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## DEPARTMENT OF AGRICULTURE

### Forest Service

[FSM 2350]

#### Northern, Rocky Mountain, Southwestern, and Intermountain Regions Continental Divide National Scenic Trail

**AGENCY:** Forest Service, USDA

**ACTION:** Notice—Proposed directives; request for comment.

**SUMMARY:** The Northern, Rocky Mountain, Southwestern, and Intermountain Regions of the USDA Forest Service are considering issuing directives, and are requesting comments, for the planning, development, and management of the Continental Divide National Scenic Trail (CDNST). After considering comments, the USDA Forest Service proposes to issue a supplemental directive for each Region. The directives would also amend the CDNST Comprehensive Plan of 1985.

Policy direction is needed to clarify the nature and purposes of the CDNST and to align the CDNST planning with USDA Forest Service land management planning processes.

**DATES:** Comments are requested and must be submitted on or before August 13, 2007.

**FOR FURTHER INFORMATION CONTACT:** Greg Warren, CDNST Administrator, (303) 275-5054.

Written comments concerning this proposal are to be sent to USDA Forest Service, Attn: CDNST, P.O. Box 25127, Lakewood, CO 80225-0127; delivered to 740 Simms, Golden, CO 80401; or via e-mail to [cdnst@fs.fed.us](mailto:cdnst@fs.fed.us).

All comments, including names and addresses, when provided, will be placed in the record and will be available for public inspection and copying. The public may inspect comments received in the office of the

Director of Recreation, Heritage, and Wilderness Resources, USDA Forest Service, Rocky Mountain Regional Office, 740 Simms, Golden, CO 80401, on business days between the hours of 8:30 a.m. and 4 p.m. Those wishing to inspect comments are encouraged to call ahead at (303) 275-5200 to facilitate entry into the building.

#### SUPPLEMENTARY INFORMATION:

##### Background

The USDA Forest Service provides internal direction to field units through its Directives System, consisting of the USDA Forest Service Manuals (FSM) and USDA Forest Service Handbooks (FSH). Directives provide guidance to field units in implementing programs established by statute and regulation. USDA Forest Service directives establish agency policies for delegations of authority, consistent definitions of terms, clear and consistent interpretation of regulatory language, and standard processes.

The USDA Forest Service is requesting comment on policy that promotes the nature and purposes of the CDNST as depicted in the CDNST Study Report and Final Environment Statement. In addition, the directives recommend land management planning integration and management direction for the CDNST, and amends the CDNST Comprehensive Plan of 1985.

The Continental Divide National Scenic Trail is administered by the Secretary of Agriculture in consultation with the Secretary of the Interior. The Regional Forester of the Rocky Mountain Region is the lead Forest Service official for coordinating matters concerning the study, planning, and operation of the CDT.

The issuance of timely direction for the planning and management of the CDNST is important due to the extensive nature of ongoing land management planning and project planning assessments along the trail corridor throughout these four Regions of the USDA Forest Service. These assessments need to provide for the integrated management of the CDNST designated area. Additional information regarding this proposed directive can be found on the Internet at [http://www.fs.fed.us/r2/projects/cdnst\\_directive/](http://www.fs.fed.us/r2/projects/cdnst_directive/).

Because the agency plans to propose additional revisions to USDA Forest

Service Manual 2300, chapter 50, proposed directives are issued for comments at this time. The current Forest Service Manual can be found on the Internet at: <http://www.fs.fed.us/im/directives/fsm/>.

##### Digest

2353.42(4)(5)—Adds policy direction for the Continental Divide National Scenic Trail.

2353.43(1-11) Planning and Development of the Continental Divide National Scenic Trail (CDNST)—Adds planning and development direction for the CDNST.

2353.44(1-8) Management of the Continental Divide National Scenic Trail (CDNST)—Adds management direction for the CDNST.

#### 2353.4—Administration of National Scenic and National Historic Trails

##### 2353.42—Policy

4. The nature and purposes of the Continental Divide National Scenic Trail are to provide for high quality, scenic, primitive hiking and horseback-riding, non-motorized recreational experiences and to conserve natural, historic, and cultural resources along the Continental Divide.

5. The policy, development, and management direction in this directive amends and supersedes the purpose depiction, management policy, and direction contained in the “Continental Divide National Scenic Trail Comprehensive Plan” of 1985.

##### 2353.43—National Scenic and Historic Trail System Development

Planning and Development of the Continental Divide National Scenic Trail (CDNST)

1. Land Management Planning (FSM 1921) is to provide for the nature and purposes of the CDNST congressionally designated area, and address the Comprehensive Plan programmatic requirements of the National Trails System Act, as amended (Title 16, United States Code, section 1244(f) (16 U.S.C. 1244(f)):

- a. Identify CDNST desired conditions;
- b. Establish CDNST objectives,
- c. Establish CDNST management guidelines,
- d. Establish monitoring programs to evaluate the condition of the CDNST in the land management planning area, and

e. Where the CDNST travel route is outside of congressionally established wilderness delineate a special area or management area for the trail corridor.

2. For each land management plan area that encompasses the CDNST, a management plan should be completed to address the site-specific requirements of the National Trails System Act, as amended (16 U.S.C. 1244(f)):

a. Identify and display the located CDNST travel route,

b. Identify the significant natural, historical, and cultural resources to be preserved along the CDNST corridor,

c. Identify the carrying capacity for the trail that reflects the nature and purposes of the CDNST,

d. Provide for CDNST development, signing, and maintenance programs,

e. Establish monitoring programs to evaluate the condition of each CDNST segment as related to the nature and purposes of the CDNST, and

f. Where applicable, protect high potential segments until such time that the CDNST is located and delineated as a special area of management area (FSM 2353.43, Planning and Development of the CDNST (1)(e)).

3. The Scenery Management System (FSM 2382) should be followed when developing land management plans. The foreground zone from the CDNST travel route should be a primary consideration in delineating a CDNST special area or management area.

4. Use the Recreation Opportunity Spectrum (ROS) system to delineate, define, and integrate CDNST recreational opportunities in land management planning (FSM 2311.1). The CDNST should be located in Primitive and Semi-Primitive Non-Motorized ROS settings where available in the land management planning area, while recognizing that the CDNST will intermittently traverse through more developed areas, and across designated motor vehicle use routes (Subpart B—Designation of Roads, Trails, and Areas for Motor Vehicle Use, Part 212 Travel Management, of Title 36 Code of the Code of Federal Regulations (36 CFR 212 subpart B)), in order to provide for a continuous travel route between Canada and Mexico along the Continental Divide.

5. A new segment of the CDNST travel route should only be constructed if current National Forest System trails cannot be managed, maintained, and reconstructed to provide for the nature and purposes of the CDNST.

6. A CDNST trail segment (16 U.S.C. 1246(c)) is not to be designated for motor vehicle use (36 CFR 212 subpart B) by the general public, unless such

use is consistent with FSM 2353.44, Management of the CDNST (5).

7. A CDNST segment may only be located on a road (16 U.S.C. 1244(5)) where the following conditions are met:

a. The road is primitive in nature and offers a recreation experience not materially different in quality than that extended by a bona fide hiking and equestrian trail,

b. An affirmative determination has been made that motor vehicle use would not substantially interfere with the nature and purposes of the CDNST, and

c. Motor vehicle use does not constitute a safety hazard to hikers-pedestrians and equestrians.

8. Locating the CDNST in wilderness on a National Forest System trail, and marking the travel route at trail junctions with the CDNST marker brand, is consistent with the Wilderness Act (Title 16, United States Code, 1131(a) and 1133(b)).

9. The CDNST should be located on a permanent easement where the trail crosses private land (FSM 5460.3).

10. The CDNST should be designed following the Pack-and-Saddle Trail Class 2 or 3 design parameters when constructed or reconstructed (FSH 2309.18). However, a CDNST segment may be designed following the Hiker-Pedestrian Trail Class 1, 2, or 3 design parameters where there exists a substantial safety or resource concern, or the overall management direction for the land management plan area only provides for Hiker-Pedestrian use.

#### **2353.44—Management of National Scenic and National Historic Trails**

Management of the Continental Divide National Scenic Trail (CDNST)

1. Scenery should be managed following the Scenery Management System (FSM 2380)). The CDNST is a concern level 1 travel route, and scenic integrity objective is to be high or very high.

2. Use the Recreation Opportunity Spectrum (ROS) system (FSM 2311.1) in the management of the CDNST corridor. The CDNST is to be managed primarily for Primitive and Semi-Primitive Non-Motorized ROS conditions and experiences.

3. The CDNST should be managed for both Pack-and-Saddle and Hiker-Pedestrian uses (FSH 2309.18). However, where the trail design parameters reflect only Hiker-Pedestrian use, the management use should be only Hiker-Pedestrian.

4. Motor vehicle use may be allowed on a trail segment of the CDNST (Title 16 United States Code, section 1246(c) (16 U.S.C. 1246(c)).

a. If necessary to meet emergencies,

b. To enable adjacent landowners or land users to have reasonable access to their lands or where there are existing valid rights, and

c. On a designated motor vehicle use route (36 CFR 212 subpart B) that crosses the CDNST where an affirmative determination has been made that such use would not substantially interfere with the nature and purposes of the CDNST.

d. In addition to one of the above three situations being met, motor vehicle use must also be allowed by the overall management direction for the land management plan area.

e. Motor vehicle use is also allowed on a trail segment if such use is consistent with FSM 2353.44, Management of the CDNST (5).

5. Motor vehicle use shall be allowed on a trail segment of the CDNST where the following conditions are met (16 U.S.C. 1246(c)):

a. An affirmative determination has been made that motor vehicle use would not substantially interfere with the nature and purposes of the CDNST, and

b. Motor vehicle use was allowed by administrative regulations on a National Forest System travel route that was developed prior to November 10, 1978, which is the time of designation of the CDNST by Public Law 95–625.

c. In addition to both of the above two situations being met, motor vehicle use must also be allowed by the overall management direction for the land management plan area.

d. Motor vehicle use may also be allowed on a trail segment if such use is consistent with FSM 2353.44, Management of the CDNST (4).

6. Where motor vehicle use is allowed on a road segment (16 U.S.C. 1244(5)) or trail segment (16 U.S.C. 1246(c)) of the CDNST, consider establishing motor vehicle use prohibitions and restrictions (Part 261—Prohibitions, of Title 36 Code of Federal Regulations (36 CFR part 261)) to mitigate the effects of such use on the nature and purposes of the CDNST. Management practices and actions that would promote or result in increased motor vehicle use on the CDNST should not occur.

7. Bicycle (mountain bike) use may only be allowed on a trail segment of the CDNST where the following conditions are met (16 U.S.C. 1246(c)):

a. An affirmative determination has been made that bicycle use would not substantially interfere with the nature and purposes of the CDNST, and

b. Bicycles must also be allowed by the overall management direction for the land management plan area.

8. Where bicycle (mountain bike) use is allowed on the CDNST, consider establishing bicycle use prohibitions and restrictions (36 CFR part 261) to mitigate the effects of such use on the nature and purposes of the CDNST. Management practices and actions that would promote or result in increased bicycle use on the CDNST should not occur.

### Regulatory Certifications

#### *Environmental Impact*

The directives would provide policy and procedural guidance to agency officials implementing the National Trails System Act. CDNST management decisions implementing the directives would include appropriate site-specific environmental analysis and public involvement. The directives would have no effect on the ground until site-specific planning decisions are completed, with opportunity for public involvement. Section 31b of USDA Forest Service Handbook 1909.15 (57 FR 43180, September 18, 1992) 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’s conclusion is that the 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*

The directives have been reviewed under USDA procedures and Executive Order (E.O.) 12866 on regulatory planning and review. The directives 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 and local governments. The directives would not interfere with any action taken or planned by another agency, nor would they raise new legal or policy issues. Finally, the directives would not alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of beneficiaries of such programs. Accordingly, the directives are not subject to OMB review under E.O. 12866.

#### *Regulatory Flexibility Act Analysis*

The directives have been considered in light of the Regulatory Flexibility Act (5 U.S.C. 602 *et seq.*). The directives

would not have any effect on small entities as defined by the Regulatory Flexibility Act. The directives would not directly affect small businesses, small organizations, and small governmental jurisdictions. Therefore, the agency has determined that the directives would not have a significant economic impact on a substantial number of small entities pursuant to the Regulatory Flexibility Act because the directives would not impose record-keeping requirements on them; the directives would not affect their competitive position in relation to large entities; and it would not affect their cash flow, liquidity, or ability to remain in the market.

#### *No Takings Implications*

The directives have been analyzed in accordance with the principles and criteria contained in E.O. 12630. It has been determined that the directives would not pose the risk of a taking of private property.

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

The agency has considered the directives under the requirements of E.O. 13132 on federalism, and has determined that the directives conform 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.

Moreover, the directives would not have Tribal implications as defined by E.O. 13175, Consultation and Coordination With Indian Tribal Governments, and therefore advance consultation with Tribes is not required.

#### *Energy Effects*

The directives have been reviewed under E.O. 13211 of May 18, 2001, Actions Concerning Regulations That Significantly Affect the Energy Supply. It has been determined that the directives would not constitute a significant energy action as defined in the E.O.

#### *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 the directives

on State, local, and Tribal governments and the private sector. The directives 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*

These directives do 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.

Dated: June 1, 2007.

**Richard Stem,**

*Deputy Regional Forester.*

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## DEPARTMENT OF COMMERCE

### Foreign–Trade Zones Board

[Docket 21–2007]

#### **Foreign–Trade Zone 65 – Panama City, FL, Application for Subzone Status, Eastern Shipbuilding Group, Inc., (Shipbuilding)**

An application has been submitted to the Foreign–Trade Zones Board (the Board) by the Port of Panama City, Florida, grantee of FTZ 65, requesting special–purpose subzone status for the shipbuilding facilities of Eastern Shipbuilding Group (ESG), in Panama City, Florida. The application was submitted pursuant to the provisions of the Foreign–Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR Part 400). It was formally filed on June 5, 2007.

The proposed subzone would comprise ESG’s facilities at two sites in Bay County, Florida: *Site 1* “Nelson Street Shipyard” (27.2 acres/4 parcels/82,500 sq.ft.) – 2200 Nelson Street, Panama City, Florida; and, *Site 2* “Allanton Shipyard” (142.5 acres, 67,300 sq.ft.) – 13300 Allanton Road, Panama City, located 15 miles southeast of Site 1. The ESG facilities (580 employees) are used for the construction, fabrication, and repair of commercial and military oceangoing vessels for domestic and international customers. Foreign components that