

any special circumstances small entities face in controlling hazards and reducing injuries and fatalities in tree care operations. How and to what extent would small entities in your industry be affected by the promulgation of a standard that addresses hazards in tree care operations? Are there special circumstances that make the control of hazards in tree care operations more difficult or more costly in small entities? Describe those circumstances and explain and discuss any alternatives that might serve to minimize these impacts.

5. Are the reasons why the benefits of a standard to control hazards in tree care operations might be different for small entities than for larger establishments? Please explain.

### III. Public Participation

You may submit comments in response to this document (1) electronically at <http://www.regulations.gov>, (2) by hard copy, or (3) by facsimile (FAX). All comments, attachments, and other materials must identify the Agency name and the docket number for this document (Docket No. OSHA–2008–0012). You may supplement electronic submissions by uploading document files electronically. If, instead, you wish to mail additional materials in reference to an electronic or FAX submission, you must submit three copies to the OSHA Docket Office (see **ADDRESSES** section). The additional materials must clearly identify your electronic or FAX comments by name, date, and docket number so OSHA can attach them to your comments.

Because of security-related problems there may be a significant delay in the receipt of comments by regular mail. For information about security procedures concerning the delivery of materials by express delivery, hand delivery, and messenger or courier service, please contact the OSHA Docket Office at 202–693–2350 (TTY 877–889–5627).

All comments and submissions in response to this **Federal Register**, including personal information, are placed in the public docket without change. Therefore, OSHA cautions against submitting certain personal information such as social security numbers and birthdates. All comments and submissions are listed in the <http://www.regulations.gov> index; however, some information (for example, copyrighted material) is not publicly available to read or download through the Web site. All comments and submissions are available for inspection and copying at the OSHA Docket Office

(see the **ADDRESSES** section of this notice). Information on using <http://www.regulations.gov> to submit comments and access dockets is available at that Web site. Contact the OSHA Docket Office (see **ADDRESSES** section) for information about materials not available through the OSHA Web site and for assistance in using the Web site to locate and download docket submissions.

Electronic copies of this **Federal Register** notice are available at <http://www.regulations.gov>. This document, as well as news releases and other relevant documents, are also available at OSHA's Web site at <http://www.osha.gov>.

### IV. Authority and Signature

This document was prepared under the direction of Edwin G. Foulke, Jr., Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor. It is issued pursuant to sections 4, 6, and 8 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, 657), 29 CFR part 1911, and Secretary's Order 5–2007 (72 FR 31159).

Signed at Washington, DC, this 15th day of September, 2008.

**Edwin G. Foulke, Jr.,**

*Assistant Secretary of Labor for Occupational Safety and Health.*

[FR Doc. E8–21851 Filed 9–17–08; 8:45 am]

**BILLING CODE 4510–26–P**

## DEPARTMENT OF LABOR

### Occupational Safety and Health Administration

#### 29 CFR Parts 1910, 1915, 1917, 1918, and 1926

[Docket No. OSHA–2008–0031]

**RIN 1218–AC42**

#### Clarification of Remedy for Violation of Requirements To Provide Personal Protective Equipment and Train Employees

**AGENCY:** Occupational Safety and Health Administration (OSHA), Labor.

**ACTION:** Proposed rule; notice of hearing.

**SUMMARY:** OSHA is convening an informal public hearing to receive testimony and documentary evidence on the proposed rule for Clarification of Remedy for Violation of Requirements to Provide Personal Protective Equipment and Train Employees.

**DATES:** *Informal public hearing.* The Agency will hold the informal public hearing in Washington, DC, beginning October 6, 2008. The hearing will

commence at 10 a.m. on the first day. If necessary, the hearing will continue on October 7, 2008, beginning at 9 a.m.

*Notice of intention to appear to provide testimony at the informal public hearing.* Parties must notify OSHA in writing no later than September 26, 2008, of their intention to appear at the hearing to present testimony. OSHA is limiting each party's testimony to 10 minutes. If parties need additional time, they must submit a written request with their notice of intention to appear stating how much time they seek, the topics they will cover during their testimony, and why they cannot cover the topics in the 10 minutes allotted.

#### **ADDRESSES:** *Informal Public Hearing.*

The informal public hearing will be held in Washington, DC, Conference Room 6, Room C–5320 of the Frances Perkins Building, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC.

*Notices of intention to appear at the hearing.* Submit notices of intention to appear at the informal public hearing and requests for additional time to testify, identified by the docket number (OSHA–2008–0031) or the regulatory information number (RIN 1218–AC42), using any of the following methods:

*Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting the material.

*Facsimile:* Send submissions consisting of 10 or fewer pages to the OSHA Docket Office at (202) 693–1648. Hard copies of these documents are not required. Instead of transmitting facsimile copies of attachments that supplement these documents (*e.g.*, studies, journal articles), submit these attachments, in triplicate hard copy, to the OSHA Docket Office, Technical Data Center, Room N–2625, OSHA, U.S. Department of Labor, 200 Constitution Ave., NW., Washington, DC 20210. These attachments must clearly identify the sender's name, date, subject, and docket number (*i.e.*, OSHA–2008–0031) so that the Agency can attach them to the appropriate document.

*Regular mail, express delivery, hand delivery, and courier service:* Send submissions (single copy only) to the OSHA Docket Office, Docket No. OSHA–2008–0031, Technical Data Center, Room N–2625, OSHA, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210; telephone (202) 693–2350 (OSHA's TTY number is (877) 889–5627). Note that security-related problems may result in significant delays in receiving submissions by regular mail. Please contact the OSHA Docket Office for information about security procedures

concerning delivery of materials by express delivery, hand delivery, or courier service. The OSHA Docket Office and Department of Labor hours of operation are 8:15 a.m. to 4:45 p.m., *e.t.*

**Instructions.** Each submission must include the Agency name and the OSHA docket number (*i.e.*, OSHA-2008-0031). All submissions, including any personal information, are placed in the public docket without revision, and will be available online at <http://www.regulations.gov>. Therefore, OSHA cautions members of the public against submitting information and statements that should remain private, including comments that contain personal information (either about themselves or others) such as social security numbers, birth dates, and medical data. For additional information on submitting notices of intention to appear, see the Public Participation-Comments and Hearings section in the **SUPPLEMENTARY INFORMATION** section below.

**Docket.** To read or download comments, notices of intention to appear, and other material in the docket, go to <http://www.regulations.gov> or to the OSHA Docket Office at the address above. All documents in the docket are listed in the <http://www.regulations.gov> index; however, some information (*e.g.*, copyrighted material) is not publicly available to read or download through this Web site. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office.

**FOR FURTHER INFORMATION CONTACT:** For general information and press inquiries, contact Ms. Jennifer Ashley, Director, Office of Communications, Room N-3647, OSHA, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210; telephone: (202) 693-1999. For hearing information, contact Ms. Veneta Chatmon, Office of Communications, Room N-3647, OSHA, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210; telephone: (202) 693-1999. Electronic copies of this **Federal Register** notice, as well as news releases and other relevant documents, are available at OSHA's homepage at <http://www.osha.gov>.

**SUPPLEMENTARY INFORMATION:** OSHA published the proposed rule for Clarification of Remedy for Violation of Requirements to Provide Personal Protective Equipment and Train Employees on August 19, 2008 (73 FR 48335). The period for submitting written comments expires on September 18, 2008. During this comment period, a number of commentors (see, *e.g.*, Exs. OSHA-2008-0031-006.1, -007.1,

-009.1, -0011.1, -0012.1) requested an informal public hearing. With this notice, OSHA is granting these requests.

**Public Participation—Comments and Hearings:** OSHA encourages members of the public to participate in this rulemaking by providing oral testimony and documentary evidence at the informal public hearing. Accordingly, the Agency invites interested parties having knowledge of, or experience with, the issues raised in the proposal to participate in this process, and welcomes any pertinent data that will provide the Agency with the best available evidence to use in developing the final rule. This section describes the procedures the public must use to schedule an opportunity to deliver oral testimony and to provide documentary evidence at the informal public hearing.

**Hearing Arrangements.** Pursuant to section 6(b)(3) of the Occupational Safety and Health Act (the Act; 29 U.S.C. 655), members of the public have an opportunity at the informal public hearing to provide oral testimony concerning the issues raised in the proposed rule. An administrative law judge (ALJ) will preside over the hearing, and will resolve any procedural matters related to the hearing on the first day.

**Purpose of the Hearing.** The legislative history of Section 6 of the Act, as well as the Agency's regulation governing public hearings (29 CFR 1911.15), establish the purpose and procedures of informal public hearings. Although the presiding officer of the hearing is an ALJ, and questions by interested parties are allowed on pertinent issues, the hearing is informal and legislative in purpose. Therefore, the hearing provides interested parties with an opportunity to make effective and expeditious oral presentations in the absence of procedural restraints that could impede or protract the rulemaking process. The hearing is not an adjudicative proceeding subject to the technical rules of evidence. Instead, it is an informal administrative proceeding convened for the purpose of gathering and clarifying information. The regulations that govern the hearing, and the prehearing guidelines issued for the hearing, will ensure that participants are treated fairly and have due process. This approach will facilitate the development of a clear, accurate, and complete record. Accordingly, application of these rules and guidelines will be such that questions of relevance, procedures, and participation will be decided in favor of developing a clear, accurate, and complete record.

**Conduct of the Hearing.** Conduct of the hearing will conform to the

provisions of 29 CFR 1911.5. Although the ALJ presiding over the hearing makes no decision or recommendation on the merits of the proposal or the final rule, the ALJ has the responsibility and authority to ensure that the hearing progresses at a reasonable pace and in an orderly manner. To ensure that interested parties receive a full and fair informal hearing, the ALJ has the authority and power to: regulate the course of the proceedings; dispose of procedural requests, objections, and similar matters; confine the presentations to matters pertinent to the issues raised; use appropriate means to regulate the conduct of the parties who are present at the hearing; question witnesses, and permit others to question witnesses; and limit the time for such questions. As indicated in the proposed rule, OSHA will allow an additional 30-day period for submission of posthearing comments before closing the public comment period (74 FR 48344).

**Notice of intention to appear to provide testimony at the informal public hearings.** Hearing participants must file a notice of intention to appear that provides the following information: The name, mailing and e-mail addresses, and telephone number of each individual who will provide testimony; the capacity in which the individual will testify (*e.g.*, name of the establishment/organization the individual is representing; the individual's occupational title and position); and whether the individual is appearing as a part of a panel with other individuals. Participants who need projectors and other special equipment for their testimony must contact Ms. Veneta Chatmon at OSHA's Office of Communications, telephone (202) 693-1999.

As noted above, testimony will be limited to 10 minutes. Requests for additional time must be submitted in writing with the notice of intention to appear, and contain a reasoned justification, including identification of the topics to be discussed and an explanation of why these topics cannot be covered in 10 minutes. OSHA will review the request and determine how much, if any, additional time to allot to the individual. Individuals requesting additional time will be notified of OSHA's determination on their request prior to the hearing.

OSHA emphasizes that, while the hearing is open to the public and all interested parties are welcome to attend, only a party who files a proper notice of intention to appear may ask questions and participate fully in the hearing. A party who did not file a notice of

intention to appear may be allowed to testify at the hearing if time permits, but this determination is at the discretion of the presiding ALJ.

*Certification of the record and final determination after the informal public hearing.* Following the close of the hearing and the posthearing comment period, the ALJ will certify the record to the Assistant Secretary of Labor for Occupational Safety and Health. This record will consist of all of the written comments, oral testimony, documentary evidence, and other material received during the hearing. Following certification of the record, OSHA will review the proposed provisions in light of all the evidence received as part of the record, and then will issue the final determinations based on the entire record.

#### Authority and Signature

This document was prepared under the authority of Edwin G. Foulke, Jr., Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210, pursuant to Sections 6(b) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 655), Section 3704 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 3701 *et seq.*), Secretary of Labor's Order 5-2007 (72 FR 31160), and 29 CFR part 1911.

Signed at Washington, DC, this 15th day of September 2008.

**Edwin G. Foulke, Jr.,**

*Assistant Secretary of Labor for Occupational Safety and Health.*

[FR Doc. E8-21852 Filed 9-17-08; 8:45 am]

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## DEPARTMENT OF AGRICULTURE

### Forest Service

#### 36 CFR Part 294

RIN 0596-AC74

#### Special Areas; Roadless Area Conservation; Applicability to the National Forests in Colorado, Regulatory Risk Assessment

**AGENCY:** Forest Service, USDA.

**ACTION:** Proposed rule; risk assessment and request for comments.

**SUMMARY:** On July 25, 2008, the Forest Service, U.S. Department of Agriculture, proposed to establish a State-specific rule to provide management direction for conserving Colorado roadless areas (73 FR 43544). This proposed rule is estimated to have more than

\$100,000,000 of economic impact. The proposed rule would satisfy the economic impact and subject matter criteria of 7 U.S.C. 2204e and thus requires a regulatory risk assessment. The Forest Service is seeking comment on the assessment. A copy of the Regulatory Risk Assessment is available at the national roadless Web site <http://www.roadless.fs.fed.us>.

**DATES:** Comments must be received in writing by October 23, 2008.

**ADDRESSES:** Comments on the Regulatory Risk Assessment may be incorporated into comments on the proposed rule. Comments may be sent via e-mail to [COcomments@fsroadless.org](mailto:COcomments@fsroadless.org). Comments also may be submitted via the internet at <http://www.regulations.gov>. Written comments concerning this notice should be addressed to Roadless Area Conservation—Colorado, P.O. Box 162909, Sacramento, CA 95816-2909, or via facsimile to 916-456-6724. All comments, including names and addresses, when provided, are placed in the record and are available for public inspection and copying.

**FOR FURTHER INFORMATION CONTACT:** For information on the Regulatory Risk Assessment only, contact Ken Karkula at 202-205-2869. Individuals using telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1-800-877-8339 between 8 a.m. and 8 p.m. Eastern Time, Monday through Friday.

**SUPPLEMENTARY INFORMATION:** The Forest Service is proposing to establish a State-specific rule to provide management direction for conserving Colorado roadless areas. This rule is estimated to have more than \$100,000,000 of economic impact. The rule satisfies the economic impact and subject matter criteria of 7 U.S.C. 2204e and thus requires a regulatory risk assessment.

This risk assessment describes the types of risks to the environment that the proposed rule is designed to reduce, as well as discussing the likelihood that the proposed rule will reduce those risks. Examining risk at the site-specific level is not practical in this assessment therefore this risk assessment will address risks at the broader programmatic level.

The purpose of the proposed rule is to provide lasting protection, within the context of multiple-use management, for roadless areas within the National Forests in Colorado. The regulatory risk assessment assesses the degree to which the rule reduces the risk it was designed to address. In this regulatory risk assessment, the risk that the rule

addresses is the risk of not providing lasting protection, within the context of multiple-use management, to the roadless areas within the National Forests in Colorado. The provisions of the proposed rule are intended to provide lasting protection; in the absence of the rule such protection is not guaranteed, as current regulatory direction (2001 Roadless rule) continues to be litigated.

In general, all of the alternatives are expected to reduce the risk of not providing lasting protection to roadless areas in comparison to the condition where no management plans are implemented. Differences between the alternatives are based on the different levels of road construction and reconstruction, tree-cutting, and other activities discussed. Differences in the degree to which the alternatives reduce the risk of not providing lasting protection are small. Due to uncertainty over its legal status, Alternative 1 (2001 Roadless Rule) presents an increased risk of not providing lasting protection over the other two alternatives since it is unclear whether or not the rule will be modified by litigation. Alternative 2 (Proposed Colorado Roadless Rule) reduces the risk of not providing lasting protection over Alternative 3 (Forest Plans) due to the decreased amount of roading, tree-cutting, and mineral development over the amounts estimated if individual forest plans rather than a roadless rule controlled the roadless areas.

Dated: August 28, 2008.

**Charles L. Myers,**

*Associate Deputy Chief for National Forest System.*

[FR Doc. E8-21899 Filed 9-17-08; 8:45 am]

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## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

#### 50 CFR Part 17

[FWS-R4-ES-2008-0082; 92210750083-B2]

RIN 1018-AU85

#### Endangered and Threatened Wildlife and Plants; Proposed Endangered Status for Reticulated Flatwoods Salamander; Proposed Designation of Critical Habitat for Frosted Flatwoods Salamander and Reticulated Flatwoods Salamander

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Proposed rule; supplemental information.