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The Forest Service Objection Process for Project-level Decisions

Inside this issue:

When and how do I file?	2
Who am I filing with ?	2
What do I need to include?	2
What happens to my objection?	3
Can my objection be rejected?	3
What if I disagree with the decision?	4

In 2012, section 428 of the Consolidated Appropriations Act directed the Forest Service to establish a pre-decisional objection process for projects and activities documented with a decision notice or record of decision, instead of the post-decisional appeal process used since 1993. The objection process became effective on March 27, 2013 in a final rule when 36 CFR Part 218 was published in the Federal Register.

As of 2013, many projects and activities within the Forest Service are subject to a pre-decisional administrative review process, commonly referred to as an “objection process.” Un-

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What is the objection process and what happened to the appeals process?

Under this process, individuals and entities may file objections after an environmental analysis document is completed and before a decision document is signed. This process builds on early participation and collaboration efforts, with the intention of trying to resolve lingering concerns before a decision is made.

The final rule expands the use of the current pre-decisional objection process originally created in 2004 for hazardous fuel reduction projects authorized under the Healthy Forests Restoration Act of 2003 to include other projects and activities implementing land and resource management plans.

To meet the statutory requirements of the Healthy Forests Restoration Act, the notice and comment requirements of the Appeal Reform Act, and the direction of section 428 of the Consolidated Appropriations Act, the final rule establishes 3 subparts as follows:

Subpart A, General Provisions applicable to all proposed projects subject to Part 218;

Subpart B, Provisions specific to project-level proposals not authorized under the Healthy Forests Restoration Act; and

Subpart C, Provisions specific to proposed projects authorized under the Healthy Forest Restoration Act (where timeframes are different than for other projects).



“Considering public concerns early on, before a decision is made, aligns with the Forest Service’s collaborative approach to forest management and increases the likelihood of resolving those concerns resulting in better, more informed decisions.” (78 FR 18483).

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Who can object?

To object to a proposed project, you must have previously submitted timely, specific written comments during the specified public comment periods. “Specific written comments” (including transcribed oral statements) must be within the scope of (relevant to) the project and have a direct relationship to the proposed action. Your comments on the project would be most helpful if you include supporting reasons for the Responsible Official to consider, so they understand why you have an issue with the proposed project.

An “objector” is any person or entity who meets the eligibility requirements for filing an objection. For purposes of eligibility to file an objection, an “entity” includes non-governmental organizations, businesses, partnerships, state and local governments, Alaska Native Corporations, and Indian tribes.

Attention should be given to objections that list multiple names. When this situation arises there needs to be a “lead objector” (which may be you). It is important to know, however, that all individuals or entities must be able to prove eligibility. As a lead objector you would be representing the other objectors for the purposes of communication, written or otherwise, regarding the objection.

When and how do I file an objection?



The objection period begins with the publication of a legal notice in a “newspaper of record” announcing the release of an environmental analysis document (such as an environmental assessment or final environmental impact statement) along with a draft decision document (such as a decision notice or record of decision). A newspaper of record is typically one that is the primary newspaper produced in the town closest to where the proposed action is occurring. Notice will also be posted on the applicable Forest Service office Web page or, if the Chief of the Forest Service is the Responsible Official, it will be published in the Federal

Register. It will be your responsibility as the objector to ensure your objection is received on time.

A letter or email stating that these documents are available will be sent out to those individuals and organizations who have submitted specific written comments on the proposed project. The documents will be available electronically on a Forest Service Web site or compact disc, or in a paper format.

If you wish to object to a draft decision on a proposed project documented in an environmental analysis, you must do so in writing during the objection

filing period (45 days for projects not authorized under the Healthy Forests Restoration Act, and 30 days for projects that are) following the publication date of the legal notice in the newspaper of record. It is important to note there are no time extensions and your objection must be sent to the Reviewing Officer. Information about where to send your objection, contact information, and different ways you can send in your objection will be noted in the legal notice and in the cover letter or email sent to the public. If the objection is sent via email, the objector will receive an email confirming receipt of the objection. If you don't receive an email verifying your submittal, you should alert the contact designated in the notice.



Who am I filing my objection with?

There are two individuals who are very important to the objection process: the Responsible Official and the Reviewing Officer. The Responsible Official is the Forest Service employee who has the authority to make and carry out a decision on a proposed action (such as a District Ranger or Forest Supervisor). The Reviewing Officer is either a Department of Agriculture or Forest Service official that has authority and responsibility to review an objection.

The new objection process is intended to foster active engagement between Responsible Officials who make decisions and the public before a decision is made. It places the Reviewing Officer responsibilities with a higher level Forest Service official, while clarifying that Deputy Regional Foresters and Deputy Forest Supervisors could serve as Reviewing Officers as well. That means if the project you are interested in is at your local

ranger district and the District Ranger is the Responsible Official, the Forest Supervisor or Deputy Forest Supervisor would be the Reviewing Officer. If the Forest Supervisor is the Responsible Official, the Regional Forester or Deputy Regional Forester would be the Reviewing Officer.

What do I need to include in my objection?

Your objection must contain the following information:

- The objector's name, address, and telephone number, if available;
- Signature or other verification of authorship upon request (a scanned signature for electronic mail may be filed with the objection);
- Identification of the lead objector, when multiple names are listed on an objection. Verification of the identity of the lead objector, if requested;
- The name of the project being objected to, and the name and title of the Responsible Official and the name of the national forest(s) and/or ranger district on which the project is located;
- A statement of the issues and/or the parts of project to which the objection applies;
- A concise statement explaining the objection and suggesting how the proposed plan decision may be improved (Note: This information is very

important because it will help to set the tone and agenda for the meeting discussions. If applicable, the objector should identify how the objector believes that the plan revision is inconsistent with law, regulation, or policy); and

- A statement that demonstrates the link between prior specific written comments attributed to the objector and the content of the objection, unless the objection concerns an issue that arose after the opportunities for formal comment (Note: The objection procedure regulations require

this linkage for issues raised in your objection).

It is important to understand, at this stage, that the incorporation of documents by reference is not allowed except for the following:

- All or any part of a Federal law or regulation
- Forest Service directives and land management plans
- Documents referenced by the Forest Service in the proposed project analysis and draft decision subject to objection
- Comments that you have already submitted on the project

What happens to my objection, once I send it in?

Once the Reviewing Officer receives your objection, it will be reviewed to determine if it contains the necessary information and if you have provided specific written comments on the proposed project or activity to date. The Reviewing Officer will confirm receipt of the objection, and accept, partially accept, or set aside the objection in writing.

For projects not authorized by the Healthy Forests Restoration Act: After the 45-day objection filing period ends, a 45-day objection review period will begin. The review period may be extended up to 30 days at the discretion of the Reviewing Officer. If there is a time extension the Reviewing Officer will notify all parties. For projects authorized by the Healthy Forests Restoration

Act: After the 30-day objection filing period ends, a 30-day objection review period will begin with no extension of the review period.

Prior to a written response by the Reviewing Officer, the Reviewing Officer or the objector may request to meet and discuss issues raised in your objection and attempt to resolve the objection. Ideally, a request for a meeting would be included in your objection, to help expedite the process, because timelines are relatively short. The Reviewing Officer has the discretion to determine whether adequate time remains in the review period to make a meeting with you practical, as well as the appropriate date, duration, agenda, and location for any meetings. The Reviewing

Officer will also determine how the meeting(s) will be conducted to facilitate beneficial dialogue, such as a face to face office meeting, project site visit, teleconference, or video conference.

Along with the Reviewing Officer, the Responsible Official will attend any resolution meetings. While these meetings are not required to be legally advertised, they are open to the public. The Reviewing Officer has the discretion to determine whether people, other than objectors, may actively participate. If there is more than one objection, the Reviewing Officer may decide to hold a joint meeting with all objectors to help everyone understand each other's issues. All parties will be notified of the meeting time(s), location(s), and any other necessary meeting information. At the end of the objection reviewing period, the Review-

ing Officer will issue a written response to all accepted objections within a specified time frame. This document will provide a response to objection issues and the rationale for the response and will sometimes include instructions for the Responsible Official to consider before making a final project decision. If one or more objections are received and accepted/validated, the Responsible Official may not finalize a project decision until the Reviewing Officer has responded in writing to all objections and all concerns and instructions identified by the Reviewing Officer in the objection response have been addressed; the final decision must be consistent with the Reviewing Officer's response to objections.

Is there a chance my objection will not be considered?

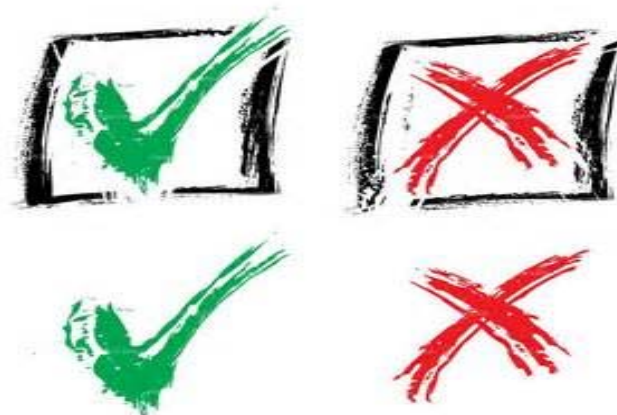
Yes, it is possible your objection could be set aside from review and not considered. There are several reasons for this. The first is you missed the deadline! Be sure to submit your objection before the end of the objection period. Remember, you only have 45 days for projects not authorized under the Healthy Forests Restoration Act, and 30 days for projects that are.

The second reason is that the project you are interested in is not subject to the objection process, such as any projects being considered under a categorical exclusion. Any notices to the public will explain which process the proposed project falls under, so you shouldn't run into this problem.

Another reason would be if you didn't submit timely and specific written comments regarding

the project during designated opportunities for public comment. You must be able to link your previous comment issues with your objection issues. The only exception to linking all your objections issues with your comments would be if new information arose that you were not able

Finally, please make sure you provide a legible objection, that your identity is provided, and you supply enough information for the Reviewing Officer to understand the issues. If not, you may find your objection has been set aside.





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Motto: Caring for the Land and Serving People

Other Resources:

- ◆ Schedule of Proposed Actions (SOPA)
<http://www.fs.fed.us/sopa/index.php>
- ◆ <http://www.fs.fed.us/objections/>
- ◆ <http://www.fs.fed.us/emc>

What if I disagree with the final decision?

There is no further administrative review of a decision subject to the objection process after the written response to objection is issued and the final decision is made; no further review from any other Forest Service or USDA official of the Reviewing Officer's written response to an objection is available. The response of the Reviewing Officer is the final determination of the U.S. Department of Agriculture on the objection.



Can I be part of the objection process without objecting?

Open dialogue is encouraged. If you are interested in being part of the objection process and/or staying informed of progress made on objection issues, without objecting, talk with your local Forest Service Responsible Official or the Reviewing Officer at the beginning of the objection filing period to help you decide whether you should object or not. Depending on the circumstances of the project, it may also be possible for people interested in the outcome of the project (but who do not object) to participate in objection resolution meetings. While objection resolution meetings are focused on objectors and their objection issues, the Reviewing Officer has the discretion to invite non-objectors to participate in these meetings, depending on several factors including the time available, the number of objectors, complexity of objection issues and other factors.