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## DEPARTMENT OF AGRICULTURE

### Forest Service

#### 36 CFR Part 292

RIN 0596-AC00

#### Sawtooth National Recreation Area—Private Lands; Increasing Residential Outbuilding Size

**AGENCY:** Forest Service, USDA.

**ACTION:** Proposed rule; request for comment.

**SUMMARY:** The Forest Service proposes to revise a building standard for residential outbuildings within the Sawtooth National Recreation Area in Idaho. This proposed rule would increase the allowable size for residential outbuildings to 850 square feet from the current 400-square-foot standard and would limit such outbuildings to one story not more than 22 feet in height. This revision would allow residents to construct two-car garages and increase indoor storage areas to protect personal property and equipment, thereby reducing the need for unprotected and unsightly outdoor storage. Public comment is invited and will be considered in the development of the final rule.

**DATES:** Comments must be received in writing by June 21, 2004.

**ADDRESSES:** Send written comments by mail to Sawtooth National Forest, Attn: Private Land Regulations, Kimberly Road East, Twin Falls, ID 83301; via e-mail to [mailroom\\_r4\\_sawtooth@fs.fed.us](mailto:mailroom_r4_sawtooth@fs.fed.us) with "Private Land Regulations" in the subject line of the message; or via facsimile to (208) 737-3236. Comments also may be submitted via the World Wide Web/Internet at <http://www.regulations.gov>. All comments, including names and addresses when provided, are placed in the record and are available for public inspection and copying. The agency cannot confirm receipt of comments. The public may inspect comments received on this proposed rule in the Office of Public Affairs at the Sawtooth National Forest, 2647 Kimberly Road East, Twin Falls, ID 83301. Visitors are encouraged to call ahead to (208) 737-3200 to facilitate entry into the building.

**FOR FURTHER INFORMATION CONTACT:**

Jonathan Stephens, Recreation, Heritage, and Wilderness Resources Staff, Forest Service, USDA, (202) 205-1701; or Ed Waldapfel, Public Affairs Officer,

Sawtooth National Forest (208) 737-3219.

**SUPPLEMENTARY INFORMATION:** The Sawtooth National Recreation Area (SNRA) in Idaho on the Sawtooth National Forest was created when Congress passed Public Law 92-400 in 1972 to assure the preservation and protection of the natural, scenic, historic, pastoral, and fish and wildlife values and the enhancement of recreational values. The act directed the Secretary of Agriculture to develop regulations setting standards for the use, subdivision, and development of privately owned property within the boundaries of the recreation area. The current regulations at title 36 of the Code of Federal Regulations, part 292, subpart C (36 CFR part 292, subpart C), were adopted in 1974 (39 FR 11544) and were amended in 1976 and 1989 (41 FR 29379, 54 FR 3368). The act recognizes that the Secretary may from time to time amend these regulations. The SNRA regulations at § 292.14(b) require that any amendment to the regulations shall include publication of a notice of a proposed rulemaking in the **Federal Register** to provide interested persons the opportunity to comment before adoption of a final rule.

The current SNRA regulations at § 292.16(e)(2)(ii) set out a residential building standard providing that each residence on private land within the SNRA may have not more than two outbuildings at an aggregate area not to exceed 400 square feet.

The Forest Service is proposing to increase this standard for the two allowable outbuildings to 850 square feet and to limit such outbuildings to one story not more than 22 feet in height. The agency previously received numerous comments from the public indicating that the current residential outbuilding size standard is inadequate and supporting the need to increase this size standard. These comments were received in response to the environmental assessment prepared in 2000 for proposed revision of the Sawtooth National Forest land and resource management plan.

This proposed increase in the standard for the maximum square footage of the two allowable residential outbuildings would allow the private landowners to construct two-car garages and increase indoor storage areas to protect personal property and equipment, thereby reducing the need for unprotected and unsightly outdoor storage. Public comment is invited and will be considered in the development of the final rule.

## Regulatory Certifications

### Regulatory Impact

This proposed rule 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 this is not a significant rule. This proposed rule would not have an annual effect of \$100 million or more on the economy, nor adversely affect productivity, competition, jobs, the environment, public health or safety, nor State or local Governments. This proposed rule would not interfere with an action taken or planned by another agency, nor raise new legal or policy issues. Finally, this proposed rule would not alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients of such programs. Accordingly, this proposed rule is not subject to OMB review under Executive Order 12866.

### Proper Consideration of Small Entities

This proposed rule has been considered in light of Executive Order 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.*). It has been determined that this proposed rule would not have a significant economic impact on a substantial number of small entities as defined by SBREFA. This proposed rule would impose minimal additional requirements on the affected public, which includes the owners of private property and residences within the Sawtooth National Recreation Area. The proposed increase of the allowable outbuilding size to 850 square feet is responsive to comments already received from the affected public stating that the current allowable square footage under the existing rule is inadequate. These comments were received in response to an environmental assessment prepared in 2000 for the proposed amendment of the Sawtooth National Forest land and resource management plan. The changes are necessary to protect the public interest, are not administratively burdensome or costly to meet, and are well within the capability of small entities to perform.

### Environmental Impact

Section 31.1b of Forest Service Handbook 1909.15 (57 FR 43180; September 18, 1992) excludes from documentation in an environmental assessment or impact statement "rules, regulations, or policies to establish

Service-wide administrative procedures, program processes, or instructions" that do not significantly affect the quality of the human environment. This proposed rule would allow for larger residential outbuildings on private lands within the Sawtooth National Recreation Area. The agency's preliminary assessment is that this proposed rule falls within this category of actions and that no extraordinary circumstances exist which would require preparation of an environmental assessment or environmental impact statement. Furthermore, public comments indicating that the current 400-square-foot limit is inadequate were previously received in response to an environmental assessment prepared in 2000 for the proposed amendment of the Sawtooth National Forest land and resource management plan. A final determination will be made upon adoption of a final rule.

#### *No Takings Implications*

This proposed rule has been analyzed in accordance with the principles and criteria contained in Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights, and it has been determined that the proposed rule does not pose the risk of a taking of Constitutionally protected private property.

#### *Federalism*

The agency has considered this proposed rule under the requirements of Executive Order 13132, Federalism, and has concluded that the proposed rule conforms with the federalism principles set out in this Executive order; would not impose any compliance costs on the States; and would not have substantial direct effects on the States or the relationship between the national government and the States, or on 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.

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

This proposed rule, which is applicable only to private lands within the Sawtooth National Recreation Area, 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 proposed rule has been reviewed under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. It has been determined that this proposed rule does not constitute a significant energy action as defined in the Executive order.

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

This proposed rule does not contain any additional 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 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.

#### *Unfunded Mandates Reform*

Pursuant to Title II of the Unfunded Mandates Reform Act of 1995, which the President signed into law on March 22, 1995, the Department has assessed the effects of this proposed rule on State, local, and tribal governments and the private sector. This proposed rule does 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.

#### *Civil Justice Reform*

This proposed rule has been reviewed in accordance with Executive Order 12988, Civil Justice Reform. After adoption of this rule as final, (1) all State and local laws and regulations that conflict with this rule or that would impede full implementation of this rule will be preempted; (2) no retroactive effect would be given to this rule; and (3) the Department would not require the use of administrative proceedings before parties could file suit in court challenging its provisions.

#### **List of Subjects in 36 CFR Part 292**

Mineral resources, Recreation and recreation areas.

Therefore, for the reasons set forth in the preamble, the USDA, Forest Service, proposes to amend 36 CFR part 292, subpart C as follows:

## **PART 292—NATIONAL RECREATION AREAS**

### **Subpart C—Sawtooth National Recreation Area—Private Lands**

1. The authority citation for subpart C continues to read as follows:

**Authority:** Sec. 4(a), Act of Aug. 22, 1972 (86 Stat. 613).

2. Amend § 292.16 by revising the second sentence in paragraph (e)(2)(ii) to read as follows:

#### **§ 292.16 Standards.**

\* \* \* \* \*

(e) \* \* \*

(2) \* \* \*

(ii) \* \* \* Aggregate square foot area of outbuildings not to exceed 850 square feet and to be limited to one story not more than 22 feet in height.

\* \* \* \* \*

Dated: April 8, 2004.

**Sally Collins,**

*Associate Chief.*

[FR Doc. 04–9102 Filed 4–21–04; 8:45 am]

**BILLING CODE 3410–11–P**

## **ENVIRONMENTAL PROTECTION AGENCY**

### **40 CFR Part 52**

[AZ 126–0074a; FRL–7650–2]

### **Revisions to the Arizona State Implementation Plan, Arizona Department of Environmental Quality**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing to approve revisions to the Arizona Department of Environmental Quality (ADEQ) portion of the Arizona State Implementation Plan (SIP). These revisions concern opacity standards related to particulate matter (PM–10) emissions from industrial processes. We are proposing to approve local rules that regulate these emission sources under the Clean Air Act as amended in 1990 (CAA or the Act).

**DATES:** Any comments must arrive by May 24, 2004.

**ADDRESSES:** Send comments to Andy Steckel, Rulemaking Office Chief (AIR–4), U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105, or e-mail to [steckel.andrew@epa.gov](mailto:steckel.andrew@epa.gov), or submit comments at <http://www.regulations.gov>.

You can inspect copies of the submitted SIP revisions, EPA's technical