Chief’s decision shall constitute USDA’s final administrative decision.

§ 214.20 Exhaustion of administrative remedies.

Per 7 U.S.C. 6912(e), judicial review of a decision that is appealable under this part is premature unless the plaintiff has exhausted the administrative remedies under this part.

§ 214.21 Information collection requirements.

The rules of this part governing appeal of decisions relating to occupancy or use of National Forest System lands and resources specify the information that an appellant must provide in an appeal. Therefore, these rules contain information collection requirements as defined in 5 CFR part 1320. These information collection requirements are assigned Office of Management and Budget Control Number 0596–0231.

§ 214.22 Applicability and effective date.

This part prescribes the procedure for administrative review of appealable decisions and Chief’s decisions set forth in §214.4 issued on or after June 5, 2013.

PART 215—NOTICE, COMMENT, AND APPEAL PROCEDURES FOR NATIONAL FOREST SYSTEM PROJECTS AND ACTIVITIES

Sec.
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SOURCE: 68 FR 33595, June 4, 2003, unless otherwise noted.

§ 215.1 Purpose and scope.

(a) Purpose. The rules of this part have two purposes. First, this part establishes a process by which the public receives notice and is provided an opportunity to comment on proposed actions for projects and activities implementing a land and resource management plan prior to a decision by the Responsible Official. Second, this part establishes an appeal process and identifies the decisions that may be appealed, who may appeal those decisions, the responsibilities of the participants in an appeal, and the procedures that apply for the prompt disposition of the appeal.

(b) Scope. Notice of proposed actions and opportunity to comment provide an opportunity for the public to provide meaningful input prior to the decision on projects and activities implementing land management plans. The rules of this part complement other opportunities to participate in the Forest Service’s project and activity planning, such as those provided by the National Environmental Policy Act of 1969 (NEPA) and its implementing regulations at 40 CFR parts 1500–1508 and 36 CFR part 220; the National Forest Management Act (NFMA) and its implementing regulations at 36 CFR part 219; and the regulations at 36 CFR part 216 governing public notice and comment for certain Forest Service directives.

[68 FR 33595, June 4, 2003, as amended at 78 FR 33723, June 5, 2013]

§ 215.2 Definitions.

Address—An individual’s or organization’s current physical mailing address. An e-mail address is insufficient for identification.

Appeal—A document filed with an Appeal Deciding Officer in which an individual or entity seeks review of a Forest Service decision under this part.
Appeal Deciding Officer—The U.S. Department of Agriculture (USDA) official or Forest Service line officer who is one organizational level above the Responsible Official or the respective Deputy Forest Supervisor, Deputy Regional Forester, or Associate Deputy Chief with the delegation of authority relevant to the provisions of this part.

Appeal disposition—Either a written appeal decision or written notification in cases where the original decision is the final agency action and no appeal decision is issued.

Appeal period—The 45-calendar-day period following publication of the legal notice in the newspaper of record of a decision during which an appeal may be filed with the Appeal Deciding Officer.

Appeal record—Documentation and other information filed with the Appeal Deciding Officer within the relevant time period by parties to an appeal and upon which review of an appeal is conducted.

Appeal Reviewing Officer—A Forest Service line officer or USDA official who reviews an appeal and makes a written recommendation to the Appeal Deciding Officer on disposition of the appeal.

Appellant—An individual or entity that has filed an appeal of a decision under this part.

Categorically excluded (CE)—Proposed actions, which do not individually or cumulatively have a significant effect on the human environment and for which neither an environmental impact statement (EIS) nor an environmental assessment (EA) is required (40 CFR 1508.4; FSH 1909.15, Chapter 30).

Comment period—The 30-calendar-day period following publication of the legal notice in the newspaper of record of a proposed action, during which the public has the opportunity to provide comments to a Responsible Official on a proposed action subject to this part, except for projects requiring an EIS which follow CEQ procedures for notice and comment (40 CFR parts 1503 and 1506.10; FSH 1909.15, Chapter 30). The time period is computed using calendar days, including Saturdays, Sundays, and Federal holidays. However, when the time period expires on a Saturday, Sunday, or Federal holiday, comments shall be accepted until the end of the next Federal working day.

Decision documentation—The Decision Notice (DN) or Record of Decision (ROD) and all relevant environmental and other analysis documentation and records, including all comment letters received, on which the Responsible Official bases a decision under appeal.

Decision Notice (DN)—A concise written record of a Responsible Official’s decision based on an environmental assessment and a Finding of No Significant Impact (FONSI) (40 CFR 1508.13; FSH 1909.15, Chapter 40).

Emergency situation—A situation on National Forest System (NFS) lands for which immediate implementation of all or part of a decision is necessary for relief from hazards threatening human health and safety or natural resources on those NFS or adjacent lands; or that would result in substantial loss of economic value to the Federal Government if implementation of the decision were delayed.

Environmental Assessment (EA)—A concise public document that provides sufficient evidence and analysis for determining whether to prepare an environmental impact statement (EIS) or a finding of no significant impact, aids an agency’s compliance with the National Environmental Policy Act (NEPA) when no EIS is necessary, and facilitates preparation of a statement when one is necessary (40 CFR 1508.9; FSH 1909.15, Chapter 40).

Environmental Impact Statement (EIS)—A detailed written statement as required by section 102(2)(C) of the National Environmental Policy Act of 1969 (40 CFR 1508.11; FSH 1909.15, Chapter 20).

Finding of No Significant Impact (FONSI)—A document prepared by a Federal agency presenting the reasons why an action, not otherwise excluded, will not have a significant effect on the human environment and for which an environmental impact statement, therefore, will not be prepared. It includes the environmental assessment or a summary of it and shall note any other environmental documents related to it (40 CFR1508.13; FSH 1909.15, Chapter 40).

Forest Service line officer—A Forest Service official who serves in a direct
§ 215.3 Proposed actions subject to legal notice and opportunity to comment.

The legal notice (§215.5) and opportunity to comment procedures (§215.6) apply only to:

(a) Proposed projects and activities implementing land management plans (§215.2) for which an environmental assessment (EA) is prepared, except hazardous fuel reduction projects conducted under provisions of the Healthy Forests Restoration Act (HFRA), as set out at part 218, subpart A, of this title.

(b) Proposed projects and activities described in a draft environmental impact statement (DEIS) for which notice and comment procedures are governed by 40 CFR parts 1500 through 1508, except hazardous fuel reduction projects conducted under provisions of the HFRA, as set out at part 218, subpart A, of this title.

(c) Proposed non-significant amendments to a land and resource management plan (pursuant to the 1982 planning regulations) that are included as part of a decision on a proposed action for which an EA is prepared;

(d) A proposed action resulting in a revision of an EA based on consideration of new information or changed circumstances (FSH 1909.15, Chapter 10, section 18) as provided for in §215.18(b)(1); and

(e) Proposed research activities to be conducted on National Forest System lands.

[68 FR 33595, June 4, 2003, as amended at 78 FR 33723, June 5, 2013]

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The legal notice (§215.5) and opportunity to comment procedures (§215.6) apply only to:

(a) Proposed projects and activities implementing land management plans (§215.2) for which an environmental assessment (EA) is prepared, except hazardous fuel reduction projects conducted under provisions of the Healthy Forests Restoration Act (HFRA), as set out at part 218, subpart A, of this title.

(b) Proposed projects and activities described in a draft environmental impact statement (DEIS) for which notice and comment procedures are governed by 40 CFR parts 1500 through 1508, except hazardous fuel reduction projects conducted under provisions of the HFRA, as set out at part 218, subpart A, of this title.

(c) Proposed non-significant amendments to a land and resource management plan (pursuant to the 1982 planning regulations) that are included as part of a decision on a proposed action for which an EA is prepared;

(d) A proposed action resulting in a revision of an EA based on consideration of new information or changed circumstances (FSH 1909.15, Chapter 10, section 18) as provided for in §215.18(b)(1); and

(e) Proposed research activities to be conducted on National Forest System lands.