

Forest Service, USDA

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for projects where scoping begins on or after this date.

(2) Hazardous fuel reduction project proposals under the HFRA for which public scoping began prior to March 27, 2013 may use the predecisional objection procedures posted at <http://www.fs.fed.us/objections>.

(3) Hazardous fuel reduction project proposals that are re-scoped with the public or re-issued for notice and comment after March 27, 2013 are subject to this part.

(b) *Effective dates for non-HFRA-authorized projects.* (1) Project proposals with public scoping completed, but that have not had legal notice published. The applicable provisions of this part are in effect as of March 27, 2013 where public scoping was previously initiated for project proposals, but legal notice of the opportunity to comment has not yet been published; unless scoping or other public notification of the project (e.g. Schedule of Proposed Actions) has clearly indicated the project to be under the former 36 CFR part 215 appeal process.

(2) Project proposals which have legal notice published, but a Decision Notice or Record of Decision has not been signed. If a Decision Notice or Record of Decision is signed within 6 months of March 27, 2013, it will be subject to the 36 CFR part 215 appeal process. If the Decision Notice or Record of Decision is to be signed more than 6 months beyond March 27, 2013, the project proposal will be subject to the requirements of this part. In this case, the responsible official will notify all interested and affected parties who participated during scoping or provided specific written comment regarding the proposed project or activity during the comment period initiated with a legal notice that the project proposal will be subject to the predecisional objection regulations at 36 CFR part 218. All interested and affected parties who provided written comment as defined in § 218.2 during scoping or the comment period will be eligible to participate in the objection process.

(3) Project proposals are subject to the requirements of this part when initial public scoping, re-scoping with the public, or re-issuance of notice and

comment begins on or after March 27, 2013.

Subpart B—Provisions Specific to Project-Level Proposals Not Authorized Under Healthy Forests Restoration Act

§ 218.20 Applicability and scope.

This subpart includes provisions that are specific to proposed projects and activities implementing land and resource management plans and documented with a Record of Decision or Decision Notice, except those authorized under the Healthy Forests Restoration Act (HFRA). The sections of this subpart must be considered in combination with the general provisions of subpart A of this part for the full complement of regulatory direction pertaining to predecisional administrative review of the applicable projects and activities.

§ 218.21 Emergency situations.

(a) *Authority.* The Chief and the Associate Chief of the Forest Service are authorized to make the determination that an emergency situation exists as defined in this section.

(b) *Emergency situation definition.* A situation on National Forest System (NFS) lands for which immediate implementation of a decision is necessary to achieve one or more of the following: Relief from hazards threatening human health and safety; mitigation of threats to natural resources on NFS or adjacent lands; avoiding a loss of commodity value sufficient to jeopardize the agency's ability to accomplish project objectives directly related to resource protection or restoration.

(c) *Determination.* The determination that an emergency situation exists shall be based on an examination of the relevant information. During the consideration by the Chief or Associate Chief, additional information may be requested from the responsible official. The determination that an emergency situation does or does not exist is not subject to administrative review under this part.

(d) *Implementation.* When it is determined that an emergency situation exists with respect to all or part of the

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proposed project or activity, the proposed action shall not be subject to the predecisional objection process and implementation may proceed as follows:

(1) Immediately after notification (see 36 CFR 220.7(d)) when the decision is documented in a Decision Notice (DN).

(2) Immediately after complying with the timeframes and publication requirements described in 40 CFR 1506.10(b)(2) when the decision is documented in a Record of Decision (ROD).

(e) *Notification.* The responsible official shall identify any emergency situation determination made for a project or activity in the notification of the decision (see 36 CFR 220.5(g) and 220.7(d)).

§218.22 Proposed projects and activities subject to legal notice and opportunity to comment.

The legal notice and opportunity to comment procedures of this subpart apply only to:

(a) Proposed projects and activities implementing land management plans for which an environmental assessment (EA) is prepared;

(b) Proposed projects and activities implementing land management plans for which a draft or supplemental environmental impact statement (EIS) is prepared and notice and comment procedures are governed by 40 CFR parts 1500 through 1508;

(c) Proposed amendments to a land management plan that are included as part of a proposed project or activity covered in paragraphs (a) or (b) of this section which are applicable only to that proposed project or activity;

(d) A proposed project or activity for which a supplemental or revised EA or EIS is prepared based on consideration of new information or changed circumstances; and

(e) Proposed research activities to be conducted on National Forest System land for which an EA or EIS is prepared.

§218.23 Proposed projects and activities not subject to legal notice and opportunity to comment.

The legal notice and opportunity to comment procedures of this subpart do not apply to:

(a) [Reserved];

(b) Proposed land management plans, plan revisions, and plan amendments that are subject to the objection process set out in 36 CFR part 219, subpart B;

(c) Proposed plan amendments associated with a project or activity where the amendment applies not just to the particular project or activity but to all future projects and activities (see 36 CFR 219.59(b));

(d) Proposed projects and activities not subject to the provisions of the National Environmental Policy Act and the implementing regulations at 40 CFR parts 1500 through 1508 and 36 CFR part 220;

(e) Determinations by the responsible official, after consideration of new information or changed circumstances, that a correction, supplement, or revision of the EA or EIS is not required;

(f) 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 (36 CFR part 216); and

(g) Proposed hazardous fuel reduction projects authorized under the Healthy Forests Restoration Act.

§218.24 Notification of opportunity to comment on proposed projects and activities.

(a) *Responsible official.* The responsible official shall:

(1) Provide legal notice of the opportunity to comment on a proposed project or activity implementing a land management plan.

(2) Determine the most effective timing and then publish the legal notice of the opportunity to comment as provided for in paragraph (c)(2) of this section.

(3) Promptly provide notice about the proposed project or activity to any individual or entity who has requested it and to those who have participated in planning for that project.

(4) Accept all written comments on the proposed project or activity as provided for in §218.25(a)(4).

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

(1) The title and brief description of the proposed project or activity.