

**Section-by-Section Comments**

The following discusses and responds to the public comments on the proposed changes to 36 CFR part 215 received

during the Department's 60-day comment period. It also discusses differences between the proposed rule and the final rule and why those changes were made. The final rule has

been reorganized. As a result, some sections have new titles and/or a new designation as shown in the table below:

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| <b>Proposed section number and title</b>                                       | <b>Final section number and title</b>  |
|--|--|
| §215.1 Purpose and scope   | §215.1 Purpose and scope   |
| §215.2 Definitions   | §215.2 Definitions   |
| §215.3 Proposed actions subject to legal notice and opportunity to comment     | §215.3 Proposed actions subject to legal notice and opportunity to comment     |
| §215.4 Proposed actions not subject to legal notice and opportunity to comment | §215.4 Proposed actions not subject to legal notice and opportunity to comment |
| §215.5 Legal notice of proposed action and opportunity to comment              | §215.5 Legal notice of proposed actions  |
| §215.6 Consideration of comments   | §215.6 Comments on proposed actions  |
| §215.7 Legal notice of decision  | §215.7 Legal notice of decision  |
|  | §215.8 Appeal Deciding Officer   |
| §215.8 Decision implementation   | §215.9 Decision implementation   |
| §215.9 Emergency situations  | §215.10 Emergency situations   |
| §215.10 Decisions subject to appeal  | §215.11 Decisions subject to appeal  |
| §215.11 Decisions and actions not subject to appeal                            | §215.12 Decisions and actions not subject to appeal                            |
| §215.12 Who may appeal   | §215.13 Who may appeal   |
| §215.13 Where to file appeals  | [incorporated in §215.8]   |
| §215.14 Appeal time periods and process  | [redesignated at §215.15]  |
| §215.15 Appeal content   | §215.14 Appeal content   |
|  | §215.15 Appeal time periods and process  |
| §215.16 Dismissal of appeal without review                                     | §215.16 Dismissal of appeal without review                                     |
| §215.17 Informal disposition   | §215.17 Informal disposition   |
| §215.18 Formal review and disposition procedures                               | §215.18 Formal review and disposition procedures                               |
| §215.19 Appeal Deciding Officer's authority                                    | [redesignated at §215.8]   |
| §215.20 Appeal Reviewing Officer's responsibilities                            | §215.19 Appeal Reviewing Officer   |
| §215.21 Secretary's authority  | §215.20 Secretary's authority  |
| §215.22 Judicial proceedings   | §215.21 Judicial proceedings   |
| §215.23 Applicability and effective date                                       | §215.22 Applicability and effective date                                       |
| §215.24 Information collection requirements                                    | [removed]  |

**BILLING CODE 3410-11-C**

**Proposed section 215.1** discussed the purpose and scope of the rule.

*Comment.* Some of the respondents believed that the purpose should include a reference to the public law or statute that established the requirement for the rule; others wanted to know which phase of public comment was affected by this rule; and some wondered what scope of activities were

covered, specifically activities concerning special uses.

*Response.* Every rule is required to cite its authority. The Authority citation (including the U.S. Code, public law, and statute) for this rule follows the table of contents and precedes § 215.1.

The 30-day comment period provided for proposed actions documented in an environmental assessment (EA) is not a "phase of public comment" pursuant to the National Environmental Policy Act

(NEPA). It is a separate action mandated by the Appeals Reform Act (ARA). In the case of proposed actions documented in a draft environmental impact statement (EIS), the requirements of the ARA for notice and comment utilize existing procedures in NEPA's implementing regulations at 40 CFR parts 1503 and 1506.10 and agency policy in Forest Service Handbook (FSH) 1909.15.