

§ 251.90 Content of notice of appeal.

(a) It is the responsibility of an appellant to provide a Reviewing Officer sufficient narrative evidence and argument to show why a decision by a lower level officer should be reversed or changed.

(b) An appellant must include the following information in a notice of appeal:

(1) The appellant's name, mailing address, and daytime telephone number;

(2) The title or type of written instrument involved, the date of application for or issuance of the written instrument, and the name of the responsible Forest Service Officer;

(3) A brief description and the date of the written decision being appealed;

(4) A statement of how the appellant is adversely affected by the decision being appealed;

(5) A statement of the facts of the dispute and the issue(s) raised by the appeal;

(6) Specific references to any law, regulation, or policy that the appellant believes to be violated and the reason for such an allegation.

(7) A statement as to whether and how the appellant has tried to resolve the issue(s) being appealed with the Deciding Officer, the date of any discussion, and the outcome of that meeting or contact; and

(8) A statement of the relief the appellant seeks.

(c) An appellant may also include one or more of the following in a notice of appeal: a request for oral presentation (§ 251.97); a request for stay of implementation of the decision pending decision on the appeal (§ 251.91); or, in those States with a Department of Agriculture certified mediation program, a request for mediation of grazing permit cancellation or suspensions pursuant to § 251.103.

[54 FR 3362, Jan. 23, 1989; 54 FR 13807, Apr. 5, 1989, as amended at 54 FR 34510, Aug. 21, 1989; 64 FR 37846, July 14, 1999]

§ 251.91 Stays.

(a) A decision may be implemented during the appeal process, unless the Reviewing Officer grants a stay or unless a term grazing permit holder appeals a decision and simultaneously requests mediation pursuant to § 251.103.

In the case of mediation requests, a stay is granted automatically upon receipt of the notice of appeal for the duration of the mediation period as provided in § 251.103.

(b) An appellant or intervenor may request a stay of a decision at any time while an appeal is pending, if the harmful effects alleged pursuant to paragraph (c)(3) of this section would occur during pendency of the appeal. The Reviewing Officer shall not accept any request to stay implementation of a decision that is not scheduled to begin during pendency of the appeal.

(c) To request a stay of decision, an appellant or intervenor must—

(1) File a written request with the Reviewing Officer;

(2) Simultaneously send a copy of the stay request to any other appellant(s), to intervenor(s), and to the Deciding Officer.

(3) Provide a written justification of the need for a stay, which at a minimum includes the following:

(i) A description of the specific project(s), activity(ies), or action(s) to be stopped.

(ii) Specific reasons why the stay should be granted in sufficient detail to permit the Reviewing Officer to evaluate and rule upon the stay request, including at a minimum:

(A) The specific adverse effect(s) upon the requester;

(B) Harmful site-specific impacts or effects on resources in the area affected by the activity(ies) to be stopped, and

(C) How the cited effects and impacts would prevent a meaningful decision on the merits.

(d) A Deciding Officer and other parties to an appeal may provide the Reviewing Officer with a written response to a stay request. A copy of any response must be sent to all parties to the appeal.

(e) *Timeframe.* The Reviewing Officer must rule on a stay request no later than 10 calendar days from receipt.

(f) *Criteria to consider.* In deciding a stay request, a Reviewing Officer shall consider:

(1) Information provided by the requester pursuant to paragraph (c) of this section including the validity of