

Forest Service, USDA

§ 215.10

(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: |
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| Chief | Secretary of Agriculture. |
| Regional Forester or Station Director. | Chief of the Forest Service. |
| Forest Supervisor | Regional Forester. |
| 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 with the timeframes and publication requirements described in 40 CFR 1506.10(b)(2).

§ 215.10 Emergency situations.

(a) *Authority.* The Chief and the Associate Chief of the Forest Service are authorized to make the determination that an emergency situation (§215.2) exists, and they may delegate this authority only to the Deputy Chief for National Forest System and to the Regional Foresters. Persons acting in these positions may exercise this authority only when they are filling vacant positions and they have been formally delegated full acting authority for the positions. Persons acting in positions during temporary absences of the incumbents shall not be delegated this authority to make emergency situation determinations.

(b) *Determination.* The determination that an emergency situation exists shall be based on an examination of the relevant information. During the review, additional information may be requested.