

action will not have a significant economic impact on a substantial number of small entities as defined by that Act. Therefore, a regulatory flexibility analysis is not required for this final rule.

Environmental Impacts

This final rule would revise the administrative procedures and requirements to guide notice, comment, and appeal of projects and activities implementing a land and resource management plan. Section 31.1b of Forest Service Handbook 1909.15 (57 FR 43168; September 18, 1992) excludes from documentation in an environmental assessment or impact statement "rules, regulations, or policies to establish Service-wide administrative procedures, program processes, or instruction." This final rule clearly falls within this category of actions and no extraordinary circumstances exist which would require preparation of an environmental assessment or an environmental impact statement.

Energy Effects

This final rule has been reviewed under Executive Order 13211 of May 18, 2001, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. It has been determined that this final rule does not constitute a significant energy action as defined in the Executive order. Procedural in nature, this final rule would revise the administrative procedures and requirements to guide notice, comment, and appeal of projects and activities implementing a land and resource management plan.

Controlling Paperwork Burdens on the Public

This final rule does not contain any recordkeeping or reporting requirements or other information collection requirements as defined in 5 CFR part 1320 and thereby imposes no paperwork burden on the public and is not subject to the review provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. part 3501 *et seq.*) and implementing regulations at 5 CFR part 1320.

Federalism

The agency has considered this final rule under the requirements of Executive Order 13132, Federalism. The agency has determined that the final rule conforms with the federalism principles set out in this Executive order; would not impose any compliance costs on the States; and would not have substantial direct effects on the States, on the relationship

between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Based on comments received on the proposed rule, the Department has determined that additional consultation is not needed with State and local governments prior to adopting a final rule.

Consultation and Coordination With Indian Tribal Governments

This final rule does not have tribal implications as defined in Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, and, therefore, advance consultation with tribes is not required before issuance of the final rule.

No Takings Implications

This final rule has been analyzed in accordance with the principles and criteria contained in Executive Order 12630, and it has been determined that the rule does not pose the risk of a taking of Constitutionally protected private property. This final rule would only revise the administrative procedures and requirements that guide notice, comment, and appeal of projects and activities implementing a land and resource management plan.

Civil Justice Reform

This final rule has been reviewed under Executive Order 12988, Civil Justice Reform. The agency has not identified any State or local laws or regulations that are in conflict with this regulation or that would impede full implementation of this final rule. Nevertheless, in the event that such a conflict were to be identified, the final rule would preempt the State or local laws or regulations found to be in conflict. However, in that case, (1) no retroactive effect would be given to this final rule; and (2) the Department would not require the parties to use 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), which the President signed into law on March 22, 1995, the agency has assessed the effects of this final rule on State, local, and tribal governments and the private sector. This rule does not compel the expenditure of \$100 million or more by any State, local, or tribal governments or anyone in the private sector. Therefore, a statement under section 202 of the Act is not required.

List of Subjects in 36 CFR Part 215

Administrative practice and procedure, National forests.

■ Therefore, for the reasons set forth in the preamble, revise part 215 of Title 36 of the Code of Federal Regulations to read as follows:

PART 215—NOTICE, COMMENT, AND APPEAL PROCEDURES FOR NATIONAL FOREST SYSTEM PROJECTS AND ACTIVITIES

Sec.

- 215.1 Purpose and scope.
- 215.2 Definitions.
- 215.3 Proposed actions subject to legal notice and opportunity to comment.
- 215.4 Actions not subject to legal notice and opportunity to comment.
- 215.5 Legal notice of proposed actions.
- 215.6 Comments on proposed actions.
- 215.7 Legal notice of decision.
- 215.8 Appeal Deciding Officer.
- 215.9 Decision implementation.
- 215.10 Emergency situations.
- 215.11 Decisions subject to appeal.
- 215.12 Decisions and actions not subject to appeal.
- 215.13 Who may appeal.
- 215.14 Appeal content.
- 215.15 Appeal time periods and process.
- 215.16 Dismissal of appeal without review.
- 215.17 Informal disposition.
- 215.18 Formal review and disposition procedures.
- 215.19 Appeal Reviewing Officer.
- 215.20 Secretary's authority.
- 215.21 Judicial proceedings.
- 215.22 Applicability and effective date.

Authority: 16 U.S.C. 472, 551; sec. 322, Pub. L. 102–381 (Appeals Reform Act), 106 Stat. 1419 (16 U.S.C. 1612 note).

§ 215.1 Purpose and scope.

(a) *Purpose.* The rules of this part have two purposes. First, this part establishes a process by which the public receives notice and is provided an opportunity to comment on proposed actions for projects and activities implementing a land and resource management plan prior to a decision by the Responsible Official. Second, this part establishes an appeal process and identifies the decisions that may be appealed, who may appeal those decisions, the responsibilities of the participants in an appeal, and the procedures that apply for the prompt disposition of the appeal.

(b) *Scope.* The notice of proposed actions and opportunity to comment provides an opportunity for the public to provide meaningful input prior to the decision on projects and activities implementing land and resource management plans. The rules of this part complement, but do not replace, numerous other opportunities to participate in and influence the agency's