

(h) Decision document

The Secretary shall sign a decision document for authorized hazardous fuel reduction projects and provide notice of the final agency actions.

(Pub. L. 108-148, title I, §104, Dec. 3, 2003, 117 Stat. 1897.)

REFERENCES IN TEXT

The National Environmental Policy Act of 1969, referred to in subsec. (a)(1), is Pub. L. 91-190, Jan. 1, 1970, 83 Stat. 852, as amended, which is classified generally to chapter 55 (§4321 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of Title 42 and Tables.

§ 6515. Special administrative review process**(a) Interim final regulations****(1) In general**

Not later than 30 days after December 3, 2003, the Secretary of Agriculture shall promulgate interim final regulations to establish a predecisional administrative review process for the period described in paragraph (2) that will serve as the sole means by which a person can seek administrative review regarding an authorized hazardous fuel reduction project on Forest Service land.

(2) Period

The predecisional administrative review process required under paragraph (1) shall occur during the period—

(A) beginning after the completion of the environmental assessment or environmental impact statement; and

(B) ending not later than the date of the issuance of the final decision approving the project.

(3) Eligibility

To be eligible to participate in the administrative review process for an authorized hazardous fuel reduction project under paragraph (1), a person shall submit to the Secretary, during scoping or the public comment period for the draft environmental analysis for the project, specific written comments that relate to the proposed action.

(4) Effective date

The interim final regulations promulgated under paragraph (1) shall take effect on the date of promulgation of the regulations.

(b) Final regulations

The Secretary shall promulgate final regulations to establish the process described in subsection (a)(1) after the interim final regulations have been published and reasonable time has been provided for public comment.

(c) Administrative review**(1) In general**

A person may bring a civil action challenging an authorized hazardous fuel reduction project in a Federal district court only if the person has challenged the authorized hazardous fuel reduction project by exhausting—

(A) the administrative review process established by the Secretary of Agriculture under this section; or

(B) the administrative hearings and appeals procedures established by the Department of the Interior.

(2) Issues

An issue may be considered in the judicial review of an action under section 6516 of this title only if the issue was raised in an administrative review process described in paragraph (1).

(3) Exception**(A) In general**

An exception to the requirement of exhausting the administrative review process before seeking judicial review shall be available if a Federal court finds that the futility or inadequacy exception applies to a specific plaintiff or claim.

(B) Information

If an agency fails or is unable to make information timely available during the administrative review process, a court should evaluate whether the administrative review process was inadequate for claims or issues to which the information is material.

(Pub. L. 108-148, title I, §105, Dec. 3, 2003, 117 Stat. 1899.)

FOREST SERVICE PRE-DECISIONAL OBJECTION PROCESS

Pub. L. 113-79, title VIII, §8006(b), Feb. 7, 2014, 128 Stat. 913, provided that: “Section 428 of division E of the Consolidated Appropriations Act, 2012 (16 U.S.C. 6515 note; Public Law 112-74) shall not apply to any project or activity implementing a land and resource management plan developed under section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1604) that is categorically excluded from documentation in an environmental assessment or an environmental impact statement under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).”

Pub. L. 112-74, div. E, title IV, §428, Dec. 23, 2011, 125 Stat. 1046, provided that: “Hereafter, upon issuance of final regulations, the Secretary of Agriculture, acting through the Chief of the Forest Service, shall apply section 105(a) of the Healthy Forests Restoration Act of 2003 (16 U.S.C. 6515(a)), providing for a pre-decisional objection process, to proposed actions of the Forest Service concerning projects and activities implementing land and resource management plans developed under the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1600 et seq.), and documented with a Record of Decision or Decision Notice, in lieu of subsections (c), (d), and (e) of section 322 of Public Law 102-381 ([former] 16 U.S.C. 1612 note), providing for an administrative appeal process: *Provided*, That if the Chief of the Forest Service determines an emergency situation exists for which immediate implementation of a proposed action is necessary, the proposed action shall not be subject to the pre-decisional objection process, and implementation shall begin immediately after the Forest Service gives notice of the final decision for the proposed action: *Provided further*, That 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. 6501 et seq.) [probably should be 16 U.S.C. 6511 et seq.]”

§ 6516. Judicial review in United States district courts**(a) Venue**

Notwithstanding section 1391 of title 28 or other applicable law, an authorized hazardous