

§215.7

(3) *Requirements.* Individuals and organizations wishing to be eligible to appeal must provide the following:

- (i) Name and address.
- (ii) Title of the proposed action.
- (iii) Specific substantive comments (§215.2) on the proposed action, along with supporting reasons that the Responsible Official should consider in reaching a decision.

(iv) Signature or other verification of identity upon request; identification of the individual or organization who authored the comment(s) is necessary for appeal eligibility.

(A) For appeals listing multiple organizations or multiple individuals, a signature or other means of verification must be provided for the individual authorized to represent each organization and for each individual in the case of multiple names, to meet appeal eligibility requirements.

(B) Those using electronic means may submit a scanned signature. Otherwise another means of verifying the identity of the individual or organizational representative may be necessary for electronically submitted comments or comments received by telephone.

(v) Individual members of an organization must submit their own substantive comments to meet the requirements of appeal eligibility; comments received on behalf of an organization are considered as those of the organization only.

(vi) Oral comments must be provided at the Responsible Official's office during normal business hours via telephone or in person, or if during non-business hours, must be at an official agency function (such as a public meeting) which is designed to elicit public comment.

(4) *Evidence of timely submission.* When there is a question about timely submission of comments, timeliness shall be determined as follows:

(i) Written comments must be post-marked by the Postal Service, e-mailed, faxed, or otherwise submitted (for example, express delivery service) by 11:59 p.m. on the 30th calendar day following publication of the legal notice for proposed actions to be analyzed and documented in an EA or the 45th calendar day following publication of

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the NOA in the FEDERAL REGISTER for a draft EIS.

(ii) Hand-delivered comments must be time and date imprinted at the correct Responsible Official's office by the close of business on the 30th calendar day following publication of the legal notice for proposed actions to be analyzed and documented in an EA or the 45th calendar day following publication of the NOA in the FEDERAL REGISTER for a draft EIS.

(iii) For electronically mailed comments, the sender should normally receive an automated electronic acknowledgment from the agency as confirmation of receipt. If the sender does not receive an automated acknowledgment of the receipt of the comments, it is the sender's responsibility to ensure timely receipt by other means.

(b) *Consideration of comments.* (1) The Responsible Official shall consider all substantive written and oral comments submitted in compliance with paragraph (a).

(2) All written comments received by the Responsible Official shall be placed in the project file and shall become a matter of public record.

(3) The Responsible Official shall document and date all oral comments received in response to the legal notice (§215.5) and place them in the project file.

§215.7 Legal notice of decision.

(a) The Responsible Official shall promptly mail the Record of Decision (ROD) or the Decision Notice (DN) and Finding of No Significant Impact (FONSI) to those who requested the decision document and those who submitted substantive comments during the comment period (§215.6).

(b) The Responsible Official shall publish a legal notice of any decision documented in a ROD or DN in the applicable newspaper of record (§215.5(b)(2)). The legal notice shall:

(1) Include the title of the project or activity and a concise description of the action(s) to be taken, the name and title of the Responsible Official, and instructions for obtaining a copy of the DN and FONSI or ROD.

(2) State that the decision is subject to appeal pursuant to 36 CFR part 215 and include the following:

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(i) Name and address of the Appeal Deciding Officer with whom an appeal is to be filed. The notice shall specify a street, postal, fax, and e-mail address, the acceptable format(s) for appeals electronically filed, and the Appeal Deciding Official's office business hours for those filing hand-delivered appeals.

(ii) A statement that the publication date of the legal notice in the newspaper of record is the exclusive means for calculating the time to file an appeal (§215.15 (a)) and that those wishing to appeal should not rely upon dates or timeframe information provided by any other source. An actual date shall not be included in the legal notice.

(iii) A statement that an appeal, including attachments, must be filed (regular mail, fax, e-mail, hand-delivery, express delivery, or messenger service) with the appropriate Appeal Deciding Officer (§215.8) within 45 days following the date of publication of the legal notice.

(iv) A statement indicating that individuals or organizations who submitted substantive comments during the comment period (§215.6) may appeal.

(v) A statement specifying, when applicable, that the Chief of the Forest Service, or a designee, has determined that an emergency situation exists (§215.10), and which portion of the project is covered by that determination as provided for in §215.10.

(vi) A statement indicating how many days following publication of the decision that implementation may begin (§215.9), including those portions covered by an emergency situation determination, if applicable (§215.10).

(3) When no substantive comments expressing concerns or only supportive comments are received, include a statement indicating that the decision is not subject to appeal pursuant to §215.12.

§215.8 Appeal Deciding Officer.

(a) *Appropriate Appeal Deciding Officer.* Appeals must be filed with the Appeal Deciding Officer as follows:

If the responsible official who made the decision is:	Then the Appeal Deciding Officer is:
Chief	Secretary of Agriculture.
Regional Forester or Station Director.	Chief of the Forest Service.
Forest Supervisor	Regional Forester.

If the responsible official who made the decision is:	Then the Appeal Deciding Officer is:
District Ranger	Forest Supervisor.

(b) *Authority.* The Appeal Deciding Officer makes all procedural determinations. Such determinations are not subject to further administrative review.

(1) *Consolidation of appeal decisions.* In cases involving more than one appeal of a decision, the Appeal Deciding Officer may consolidate appeals and may issue one or more appeal decisions.

(2) *Appeals with multiple names (organization(s) or individuals).* (i) When an appeal lists multiple names, the Appeal Deciding Officer shall identify all qualified appellants (§215.13).

(ii) The Appeal Deciding Officer may appoint the first name listed as the lead appellant (§215.2) to act on behalf of all parties to that appeal when the appeal does not specify a lead appellant (§215.14(b)(3)).

(3) *Appeal disposition.* (i) The Appeal Deciding Officer shall render the final disposition on an appeal and notify the appellant(s) in writing concerning the disposition of the appeal (§215.15(e)(2)).

(ii) The Appeal Deciding Officer may issue an appeal decision different from the Appeal Reviewing Officer's recommendation.

§215.9 Decision implementation.

(a) When no appeal is filed within the 45-day time period, implementation of the decision may begin on, but not before, the 5th business day following the close of the appeal-filing period (§215.15).

(b) Except for emergency situations (§215.10(c)), when an appeal is filed, implementation may occur on, but not before, the 15th business day following the date of appeal disposition (§215.2). In the event of multiple appeals of the same decision, the implementation date is controlled by the date of the last appeal disposition.

(c) When a project or activity decision is not subject to appeal (§215.12), implementation may occur as follows:

(1) Immediately after publication (§215.7(b)) of a decision documented in a Decision Notice; or

(2) Immediately when documented in a Record of Decision after complying