

## Forest Service, USDA

## §214.11

ensuring timely filing of appeal documents.

### §214.10 Dismissal of an appeal.

(a) The Appeal Deciding Officer shall dismiss an appeal without review when one or more of the following applies:

(1) The appeal is not filed within the required time period.

(2) The person or entity that filed the appeal is not a holder, an operator, or a solicited applicant of a written authorization that is the subject of the appealable decision.

(3) The decision is not appealable under this part.

(4) The appeal does not meet the content requirements specified in §214.8(a), provided that an appeal may not be dismissed for failure to include an appraisal report which has not been completed by the filing deadline.

(5) The appellant withdraws the appeal.

(6) The Responsible Official withdraws the written decision that was appealed.

(7) An informal resolution of the dispute is reached pursuant to §214.15 or a mediated agreement of a term grazing dispute is achieved pursuant to 36 CFR part 222, subpart B.

(8) The requested relief cannot be granted under applicable facts, laws, regulations, or policies.

(b) The Appeal Deciding Officer shall give written notice of the dismissal of an appeal and shall set forth the reasons for dismissal.

### §214.11 Intervention.

(a) *Eligibility to intervene.* To participate as an intervenor in appeals under this part, a party must:

(1) Be a holder, an operator, or a solicited applicant who claims an interest relating to the subject matter of the decision being appealed and is so situated that disposition of the appeal may impair that interest; and

(2) File a written request to intervene with the Appeal Deciding Officer within 15 days after an appeal has been filed.

(b) *Request to intervene.* A request to intervene must include:

(1) The requester's name, mailing address, daytime telephone number, and email address, if any;

(2) A brief description of the decision being appealed, including the name and title of the Responsible Official and the date of the decision;

(3) The title or type and, if applicable, identification number for the written authorization and the date of application for or issuance of the written authorization, if applicable;

(4) A description of the requester's interest in the appeal and how disposition of the appeal may impair that interest;

(5) A discussion of the factual and legal allegations in the appeal with which the requester agrees or disagrees;

(6) A description of additional facts and issues that are not raised in the appeal that the requester believes are relevant and should be considered;

(7) A description of the relief sought, particularly as it differs from the relief sought by the appellant;

(8) Where applicable, a response to the appellant's request for a stay of the decision being appealed;

(9) Where applicable, a response to the appellant's request for an oral presentation;

(10) Where applicable, a response to the appellant's request for mediation of a term grazing permit dispute under 36 CFR part 222, subpart B; and

(11) The requester's signature and the date.

(c) *Response to a request to intervene.* The appellant and Responsible Official shall have 5 days from receipt of a request to intervene to file a written response with the Appeal Deciding Officer.

(d) *Intervention decision.* The Appeal Deciding Officer shall have 5 days after the date a response to a request to intervene is due to issue a decision granting or denying the request. The Appeal Deciding Officer's decision shall be in writing and shall briefly explain the basis for granting or denying the request. The Appeal Deciding Officer shall deny a request to intervene or shall withdraw a decision granting intervenor status as moot if the corresponding appeal is dismissed under §214.10.