



# DINGELL ACT - CLOSURES OF NATIONAL FOREST SYSTEM LANDS TO HUNTING, FISHING, OR RECREATIONAL SHOOTING

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# U.S. Forest Service Hunting Fishing and Recreational Shooting Closure Order Directive

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- Overview of the directives in Law Enforcement and Investigations Handbook [5309.11, Chapter 30](#), that provide the process for closing National Forest System lands to hunting, fishing or recreational shooting.
- The John D. Dingell, Jr. Conservation, Management, and Recreation Act (P.L. 116-9) became law on March 12, 2019 and includes provisions from the Sportsmen's Act that relate to sportsmen's access to federal lands. **The directives have been issued to implement § 4103 of the Dingell Act.**

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## Policy

1. In accordance with the Forest Service's mission and applicable law:
  - a. Facilitate the expansion and enhancement of hunting, fishing, and recreational shooting opportunities.
  - b. Conserve and enhance aquatic systems and the management of game species and the habitat of those species.
  - c. Consider hunting, fishing, and recreational shooting opportunities.
2. National Forest System lands must be open to hunting, fishing, and recreational shooting unless:
  - a. An area is closed to one or more of these uses by issuance of a forest order issued under 36 CFR 261.58(m) or 261.58(v) after meeting the advance notice of intent and public notice and comment requirements.
  - b. The area is closed because of an emergency or in connection with a short-term special use permit.
  - c. The entire area is closed to entry for another purpose.



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## 36 CFR 261 Subpart A – General Prohibitions

The prohibitions in this part apply nationally.

- 261.10 (d) **Discharging a firearm** or any other implement capable of taking human life, causing injury, or damaging property **as follows**:
  - (1) **In or within 150 yards** of a residence, building, campsite, development recreation site or occupied area;
  - (2) **Across or on** a National Forest System road or a body of water adjacent thereto, or in any manner or place whereby any person or property is exposed to injury or damage as a result in such discharge; or
  - (3) **Into or within** any cave.



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## 34.05 Definitions:

- Recreational Shooting. Target shooting using a firearm (including an antique firearm or replica), air rifle, or gas gun at random locations and times, at an ad hoc site, or at a range, which may include trap, skeet, or sporting clays.
- Emergency order. A hunting, fishing, or recreational shooting order that needs to be issued immediately to mitigate the adverse effects of an emergency.
  - a. Fire Conditions. Increased risk of igniting a wildfire from discharging a firearm.
  - b. Natural Resource Damage. Prohibit shooting in or around the habitat of a sensitive or endangered species.
  - c. Shooting-Involved Incident or Death. Prohibit shooting in the vicinity of a shooting-involved incident or death.
  - d. Public Safety. Prevent potentially imminent harm caused by shooting in the wildland-urban interface, or near developed recreation sites, National Forest System trails, or recreation residences on National Forest System lands.

# U.S. Forest Service Hunting Fishing and Recreational Shooting Closure Order Directive

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## 34.05 Definitions (continued):

- Forest Order. An order issued under 36 CFR Part 261, Subpart B, to close an area to entry or to restrict use.
- Permanent Hunting, Fishing, or Recreational Shooting Order. A forest order that is in effect for more than 180 days, including an order that remains in effect until rescinded or an order that is in effect for 180 days or less and recurs annually in accordance with its terms.
- Short-Term Order. A forest order that is issued in connection with an activity authorized by a special use permit that is less than 14 days in duration.
- Temporary Hunting, Fishing, or Recreational Shooting Order. A forest order that is in effect for 180 days or less and is not an emergency order or a short-term order.

# 34.2-Public Notice and Comment Requirements for short term and emergency orders

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2. **Public notice and comment** are not required for:

a. An **emergency** order; or

b. A **short-term** order:

(1) The Responsible Official **shall ensure** that the basis for the exception and justification for a short-term order **is reviewed by:**

**Special Agent in Charge; and**

**local Office of the General Counsel.**

(2) Before issuing a **short-term order prohibiting hunting or fishing coordinate with:**

**State Fish and Wildlife agency;**

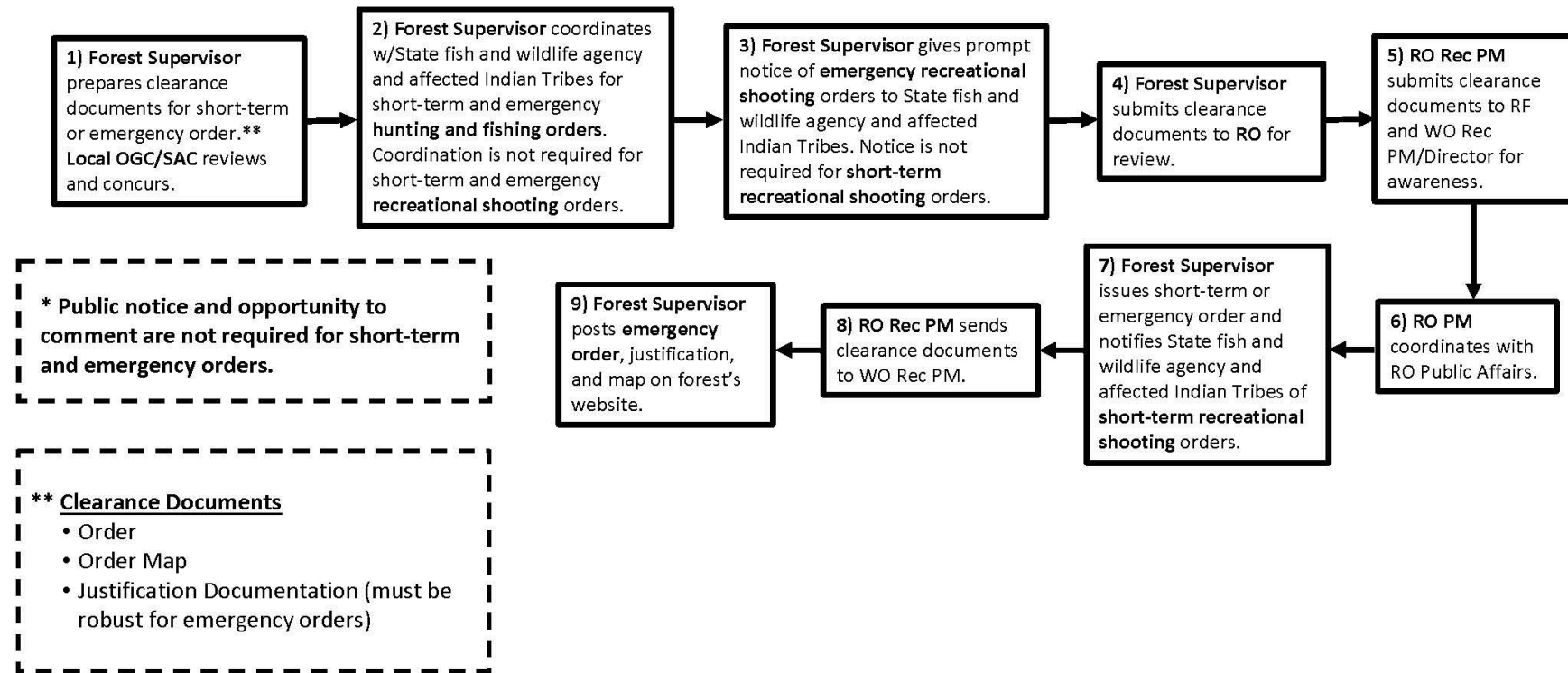
**and affected Indian tribe(s).**



## PROCESS FOR ISSUING SHORT-TERM AND EMERGENCY HUNTING, FISHING AND RECREATIONAL SHOOTING ORDERS\*

FSH 5309.11, Chapter 30, section 34

January 27, 2023





# 34.3 – Public Notice and Comment Process for Hunting, Fishing, or Recreational Shooting Orders

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Responsible Official shall complete the following six-step process:

1. coordinate with **State Fish and Wildlife agency**;
2. coordinate with **affected Indian tribes**;
3. Publish and otherwise disseminate an **advance notice of intent** before publication;
4. Publish a **notice of opportunity for public comment**;
5. Publish a **response to comments**; and
6. **Issue** a final **order**.

# 34.33 – Issuance of Final Hunting, Fishing, or Recreational Shooting Orders

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## 1. Response to Public Comments

- a. **comments were resolved; and**
- b. **how resolution of those issues affected** the justification of or the proposed closure.

## 2. Final Order

- a. **smallest area;**
- b. **least amount of time; and**
- c. **complies with the directives.**

## 3. Final Justification

- a. **basis for the need;**
- b. **geographic scope;**
- c. **determination of permanent or temporary;**
- d. **map; and**
- e. **accompanying exhibits.**

## 34.33 – Issuance of Final Hunting, Fishing, or Recreational Shooting Orders

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4. Regulatory Certifications for Final Permanent Order. the Responsible Official shall ensure that the regulatory certifications are completed.
5. Review. The **Responsible Official shall ensure review by**
  - Special Agent in Charge**
  - local Office of the General Counsel**
  - a. **response to comments;**
  - b. **final order;**
  - c. **justification; and**
  - d. **regulatory certifications if permanent.**
6. Office of Management and Budget Determination. WO will submit a final permanent order, the final justification, and responses to comments to the Office of Management and Budget for OMB to determine whether the order is a major rule under the Congressional Review Act (5 U.S.C. 801 et seq.).

## 34.33 – Issuance of Final Hunting, Fishing, or Recreational Shooting Orders

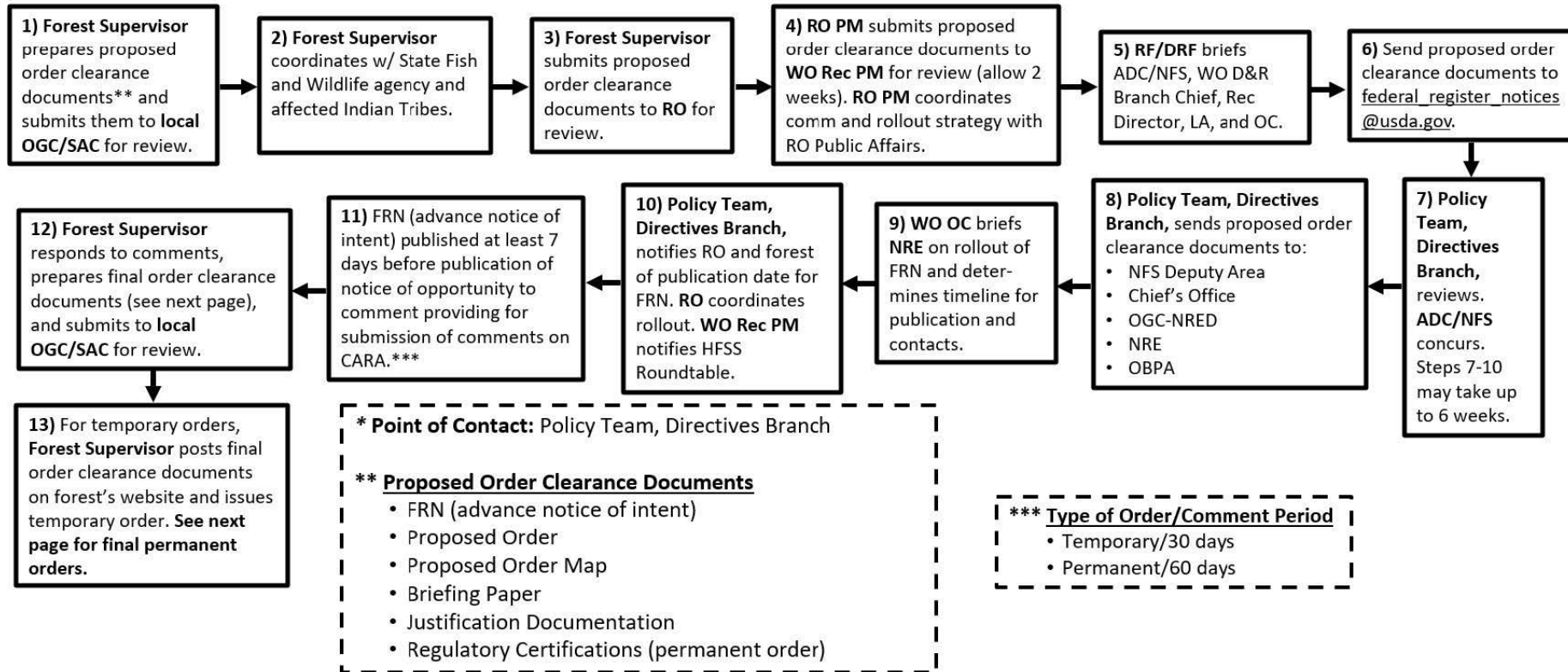
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7. **Posting of a Final Order**. Responsible Official shall ensure that the following are posted on the website of the affected administrative unit:

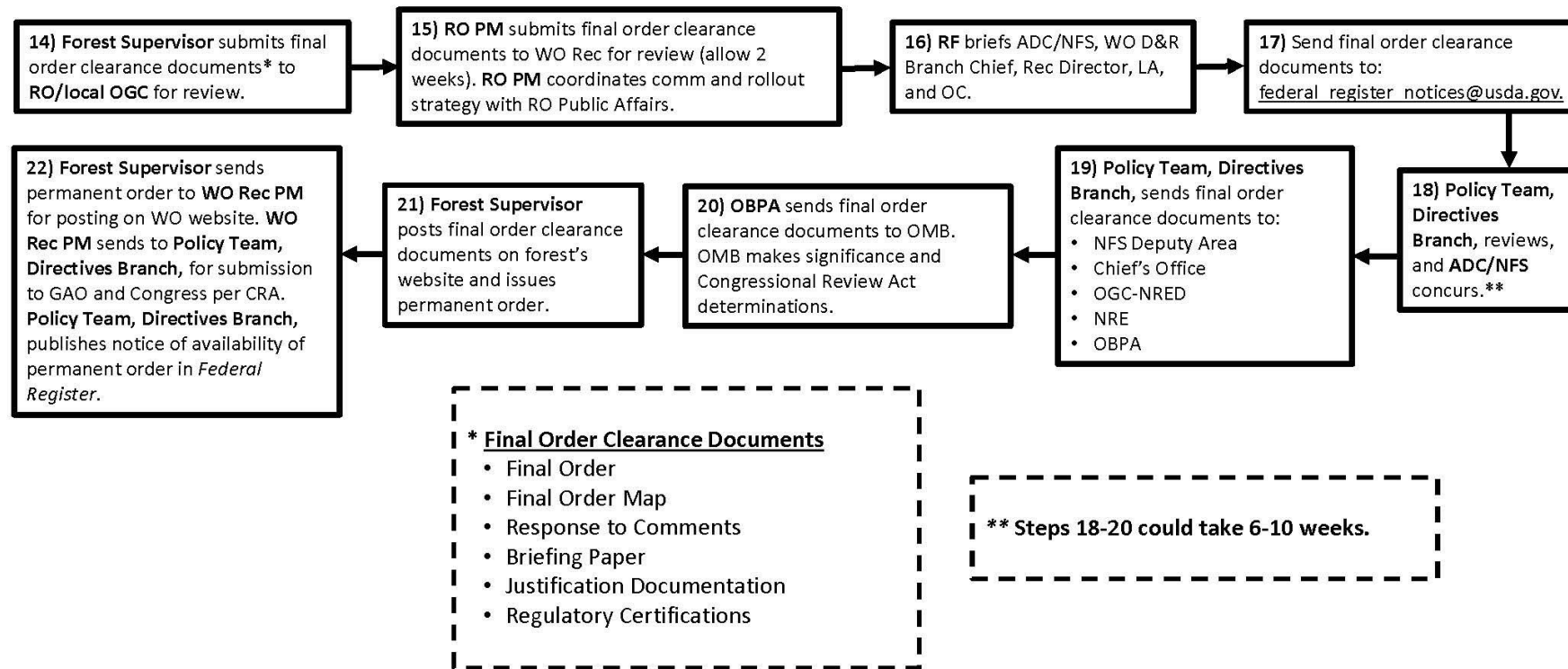
- a. final order;
- b. justification;
- c. map;
- d. accompanying exhibits;
- e. response to comments; and
- f. regulatory certifications.

8. **Publication of the Notice of Availability for Final Permanent Order**. The Responsible Official shall request that the Forest Service, Directives and Regulations Branch submit a notice of availability of the final order to the Office of the Federal Register for publication.

**PROCESS FOR ISSUING TEMPORARY AND PERMANENT  
HUNTING, FISHING, AND RECREATIONAL SHOOTING ORDERS\***  
FSH 5309.11, Chapter 30, section 34  
January 27, 2023



**ADDITIONAL STEPS FOR ISSUING  
FINAL PERMANENT HUNTING, FISHING, AND RECREATIONAL SHOOTING ORDERS  
FSH 5309.11, Chapter 30, section 34  
January 27, 2023**



# 34.36 – Revisions to Hunting, Fishing or Recreational Shooting Orders

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1. Revisions to Permanent Orders. **To implement a revision or rescission, the Responsible Official must comply with the public notice and comment requirements to:**

- a. expand the scope of the order, by expanding the geographic area or activities prohibited;
- b. narrow the scope of the order, by decreasing the geographic area or activities prohibited; or
- c. rescind the order in its entirety.

2. Revisions to Temporary Orders. May be revised or rescinded before its expiration to:

- a. expand the scope, by expanding the geographic area or activities prohibited.

**shall comply with the public notice and comment requirements.**

- b. narrow the scope, by decreasing the geographic area or activities prohibited or if the order is rescinded.

**does not need to comply with the public notice and comment requirements.**



# U.S. Forest Service Hunting Fishing and Recreational Shooting Closure Order Directive

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Area Closures. Forest orders that close an area of National Forest System lands to entry for other purposes are not subject to the public notice and comment process.

**Examples include**

- a. current fire; and
- b. fire prevention during periods of extreme fire danger.







# Questions?

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