

§215.4

(a) Proposed projects and activities implementing land and resource 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 69 FR 1533, Jan. 9, 2004]

§215.4 Actions not subject to legal notice and opportunity to comment.

The procedures for legal notice (§215.5) and opportunity to comment (§215.6) do not apply to:

(a) Projects and activities which are categorically excluded from documentation in an environmental impact statement (EIS) or environmental assessment (EA) pursuant to FSH 1909.15, Chapter 30, section 31;

(b) Proposed amendments to, revision of, or adoption of land and resource management plans that are made separately from any proposed actions, and which are therefore 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);

(c) Projects and activities not subject to the provisions of the National Envi-

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ronmental Policy Act and the implementing regulations at 40 CFR parts 1500–1508 and the National Forest Management Act and the implementing regulations at 36 CFR part 219;

(d) Determinations by the Responsible Official, after consideration of new information or changed circumstances, that a revision of the EA is not required (1909.15, Chapter 10, section 18); and

(e) Rules promulgated in accordance with the Administrative Procedure Act (5 U.S.C. 551 *et seq.*) or policies and procedures issued in the Forest Service Manual and Handbooks (part 216).

(f) Hazardous fuel reduction projects conducted under the provisions of section 105 of the HFRA, except as provided in part 218, subpart A, of this title.

[68 FR 33595, June 4, 2003, as amended at 69 FR 1533, Jan. 9, 2004]

§215.5 Legal notice of proposed actions.

(a) *Responsible Official.* The Responsible Official shall:

(1) Provide notice of the opportunity to comment on a proposed action implementing the land and resource management plan.

(2) Determine the most effective timing for publishing the legal notice of the proposed action and opportunity to comment.

(3) Promptly mail notice about the proposed action to any individual or organization who has requested it and to those who have participated in project planning.

(4) Publish a legal notice of the opportunity to comment on a proposed action as provided for in paragraph (b)(2).

(5) Accept all written and oral comments on the proposed action as provided for in §215.6(a)(4).

(6) Identify all substantive comments.

(b) *Legal notice of proposed action.* (1) *Content of legal notice.* All legal notices shall include the following:

(i) The title and brief description of the proposed action.

(ii) A general description of the proposed action's location with sufficient information to allow the interested public to identify the location.

(iii) A statement that the Responsible Official is requesting an emergency situation determination or it has been determined that an emergency situation exists for the project or activity as provided for in §215.10, when applicable.

(iv) For a proposed action to be analyzed and documented in an environmental assessment (EA), a statement that the opportunity to comment ends 30 days following the date of publication of the legal notice in the newspaper of record (§215.6(a)(2)); legal notices shall not contain the specific date since newspaper publication dates may vary.

(v) For a proposed action that is analyzed and documented in a draft environmental impact statement (EIS), a statement that the opportunity to comment ends 45 days following the date of publication of the notice of availability (NOA) in the FEDERAL REGISTER (§215.6(a)(2)). The legal notice must be published after the NOA and contain the NOA publication date.

(vi) A statement that only those who submit timely and substantive comments will be accepted as appellants.

(vii) The Responsible Official's name, title, telephone number, and addresses (street, postal, facsimile, and e-mail) to whom comments are to be submitted and the Responsible Official's office business hours for those submitting hand-delivered comments (§215.6(a)(4)(ii)).

(viii) A statement indicating that for appeal eligibility each individual or representative from each organization submitting substantive comments must either sign the comments or verify identity upon request.

(ix) The acceptable format(s) for electronic comments.

(x) Instructions on how to obtain additional information on the proposed action.

(2) *Publication.* (i) Through notice published annually in the FEDERAL REGISTER, each Regional Forester shall advise the public of the newspaper(s) of record utilized for publishing legal notices required by this part.

(ii) Legal notice of the opportunity to comment on a proposed action shall be published in the applicable newspaper of record identified in paragraph

(b)(2)(i) for each National Forest System unit. When the Chief is the Responsible Official, notice shall also be published in the FEDERAL REGISTER. The publication date of the legal notice in the newspaper of record is the exclusive means for calculating the time to submit comments on a proposed action to be analyzed and documented in an EA. The publication date of the NOA in the FEDERAL REGISTER is the exclusive means for calculating the time to submit comments on a proposed action that is analyzed and documented in a draft EIS.

§215.6 Comments on proposed actions.

(a) *Opportunity to comment.* (1) *Time period for submission of comments.* (i) *Environmental Assessment.* Comments on the proposed action shall be accepted for 30 days following the date of publication of the legal notice.

(ii) *Draft Environmental Impact Statement.* Comments on the proposed action shall be accepted for 45 days following the date of publication in the FEDERAL REGISTER pursuant to 40 CFR parts 1500-1508.

(iii) It is the responsibility of all individuals and organizations to ensure that their comments are received in a timely manner as provided for in paragraph (a)(4).

(iv) The time period for the opportunity to comment on environmental assessments shall not be extended.

(2) *Computation of the comment period.* 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 (11:59 p.m.).

(i) *Environmental Assessment (EA).* The 30-day comment period for proposed actions to be analyzed and documented in an EA begins on the first day after publication of the legal notice.

(ii) *Draft Environmental Impact Statement (EIS).* The 45-day comment period for proposed actions that are analyzed and documented in a draft EIS begins on the first day after publication of the NOA in the FEDERAL REGISTER.