

## §218.12

project, the reviewing officer may consolidate objections and issue one or more responses.

(2) There must be no further review from any other Forest Service or USDA official of the reviewing officer's written response to an objection.

### **§218.12 Timing of authorized hazardous fuel reduction project decision.**

(a) The responsible official may not issue a ROD or DN concerning an authorized hazardous fuel reduction project subject to the provisions of this subpart until the reviewing officer has responded to all pending objections.

(b) When no objection is filed within the 30-day time period, the reviewing officer must notify the responsible official and approval of the authorized hazardous fuel reduction project in a ROD in accordance with 40 CFR 1506.10, or DN may occur on, but not before, the fifth business day following the end of the objection-filing period.

### **§218.13 Secretary's authority.**

(a) Nothing in this section shall restrict the Secretary of Agriculture from exercising any statutory authority regarding the protection, management, or administration of National Forest System lands.

(b) Authorized hazardous fuel reduction projects proposed by the Secretary of Agriculture or the Under Secretary, Natural Resources and Environment, are not subject to the procedures set forth in this subpart. A decision by the Secretary or Under Secretary constitutes the final administrative determination of the Department of Agriculture.

### **§218.14 Judicial proceedings.**

The objection process set forth in this subpart fully implements Congress' design for a predecisional administrative review process for proposed hazardous fuel reduction projects authorized by the HFRA. These procedures present a full and fair opportunity for concerns to be raised and considered on a project-by-project basis. Individuals and groups must structure their participation so as to alert the local agency officials making particular land management decisions

## 36 CFR Ch. II (7-1-10 Edition)

of their positions and contentions. Further, any filing for Federal judicial review of an authorized hazardous fuel reduction project is premature and inappropriate unless the plaintiff has submitted specific written comments relating to the proposed action during scoping or other opportunity for public comment as prescribed by the HFRA, and the plaintiff has challenged the authorized hazardous fuel reduction project by exhausting the administrative review process set out in this subpart. Further, judicial review of hazardous fuel reduction projects that are subject to these procedures is strictly limited to those issues raised by the plaintiff's submission during the objection process, except in exceptional circumstances such as where significant new information bearing on a specific claim only becomes available after conclusion of the administrative review.

### **§218.15 Information collection requirements.**

The rules of this subpart specify the information that objectors must provide in an objection to a proposed authorized hazardous fuel reduction project as defined in the HFRA (§218.8). As such, these rules contain information collection requirements as defined in 5 CFR part 1320. These information requirements are assigned OMB Control Number 0596-0172.

### **§218.16 Applicability and effective date.**

The provisions of this subpart are effective as of October 17, 2008 and apply to all proposed authorized hazardous fuel reduction projects conducted under the provisions of the HFRA for which scoping begins on or after October 17, 2008.

## **Subpart B [Reserved]**

## **PART 219—PLANNING**

### **Subpart A—National Forest System Land and Resource Management Planning**

#### **PURPOSE AND PRINCIPLES**

Sec.

219.1 Purpose.

219.2 Principles.