

## Forest Service, USDA

## §215.1

### §213.3 Protection, occupancy, use, administration, and exercise of reservations.

(a) The rules and regulations applicable to the national forests as set forth in title 36, Code of Federal Regulations, or as hereafter amended, supplemented, or promulgated, are hereby adopted as the rules and regulations to govern the exercise of reservations in conveyances to the United States and to prevent trespasses on and otherwise regulate the protection, use, occupancy, and administration of the National Grasslands and all other lands administered by the Forest Service under the provisions of title III of the Bankhead-Jones Farm Tenant Act insofar as is practical and consistent with said act: *Provided*, That Forest Service officers may continue under delegated authority to acquire lands, to make exchanges, to grant easements and enter into leases, permits, agreements, contracts and memoranda of understanding involving such lands under such terms and conditions and for such consideration, fees or rentals as authorized by title III of the said Act.

(b) Existing valid rights, reservations easements, leases, permits, agreements, contracts and memoranda of understanding affecting these lands shall continue in full force and effect so long as they remain valid in accordance with the terms thereof.

[27 FR 9217, Sept. 18, 1962]

### §213.4 Prior rules and regulations superseded.

Except as provided in §213.3, the rules and regulations heretofore issued for the land utilization projects are hereby superseded as to all such projects administered by the Forest Service, but not as to such project lands administered by other agencies.

[27 FR 9217, Sept. 18, 1962]

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

Sec.

- 215.1 Purpose and scope.
- 215.2 Definitions.

- 215.3 Proposed actions subject to legal notice and opportunity to comment.
- 215.4 Actions not subject to legal notice and opportunity to comment.
- 215.5 Legal notice of proposed actions.
- 215.6 Comments on proposed actions.
- 215.7 Legal notice of decision.
- 215.8 Appeal Deciding Officer.
- 215.9 Decision implementation.
- 215.10 Emergency situations.
- 215.11 Decisions subject to appeal.
- 215.12 Decisions and actions not subject to appeal.
- 215.13 Who may appeal.
- 215.14 Appeal content.
- 215.15 Appeal time periods and process.
- 215.16 Dismissal of appeal without review.
- 215.17 Informal disposition.
- 215.18 Formal review and disposition procedures.
- 215.19 Appeal Reviewing Officer.
- 215.20 Secretary's authority.
- 215.21 Judicial proceedings.
- 215.22 Applicability and effective date.

AUTHORITY: 16 U.S.C. 472, 551; sec. 322, Pub. L. 102-381 (Appeals Reform Act), 106 Stat. 1419 (16 U.S.C. 1612 note).

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.* The notice of proposed actions and opportunity to comment provides an opportunity for the public to provide meaningful input prior to the decision on projects and activities implementing land and resource management plans. The rules of this part complement, but do not replace, numerous other opportunities to participate in and influence the agency's project and activity planning, such as those provided by the National Environmental Policy Act of 1969 (NEPA) implementing regulations and procedures at 40 CFR parts 1500-1508, the National

## §215.2

Forest Management Act (NFMA) implementing regulations at part 219, and the pertinent requirements at part 216 regarding notice and comment for certain Forest Service Manual (FSM) directives. The appeal process is available to those who submit substantive comments during the comment period. Appeal disposition constitutes the final administrative determination of the United States Department of Agriculture. Throughout this part, references to decisions which affect an authorized use or occupancy of National Forest System lands and meet all other applicable requirements of this part, are subject to appeal by the holders of such authorizations under either this part or part 251, subpart C, but not under both parts. In addition, certain other parties meeting requirements of §251.86 may also be eligible to appeal projects under either this part or part 251, subpart C, but not under both parts.

### §215.2 Definitions.

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

*Appeal*—The written document filed with an Appeal Deciding Officer by someone seeking review of a decision.

*Appeal Deciding Officer*—The Secretary of Agriculture (USDA) or the USDA or Forest Service designee having the delegated authority and responsibility to render a decision on an appeal filed under this part. The Appeal Deciding Officer is the next higher-level supervisor of the Responsible Official.

*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*—The information upon which review of an appeal is conducted, consisting of the transmittal letter, the appeal, decision documentation, the legal notice of decision, the Re-

## 36 CFR Ch. II (7–1–05 Edition)

sponsible Official's documentation of the informal disposition meeting, and the Appeal Reviewing Officer's recommendation.

*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 organization filing an appeal who submitted substantive oral or written comments during the comment period on a specific project or activity.

*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 20). 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