

Forest Service, USDA

§216.1

whole or in part, and may include instructions for further action. The Appeal Deciding Officer shall send a copy of the appeal decision to the appellant, interested parties, the Appeal Reviewing Officer, and the Responsible Official. If a formal decision is not issued, the Appeal Deciding Officer shall notify the appellant(s) of the disposition of their appeal.

§215.18 Appeal deciding officer authority.

(a) *Consolidation of appeal decisions.* In cases involving multiple appeals of a decision subject to this part, the Appeal Deciding Officer shall determine whether to issue one appeal decision or separate appeal decisions.

(b) *Procedural decisions.* The Appeal Deciding Officer shall make all procedural determinations in this part. Such determinations are not subject to further administrative review.

(c) *Appeal decisions.* The Appeal Deciding Officer's decision constitutes the final administrative determination of the Department of Agriculture.

§215.19 Appeal reviewing officer authority.

(a) *Identification of Appeal Reviewing Officer.* An agency official at the Regional Office level designated by the Chief is the Appeal Reviewing Officer for appeals of District Ranger and Forest Supervisor decisions. An agency official at the Washington Office level designated by the Chief is the Appeal Reviewing Officer for appeals of Regional Forester Decisions. The Appeal Reviewing Officer shall be an officer at least at the level of the agency official who made the initial decision on the project or activity that is under appeal and has not participated in the initial decision and will not be responsible for implementing the initial decision after the appeal is decided.

(b) *Scope of review.* The Appeal Reviewing Officer's review of decisions under this part focuses on decision documentation developed by the Responsible Official in reaching the decision, issues raised in the appeal, and comments submitted by interested parties.

(c) *Consolidation of recommendations.* In cases involving multiple appeals of a decision subject to this part, the Ap-

peal Reviewing Officer shall determine whether to issue one recommendation or separate recommendations.

§215.20 Policy in event of judicial proceedings.

Unless waived in a specific case, it is the position of the Department of Agriculture that any filing for Federal judicial review of a decision subject to review under this part is premature and inappropriate unless the plaintiff has first sought to invoke and exhaust the procedures available under this part.

§215.21 Applicability and effective date.

(a) The requirements of §215.5 of this part to provide notice and opportunity to comment on proposed actions described in §215.3 is effective January 3, 1994.

(b) Decisions for which notice has been given pursuant to 36 CFR 217.5 prior to January 3, 1994, remain subject to the appeal procedures of 36 CFR part 217.

PART 216—INVOLVING THE PUBLIC IN THE FORMULATION OF FOREST SERVICE DIRECTIVES

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216.4 Determining the need for formal public review on proposed Manual directives.

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216.6 Notice and comment procedures for proposed Manual directives identified for formal public review.

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216.8 Availability of proposed Manual directives identified for formal public review.

AUTHORITY: Sec. 14, Forest and Rangeland Renewable Resources Planning Act of 1974, 88 Stat. 476 as amended, 90 Stat. 2949, 2958 (16 U.S.C. 1612).

SOURCE: 49 FR 16993, Apr. 23, 1984, unless otherwise noted.

§216.1 Purpose.

This part establishes procedures to ensure that Federal, State, and local