrying a backpack. As one respondent stated, "Hiking is challenge by choice. Using a toilet is not a choice, so it shouldn't be a challenge."

#### *Comments on Specific Sections of the FSTAG*

*Section 7.1.1 Conditions for Departure.* This section enumerates the conditions that would permit departure from a specific FSTAG technical provision for the distance those conditions impact a trail.

*Comment:* Several respondents expressed a concern that the FSTAG would change the fundamental character of trails.

*Response:* The Forest Service firmly believes that the primitive character of trails designed as simple footpaths must not be compromised. The FSTAG reflects this belief through the use of tight criteria for triggering the technical provisions and the use of conditions for departure and exceptions from the technical provisions. The FSTAG applies only to trails within the National Forest System that (1) are new or altered (an alteration to a existing trail is a change in the original purpose, intent, or design of a trail); (2) have a designed use of hiker/pedestrian under the Interagency Trail Data Standards and Forest Service Trail Planning and Management Fundamentals; and (3) connect directly to a currently accessible trail or to a trailhead. A trailhead is a site designed and developed by the Forest Service, a trail association, trail maintaining club, trail partners, or other cooperators to provide staging for trail use. For purposes of the FSTAG, the following are not trailheads: (1) junctions between trails where there is no other access and (2) intersections where a trail crosses a road or users have developed an access point, but no improvements have been provided by the Forest Service, a trail association, a trail maintaining club, trail partners, or other cooperators beyond minimal signage for public safety.

In addition, the FSTAG includes four specific conditions for departing from the guidelines if meeting a technical provision, such as trail width, would change the character or experience of the trail at a specific point. If one or more of those conditions exist, then

exceptions to the technical provisions, on a case-by-case basis, are provided.

By applying the guidelines, but allowing for exceptions if applying the guidelines would change the character or experience of a trail, trails that are designed to meet the full range of visitor choice will be available, from the paved trails at a visitor center to long-distance, primitive footpaths. Visitors can then choose the type of recreation they want to pursue and the setting for that experience.

*Comment:* All respondents who commented on the distinction in the FSORAG between developed recreation sites and general forest areas were supportive.

*Response:* The Forest Service distinguishes in its land management between developed recreation sites and general forest areas. The Forest Service's Infrastructure database defines a developed recreation site as "a discrete place containing a concentration of facilities and services used to provide recreation opportunities to the public and evidencing a significant investment in facilities and management under the direction of an administrative unit in the National Forest System." Developed recreation sites provide visitor convenience and comfort without adversely impacting natural resources. Most of the agency's recreational improvements are located at developed recreation sites.

In contrast, general forest areas are "all lands available for recreation use and outside of Wilderness, developed sites, trails and administrative sites. Amenities or constructed features inside general forest areas are primarily for resource protection rather than for visitor comfort." While some constructed features (such as picnic tables, fire rings, and toilet buildings) may be provided in general forest areas, these constructed features are usually for resource protection rather than visitor convenience. Any constructed features in general forest areas must be designed appropriately for the setting and must comply with the FSORAG's accessibility requirements.

It is important to the recreating public that not all NFS lands be developed to the same extent, level, or intensity.

*Comment:* All but one respondent who commented on the provision in the FSORAG exempting general forest areas from the requirement for outdoor recreation access routes (ORARs) supported the exemption.

*Response:* The FSORAG states that ORARs are not required in general forest areas. In general forest areas, a path connecting associated constructed facilities, as well as a path connecting

them to a trail, must comply with the technical provisions for a trail enumerated in section 7.0 of the FSTAG. These paths are not ORARs and are not required to meet the technical provisions for ORARs in the FSORAG. ORARs are not required in general forest areas because the resulting additional construction and site modification would substantially alter the nature of the setting.

*Comment:* A number of respondents requested that "infeasible" be replaced with "impractical" in the fourth condition for departure.

*Response:* The American Heritage Dictionary of the English Language, 4th edition, (2000), cites "impractical" as the definition for "infeasible." Since the words are interchangeable and "impractical" is used more commonly, the Forest Service has changed "would not be feasible" to "would be impractical" in the section-by-section analysis for the fourth condition for departure and the fourth condition for departure.

*Comment:* One respondent expressed concern that the second condition for departure in the FSTAG differs from the Reg Neg Committee's draft guidelines in citing inconsistency with the applicable land management plan as a basis for allowing utilization of an exception in the technical provisions.

*Response:* The National Forest Management Act requires each national forest and national grassland to develop a land management plan. These plans are developed through extensive public participation and generally are in effect for 10 to 15 years. These plans guide forest management, and the Forest Service is prohibited from authorizing actions that are inconsistent with the plans.

*Comment:* All except one respondent expressed support for inclusion of the Interagency Trail Data Standards (ITDS) trail classes in the second condition for departure.

*Response:* The second condition for departure in the Reg Neg Committee's draft guidelines permits deviation from the guidelines "[w]here compliance would substantially alter the nature of the setting or the purpose of the facility, or portion of the facility." Trails are very different from campgrounds and picnic areas, where there is a high degree of development due to the nature of the use. Trails generally cause little change to the nature of the setting because trails merely traverse an area. This difference should be reflected in the conditions for departure that, when met, allow utilization of an exception to the technical provisions.

When the first draft of the FSTAG was posted on the Forest Service website in late 2002, the trails community immediately requested clarification of the phrase the "nature of the setting" of the trail for purposes of applying the second condition for departure. The trails community suggested that the ITDS trail classes be added to that condition for departure because they take into account user preferences, setting, protection of sensitive resources, and other management activities. The ITDS trail classes match the Forest Service's trail classes, which range from minimally developed (Trail Class 1) to fully developed (Trail Class 5). There are substantial differences among the five trail classes. In addition, respondents suggested that the ITDS trail class chart and terminology be added to the FSTAG as a reference tool. The Forest Service agrees with these comments and has added trail class as a factor to consider in applying the second condition for departure. The agency also has added the ITDS trail class chart as an appendix to the FSTAG.

If compliance with a specific technical provision of the FSTAG would trigger a change in the ITDS trail class, the trail designer is alerted to the potential for a substantial change in the setting of the trail if that provision is applied. A substantial change in the setting of the trail would constitute a condition for departure from the technical provisions. However, the presence of a condition for departure does not exempt a trail from the FSTAG. An exception is permitted only where one or more conditions for departure exist and an exception applies (see section 7.1.1). Moreover, some exceptions in the FSTAG provide for applicability of a technical provision with modifications (see, e.g., section 7.3.4, Clear Tread Width, Exception 1, and section 7.3.7, Protruding Objects, Exception 1).

*Section 7.1.2 General Exceptions.* This section contains the two general exceptions to applicability of the FSTAG.

*Comment:* One respondent asked why there were two general exceptions instead of one.

*Response:* The first general exception addresses four trail characteristics or limiting factors that may make complying with the technical provisions difficult or impractical. The second general exception addresses the reasonableness of applying the technical provisions when one or more conditions for departure result in deviations from the technical provisions for over 15 percent of the length of a trail. When

either of these two exceptions applies, the trail would not need to comply with the technical provisions beyond a certain point. However, since these exceptions address different situations, they are not interchangeable nor can they be combined. The loss of either one would result in different coverage of the technical provisions.

*Comment:* Several respondents requested that direction be added to the FSTAG concerning the impact or cumulative effects of applying the technical provisions and resulting change to the user experience and physical characteristics of the trail.

*Response:* The second general exception addresses the reasonableness of applying the technical provisions if deviations from the provisions occur on over 15 percent of the length of a trail due to conditions for departure. This situation could result in trails that have a few segments that comply with all the technical provisions interspersed with segments that do not comply with one or more provisions. The second exception provides a means of quantifying the cumulative effect of many deviations from the guidelines on the overall trail experience. The overview of the FSTAG implementation process in Appendix A of the FSTAG can be used when laying out the flag line on a trail to tally the segments of the trail where one or more conditions for departure result in deviations from the technical provisions. If one or more conditions for departure result in deviations from the technical provisions for over 15 percent of the length of the trail, then the second general exception does not require compliance with the technical provisions beyond a certain point.

*Comment:* The third limiting factor in the first general exception allows for deviation from all the technical provisions (provided one or more conditions for departure exist) when the minimum trail width is 18 inches or less for a distance of at least 20 feet. These narrow segments of trail are referred to as "pinch points." One respondent believed that no one with a disability would be able to get through an 18-inch-wide pinch point, even if it extended a short distance.

*Response:* A person with a disability may be able to get over or around a pinch point that extends for a short distance. However, if a pinch point extends for a long distance, it is less likely that the pinch point can be negotiated successfully. The Reg Neg Committee established the limit of over 20 feet for a nonnegotiable pinch point. The Reg Neg Committee also determined the minimum width of that

pinch point to be 12 inches. The Forest Service increased the minimum width of a nonnegotiable pinch point to 18 inches in the FSTAG because any passageway with no possibility of a detour, such as a path along the side of a cliff, that is narrower than 18 inches should not be considered passable.

*Comment:* The fourth limiting factor in the first general exception allows for deviation from all the technical provisions (provided one or more conditions for departure exist) when a trail obstacle of at least 30 inches in height extends across the full width of the trail. One respondent suggested that the minimum height of 30 inches in this limiting factor be reduced to 10 to 12 inches.

*Response:* The Reg Neg Committee established the minimum height of 30 inches in the fourth limiting factor because a trail obstacle at that height would be extremely difficult for a person with a mobility impairment to navigate. At a height of 10 to 12 inches, a person with a disability could maneuver over the obstacle, albeit with considerable effort.

*Section 7.1.3 Documentation.* This section addresses the requirement for documentation of a determination that the FSTAG does not apply to a trail.

*Comment:* Respondents shared both support and concern regarding the requirement to document a decision that the FSTAG does not apply to construction or alteration of a trail that is designed for hiker/pedestrian use.

*Response:* Often when trail managers leave their positions, they take with them the institutional knowledge and memory for a particular project. Therefore, the Forest Service needs to require documentation of a determination that the FSTAG does not apply to construction or alteration of a trail that is designed for hiker/pedestrian use. If a determination is made that the FSTAG does not apply to the entire trail or cannot be met on portions of the trail, a brief statement must be written and retained in the project file enumerating the rationale for that determination, which conditions for departure and exceptions apply, the date of the determination, and the name of the individuals who made the determination. There is no standard format for this documentation; each administrative unit may develop its own format to meet its specific needs. This documentation need not be lengthy; one page should be sufficient. This documentation will show that applicability of the FSTAG was considered at the onset of the project and that a good-faith effort was made to consider accessibility.

*Section 7.2 Definitions.* This section includes definitions of terms used in the FSTAG.

#### Alteration

*Comment:* All respondents who commented on terminology supported the definition of the term "alteration."

*Response:* The definition for alteration is taken from page 5 of the Reg Neg Committee's draft guidelines (1999 Committee Report), which distinguish maintenance from alteration: "This type of work [maintenance] is not an alteration; it does not change the original purpose, intent, or design of the trail." Accordingly, the FSTAG defines "alteration" as "a change in the original purpose, intent, or design of a trail."

#### Trail Terminus and Trail Segment

*Comment:* Several respondents requested that definitions for "trail terminus" and "trail segment" be added to the FSTAG.

*Response:* The Forest Service agrees. Both definitions now appear in section 7.2 of the FSTAG. A trail terminus is defined as "the beginning or ending point of a trail or trail segment, where the trail assessment or trail work begins or ends." A trail segment is defined as "the portion of a trail being planned, evaluated, or constructed."

#### Trailhead

*Comment:* Several respondents expressed confusion concerning the two definitions for "trailhead," i.e., the definitions for "designated trailhead" and "developed trailhead." Respondents requested that the definitions be clarified so that a dirt road crossing a trail where there is no developed parking area or other facilities would not be considered a trailhead.

*Response:* The Forest Service agrees that clarification and consolidation of these definitions are needed. The two definitions have been revised and combined to reflect the definition for a trailhead in the Recreation and Heritage Resources Integrated Business Systems and the level of development required to constitute a trailhead. In addition, the definition now specifies what is not a trailhead. The resulting single definition for a trailhead is: "A site designed and developed by the Forest Service, a trail association, a trail maintaining club, trail partners, or other cooperators to provide staging for trail use. For purposes of the FSTAG the following are not trailheads:

- Junctions between trails where there is no other access.

- Intersections where a trail crosses a road or users have developed an access point, but no improvements have been provided by the Forest Service, a trail association, a trail maintaining club, trail partners, or other cooperators beyond minimal signage for public safety.”

**Section 7.3.1 Trail Grade and Cross Slope.** This section includes the technical requirements for trail grade and cross slope.

**Comment:** Several respondents requested more specific guidance on the distance between points of measurement when determining trail grade, cross slope, and other trail features.

**Response:** The distance between points of measurement has not been specified because it will vary greatly depending on the area being evaluated for construction or alteration of a trail. When laying out the flag line for construction or alteration of a trail, the trail designer can best determine how frequently measurements need to be made to obtain the needed level of detail, depending on the terrain, changes in soil type, and other trail characteristics. Appendix A of the FSTAG contains an overview of the FSTAG implementation process that may be used when laying out flag line for construction or alteration of a trail.

**Section 7.3.2 Resting Interval.** This section includes the technical specifications for a resting interval, where one is required.

No comments were received on this section.

**Section 7.3.3 Surface.** This section includes the technical requirements for trail surface.

**Comment:** All respondents who commented on the method for evaluating a firm and stable surface in the FSTAG expressed strong support for the practicality of the method.

**Response:** While the Forest Service supports the scientific approach to the evaluation of a firm and stable surface, the agency also recognizes that the expense of the equipment required for that approach may be prohibitive. Therefore, trail designers must have a mental tool to use to evaluate trail surface.

**Comment:** Several respondents expressed concern that a firm and stable surface may not remain that way in all weather conditions.

**Response:** The FSTAG recognizes that various types of weather can have a significant effect on trail surface. Page 19 of the FSTAG states: “Surface firmness should be determined and documented during the planning process for the primary seasons for

which a trail is managed, under normally occurring weather conditions.” If it is not clear what those seasons are, the determination of surface firmness may be based on the primary seasons for which similar trails in the area are managed.

**Comment:** One respondent recommended adding to the examples of types of actions that constitute maintenance the hardening of trail surfaces under certain conditions, such as installation of a boardwalk in an area that has become wet. The respondent believed that this addition was needed to clarify that this type of work would not trigger application of the FSTAG.

**Response:** The agency does not believe that this change is necessary. The FSTAG specifically states that it applies only to trails within the National Forest System that (1) are new or altered (an alteration is a change in the original purpose, intent, or design of a trail; (2) have a designed use of hiker/pedestrian under the ITDS and Forest Service Trail Planning and Management Fundamentals; and (3) connect directly to a currently accessible trail or to a trailhead. Constructing a boardwalk over a wet area of a trail would not constitute construction or alteration of a trail. Therefore, this type of work would not trigger the FSTAG.

**Section 7.3.4 Tread Width.** This section includes the technical requirements for tread width.

**Comment:** Several respondents were confused about the terms “minimum tread width” and “minimum trail width.”

**Response:** The tread width is the width of a constructed trail. The minimum tread width is the width of the useable part of the tread width (i.e., that is not blocked by obstructions) at the narrowest point on a trail. The tread width does not include usable area adjacent to the constructed trail tread.

The trail width is the width of the trail tread and the adjacent useable area. The minimum trail width is the width of the trail tread and the adjacent useable area at the narrowest point on a trail. An example of minimum trail width is where there is a rock outcropping on both sides of a trail that narrows the width of the trail tread as well as the adjacent useable area, and there is no way around the obstruction.

Clear tread width is the width of the useable trail tread and adjacent usable surface.

**Comment:** All except one respondent expressed support for the FSTAG’s approach to trail bridges, boardwalks, and puncheon.

**Response:** In accordance with the Forest Service Trail Planning and

Management Fundamentals, trail bridges, boardwalks, and puncheon are constructed features of a trail and part of the trail tread. Therefore, they must be constructed in accordance with the width and other features of a trail. Thus, if a segment of a trail designed for hiker/pedestrian use is subject to the FSTAG’s technical provisions, the trail bridges, boardwalks, and puncheon on that trail segment are also subject to those provisions.

**Section 7.3.5 Passing Space.** This section includes the technical specifications for passing space, where it is required.

No comments were received on this section.

**Section 7.3.6 Tread Obstacles.** This section includes the technical specifications for allowable tread obstacles.

No comments were received on this section.

**Section 7.3.7 Protruding Objects.** This section includes the technical requirements for clear headroom on a trail.

**Comment:** All respondents who commented on protruding objects supported the exception to the requirement for clear headroom or a warning barrier.

**Response:** The FSTAG requires that if the vertical clearance of a trail is reduced to less than 80 inches because of a condition for departure, a barrier to warn people who are blind or visually impaired must be provided. However, the FSTAG also recognizes that in the outdoor recreation environment there are some areas, such as pathways through caves or specific types of trees, where the natural environment precludes both 80 inches of clear headroom and placement of a warning barrier. Therefore, the FSTAG allows an exception to these requirements where a condition for departure prevents providing 80 inches of clear headroom and installation of a warning barrier without changing the character of the setting.

**Section 7.3.8 Openings.** This section includes the technical specifications for allowable openings in the trail tread.

No comments were received on this section.

**Section 7.3.9 Edge Protection.** This section includes the technical requirements for the height of edge protection provided along trail tread.

**Comment:** All respondents who commented on the use of edge protection strongly agreed with the approach taken in the FSTAG that it should not be required for trails or tent pads and platforms.

*Response:* Under the FSTAG, edge protection, where provided, must be at least 3 inches high. However, edge protection is not required. The trail designer determines where edge protection should be provided for safety and where it should be eliminated because it would preclude full access. The FSTAG also provides for flexibility in determining the use of edge protection because of concerns regarding accessibility of trails and tent pads and platforms in general forest areas adjacent to trails.

*Section 7.3.10 Signs.* This section requires posting information signs at the trailhead of new or altered trails and trail segments that fall into Trail Class 4 or 5 and trails that have been evaluated for accessibility.

*Comment:* All respondents strongly supported the requirement to post information signs at the trailhead of new or altered trails and trail segments that fall into Trail Class 4 or 5 and trails that have been evaluated for accessibility. One respondent recommended that the requirements for information signs be extended to all trails.

*Response:* The Forest Service strongly supports providing trail information that is useful to all visitors. Providing information about the typical and maximum trail grade, typical and maximum cross slope, typical and minimum tread width, surface type and firmness, and obstacles helps visitors choose their own hiking experience. While it would be desirable to post this information at the trailhead of all trails, the Forest Service cannot require this type of signage at this time.

*Appendices.* The appendices provide additional information to assist trail designers and managers in determining when and how to apply the FSTAG.

*Comment:* Several respondents requested inclusion in the FSTAG of the ITDS and Forest Service trail class chart and related information.

*Response:* In response to these requests, the Forest Service has added the ITDS and Forest Service trail class chart and related information as an appendix to the FSTAG.

### 3. Regulatory Certifications

#### *Environmental Impact*

Section 31.12, paragraph 2, of Forest Service Handbook (FSH) 1909.15 (67 FR 54622, August 23, 2002) excludes 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 agency concludes that this amendment falls 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 amendment has been reviewed under USDA procedures and Executive Order 12866 on regulatory planning and review. The Office of Management and Budget (OMB) has determined that the accessibility guidelines portion of the amendment is significant because of its relationship to the accessibility guidelines to be established by the Access Board. Accordingly, this amendment has been reviewed by OMB pursuant to Executive Order 12866. A cost and benefits analysis of this action was developed and is available at <http://www.fs.fed.us/programs/recreation/accessibility>. The remaining portions of the proposed amendment, which addressed other aspects of the agency's accessibility program not related to the accessibility guidelines, were not deemed significant by OMB and were issued as a final interim directive on July 13, 2005.

Moreover, this amendment has been considered in light of the Regulatory Flexibility Act (5 U.S.C. 602 *et seq.*). It has been determined that this amendment will not have a significant economic impact on a substantial number of small entities as defined by the act because the amendment will not impose record-keeping requirements on them; it will not affect their competitive position in relation to large entities; and it will not affect their cash flow, liquidity, or ability to remain in the market. The amendment will establish accessibility guidelines that will apply internally to the Forest Service and that will have no direct effect on small businesses. No small businesses have been awarded contracts for construction or reconstruction of recreation facilities covered by these accessibility guidelines.

#### *No Takings Implications*

This amendment has been analyzed in accordance with the principles and criteria contained in Executive Order 12630. The agency has determined that this amendment does not pose the risk of a taking of private property.

#### *Civil Justice Reform*

This amendment has been reviewed under Executive Order 12988 on civil justice reform. After adoption of this amendment, (1) all State and local laws and regulations that conflict with this amendment or that impede its full implementation will be preempted; (2)

no retroactive effect will be given to this amendment; and (3) it will 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), which the President signed into law on March 22, 1995, the agency has assessed the effects of this amendment on State, local, and Tribal governments and the private sector. This amendment will 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.

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

The agency has considered this amendment under the requirements of Executive Order 13132 on federalism and has made an assessment that the amendment conforms with the federalism principles set out in this Executive Order; will not impose any compliance costs on the States; and will 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.

Moreover, this amendment does not have Tribal implications as defined by Executive Order 13175, "Consultation and Coordination With Indian Tribal Governments," and therefore advance consultation with Tribes is not required.

#### *Energy Effects*

This amendment has been reviewed under Executive Order 13211 of May 18, 2001, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use." It has been determined that this amendment does not constitute a significant energy action as defined in the Executive Order.

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

This amendment does not contain any record-keeping 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.

Dated: April 10, 2006.

**Dale N. Bosworth,**

*Chief, Forest Service.*

[FR Doc. E6-7753 Filed 5-19-06; 8:45 am]

BILLING CODE 3410-11-P

## DEPARTMENT OF AGRICULTURE

### Risk Management Agency

#### Notice of Intent To Seek Approval To Conduct an Information Collection

**AGENCY:** Risk Management Agency, USDA.

**ACTION:** Notice and request for comments.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995, this notice announces the intention of the Risk Management Agency to request approval for the collection of information in support of the agency's mission under section 522(d) of the Federal Crop Insurance Act to develop and implement risk management tools for producers of agricultural commodities through partnership agreements.

**DATES:** Written comments on this notice will be accepted until close of business July 21, 2006.

**ADDRESSES:** Interested persons are invited to submit written comments to Virginia Guzman, United States Department of Agriculture (USDA), Research and Evaluation Division, Federal Crop Insurance Corporation, Risk Management Agency, 6501 Beacon Drive, Mail Stop 813, Kansas City, MO 64133. Written comments may also be submitted electronically to: [RMARED.PRA@rma.usda.gov](mailto:RMARED.PRA@rma.usda.gov).

**FOR FURTHER INFORMATION CONTACT:** Virginia Guzman or David Fulk, at the Kansas City, MO address listed above, telephone (816) 926-6343.

#### SUPPLEMENTARY INFORMATION:

*Title:* Agricultural Risk Management, Research and Evaluation, Organic Transition Simulation Model and Online Training Course Project.

*OMB Number:* 0563-NEW.

*Type of Request:* New Information Collection.

*Abstract:* The Risk Management Agency intends to collect information for purposes of product development and program evaluation. The product development data collection is necessary to obtain feedback from experts and potential users of a Web-based simulation model designed to assist farmers and agricultural extension

specialists in understanding the economic and environmental consequences in making a transition from traditional to organic production techniques. Results of this collection will be used to revise and improve the simulation model. The program evaluation component of the data collection is required to assess the effectiveness of the fully developed simulation model and the accompanying training course. All data collections will be conducted online using an automated web-survey system. We are asking the Office of Management and Budget (OMB) to approve this information collection activity for 3 years.

The purpose of this notice is to solicit comments from the public concerning the information collection activities. These comments will help us:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
2. Evaluate the accuracy of the agency's estimate of the burden of the proposed collection information;
3. Enhance the quality, utility, and clarity of the information to be collected; and
4. Minimize the burden of the collection of information on those who are to respond, through use, as appropriate, of automated, electronic, mechanical, or other collection technologies, e.g. permitting electronic submission of responses.

*Estimate of Burden:* The public reporting burden for this collection of information is estimated to average 3 to 10 minutes per response, depending on the survey.

*Respondents/Affected Entities:* Farmers who are growing organic crops or are considering the production of organic crops and Cooperative Extension specialists who advise farmers and educators on the basics of organic production and marketing.

*Estimated annual number of respondents:* 1,660.

*Estimated annual number of responses:* 8,120.

*Estimated total annual burden on respondents:* 1,111 hours.

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Signed in Washington, DC, on May 16, 2006.

**Eldon Gould,**

*Manager, Federal Crop Insurance Corporation.*

[FR Doc. E6-7752 Filed 5-19-06; 8:45 am]

BILLING CODE 3410-08-P

## DEPARTMENT OF COMMERCE

### Bureau of Industry and Security

[Docket No. 060505121-6121-01]

#### Establishment of Advisory Committee and Clarification of Deemed Export-Related Regulatory Requirements

**AGENCY:** Bureau of Industry and Security, Commerce.

**ACTION:** Notice.

**SUMMARY:** The Bureau of Industry and Security (BIS) is announcing the creation of a Federal Advisory Committee that will review and provide recommendations to the Department of Commerce on deemed export policy. The Deemed Export Advisory Committee (DEAC) will help ensure that the deemed export licensing policy most effectively protects national security while ensuring the U.S. continues to be at the leading edge of technological innovation. This notice also provides an overview of steps that BIS has taken to improve understanding of deemed export policy within academia and industry, including outreach activities conducted by BIS.

**ADDRESSES:** Although there is no official comment period for this notice, you may submit comments, identified by Docket No. 060505121-6121-01, by any of the following methods:

*E-mail:* [publiccomments@bis.doc.gov](mailto:publiccomments@bis.doc.gov). Include "060505121-6121-01" in the subject line of the message.

*Fax:* (202) 482-3355.

*Mail or Hand Delivery/Courier:* U.S. Department of Commerce, Bureau of Industry and Security, Regulatory Policy Division, 14th & Pennsylvania Avenue, NW., Room 2705, Washington, DC 20230, ATTN: Docket No. 060505121-6121-01.

#### FOR FURTHER INFORMATION CONTACT:

Marcus Cohen, Regulatory Policy Division, Office of Exporter Services, Bureau of Industry and Security, telephone: (202) 482-2440 or e-mail: [mcohen@bis.doc.gov](mailto:mcohen@bis.doc.gov). Copies of the referenced Department of Commerce Office of Inspector General (OIG) Report are available at: <http://www.oig.doc.gov/oig/reports/2004/BIS-IPE-1676-03-2004.pdf>.