

## § 215.10

with the timeframes and publication requirements described in 40 CFR 1506.10(b)(2).

### § 215.10 Emergency situations.

(a) *Authority.* The Chief and the Associate Chief of the Forest Service are authorized to make the determination that an emergency situation (§215.2) exists, and they may delegate this authority only to the Deputy Chief for National Forest System and to the Regional Foresters. Persons acting in these positions may exercise this authority only when they are filling vacant positions and they have been formally delegated full acting authority for the positions. Persons acting in positions during temporary absences of the incumbents shall not be delegated this authority to make emergency situation determinations.

(b) *Determination.* The determination that an emergency situation exists shall be based on an examination of the relevant information. During the review, additional information may be requested.

(c) *Implementation.* When it is determined that an emergency situation exists with respect to all or part of the decision, implementation may proceed as follows:

(1) Immediately after publication (§215.7(b)) of a decision documented in a Decision Notice, for that portion of the decision determined to be an emergency.

(2) Immediately when documented in a Record of Decision, after complying with the timeframes and publication requirements described in 40 CFR 1506.10(b)(2), for that portion of the decision determined to be an emergency.

(d) *Notification.* The Responsible Official shall notify the public in the legal notice of the decision (§215.7) that the Forest Service made a determination that all or part of a project decision is an emergency situation.

### § 215.11 Decisions subject to appeal.

The following decisions are subject to appeal under this part:

(a) Decisions for projects and activities implementing land and resource management plans (§215.2) documented in a Record of Decision (ROD) or Decision Notice (DN), including those

## 36 CFR Ch. II (7–1–05 Edition)

which contain a non-significant amendment to a land and resource management plan as a part of the decision;

(b) A new DN after revision of an environmental assessment (EA), or a new ROD after supplementation or revision of an environmental impact statement (EIS), pursuant to FSH 1909.15, Chapter 10, section 18. However, only that portion of the decision that is changed is subject to appeal.

(c) Decisions made in conjunction with other Federal agencies and meeting the requirements of preceding paragraph (a). However, only that portion of the decision made by the Forest Service affecting National Forest System lands (§215.2) is subject to appeal under this part.

(d) Decisions which affect the holders of a special use authorization or certain applicants for special use authorizations for use or occupancy of National Forest System lands (§251.86) and meeting the requirements of preceding paragraph (a), are subject to appeal by those same parties under either this part or part 251, subpart C, but not under both parts.

### § 215.12 Decisions and actions not subject to appeal.

The following decisions and actions are not subject to appeal under this part, except as noted:

(a) The amendment, revision, or adoption of a land and resource management plan that includes a project decision, except that the project portion of the decision is subject to this part. The amendment, revision, or adoption portion of a decision is subject to either the objection process of §219.32 or the administrative appeal and review procedures of part 217 in effect prior to November 9, 2000 (see 36 CFR parts 200 to 299, Revised as of July 1, 2000);

(b) Determination, with documentation, that a new decision is not needed following supplementation of an environmental impact statement (EIS) or revision of an environmental assessment (EA) pursuant to FSH 1909.15, Chapter 10, section 18.

(c) Preliminary findings made during planning and/or analysis processes on a project or activity. Such findings are