



DEPARTMENT OF AGRICULTURE

Forest Service

36 CFR Part 218

RIN 0596-AD69

Project-Level Predecisional Administrative Review Process

AGENCY: Forest Service, Agriculture (USDA).

ACTION: Final rule.

SUMMARY: The U.S. Department of Agriculture is issuing a final rule amending its Project-Level Predecisional Administrative Review Process regulations. These regulations establish the process by which the public may file objections seeking administrative review of proposed projects and activities implementing land management plans on national forests and grasslands. The Department is amending these regulations to consolidate and streamline processes, increase efficiency, and better align with the Agency's statutory obligations and recent rescissions and revisions to National Environmental Policy Act regulations.

DATES: The final rule is effective [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: Joshua White, Acting Director, Ecosystem Management Coordination, 202-205-0650. Individuals who are deaf, hard of hearing, or have a speech disability may call 711 to reach the Telecommunications Relay Service, then provide the phone number of the person named as the point of contact for further information.

SUPPLEMENTARY INFORMATION:

I. Background and Need

Background

The Department is revising the Project-Level Predecisional Administrative Review Process regulations at 36 CFR part 218 to reflect statutory requirements and to ensure consistency with current National Environmental Policy Act (NEPA) procedures. Over the last several decades, Congress has enacted laws reshaping the Agency's administrative review process. Section 322 of the October 5, 1992 Interior and Related Agencies Appropriations Act, or Appeals Reform Act of 1992, established a notice and comment process and a postdecisional appeal process for certain project decisions implementing land management plans. In 2003, section 105 of the Healthy Forests Restoration Act (HFRA) directed the Secretary of Agriculture to publish regulations to establish a predecisional administrative review process for authorized hazardous fuel reduction projects. In 2012, section 428 of the Consolidated Appropriations Act extended the HFRA section 105(a) administrative review framework in lieu of subsections (c), (d), and (e) of section 322 to all projects and activities that implement land management plans and are documented with a decision notice or record of decision. In 2014, section 431 of the Consolidated Appropriations Act, 2014, exempted categorically excluded projects and activities from predecisional objection. Congress subsequently repealed the Appeals Reform Act in 2014.

The regulations at 36 CFR part 218 were amended in 2013 to implement section 428. Since then, the Forest Service has gained significant experience administering the objection process and identified opportunities to improve its efficiency and clarity. The Council on Environmental Quality (CEQ) rescinded its NEPA regulations, effective April 11, 2025, and the U.S. Department of Agriculture (USDA) issued updated NEPA procedures at 7 CFR part 1b. The same rulemaking effort to update 7 CFR 1b subsequently rescinded the NEPA implementing regulations at 36 CFR 220 for the Forest Service. Because the objection process applies to certain proposed actions subject to NEPA, the rescission of CEQ and 36 CFR 220 regulations and the revision of USDA's

NEPA implementing regulations necessitate aligning the administrative review regulations with the current NEPA framework. Taken together, these statutory and regulatory developments require updates to part 218 to ensure consistency, efficiency, and legal compliance.

Need for Rulemaking

This final rule is necessary to incorporate statutory direction adopted since the previous revision, update the administrative review process to reflect current NEPA regulations, and streamline processes to ensure the Forest Service conducts administrative review in a timely and efficient manner.

As described above, section 431 of the Consolidated Appropriations Act of 2014 exempts categorically excluded projects and activities from predecisional objection. The regulatory text in the final rule is therefore updated to incorporate this statutory direction and clarify which actions are subject to administrative review.

Additionally, rescission of CEQ and 36 CFR 220 regulations and changes issued by USDA to its NEPA implementing procedures render existing provisions in part 218 inconsistent with the governing NEPA framework. This final rule revises the objection regulations to align them with 7 CFR part 1b by adding flexibility in the review process, removing references to decision notices for environmental assessments (EA)s, and modernizing the Agency's information exchange methods to rely more consistently on technology generally available to the public.

Practical experience since 2013 also demonstrates the need to adopt more efficient procedures. The existing comment and objection processes add, at a minimum, 120 to 150 days for review of an EA and finding of no significant impact (FONSI) and 135 to 165 days for review of an environmental impact statement (EIS) and record of decision (ROD). This does not account for additional time needed for the responsible official to respond to instructions, if any, provided by the objection reviewing officer.

Neither the HFRA nor the other statutes governing the administrative review process mandate a specific length for the comment or objection periods. The final rule reduces these time periods and clarifies how objections are reviewed and addressed to improve the timeliness, consistency, and predictability of administrative review. The rule also standardizes procedures for HFRA and non-HFRA projects, modernizes public notification and document distribution practices by transitioning from outdated publication methods to web-based notification, and clarifies the authorities of the Secretary and Under Secretary to ensure that decision-making processes remain flexible and legally sound.

Collectively, these revisions are necessary to ensure that the administrative review process conforms to current statutory and regulatory requirements, supports timely and effective decision-making, and provides a clear, modern, and consistent framework for public participation in project-level environmental review.

Transition Guidelines

For projects that published a legal notice for the notice-and-comment period prior to the publication of the proposed rule on February 6, 2026, the previous 218 rule shall apply to the entirety of the administrative review process. For projects that published a legal notice for the notice-and-comment period between February 6, 2026, and the effective date of the final rule, and that did not notify the public that the project may be subject to the revised 218 rule, the previous 218 rule shall apply to the entirety of the administrative review process. For projects that published a legal notice for the notice-and-comment period between February 6, 2026, and the effective date of the final rule, and included language in the legal notice that the project may be subject to the revised 218 rule, the project shall be subject to the objection process of the rule that is in effect at the time the objection period is initiated. For all projects that initiate public notice-and-comment after the effective date of this rule, the revised rule shall apply. Initiation of the

notice-and-comment period means the date the responsible official published the required notice.

For purposes of establishing eligibility to object under 16 U.S.C. 6515(a)(3), any scoping period conducted for a project prior to or after the publication of the proposed rule shall be treated as a ‘designated comment period’.

II. Summary of Comments and Responses

Overview

The proposed rule for the Project-Level Predecisional Administrative Review Process was published in the *Federal Register* on February 6, 2026 (91 FR 5387), initiating a 30-day public comment period. Approximately 2,270 comments were received, about half of which were unique comments. One hundred twenty-nine organizations provided comments, including eight Tribal governments, sixteen State governments, seven local governments, sixteen businesses and industry groups, eighty-one non-governmental organizations, and one educational institution.

General Comments

Commenters generally expressed concerns that the proposed revisions to the project-level predecisional administrative review process would significantly reduce meaningful public participation, limit transparency, and increase both legal and operational risk for the Agency. Many view the proposed changes as a shift away from collaborative practices that have strengthened public trust and the durability of decisions.

Some commenters expressed support for the proposed amendments to 36 CFR 218, citing the need for a more streamlined process facilitated by shorter review periods, page limits, and the consolidation of review responsibilities. They supported modernizing public notice requirements and eliminating the reviewing officer role, noting that these changes may reduce redundancy and increase efficiency. Some commenters further observed that prolonged administrative review timelines can affect forest health

treatments, project costs, and local economic stability.

Comments and Responses

Comments received on the proposed rule are summarized below and organized by topic. The Department's responses follow each comment.

1) Public Participation Timing and Information Availability

Comment: Commenters contend that shortened comment periods, earlier opening of comment periods (sometimes before the EA or EIS is available), and compressed objection timelines do not provide a meaningful opportunity for participation. They underscore practical constraints (weekends and holidays, internal approvals, and rural broadband limits) and the need for access to supporting materials (specialist reports, GIS layers, and Endangered Species Act and National Historic Preservation Act analyses documents) to craft substantive input.

Response: The Department carefully considered concerns about comment and objection timelines and access to information at the start of public participation. In the proposed rule, the minimum public comment periods were shortened from 30 days to 10 days for EAs and from 45 days to 20 days for EISs. Recognizing concerns raised in comments, in the final rule the minimum public comment period is 15 days for EAs and 30 days for EISs, providing ample time for review of analyses and preparation of comments. The final rule also identifies that when the comment or objection filing period ends on a weekend or Federal holiday, the end date is extended to the end of the next Federal working day.

Consistent with Departmental NEPA procedures (7 CFR 1b.7(b)(1)), the final rule clarifies that sufficient environmental information must be available at the start of the designated comment period so the public can meaningfully evaluate the proposed action and its effects (section 218.3(d)). When materials are incorporated by reference, such as specialist reports, Endangered Species Act analyses, or other technical documents, those

materials must be reasonably available for inspection by potentially interested parties within the time allowed for comment (7 CFR 1b.9(e)(7)). For EISs, the NEPA statutory requirement, 42 U.S.C. 4336a(c)) to solicit public comments when publishing a notice of intent provides a foundation for early feedback. The final rule specifies that the opportunity to comment for an EIS can be combined with the notice of intent public comment opportunity so long as the required minimum information is available to the public (section 218.3(d)). For EAs, the comment period begins when information is available to inform substantive input. These adjustments made in the final rule preserve meaningful participation while maintaining predictable schedules for timely, efficient decision-making.

2) Public Notification

Comment: Commenters broadly oppose replacing newspapers and *Federal Register* notices with web-based postings, citing concerns about transparency, equity, and monitoring burdens across many USDA and Forest Service web pages. Many favor a multi-channel approach (*Federal Register*, local papers, Schedule of Proposed Action, email or text alerts, direct outreach) to ensure timely and accessible notice under shorter comment periods.

Response: Consistent with USDA's NEPA regulations, 7 CFR 1b.9(k)(1), the Department is modernizing public notification practices to rely on web-based notice rather than newspapers of record or routine *Federal Register* publication for project-level actions. Centralized electronic posting on Forest Service project web pages ensures information is available in a uniform, timely, and accessible format. The final rule also establishes a requirement of direct notification using the Agency's current public notification tools (for example, email listservs or subscription services) so that interested parties receive notice when comment or objection opportunities open (section 218.3(b)). These approaches modernize communications without reducing the public's ability to

provide comments in a timely manner. Responsible officials may, at their discretion, issue press releases, provide newspaper announcements, post notifications to unit-specific social media pages, or use other such means to notify local and surrounding communities of comment and objection opportunities.

3) Objection Process and Review of Objection Issues

Comment: Commenters oppose eliminating the independent reviewing officer and consolidating objection review authority with the responsible official. They assert this change creates a structural conflict of interest that erodes impartiality, accountability, and public trust, and increases the risk of litigation. Some commenters support removing the reviewing official, stating that the Agency official most knowledgeable about the proposal should review the objections.

Response: The final rule consolidates objection review with the responsible official who is most familiar with the environmental analysis and the issues raised. An independent reviewing officer is not required by the statutory authorities for the 36 CFR 218 predecisional objection process, including the HFRA (16 U.S.C. 6515) and the Consolidated Appropriations Act of 2012 (Pub. L. 112–74 Sec. 428). Neither NEPA nor the National Forest Management Act requires a higher-level reviewing officer for project administrative reviews. After applying the objection regulations over the last 12 years, the Forest Service has determined that it is more conducive to the predecisional review and final decision-making processes to have the responsible official review the objections as they are most familiar with the project. However, in response to comments regarding the loss of an objective and independent review, the final rule includes a requirement that objection responses from a District Ranger or Forest/Grassland Supervisor receive concurrence by an Agency official at an administrative level higher than the Forest/Grassland Supervisor where the project is occurring before finalizing and posting the response online. The final rule also preserves the responsible official’s discretion to

seek an independent review when appropriate, ensuring flexibility without imposing additional procedural requirements.

Comment: Commenters urge the Forest Service to retain a guaranteed right to request an objection-resolution meeting, emphasizing that digital-only processes can isolate or exclude impacted communities and limit meaningful dialogue with responsible officials.

Response: The Department recognizes the importance of public engagement and the value of opportunities for direct dialogue between the public and responsible officials. The revised language removes “Meetings” (previously found at section 218.11(a)) because resolution meetings are not statutorily required as part of the objection process and often create additional administrative burdens and unnecessary delays; however, this does not preclude a responsible official from holding public hearings, public meetings, or other opportunities for public involvement. Maintaining discretion allows responsible officials to determine whether a meeting would be beneficial for resolving issues raised in objections without imposing mandatory procedural requirements that only result in unproductive delay.

Comment: Commenters oppose the proposal’s expanded basis for setting aside objections or specific objection issues from review, arguing (1) the proposed rule creates internal contradictions by requiring objectors to demonstrate a connection to prior comments while also risking setting aside if they restate prior comments; (2) issues premised on new information or changes since public comment should not be set aside; (3) the proposed rule’s handling of supportive objections improperly removes a way for stakeholders to preserve interests during resolution discussions; (4) added content requirements, such as clearly articulated recommendations or mitigation and citing statutory authority for mitigation, could create barriers for lay participants and increase the risk of arbitrary dismissal; and (5) setting aside objections “as a whole” could limit

productive dialogue.

Response: With respect to concerns about setting aside objections that are a “restatement of previously submitted comments” (section 218.11(a)(4)), the intent of the requirement is not to prohibit objectors from referencing or building upon their earlier comments. Rather, the purpose is to ensure that objections are not simply a verbatim resubmission of a comment letter without identifying specific concerns with the proposed decision or explaining how those concerns relate to issues previously raised. For example, objectors may restate or elaborate on prior comments, provided they identify specific concerns with the proposed decision that remain unresolved and demonstrate a clear connection to the issues raised during the designated public comment period.

Regarding the concern about issues premised on new information, if the proposed decision or supporting analysis differs from what was available during the public comment period, objectors may raise issues related to those changes (section 218.9(c)). Such issues would not be set aside solely because they were not referenced during the comment opportunity. This principle ensures that objectors are not disadvantaged by changes in the analysis or other new information that becomes available after the comment period.

Regarding supportive objections, the Department acknowledges commenters’ interest in preserving the ability to express support on a project. If supportive comments are submitted, the Agency will include them as part of the project record, but will not review them as eligible objections. The set-aside provisions are not intended to eliminate the ability to express support but rather to ensure that objections contain sufficient information for the responsible official to understand and respond to the specific issues being raised.

The Department considered concerns about the requirement to include specific information with regard to recommendations or mitigation. The final rule clarifies that

objectors must provide recommendations and/or mitigation, but are not required to include both in their objection (section 218.9 (d)(4)(ii)). This requirement is intended to focus the objection process on constructive solutions and does not require objectors to propose measures that would trigger new analysis beyond what has already been completed, nor does the final rule require that mitigation cite statutory or regulatory authority. Recommendations should be conveyed with sufficient clarity for the responsible official to understand the concern and consider potential adjustments to the proposal.

The provision at section 218.11(a) for setting objections aside from review is intended for circumstances where an objection does not meet the basic requirements for filing, such as eligibility, timeliness, or connection to prior comments, and is not intended to limit the responsible official's ability to consider individual issues within an otherwise valid objection (section 218.11(b)).

Comment: Commenters generally oppose the use of automated artificial intelligence (AI) tools to review, summarize, or filter public comments, arguing that automated summarization risks oversimplifying complex points, mischaracterizing minority viewpoints, and introducing bias. Several commenters also link AI concerns with the proposal's "modernization" of submission formats and shortened comment windows, fearing these changes will reduce meaningful participation or exclude those who do not use digital tools.

Response: The final rule does not authorize, require, or reference the use of artificial intelligence or automated tools to review, summarize, or filter public comments or objections. Requirements for digital formats, such as machine-readable or text-based submissions, are intended to ensure compliance with section 508 of the Rehabilitation Act, helping ensure that documents are accessible to individuals using assistive technologies. Executive Order (E.O.) 13960, *Promoting the Use of Trustworthy Artificial*

Intelligence in the Federal Government, encourages agencies to explore AI tools to improve government operations where appropriate and consistent with principles of transparency, accountability, and nondiscrimination. Similarly, the USDA AI Strategy outlines Department-wide principles for responsible AI use. These policies do not mandate or direct the use of AI in the Forest Service's objection processes, nor do they supersede the Agency's responsibility to ensure that public input is meaningfully considered by decision-makers.

Comment: Commenters oppose the proposed page-length limits on objections (15 pages for EA-level and 30 pages for EIS-level decisions), asserting the page limits are arbitrary and inadequate for complex, multi-disciplinary analyses; would suppress citations, endnotes, and evidentiary detail needed for rigorous administrative review; and would disproportionately burden Tribes, small organizations, and individuals without legal support.

Response: The objection process is intended to provide a concise, issue-focused opportunity for eligible parties to identify specific concerns with the proposal and suggest recommendations or mitigation. It is not intended to replicate the opportunity for public comment, which has a broader purpose and imposes no page limitations (section 218.3(e)).

In 2020, the Council on Environmental Quality included requirements in its now-rescinded regulations to limit EAs to 75 pages and EISs to 150 pages, unless the proposal is of extraordinary complexity, in which case the page limits are capped at 300. In 2023, Congress amended NEPA with the Fiscal Responsibility Act (of 2023) to make these page limits a statutory requirement. As the Department is now required to meet page limits for environmental documents, it is logical to also place page limits on objection documents that have, at times, exceeded the length of the environmental document itself. The page limits placed on environmental documents necessitate a focus on the

substantive issues that inform the iterative decision-making process. Similarly, page limits on objections help ensure that objections remain focused on the issues raised during public comment and facilitate timely and efficient review by responsible officials, while providing adequate opportunity for objectors to identify specific issues based upon previously submitted comments.

The page-length limits on objections (15 pages for EA-level and 30 pages for EIS-level decisions) are reasonable based on Agency experience distilling objection issues and rationales from objections submitted over the more than twelve years since the objection process was put in place. Furthermore, page limitations apply only to the objection document itself, and do not apply to attachments and other documents incorporated by reference (section 218.9(b)). The page limits reflect a balanced approach to ensuring both meaningful participation and administrative efficiency.

Comment: Commenters oppose the proposed rule's requirement that science or literature must be submitted as an attachment in portable document format (PDF) during the comment and objection stages (section 218.3(h)). They argue that restrictions such as prohibiting web links, disallowing CDs or external media, requiring permission-free PDFs, limiting file sizes, and allowing only narrowly defined literature will exclude relevant science. Many commenters also assert that the cause-and-effect justification requirement improperly shifts the analytical burden from the Forest Service to the public, enables selective exclusion of inconvenient evidence, and undermines the completeness and accuracy of the project record.

Response: The final rule does not limit the amount or type of scientific literature that may be submitted. Commenters and objectors may provide peer reviewed articles, gray literature, Agency reports, monitoring data, photographs, and other relevant materials. These materials must be submitted as permission free PDF attachments to ensure accessibility and compliance with section 508 standards. The Forest Service does

not accept website links because URLs are unstable and cannot be reliably preserved in the project record. Additionally, content on websites is subject to change and on occasion the information being cited is no longer available at the website link provided; therefore, it is in the best interest of the commenter or objector to provide a PDF of the website page they are citing to ensure content is captured as it appeared at the time it was referenced.

Requiring commenters and objectors to identify the cause-and-effect relationship between submitted materials and the environmental analysis clarifies relevance and supports efficient review. The final rule also allows objectors to submit scientific literature that was not available during the comment period, such as newly published studies or recently released data, ensuring that relevant new information can be considered without reopening the comment period.

Comment: Commenters oppose the requirement that responsible officials issue written objection responses within 15 days following the close of the objection filing period for an EA and FONSI or 20 days following the close of the objection filing period for an EIS and ROD, and they object to the 5-page limit on those responses. They assert that compressed timelines and page limits will reduce the quality and completeness of responses to complex, multi-statute objections, risking increased litigation exposure. Many also oppose discontinuing mailed responses, advocating direct notice to lead objectors in addition to posting on the Agency website.

Response: The objection process is intended to provide a focused, predecisional administrative review to identify and resolve concerns efficiently before a final decision is issued. The proposed response timelines were designed to support timely decision-making while ensuring that responsible officials address the issues raised in objections.

The Department acknowledges commenters' concerns that highly technical

projects or a high volume of objections may require additional time for review. To address this, the final rule allows an Agency official one level above the responsible official to extend the objection review period by up to 15 additional days for EIS- level decisions that are highly complex or receive a high volume of objections. This discretionary extension provides flexibility for certain EIS-level decisions while maintaining the overall efficiency of the administrative review process.

The primary purpose of the objection response is to identify objections that were reviewed in whole or in part, those that were set aside from review, and any changes that the responsible official will make prior to finalizing the FONSI or ROD. Page limits help ensure that objection responses remain concise, focused, and accessible to the public. Responsible officials may incorporate by reference relevant portions of the environmental analysis or other documents in the project record into the objection response as needed.

In response to concerns about the discontinuation of mailed objection responses, the final rule requires that objection responses be posted on the Agency's website to ensure timely and consistent access. Responsible officials have the discretion to provide direct notice to objectors through electronic communication or other appropriate means.

Comment: Commenters requested clarity on the "substantive comment" requirement to ensure it does not exclude non-technical participants or experience-based, on-the-ground input from consideration by the responsible official.

Response: The section 218.2 definition of "substantive" aligns with the USDA NEPA rule at 7 CFR 1b.11(a)(53), which defines substantive as information that "meaningfully informs the consideration of reasonably foreseeable impacts on the human environment, the resulting significance determination, decisions on how to proceed . . . or compliance with applicable laws, executive orders, and regulations." This definition does not require technical language, formal citations, or specialized expertise. It encompasses a wide range of input, including local and traditional knowledge, field observations,

community-based information, photographs, monitoring data, and descriptive accounts.

Comment: Commenters express concern regarding proposed and existing practices that would discount, consolidate, or set aside repetitive public input, including objections that restate previously raised concerns, similarly worded or form-letter comments that may be “counted as one,” and policies that allow the Agency to adopt only one of multiple related submissions from the same signer or organization.

Response: The final rule states that the responsible official shall consider all specific written comments but is not required to review multiple submissions from an objector that are submitted in different formats (duplicates) (section 218.3(g)). Similarly worded and form letters are counted as individual submissions and considered, though consolidated summaries may be used for efficiency of response. The final rule promotes an issue-based approach to understanding concerns and identifying recommendations. When similar concerns or recommendations are expressed more than once, it is reasonable to consolidate and consider the concern or recommendation once.

4) Emergency Situations and Exclusion Mechanisms

Comment: Commenters assert that emergency situation determinations referenced at 218.14 are insufficiently defined and applied too broadly, and oppose categorical exclusion practices that reduce notice, scoping, and objection opportunities—particularly for fuels and vegetation projects that are large in scope.

Response: The Consolidated Appropriations Act of 2012 provides a broad authority to determine that a “proposed action shall not be subject to the predecisional objection process” because “an emergency situation exists for which immediate implementation of a proposed action is necessary” (Pub. L. 112-74, Sec. 428). The section 218.14 provision on Emergency Actions clarifies when this authority applies while maintaining the ability to use the emergency authority as needed, as provided by Congress. In addition to the section 218.14 Emergency Situations authority, section

218.5(a)(6)(i) clarifies that the project-level objection process also does not apply to projects authorized pursuant to the Infrastructure Investment and Jobs Act of 2021 (IIJA) section 40807 Emergency Situation Determinations or other applicable emergency authorities. The IIJA emergency authority is defined by statute (16 U.S.C. 6592c) and specific Emergency Situation Determinations are declared via Secretarial Memoranda (for example, Secretarial Memorandum 1078-006). Even in an emergency situation, the Agency continues to provide public notice and maintain NEPA compliance commensurate with the circumstances and legal requirements.

Categorical exclusions (CEs) are exempted from project-level objections by statute (Pub. L. 113-76 and 113-79) and section 218 does not modify CE scope or create new CEs.

5) Legal/Policy Alignment and Justification

Comment: Commenters assert that the proposed reductions in comment and objection periods are inconsistent with NEPA's participatory purpose and with the Administrative Procedure Act's requirement for reasoned Agency decision-making. They further contend that the proposal does not adequately explain what they view as a departure from the Agency's prior interpretation of congressional direction under the Appeals Reform Act, the 2012 Appropriations Act, HFRA, and the 2014 repeal of the ARA, citing the *State Farm* and *Fox* standards governing changes in Agency policy. Commenters also allege potential inconsistencies between the revised procedures and other Federal accessibility and administrative statutes, including the Americans with Disabilities Act, section 504, and public-comment provisions applicable to FAST-41 projects. In addition, they request clarification regarding the relationship between part 218, USDA's NEPA procedures at 7 CFR 1b, and the rescission of the Forest Service's former NEPA regulations at 36 CFR 220.

Response: The revisions to 36 CFR 218 reflect a reasoned balance among public

participation, timeliness, and administrative efficiency and compliments the public participation provisions set forth in the USDA NEPA regulations. In developing the final rule, statutory authorities, public input, and implementation experience were evaluated to ensure that the objection procedures continue to support NEPA statutory requirements for soliciting comments and the Administrative Procedure Act's (APA) requirement for reasoned decision-making. The authorities cited in the comment on the proposed rule do not prescribe specific comment or objection periods, and the 2014 repeal of the Appeals Reform Act restored discretion to structure predecisional review procedures consistent with HFRA and the 2012 Appropriations Act. The Department considered statutory requirements and relevant legislative history and determined that the final rule is consistent with statutory requirements concerning the objections process and provides opportunity for the public to raise substantive issues before decisions are finalized.

Part 218 establishes procedural requirements for administrative review and does not alter or supersede statutory obligations under NEPA or any other environmental or accessibility statute identified by commenters. FAST-41 ("Fixing America's Surface Transportation Act," title 41) provides permitting process coordination, schedules, and dashboard requirements for "covered projects," but it does not create new or additional comment periods where no other applicable provision of law creates a comment period, nor does it create any public participation requirement. References in the FAST-41 to processes required by the now rescinded CEQ NEPA regulations (40 CFR parts 1500–1508) are obsolete.

The final rule is consistent with USDA NEPA regulations at 7 CFR Part 1b, and the rescission of 36 CFR 220 does not affect the statutory basis for the objection process or control the provisions set forth in this rule.

6) Tribal Consultation, Rights, and Cultural Resources

Comment: Tribal governments and intertribal organizations warn that shortened

windows and exclusive reliance on website posting impede timely, reliable participation and government-to-government consultation, especially given seasonal subsistence cycles (Alaska Native Interest Lands Conservation Act Sec. 810), internal coordination needs, and limited broadband in rural areas. They express concern that the reduced comment and objection periods would severely impede meaningful Tribal participation, particularly when comment or objection periods for multiple projects overlap. They argue changes undermine trust and treaty responsibilities and obligations under E.O. 13175, the National Historic Preservation Act (NHPA), and the Native American Graves Protection and Repatriation Act (NAGPRA). They request longer, flexible timelines, direct notice, and assurance that consultation comments qualify for objection eligibility.

Response: The final rule is consistent with the United States' trust responsibilities and consultation obligations as specified in the comment received. The Forest Service will continue to conduct early, meaningful, and ongoing government-to-government consultation when undertakings may affect culturally significant sites or subsistence practices. The final rule extends the comment periods from those proposed to 15 days for an EA and 30 days for an EIS and clarifies the minimum information required during the opportunity for public comment (section 218.3 (d)). In response to comments received, the responsible officials will supplement electronic web-posting with direct notifications to Tribes and tailored outreach appropriate to local communities, Sections 218.3(b) and 218.8. For objection eligibility, section 218.6(b) allows specific written comments provided during Federal-Tribal consultation to establish eligibility to object. Procedural adjustments (page limits and set-aside clarifications) promote concise, issue-specific review and do not diminish consideration of Tribal input.

7) Resource Impacts

Comment: Commenters express concern that shortened comment and objection periods, elimination of review extensions, and limits on the length of submissions

increase the likelihood that the objection review process will miss cumulative or long-term impacts on wildlife, sensitive and listed species, migration corridors, aquatic systems, and mature and old-growth forests. Commenters note that adequate objection review time is essential for Endangered Species Act compliance, land management plan consistency, and adherence to E.O. 14072 and the Northwest Forest Plan. They maintain that compressed objection review timelines would diminish science-based input, reduce the ability to verify technical accuracy, and heighten the risk of irreversible impacts on resources. Commenters request longer or complexity-based review windows and greater involvement of State wildlife agencies and other jurisdictional experts to ensure decisions reflect robust scientific understanding.

Response: The final rule maintains adequate opportunity for concise, directed issues to be raised to responsible officials based upon comments submitted previously, as well as targeted review and adjustments by those officials to ensure compliance with federal laws. Agency experience, coupled with statutory direction and resource conditions, support the procedural changes in time periods set forth in the final rule. Statutory requirements are unaffected by the time periods set forth in this rule. Agency experience indicates that longer time periods do not result in improvement in objection quality or depth, nor does a longer time period automatically improve objection responses.

Consistent with 7 CFR 1b.2(g), the Forest Service conducts NEPA reviews concurrently and in an integrated manner with all other environmental analyses, surveys, and studies required by Federal environmental laws and executive orders. This includes Endangered Species Act consultation, cultural resource review under the National Historic Preservation Act, water-quality considerations under the Clean Water Act, and other resource-specific requirements. The procedural adjustments in part 218 do not modify these responsibilities or the depth of analysis required to support informed

decision-making.

In addition, the National Forest Management Act authorizes the Agency to develop, maintain, and appropriately revise land management plans for units of the National Forest System. These land management plans contain standards, guidelines, and desired conditions applicable to project-level decisions. All projects, regardless of administrative review timelines, must be consistent with the applicable land management plan or must be adjusted as soon as practicable to be consistent with the plan (16 U.S.C. 1604(i)).

The final rule provides ample opportunity to provide concise, specific issues (based on previous comments submitted) for review by the responsible official to ensure continued compliance with federal statutes and consistency with the land management plan. The opportunity for public participation in the final rule, coupled with substantive provisions included in law, ensure that resources will be protected in the context of efficient Forest Service decision-making.

8) Consultation and Collaboration

Comment: Commenters are concerned that reduced comment periods will curtail meaningful public participation, which could elevate stewardship partners' and timber purchasers' exposure to financial, contractual, and reputational risk if litigation impacts project implementation. They also note that cooperating agencies (for example, those monitoring livestock grazing) rely on public engagement to identify resource impacts, and that eliminating or compressing opportunities to comment and object could reduce public input until after decisions are made, pushing conflict into litigation.

Response: The Department recognizes the importance of early engagement with stewardship partners, permittees, cooperating agencies, and other stakeholders. These relationships often help identify issues early, improve project design, and reduce the likelihood of disputes. Nothing in the final rule limits the Forest Service's ability to

engage proactively with partners before the formal comment or objection period begins to discuss the resource issues as well as potential litigation risk. Responsible officials retain discretion to share preliminary information, coordinate technical review, and work collaboratively with purchasers, permittees, and cooperators throughout project development.

III. Changes to the Final Rule

In response to public comments, the Department is making the following changes to the rule as proposed on February 6, 2026.

Section 218.1 Purpose, applicability, and scope.

Added a cross-reference to 218.16.

Section 218.2 Definitions.

Updated the definition of “Recommendations” to be consistent with 7 CFR 1b.7(f) and updated the definition of “Substantive” to be consistent with 7 CFR 1b.11(a)(53).

Removed the definition for Forest Service line officer as that term is not referenced in the final rule.

Updated the definition for National Forest System land to reference 16 U.S.C. 1609(a).

Section 218.3 Designated opportunity for public comment.

Section 218.3(b) Added a requirement for the responsible official to send a notification to interested parties of the designated opportunity to comment using the Agency’s current public notification tools.

Section 218.3(c) Increased the time to file comments from 10 days in the proposed rule to 15 days in the final rule for EAs and from 20 days in the proposed rule to 30 days in the final rule for EISs. In section 218.3(c)(1), clarified that computation applies to comment and objection filing time periods.

Section 218.3(c) Removed the last sentence from the paragraph regarding “Notice of the opportunity to comment...” because it is already stated in 218.3(b).

Section 218.3(d) Added language regarding what information is required to be available to the public during the designated opportunity to comment and removed 218.3(d)(4) as a requirement.

Section 218.3(e) Changed “the designated opportunity for public comment” to “a designated opportunity for public comment” to indicate that there may be more than one opportunity for public comment to establish eligibility to object. This update from “the” to “a” was made throughout the rule where appropriate. In (e)(2) updated “national forest(s)” to “national forest(s) and grassland(s)” to appropriately include grasslands. This update to reference grasslands in addition to forests was made throughout the regulations where needed.

Section 218.3(g) Corrected a reference to “objections” when it should read “comments.”

Section 218.4 Projects and activities subject to the project-level objection process.

Added “project-level” to this section heading to distinguish it from the objection process for land management plan revision and plan amendments at 36 CFR 219, subpart B.

Section 218.5 Projects and activities not subject to the project-level objection process

Added “project-level” to this section heading to distinguish it from the objection process for land management plan revision and plan amendments at 36 CFR 219, subpart B.

Removed text in 218.5(b) that exempted projects from the objection process that have already been through “a previous Forest Service administrative review process, or another agency’s pre- or post-decisional administrative review process.”

Added reference to “previous findings, or decisions” that were relied upon as not

subject to objection review.

Section 218.7 Objection filing period.

Added clarification for timing of filing the EIS with the Environmental Protection Agency.

Section 218.8 Notice of opportunity to object.

Added a requirement for the responsible official to send a notification to interested parties of the objection filing period using the Agency's current public notification tools. Added a cross-reference to section 218.3(c)(1) with regards to calculating objection start and end dates.

Section 218.9 Filing an objection.

Updated language in section 218.9(a)(1) to be consistent with section 218.3(g) regarding the acceptable document formats.

Updated language at section 218.9(b)(5) to be consistent with section 218.9(c)(4).

Updated language at section 218.9(c)(3) to clarify when issues raised in objections may be based on new information.

Updated language at section 218.9(d)(4)(ii) to indicate that recommended mitigation included in an objection *should* include reference to statutory or regulatory authority but is not required to include reference to statutory or regulatory authority.

Section 218.11 Objections or issues set aside from review.

Added reference to section 218.9(c) and clarified language at section 218.11(a)(4), section 218.11(b)(3), and section 218.11(b)(4) regarding when objections may be set aside from review.

Section 218.12 Review of objections.

Added language to indicate that the Agency official one level above the responsible official has the discretion to extend the review of objections on an EIS an additional 15 days if the project is of extraordinary complexity (NEPA, section

107(e)(1)(B); 42 U.S.C. 4336a(e)(1)(B)) and/or has received a high volume of objections.

Updated the “end date” for the objection response period for an EA to 15 calendar days from the start date and 20 calendar days from the start date for an EIS, unless extended to 35 days for an EIS (218.12(b)). Also clarified the computation applies to the time period for review of objections.

Added a requirement a requirement at 218.12(c)(4) that for District Ranger or Forest/Grassland Supervisor objection responses, an Agency official at an administrative level higher than the Forest/Grassland Supervisor where the project is occurring must concur with the objection response before finalizing and posting on the USDA website (218.12(d)).

Section 218.13 Timing of finding or decision.

Updated the time to publish a final FONSI or ROD to “after the fifth business day following the end of the objection period.” Added cross-reference to section 218.7(c) regarding timing of filing an EIS with the Environmental Protection Agency.

Section 218.14 Emergency Actions.

Updated language of this section to reference section 428 of the Consolidated Appropriations Act of 2012, which establishes that when the Chief or Associate Chief determines that an emergency situation exists, the project shall not be subject to the predecisional objection process.

Section 218.15

Corrected the reference to the Under Secretary for Natural Resources, which previously read “National Resources.”

Section 218.16

Changed the reference to “administrative review process” in the last sentence to “objection process” to be consistent with section 218.1.

The Department has also made non substantive editorial and clarifying revisions

to the regulatory text between the proposed and final rule. These changes improve clarity, correct minor inconsistencies, and enhance the precision of the rule language without altering the intent or scope of the rule.

Regulatory Certifications

Regulatory Planning and Review

E.O. 12866 provides that the Office of Information and Regulatory Affairs (OIRA) in the Office of Management and Budget will determine whether a regulatory action is significant as defined by E.O. 12866 and will review significant regulatory actions. OIRA has determined that this final rule is not significant as defined by E.O. 12866. E.O. 13563 reaffirms the principles of E.O. 12866 while calling for improvements in the Nation's regulatory system to promote predictability, to reduce uncertainty, and to use the best, most innovative, and least burdensome tools for achieving regulatory ends. The Department has developed the final rule consistent with E.O. 13563.

Congressional Review Act

Pursuant to subtitle E of the Small Business Regulatory Enforcement Fairness Act of 1996 (known as the Congressional Review Act) (5 U.S.C. 801 *et seq.*), OIRA has designated this final rule as not a major rule as defined by 5 U.S.C. 804(2).

National Environmental Policy Act

The final rule will update, consolidate, and streamline the process by which the public may file objections seeking administrative review of proposed projects and activities implementing land management plans on national forests and grasslands. Departmental regulations at 7 CFR 1b.4(c)(20) exclude from documentation in an environmental assessment or environmental impact statement "rules, regulations, or policies to establish service-wide administrative procedures, program processes, or instructions." The Department's assessment is that this final rule falls within this category of actions and that no extraordinary circumstances exist which will require preparation of

an environmental assessment or an environmental impact statement.

Regulatory Flexibility Act

The Department has considered this final rule under the Regulatory Flexibility Act (5 U.S.C. 602 *et. seq.*). This final rule will not have any direct effect on small entities as defined by the Regulatory Flexibility Act. This final rule will not impose recordkeeping requirements on small entities; will not affect their competitive position in relation to large entities; and will not affect their cash flow, liquidity, or ability to remain in the market. Therefore, the Department has determined that this final rule will not have a significant economic impact on a substantial number of small entities pursuant to the Regulatory Flexibility Act.

Federalism

The Department has considered this final rule under the requirements of E.O. 13132, *Federalism*. The Department has determined that the final rule conforms with the federalism principles set out in this E.O.; will not impose any compliance costs on the States; and will not have substantial direct effects on the States, on the relationship between the Federal Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, the Department has concluded that this final rule will not have federalism implications.

Consultation and Coordination with Indian Tribal Governments

E.O. 13175, *Consultation and Coordination with Indian Tribal Governments*, requires Federal agencies to consult and coordinate with Tribes on a government-to-government basis on policies that have Tribal implications, including regulations, legislative comments or proposed legislation, and other policy statements or actions that have substantial direct effects on one or more Indian Tribes, on the relationship between the Federal Government and Indian Tribes, or on the distribution of power and responsibilities between the Federal Government and Indian Tribes. This final rule will

update, consolidate, and streamline the process by which the public may file objections seeking administrative review of proposed projects and activities implementing land management plans on national forests and grasslands. The Department has reviewed this final rule in accordance with the requirements of E.O. 13175 and has determined that this final rule could have substantial direct effects on Indian Tribes, on the relationship between the Federal Government and Indian Tribes, or on the distribution of power and responsibilities between the Federal Government and Indian Tribes. Therefore, consultation and coordination with Indian Tribal governments is required for this final rule.

Tribal Impact Summary Statement: On September 29, 2025, Tribes and Alaska Native Corporations were notified by email about the opportunity to consult on proposed changes to regulations at 36 CFR part 218. The Forest Service provided a National Policy Summary Analysis describing the proposal and identifying how its implementation may affect Tribal governments, Alaska Native Corporations, and the citizens they represent. This information was also available on the Forest Service National Consultation web page at <https://www.fs.usda.gov/working-with-us/tribal-relations/national-consultation>.

Input was provided by seven federally recognized Tribal governments (Chilkat Indian Village, Chilkoot Indian Association, Tlingit and Haida, Hoonah Indian Association, Ketchikan Indian Community, Organized Village of Kasaan, and Tulalip Tribes) and by the Great Lakes Indian Fish and Wildlife Commission, a Tribal organization representing member Tribes in natural resource management. The Tulalip Tribe requested formal consultation on the proposed rule, and the Forest Service met with members of the Tribe on April 6, 2026, to discuss their concerns. On April 17, 2026, the Forest Service met with the Alaska Native Council to provide additional information about the proposed rule. The other Tribes that provided comments on the proposed rule expressed interest in continued government-to-government consultation during project

planning. The Tribes raised several concerns regarding the proposed revisions, including:

- Reduced Timelines for Comments and Objections: Concern that the proposed rule shortens the timeframe for submitting comments and objections, which may not provide adequate time for Tribes to conduct necessary research, consultation, and coordination.
- Narrowing of NEPA Review: Concern that the recent changes to NEPA regulations may reduce the analysis of indirect and cumulative effects, placing additional burdens on Tribes.
- Removal of Public Notice Mechanisms: Concern that the proposed rule eliminates the requirement to publish legal notices in newspapers of record or the *Federal Register*, relying solely on a USDA website.
- Procedural Constraints: Concern about additional procedural constraints, such as page limits on objections and detailed documentation requirements.
- Federal Trust Responsibility and Consultation Obligations: Several Tribes emphasized the Federal Government's trust responsibility to federally recognized Tribes and the need for robust government-to-government consultation.
- Digital-Only Notification Systems and Accessibility Concerns: Concern that the proposed rule's reliance on digital-only notification systems may reduce accessibility for some Tribal governments and citizens.
- Weakening of Objection Process and Transparency: Concern that the proposed rule weakens the objection process by narrowing the substance of Forest Service responses, reducing transparency, and allowing issues to be dismissed with limited explanation.
- Impact on Treaty-Protected Resources and Cultural Sites: Concern that the proposed rule has potential impacts on treaty-protected resources, cultural sites, and traditional use areas.

The rule has been reviewed in accordance with the requirements of E.O. 13175, and the Forest Service has determined that the rule does not impact the provisions of the E.O., which allows Tribes to initiate consultation with the Forest Service at any time. For future projects, administrative units will continue to conduct early, meaningful, and ongoing government-to-government consultation when undertakings may affect culturally significant sites, subsistence practices, or other Tribal interests. The final rule extends comment periods to 15 days for an EA and 30 days for an EIS, and clarifies the information that must be provided to support informed participation during comment windows. Responsible officials will supplement electronic web-posting with direct notifications to Tribes and tailored outreach appropriate to local communities. For objection eligibility, section 218.6(b) allows specific written comments provided during Tribal consultation to establish eligibility to object. Procedural adjustments remain focused on concise, issue-specific review and do not diminish substantive obligations to consider Tribal input.

Family Policymaking Assessment

Section 654 of the Treasury and General Government Appropriations Act, 1999 (Pub. L. No. 105-277), requires Federal agencies to issue a Family Policymaking Assessment for a rule that may affect family well-being. The final rule will have no impact on the autonomy or integrity of the family as an institution. Accordingly, the Department has concluded that it is not necessary to prepare a Family Policymaking Assessment for the final rule.

Takings Implications

The Department has analyzed the final rule in accordance with the principles and criteria in E.O. 12630, *Governmental Actions and Interference with Constitutionally Protected Property Rights*. The Department has determined that the final rule will not pose a risk of taking private property.

Energy Effects

The Department has reviewed the final rule under E.O. 13211, *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use*. The Department has determined that the final rule will not constitute a significant energy action as defined in E.O. 13211.

Civil Justice Reform

The Department has analyzed the final rule in accordance with the principles and criteria in E.O. 12988, *Civil Justice Reform*. Upon publication of the final rule, (1) all State and local laws and regulations that conflict with the final rule or that impede its full implementation will be preempted; (2) no retroactive effect will be given to this final rule; and (3) it will not require administrative proceedings before parties may file suit in court challenging its provisions.

Unfunded Mandates

Pursuant to title II of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538), the Department has assessed the effects of the final rule on State, local, and Tribal governments and the private sector. The final rule will not compel the expenditure of \$100 million or more, adjusted annually for inflation, in any one year by State, local, and Tribal governments in the aggregate or by the private sector. Therefore, a statement under section 202 of the Act is not required.

Paperwork Reduction Act

The final rule does not contain any recordkeeping or reporting requirements or other information collection requirements as defined in 5 CFR part 1320 that are not already required by law or not already approved for use. Accordingly, the review provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) and its implementing regulations at 5 CFR part 1320 do not apply.

List of Subjects in 36 CFR Part 218

Administrative practice and procedure, National forests.

Therefore, for the reasons set forth in the preamble, under the authority of the Organic Act of 1897 (16 U.S.C. secs. 472 and 551), the Department amends chapter II of title 36 of the Code of Federal Regulations by revising part 218 to read as follows:

PART 218 – PROJECT-LEVEL PREDECISIONAL ADMINISTRATIVE REVIEW PROCESS

Sec.

218.1 Purpose, applicability, and scope.

218.2 Definitions.

218.3 Designated opportunity for public comment.

218.4 Projects and activities subject to the project-level objection process.

218.5 Projects and activities not subject to the project-level objection process.

218.6 Who may or may not file an objection.

218.7 Objection filing period.

218.8 Notice of opportunity to object.

218.9 Filing an objection.

218.10 Evidence of timely filing.

218.11 Objections or issues set aside from review.

218.12 Review of objections.

218.13 Timing of finding or decision.

218.14 Emergency situations.

218.15 Secretary and Under Secretary authority.

218.16 Judicial proceedings.

218.17 Severability.

Authority: Pub. L. 108-148, 117 Stat. 1887 (16 U.S.C. 6515); sec. 428, Pub. L. 112-74,

125 Stat. 1046 (16 U.S.C. 6515 note); sec. 431, Pub. L. 113-76, 128 Stat. 5; sec. 8006,

Pub. L. 113-79, 128 Stat. 649.

§ 218.1 Purpose, applicability, and scope.

This part establishes an administrative review process (hereinafter referred to as “objection process”) for proposed actions of the Forest Service concerning projects and activities implementing land management plans and documented with a finding of no significant impact (FONSI) or a record of decision (ROD). The objection process is the sole means of administrative review for qualifying projects (see § 218.16).

§ 218.2 Definitions.

The following definitions apply to this part:

Commenter. An individual or entity that submits timely, specific written comments that meet the requirements outlined in § 218.3.

Contact information. For comments submitted electronically, this is a current email address at which an entity or individual may be reached. For comments not submitted electronically, this is a current phone number or a current physical mailing address where an entity or individual may be reached.

Entity. For purposes of eligibility to file an objection (§ 218.6), an entity includes non-governmental organizations, businesses, partnerships, State and local governments, Alaska Native Corporations, and Indian Tribes.

Environmental assessment (EA). See NEPA section 111(4), 42 U.S.C. 4336e(4).

Environmental documents. See NEPA section 111(5), 42 U.S.C. 4336e(5).

Environmental impact statement (EIS). See NEPA section 111(6), 42 U.S.C. 4336e(6).

Finding of no significant impact (FONSI). See NEPA section 111(7), 42 U.S.C. 4336e(7).

Issue. A logical cause-and-effect relationship between the actions proposed (cause) and the reasonably foreseeable impacts (effect) on resources found in the affected environment.

Lead commenter or objector. The individual or entity identified to represent all other commenters or objectors (for comments or objections submitted with multiple individuals and/or entities listed) for the purposes of communication, written or otherwise, regarding the comments or objections. (Also see definitions for *commenter* and *objector*.)

Mitigation. Constraints or requirements that avoid, minimize, or compensate for adverse impacts caused by a proposed action or selected alternative, which are

documented in a FONSI or ROD and are determined by the responsible official, in accordance with statutory or regulatory authority, in reaction to the effects described in an EA or EIS.

Name. The first and last name of an individual or the complete name of an entity. (An electronic username is insufficient for the identification of an individual or entity.)

National Forest System land. See 16 U.S.C. 1609(a).

Objection. The written document filed with a responsible official by an individual or entity seeking administrative review of a proposed project or activity implementing a land management plan and documented with a FONSI or ROD.

Objector. An individual or entity filing an objection who meets the eligibility requirements associated with the filed objection (§ 218.6).

Proposal (or Project or Activities). See NEPA section 111(12), 42 U.S.C. 4336e(12).

Proposal record (or project record). All relevant documentation and records, including all environmental analysis documents and comment submissions, that contain information the responsible official relies on to make iterative decisions throughout the NEPA process or to determine if and how the action will be approved.

Recommendations. Actions the responsible official should consider taking based on substantive issues raised to remedy an issue. Actions in response to the recommendation may include: modifying alternatives, including the proposed action; developing and evaluating alternatives that have not been previously given serious consideration by the responsible official; supplementing, improving, or modifying analyses; considering science or literature that has not been previously considered; making factual corrections; or choosing not to take action.

Record of decision (ROD). A documented determination by the responsible official on how to proceed with respect to a proposed action and action alternatives that

have reasonably foreseeable significant impacts on the quality of the human environment, as described in an environmental impact statement (see NEPA section 111(6), 42 U.S.C. 4336e(6)).

Responsible official. The Forest Service employee who has the authority to determine: when NEPA applies, what level of NEPA review is appropriate, the extent of environmental review, the final NEPA finding, and compliance with other applicable laws, regulations, and executive orders; and how to proceed for a proposed action or action alternative(s).

Scope. The range of actions and alternatives developed for a proposal, or the issues and impacts to be considered in an environmental analysis.

Specific written comments. A written statement that identifies a substantive issue that is within the scope of the project or activity. See the definitions provided for *issue*, *scope*, and *substantive*.

Substantive. Information that meaningfully informs the consideration of reasonably foreseeable impacts on the human environment, the resulting significance determination, decisions on how to proceed (that is, alternatives to be considered or analyzed or the alternative selected for implementation), or compliance with applicable laws, executive orders, and regulations.

§ 218.3 Designated opportunity for public comment.

(a) *Designated opportunity.* The responsible official shall provide notice of a designated opportunity for public comment for projects and activities subject to the objection process (see § 218.4). EAs or EISs for which an opportunity for public comment or an objection process has already been provided and that are updated to include changes stemming from the designated opportunity for public comment or objection review process, or when issuing updated or supplemental environmental

documents in response to court orders, shall not be subject to another opportunity for comment.

(b) *Notice of opportunity.* Notice of the opportunity to comment will be published on the USDA website where the EA or EIS, or preliminary information associated with these documents, is published, and the responsible official shall send a notification to interested parties using the Agency's current public notification tools (for example, email listservs or subscription services). The notice shall:

(1) Disclose that the project or activity is subject to the objection process (§ 218.4) unless at any point in the development and analysis process the project or activity is no longer subject to the objection process (§ 218.5 or § 218.15).

(2) Specify how comments must be submitted (for example, mailing address, email address, or web platform);

(3) State the title of the responsible official to whom the comments are to be addressed;

(4) Specify where the project or activity information for comments can be located electronically;

(5) State the date the notice of designated opportunity to comment is published on a USDA website and the dates the designated opportunity for public comment begins and ends (see paragraphs (c)(2) and (3) of this section); and

(6) Include the requirements for filing comments in paragraphs (e) through (h) of this section or include a link to the requirements as provided in this section.

(c) *Time to file comments.* The length of the designated opportunity for public comment is 15 days for a project or activity that is to be documented in an EA, or 30 days for a project or activity that is to be documented in an EIS, with no extension.

(1) *Computation.* The time periods for the designated opportunity for public comment and objection filing are computed using calendar days, including Saturdays,

Sundays, and Federal holidays. However, when the time period expires on a Saturday, Sunday, or Federal holiday, the time is extended until the end of the next Federal working day (11:59 p.m. in the receiving office's time zone for comments filed by electronic means, such as email).

(2) *Start date.* The date after a notice of a designated opportunity for comment is published on a USDA website is the first day of the designated opportunity for public comment.

(3) *End date.* The date specified as the last day of the designated opportunity for public comment, as stated in the notice of opportunity for comment.

(d) *Providing information for comment.* The timing of the notice of a designated opportunity for public comment will be determined by the responsible official and should take into account the complexity of the project or activity, the context of the substantive issues, and whether sufficient information is available for the public to make informed comments. For an EIS, the opportunity for comment may be combined with the request for comment included in the notice of intent to publish an EIS (NEPA, section 107(c); 42 U.S.C. 4336a(c)), and the notice of intent may be referenced as the place to find the information for comment. The information provided for comment shall include, at a minimum:

(1) A detailed description of the purpose and need and proposed action;

(2) Alternatives, if any, already being considered for detailed analysis, with sufficient description to indicate how each alternative differs from the proposed action. Discussion may include alternatives already considered but not carried forward for detailed analysis, and the rationale for this; and

(3) Issues to be analyzed in detail. Discussion shall include preliminary anticipated effects associated with issues to be analyzed in detail, and may also identify

those issues considered but not carried forward for detailed analysis, and the rationale for this.

(e) *Comment requirements.* To be eligible to submit an objection, individuals and entities must provide the following in writing during a designated opportunity for public comment:

(1) Commenter's name and contact information;

(2) The name of the project or activity and the name(s) of the national forest(s) or grassland(s) on which the project or activity will be implemented;

(3) Specific written comments, along with supporting reasons. Commenters should also provide recommendations for the responsible official to consider that would remedy the issues raised; and

(4) Identification of the individual or entity who authored the comment(s) and, when multiple names are listed on a comment, identification of the lead commenter.

Individual members of an entity must submit their own comments to establish personal eligibility to object. Comments received on behalf of an entity are considered as those of the entity only.

(f) *Timeliness.* It is the commenter's responsibility to ensure the timely filing of comments in accordance with the notice, see paragraph (b)(5) of this section. Timeliness must be determined by the following indicators:

(1) The date of the U.S. Postal Service postmark for a hard-copy comment received before the close of the fifth business day after the designated opportunity for public comment;

(2) The shipping date for delivery by private carrier for a hard-copy comment received before the close of the fifth business day after the designated opportunity for public comment; or

(3) The Agency's electronically generated date and time for email and web-based platforms.

(g) *Submission format.* Comments submitted on or via electronic external media (such as CD-ROMs or external hard drives) shall not be accepted due to computer security policies. If comments from the same entity or individual are submitted in more than one format (for example, hard-copy, email, and electronically through web-based platforms), the responsible official will accept and review only one submission at their discretion. Comments submitted electronically must be in .doc, .docx, .pdf, or .txt document formats or provided on an Agency web-based platform. Documents must not have permission restrictions on printing, copying, or accessing text by screen reader devices.

(h) *References and attachments.* Only the following documents may be referenced or attached in comments. Other documents, attachments, or website links are not allowed and if submitted will not be reviewed by the responsible official.

(1) All or part of a Federal law or regulation.

(2) Forest Service directives and land management plans.

(3) Documents referenced by the Forest Service in the information provided for comment.

(4) Science or literature may be considered if the commenter clearly identifies the cause-and-effect issues relating literature to the environmental analysis. Science or literature must be included as an attachment in portable document format (.pdf) that does not have permission restrictions on printing, copying, or accessing text by screen reader devices. Website links will not be accepted.

(i) *Comment consideration.* The responsible official shall consider all specific written comments to identify the substantive issues raised and the recommendations

made to remedy the issues. All comments received by the responsible official shall be placed in the project record and shall become a matter of public record.

§ 218.4 Projects and activities subject to the project-level objection process.

The objection process applies to:

(a) Projects and activities implementing land management plans for which an EA is prepared, including projects authorized under the Healthy Forests Restoration Act (HFRA);

(b) Projects and activities implementing land management plans for which an EIS is prepared, including HFRA projects; and

(c) Amendments to a land management plan that are included as part of a project or activity covered in paragraph (a) or (b) of this section, which are applicable only to that project or activity.

§ 218.5 Projects and activities not subject to the project-level objection process.

(a) The objection process does not apply when:

(1) No timely, specific written comments regarding the project or activity are received during a designated opportunity for public comment (see § 218.3);

(2) Any project or activity is categorically excluded from documentation in an EA or EIS;

(3) Any proposed land management plan, plan revision, and plan amendment is subject to the objection process set forth in 36 CFR part 219, subpart B;

(4) A FONSI or ROD is updated to incorporate changes stemming from the objection review process or when otherwise issuing an updated FONSI or ROD that does not change the Agency's original finding or decision;

(5) Rules are promulgated in accordance with the Administrative Procedure Act (5 U.S.C. 551 *et seq.*) or policies and procedures are issued in the Forest Service Manual and Handbooks (36 CFR part 216); or

(6) Authorizing the following:

(i) Emergency Situation Determinations or authorized emergency action under section 40807 of the Infrastructure and Investment Jobs Act of 2021 (16 U.S.C 6592c(d)) or determinations of emergency situations pursuant to any applicable emergency authorities; or

(ii) Emergency situations pursuant to § 218.14.

(b) For projects or components of projects that rely on other environmental analyses that have already been subject to the objection process of this part, the environmental analysis, previous findings, or decisions relied upon shall not be subject to objection review.

§ 218.6 Who may or may not file an objection.

(a) Individuals and entities, including federally recognized Indian Tribes and Alaska Native Corporations, that submitted timely specific written comments in response to a designated opportunity to comment as required in § 218.3 and in accordance with § 218.3(e) through (h) for a project or activity subject to this part may file an objection. Objections from one or more individuals or entities must identify a lead objector (§ 218.9(d)(2)).

(b) Federally recognized Indian Tribes and Alaska Native Corporations are also eligible to file an objection when specific written comments are provided during Federal-Tribal consultations.

(c) Federal agencies may not file objections.

(d) Federal employees who otherwise meet the requirements of this regulation for filing objections in a non-official capacity must comply with Federal conflict of interest statutes at 18 U.S.C. 202 through 209 and with employee ethics requirements at 5 CFR part 2635.

§ 218.7 Objection filing period.

(a) *Time to file an objection.* Written objections must be filed with the responsible official within 10 days following the publication of the draft FONSI or 20 days following the publication of the draft ROD on a USDA website. The objection filing period will not be extended. Computation of the objection filing period will follow § 218.3(c)(1).

(b) *Start date.* The day after publication of the draft FONSI (for an EA) or draft ROD (for an EIS) required by paragraph (c) of this section is the first day of the objection filing period.

(c) *Publication date.* The publication date of the draft FONSI or draft ROD on a USDA website is the exclusive means for calculating the time to file an objection. The most recent version of the applicable EA or EIS may be published prior to publication of the draft FONSI or draft ROD, but it must be available to the public at the time the draft FONSI or draft ROD is published. The EIS need not be filed with the Environmental Protection Agency, if required by the applicable NEPA regulations, until after the objection process concludes, but shall be filed prior to or in conjunction with issuance of the signed ROD. The responsible official shall ensure the term “draft” is included in the title of the FONSI or ROD for purposes of publishing the documents for the objection process.

(d) *End date.* The date specified as the last day of the objection period as stated in the notice of opportunity to object (§ 218.8(b)(5)). Objectors may not rely on dates or timeframe information provided by any other source.

§ 218.8 Notice of opportunity to object.

(a) For projects and activities subject to the objection process (see § 218.4), the responsible official shall offer eligible individuals and entities (see § 218.6) an opportunity to object. Notice of the opportunity to object will be published on the USDA website where the applicable EA and draft FONSI or EIS and draft ROD are published,

and the responsible official shall send a notification to interested parties using the Agency's current public notification tools (for example, email listservs or subscription services).

(b) The notice shall be posted on a USDA website on the same day as the draft FONSI or draft ROD and must:

(1) Specify how objections will be submitted (for example, mailing address, email address, or web platform);

(2) State the title of the responsible official offering the opportunity to object;

(3) Specify where the EA and draft FONSI, or the EIS and draft ROD, can be located electronically;

(4) Identify the date the draft FONSI or draft ROD was published on a USDA website and specify the start date of the objection filing period, as determined in accordance with §§ 218.7(b) and 218.3(c)(1);

(5) Identify the objection filing period end date, as determined in accordance with §§ 218.7(d) and 218.3(c)(1); and

(6) Include the requirements for filing an objection as found in § 218.9 or include a link to § 218.9.

§ 218.9 Filing an objection.

(a) Objections must be filed with the responsible official in writing and shall be formatted to be no longer than 15 pages for an EA and draft FONSI or 30 pages for an EIS and draft ROD (not including documents and attachments as permitted in paragraph (b) of this section).

(1) For objections submitted electronically, a page is defined as 8.5 by 11 inches with one-inch margins, in at least 12-point proportionally spaced font, and single-spaced. Electronic documents must be in .doc, .docx, .pdf, or .txt format or provided on an Agency web-based platform and must not have permission restrictions on printing,

copying, or accessing text by screen-reader devices. For objections submitted via web-based forms (not uploaded as an electronic document), a page is defined as 500 words.

(2) Objections submitted on or via electronic external media (such as CD-ROMs or external hard drives) shall not be accepted due to computer security policies. If objections from the same entity or individual are submitted in more than one format (for example, hard copy, email, or electronically through web-based platforms), the responsible official will accept and review only one submission at their discretion.

(b) Only the following documents may be referenced or attached in objections. Other documents, attachments, or website links are not allowed and if submitted will not be reviewed by the responsible official.

(1) All or part of a Federal law or regulation.

(2) Forest Service directives and land management plans.

(3) Documents referenced by the Forest Service in the project EA or EIS, or the draft FONSI or draft ROD, that are subject to objection.

(4) Comments previously provided to the Forest Service by the objector during the opportunity for public comment.

(5) Science or literature not previously considered that was published after the designated opportunity for public comment may be considered at the responsible official's discretion if the objector clearly identifies the cause-and-effect issues relating the literature to the environmental analysis. Science or literature must be included as an attachment in portable document format (.pdf) that does not have permission restrictions on printing, copying, or accessing text by screen reader devices. Website links will not be accepted.

(c) Issues raised in objections must be based on previously submitted specific written comments provided by the objector during a designated opportunity for public comment (see § 218.3(e)) unless the issue is based on:

- (1) Modified alternatives, including the proposed action;
- (2) Alternatives not previously analyzed;
- (3) Supplemental analysis or analyses not previously disclosed; or
- (4) Consideration of science or literature not previously considered because it was published after the designated opportunity to comment, and the objector clearly identifies cause-and-effect issues relating the literature to the environmental analysis.

(d) At a minimum, an objection must include the following:

- (1) Objector's name and contact information;
- (2) When multiple names are listed on an objection, identification of the lead objector;
- (3) The name of the project or activity and the name(s) of the national forest(s) or grassland(s) on which the project or activity will be implemented; and
- (4) Clearly stated issues, and for each issue:
 - (i) A statement that demonstrates the connection between the issue included in the objection and the issue as it was included in prior specific written comments or a statement indicating the issue is based on one or more of the exceptions in paragraph (c) of this section; and
 - (ii) Clearly articulated recommendations for the responsible official to consider taking and/or clearly stated specific mitigation for the responsible official to consider (and should include statutory or regulatory authority for the mitigation specified) when finalizing the FONSI or ROD.

§ 218.10 Evidence of timely filing.

It is the objector's responsibility to ensure the timely filing of a written objection with the responsible official. Timeliness will be determined by the following indicators:

- (a) The date of the U.S. Postal Service postmark for a hard-copy objection received before the close of the fifth business day after the objection filing period;

(b) The shipping date for delivery by private carrier for a hard-copy objection received before the close of the fifth business day after the objection filing period; or

(c) The Agency's electronically generated date and time for email and web-based platforms.

§ 218.11 Objections or issues set aside from review.

(a) The responsible official must set aside as a whole and not review an objection when one or more of the following apply:

(1) Objections are not filed in a timely manner (see § 218.10);

(2) The project or activity is not subject to the objection process (see § 218.5);

(3) The individual or entity submitting the objection did not submit specific written comments regarding the project or activity during a designated opportunity for public comment in accordance with § 218.3(e) through (h), unless § 218.9(c) applies;

(4) The objection is only a restatement of previously submitted comments;

(5) The objection, as a whole, refers to the wrong project, activity, or administrative unit;

(6) The objection does not meet all the requirements of § 218.9;

(7) The objector withdraws their objection;

(8) The responsible official cancels the objection process for the project or activity or withdraws the project or activity (notification of objection cancellation will be posted to the same location as the notice for opportunity to object); and/or

(9) The document is labeled or submitted as an "objection" but is entirely supportive in nature.

(b) The responsible official must set aside objections in part (not review certain issues in the objection) when one or more of the following apply to the issue(s) raised:

(1) Not within the scope of the project or activity, or is not within the responsible official's decision authority (that is, the responsible official does not have discretion to

change certain aspects of the project or does not have statutory authority to require certain outcomes);

(2) Refers to the wrong project, activity, or administrative unit;

(3) Contains no statement that accurately ties the objection issue to previously submitted written comments nor a statement that the issue is based on one or more of the exceptions in § 218.9(c); and/or

(4) Contains no clearly articulated recommendations for the responsible official to consider taking, and/or no clearly stated mitigation for the responsible official to consider including in the final FONSI or ROD.

§ 218.12 Review of objections.

(a) The responsible official shall review the objections and issue a single written response that does not exceed five pages. A page is defined as 8.5 by 11 inches with one-inch margins, in at least 12-point proportionally spaced font, and single-spaced.

(b) The written response shall be issued after the close of the objection filing period; within no more than 15 days for objections filed on an EA and draft FONSI, or 20 days for objections filed on an EIS and draft ROD. The Agency official one level above the responsible official has the discretion to extend the review of objections on an EIS an additional 15 days (for a total of 35 days) if the proposed action is of extraordinary complexity (NEPA, section 107(e)(1)(B); 42 U.S.C. 4336a(e)(1)(B)) and/or has received a high volume of objections. Following the required concurrence described in paragraph (d) of this section, the objection response will be posted on the same USDA website where the EA and draft FONSI, or the EIS and draft ROD, are published.

(1) *Computation.* The objection response period is computed using calendar days, including Saturdays, Sundays, and Federal holidays. However, when the time period begins or expires on a Saturday, Sunday, or Federal holiday, the start or end date is extended to the next Federal working day.

(2) *Start date.* The starting date for the objection response period is the day after the objection filing period ends.

(3) *End date.* The ending date for the objection response period is the close of business, 15 calendar days from the start date for an EA and 20 calendar days from the start date for an EIS (unless extended to 35 days for an EIS (§ 218.12(b))).

(c) The response shall state the following at a minimum:

(1) The objections, identified by submitting party, that were reviewed in whole or in part (meaning some issues were set aside from review);

(2) Objections, if any, that were set aside in whole or in part from review and the reasons for this (see § 218.11(a) and (b)); and

(3) Changes the responsible official will make prior to finalizing the FONSI or ROD, if any, in response to the issues raised or recommendations made in the objections that were reviewed in whole or in part.

(4) Concurrence from an Agency official at an administrative level higher than the Forest/Grassland Supervisor where the project is occurring (see paragraph (d) of this section).

(d) Where the responsible official is a District Ranger or Forest/Grassland Supervisor, an Agency official at an administrative level higher than the Forest/Grassland Supervisor where the project is occurring must concur with the objection response before finalizing and posting on the USDA website. No concurrence is required where the responsible official is at an administrative level above the Forest/Grassland Supervisor.

§ 218.13 Timing of finding or decision.

(a) *When eligible objections are reviewed.* Upon publishing the response required in § 218.12, and unless withdrawing the project or activity, the responsible official shall promptly make any changes as communicated in the response (§ 218.12(b)) and, once complete, promptly publish the final FONSI or ROD and ensure the term “draft” is

removed. Notification of the availability of the final FONSI or ROD shall be provided in accordance with the applicable NEPA regulations and also include notification to any individuals or entities that have filed an objection, if they are not already included in the notification process. See § 218.7(c) with regards to timing of filing an EIS with the Environmental Protection Agency.

(b) *When no objections are subject to review.* If there are no eligible objectors or all objections filed are set aside from review (§ 218.11(a) and (b)), the responsible official shall, unless withdrawing the project or activity, publish a response noting that all objections were set aside from review, and promptly publish the final FONSI or ROD to a USDA website and provide notification of the availability of the final FONSI or ROD in accordance with the applicable NEPA regulations. Unless other statutes or regulations require otherwise, implementation of the Agency action may occur after the fifth business day following the end of the objection filing period.

(c) *When a project is not subject to objection.* When a project or activity is not subject to the objection process (§ 218.5), notification of the availability of the FONSI or ROD shall be provided in accordance with the applicable NEPA regulations.

§ 218.14 Emergency situations.

(a) *Circumstances requiring immediate implementation.* If the Chief or Associate Chief determines that an emergency situation exists as described in section 428 of the Consolidated Appropriations Act of 2012 (16 U.S.C. 6515 note) or successor legislation and associated regulations, and it is necessary to take action for the public interest, or to avoid a loss of commodity value sufficient to jeopardize the Agency's ability to accomplish project objectives directly related to resource protection or restoration, the project or activity, or portion thereof, shall not be subject to the predecisional objection process under this part, and implementation may proceed per the authorizing regulation.

(b) *Authorized hazardous fuel reduction projects.* Determinations made under this

section shall not apply to an authorized hazardous fuel reduction project under title I of the Healthy Forests Restoration Act of 2003 (16 U.S.C. 6511 *et seq.*).

§ 218.15 Secretary and Under Secretary authority.

(a) Nothing in this section shall restrict the Secretary of Agriculture or the Under Secretary for Natural Resources and Environment from exercising any statutory authority regarding the protection, management, or administration of National Forest System lands.

(b) Projects and activities finalized, authorized, or approved by the Secretary of Agriculture or the Under Secretary for Natural Resources and Environment are not subject to the procedures set forth in this part. Approval of projects and activities by the Secretary or Under Secretary constitutes the final administrative determination of the U.S. Department of Agriculture.

§ 218.16 Judicial proceedings.

Any filing for Federal judicial review of a decision covered by this part is premature and inappropriate unless the plaintiff has exhausted the objection process set forth in this part (see 7 U.S.C. 6912(e) and 16 U.S.C. 6515(c)).

§ 218.17 Severability.

The sections of this part are separate and severable from one another. If any section or portion therein is stayed or determined to be invalid, or the applicability of any section to any person or entity is held invalid, it is the Agency's intention that the validity of the remainder of those parts will not be affected, with the remaining sections and all applications thereof to continue in effect.

Michael K. Boren,

Under Secretary,

Natural Resources and Environment.

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