



The Objection Process for Decisions on Land Management Plans

36 CFR 219 Subpart B

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USDA Forest Service

What is the objection process?

Rule guides the development, amendment, and revision of land management plans for all units of the National Forest System. A new emphasis of the Planning Rule is to foster better public involvement and collaboration in forest planning. The Code of Federal Regulations, 36 CFR 219 Subpart B, establishes the requirements for the pre-decisional administrative review process. This process builds on early participation and collaboration efforts, with the intention of resolving concerns **before** a decision is made.

Prior to the 2012 Planning Rule, plans were subject to a post-decisional appeal process. Under the appeals process, a plan was generally put into effect before the appeal was resolved. This scenario was often problematic because if a Reviewing Officer found a fault with a plan already in effect, the remedy was often costly to both the Forest Service and the public in terms of time, money, and trust. Because of this, the pre-decisional objection process was included in the 2012 Planning Rule.

The objection process allows the Responsible Official, the Reviewing Official, Interested Persons, and the Objector to have the opportunity to seek reasonable solutions to conflicting views of plan components before the Responsible Official approves a plan, plan amendment, or plan revision.

This approach fits well with a collaborative approach to planning, and encourages participants to resolve issues with the Forest Service before a plan, plan amendment, or plan revision is approved. The objection process allows the public to point out potential errors or violations of law, regulation, or agency policy prior to approval and implementation of a decision.

What happened to the appeals process?

The appeals process (previously found at 36 CFR 217) was repealed by the 2000 Planning Rule and removed from the Code of Federal Regulations. If a national forest office issued a formal notice announcing the beginning of the process to develop a proposed plan or plan revision before May 9, 2012 using a prior planning regulation, they had the option to either switch to the 2012 Planning Rule or remain under the old rule. Only two southwestern national forests (Coronado, and Coconino) remain who opted to revise their plans under the old rule and use the "Optional Appeal Procedures During the Planning Rule Transition Period". They intend to finish their revision efforts in 2017.

The objection process (formally known as the "pre-decisional administrative review process") allows the public to object to a draft decision of a land management plan, plan amendment, or plan revision. An objection prompts an independent review by an official at a level above the Responsible Official who signs the decision and allows the Forest Service to work with the public to resolve issues and improve decisions.

On April 9, 2012, a new National Forest System land management planning rule was approved. The new Planning

Will this be a better process?

The Forest Service believes providing a pre-decisional objection opportunity allows the Reviewing Officer, the Responsible Official, Objectors and Interested Persons, to have open communication, to understand issues, and to consider resolution, which aligns with our collaborative approach to forest management. Considering public concerns **before** a final decision is made increases the likelihood of resolving those concerns resulting in better, more informed decisions. Engaging diverse perspectives and potential contributions of people across the country early and throughout the planning process is essential to caring for the land and serving people. This approach compliments public engagement efforts to bring divergent viewpoints together to foster National Forest management designed and accomplished in partnership with the public.



Who can object?



Individuals and entities **must** have submitted substantive formal comments related to the plan, plan revision, or amendment during opportunities for comment in order to object. Objections must be based on concerns raised in earlier comments.

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.

As to what is considered a “*substantive formal comment*”, comments, (including transcribed oral statements), must be within the scope of the proposal, must be specific to the proposal, and must have a direct relationship to the proposal. It is very important for comments to include supporting reasons for the Responsible Official to consider.

If an objection lists multiple names, it should identify a “lead objector”. A “Lead Objector” represents the other objectors for the purposes of communication, written or otherwise, regarding the objection.

To be eligible to object, all individuals and entities must include all the information found under “What must my Objection contain?”.

It is your responsibility as an objector to demonstrate your eligibility!

Who am I filing my Objection with?

You are filing your objection with the **Reviewing Officer**.

There are two agency individuals who are important to the objection process: **1)** The “**Responsible Official**” – this is the Forest Supervisor or Regional Forester who has the authority and responsibility to oversee the planning process and to approve a plan document; and,

2) the “**Reviewing Officer**” – this is the USDA or Forest Service official having the authority and responsibility to review an objection under the requirements of the Code of Federal Regulations (36 CFR 219).

The objection process is intended to foster active engagement between Reviewing Officers, Responsible Officials and the public.



That means if the Forest Supervisor is the Responsible Official, the Regional Forester or Deputy Regional Forester would be the Reviewing Officer.



When and how do I file an Objection?

The objection period begins with the publication of a legal notice in the Newspaper of Record and the issuance of an Environmental Assessment and the draft Decision Notice and Finding Of No Significant Impact (FONSI) **or** a Final Environmental Impact Statement (FEIS) and draft Record of Decision (draft ROD). Notice will also be posted on the applicable Forest Service office web page or, if the Chief of the Forest Service is the Re-

sponsible 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 these documents are available will be sent out to those individuals and organizations who have submitted substantive formal comments on the proposal. The documents will be available hard copy, on DVD, or on the Forest Service web site.

If you wish to object to a proposal documented in an FEIS and draft ROD, it must be filed within **60 days** following the publication date. If the proposal is documented in an EA and draft Decision Notice/FONSI, you must file your objection within **45 days** following the publication date of the legal notice in the local Newspaper of Record.

Two things to bear in mind: **1)** there are no time extensions and, **2)** 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 your objection is sent via email, you will receive an email confirming receipt of the objection.

If you don't receive an email verifying your submittal, you should alert the contact person designated in the notice.

What must my Objection contain?

Your objection **must** contain the following information:

- Your name, address, and telephone number, or email address 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 plan, plan amendment, or plan revision being objected to, and the name and title of the Responsible Official.
- A statement of the issues and/or the parts of the plan, plan amendment, or plan revision to which your objection applies;
- A concise statement explaining your 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, you should identify how and why you believe the proposal is inconsistent with law, regulation, or policy; and
- A statement demonstrating the link between your prior substantive formal comments and the content of your objection, unless the

objection concerns an issue that arose after the opportunities for formal comment (**Note:** The objection procedure regulations require this link to issues raised in your objection).



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 planning documentation related to the proposal
- Formal comments you have already submitted on the proposal during the comment period(s).

Is there a chance my Objection will be rejected?

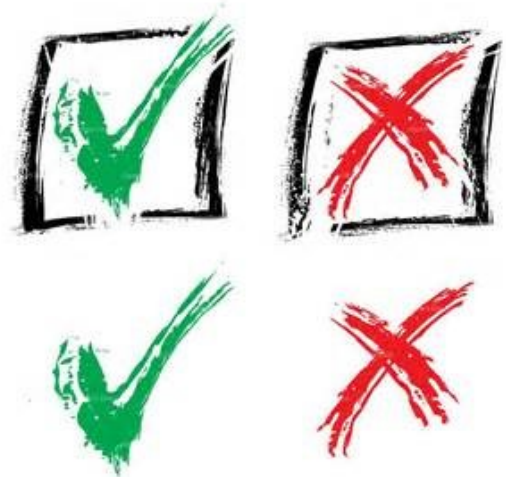
There are several reasons your objection might be rejected or “set aside” and not considered. The first is you missed the deadline! **Be sure to submit your objection before the end of the objection period.** Remember, you only have **60** days for proposals documented in an EIS and **45** days for proposals documented with an EA. The second reason is that the proposal you are interested in is not subject to the objection process. Any notices to the public will explain which process the proposal falls under, so you shouldn’t run into this problem.

Another reason would be if you didn’t submit *substantive* formal comments regarding the proposal 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 objection issues with your comments would be if new information arose that you were not able to comment on before.

To avoid these problems, be sure the issues in your objection are based on previously submitted substantive formal comments along with a statement demonstrating the connection between your previous comments and your objection.

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 your issues. If not, you may find your objection has been rejected.



“The Forest Service objection resolution team is empowered to negotiate in real time to resolve differences, including thinking creatively and not limiting discussion to resolutions discussed by the agency on previous in-house meetings.”



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Motto: Caring for the Land and Serving People

Other Resources:

- ◆ Forest Service Handbook 1909.12, Chapter 50
- ◆ 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/nfma/index.htm>

What happens to my Objection once I send it in?

Once your objection is received, the Reviewing Officer will verify whether it contains the necessary information and whether you have previously provided substantive formal comments on the proposal. The Reviewing Officer will confirm receipt of your objection, and accept, partially accept, or set aside your objection in writing.

The objection resolution period (usually 90 days) typically includes discussions between the planning team, Responsible Official and the Reviewing Officer to fully understand objection issues and possible resolutions. This resolution period provides time to use collaborative and participative methods to discuss and resolve objections.

Either the Reviewing Officer or you, as the Objector, may request to meet to discuss the issues you raised and potential

resolutions. People who are not objectors but are interested in actively participating in any objection resolution meetings can request to participate. These "Interested Persons" must have submitted substantive formal comments during previous opportunities to comment in order to be eligible to participate. The intent of the resolution meeting is to have a dialog with all parties. By its very nature, the objection process is about interaction between the Forest Service and Objectors. The process can also include Interested Persons.

These meetings are open to the public (who is welcome to observe).

Every objection must be resolved within 90 days of the close of the objection filing period unless the Reviewing Officer determines additional time is necessary to provide an adequate response to

objections or to participate in discussions with the parties.

At the end of the objection reviewing period the Reviewing Officer may consolidate objections and issue one response or may decide to issue a written response to each objection. The written response(s) will set forth the reasons for the response, but is not required to be a point-by-point response. It may contain instructions to the Responsible Official. The written response will be the final decision by the U.S. Department of Agriculture on the objections.

Once the Reviewing Officer has issued the response to the objections, and the Responsible Official has followed any instructions contained in the written response, the Responsible Official may sign the final Record of Decision or Decision Notice and implement the proposal.

