



Predecisional Administrative Review Processes

36 CFR 218

Overview – What's changed?

- ▶ Moves projects documented in an Environmental Assessment (EA)/Decision Notice (DN) or Environmental Impact Statement (EIS)/Record of Decision (ROD) from a post-decisional appeals process (36 CFR 215) to a pre-decisional objection process.
- ▶ Appeals process (215s) will continue to apply to categorically excluded (CE) projects documented in a Decision Memo (DM) because of a court order


Subpart A - Overview

▶ Subpart A

- Key provisions include:
 - Definitions
 - Reviewing Officer
 - Projects not subject to objection
 - Objector/Objection Requirements
 - Time periods (specifies calendar days)
 - Objection notification requirements
 - Objection resolution
 - Timing of decisions
 - Effective dates



Subpart A

- ▶ Subpart A - allows for one level of review 
 - Reviewing Officer
 - Next higher level line officer than the responsible official who made the decision
 - District Ranger decision = Forest Supervisor is Reviewing Officer
 - Forest Supervisor decision = Regional Forester is Reviewing Officer
 - OK to talk to IDT/Responsible Official during resolution meetings



Subpart A

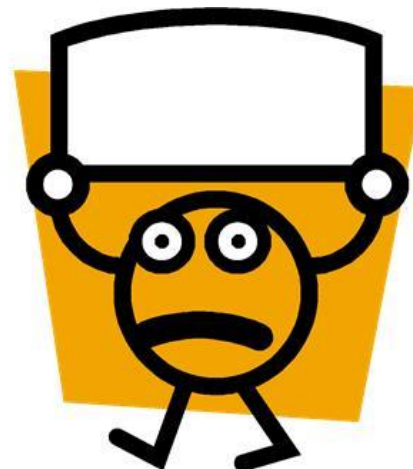
▶ Subpart A

◦ Objectors

- Must submit timely, specific written comments during *any* designated opportunity for public comment, which can include:
 - Scoping
 - Legal notice and comment periods
 - Any other public involvement opportunities requested by responsible official



Different!



Subpart A

▶ Subpart A

- Objections – giving notice of objection

- No timely or specific written comments = no objection period

- Must make available final EA or EIS and a draft DN/FONSI or ROD

- Must publish legal notice of opportunity to object in newspaper of record

- Must post legal notice of opportunity to object on web within 4 days of its publication. This is a new requirement!



Different!



Different!

Subpart A

▶ Subpart A

◦ Objections

- Filed with Reviewing Officer in writing
- Incorporation of documents by references is not allowed, with some exceptions
- Issues raised must be based on previously submitted specific written comments, unless issue is based on new information that arose after the opportunity for comment
- Evidence of timely filing is responsibility of objector
- Objections can be set aside from review for a variety of reasons



Different!



Different!

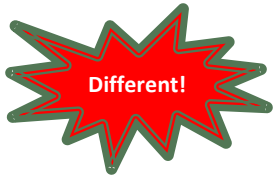
Subpart A

▶ Subpart A

◦ Objections

• Resolution of objections

- Meetings can occur at request of objector or Reviewing Officer
- Reviewing Officer determines if adequate time exists and determines meeting location, logistics, format, etc.
- Meetings open to public
- Reviewing Officer must respond to objection in writing
 - Point-by-point response not required
 - Can contain instructions
 - No further review of Reviewing Officer's response is allowed



Subpart A

▶ Subpart A

◦ Objections

- Timing of Decision
- Responsible Official cannot sign DN or ROD until Reviewing Officer has responded to objections and all concerns or instructions have been addressed
- No legal notice of decision required
- Must inform public of decision
- 5 day wait period if project was subject to objection



Different!

Subpart B

- ▶ Subpart B For Projects not part of Healthy Forest Restoration Act
 - Key provisions include:
 - Emergency situations
 - Legal notice and comment process
 - Notification of opportunity to comment
 - Commenting on proposed projects
 - Objection time periods



Subpart B

▶ Subpart B

◦ Emergency Situations

- Granted by Chief or Associate Chief only
- No objection period required
- Timeframes for implementation apply according to 36 CFR 220.7(d) for DNs and 40 CFR 1506.10(b)(2) for RODs
- Public notification required



Different!

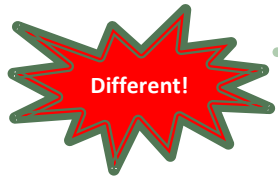


Subpart B



▶ Subpart B

- Describes the notice and comment process
 - Legal notice of opportunity to comment
 - 30 days for an EA; no extension allowed
 - 45 days for an EIS; extension allowed
 - Must post legal notice of opportunity to comment on web within 4 days of its publication. This is a new requirement!



Subpart B

▶ Subpart B

- Objection time periods
 - 45 day objection period for EAs
 - 45 day objection period for EISs
- Objection response period
 - 45 days for Reviewing Officer to respond
 - Discretion to extend for 30 days

Different!



Subpart C

▶ Subpart C

- Applies to HFRA projects only
- Objection time periods
 - 30 day objection period for EAs
 - 30 day objection period for EISs
- Objection response period
 - 30 days for Reviewing Officer to respond
 - No extension of time allowed



Questions & Answers

