

mulgate 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 ad-

ministrative 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.)

Statutory Notes and Related Subsidiaries

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 fuels reduction project conducted under this subchapter shall be subject to judicial review only in the United States district court for a district in which the Federal land to be treated under the authorized hazardous fuels reduction project is located.

(b) Expeditious completion of judicial review

In the judicial review of an action challenging an authorized hazardous fuel reduction project under subsection (a), Congress encourages a court of competent jurisdiction to expedite, to the maximum extent practicable, the proceedings in the action with the goal of rendering a final determination on jurisdiction, and (if jurisdiction exists) a final determination on the merits, as soon as practicable after the date on which a complaint or appeal is filed to initiate the action.

(c) Injunctions**(1) In general**

Subject to paragraph (2), the length of any preliminary injunctive relief and stays pending appeal covering an authorized hazardous fuel reduction project carried out under this subchapter shall not exceed 60 days.

(2) Renewal**(A) In general**

A court of competent jurisdiction may issue 1 or more renewals of any preliminary injunction, or stay pending appeal, granted under paragraph (1).

(B) Updates

In each renewal of an injunction in an action, the parties to the action shall present the court with updated information on the status of the authorized hazardous fuel reduction project.

(3) Balancing of short- and long-term effects

As part of its weighing the equities while considering any request for an injunction that applies to an agency action under an authorized hazardous fuel reduction project, the court reviewing the project shall balance the impact to the ecosystem likely affected by the project of—

(A) the short- and long-term effects of undertaking the agency action; against

(B) the short- and long-term effects of not undertaking the agency action.

(Pub. L. 108-148, title I, §106, Dec. 3, 2003, 117 Stat. 1900.)

§ 6517. Effect of subchapter**(a) Other authority**

Nothing in this subchapter affects, or otherwise biases, the use by the Secretary of other statutory or administrative authority (including categorical exclusions adopted to implement the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.)) to conduct a hazardous fuel reduction project on Federal land (including Federal land identified in section 6512(d) of this title) that is not conducted using the process authorized by section 6514 of this title.

(b) National Forest System

For projects and activities of the National Forest System other than authorized hazardous fuel reduction projects, nothing in this subchapter affects, or otherwise biases, the notice, comment, and appeal procedures for projects and activities of the National Forest System contained in part 215 of title 36, Code of Federal Regulations, or the consideration or disposition of any legal action brought with respect to the procedures.

(Pub. L. 108-148, title I, §107, Dec. 3, 2003, 117 Stat. 1900.)

Editorial Notes

REFERENCES IN TEXT

The National Environmental Policy Act of 1969, referred to in subsec. (a), 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.

§ 6518. Authorization of appropriations

There is authorized to be appropriated \$660,000,000 for each of fiscal years 2019 through 2023 to carry out—

(1) activities authorized by this subchapter; and

(2) other hazardous fuel reduction activities of the Secretary, including making grants to States, local governments, Indian tribes, and other eligible recipients for activities authorized by law.

(Pub. L. 108-148, title I, §108, Dec. 3, 2003, 117 Stat. 1901; Pub. L. 115-334, title VIII, §8402, Dec. 20, 2018, 132 Stat. 4841.)

Editorial Notes

AMENDMENTS

2018—Pub. L. 115-334 substituted “\$660,000,000 for each of fiscal years 2019 through 2023” for “\$760,000,000 for each fiscal year” in introductory provisions.

SUBCHAPTER II—BIOMASS

§ 6531. Repealed. Pub. L. 115-334, title VIII, § 8403(a), Dec. 20, 2018, 132 Stat. 4841

Section, Pub. L. 108-148, title II, §203, Dec. 3, 2003, 117 Stat. 1902, related to biomass commercial utilization grant program.

SUBCHAPTER III—WATERSHED FORESTRY ASSISTANCE

§ 6541. Omitted**Editorial Notes**

CODIFICATION

Section, Pub. L. 108-148, title III, §301, Dec. 3, 2003, 117 Stat. 1902, which provided congressional findings and purposes of title III of Pub. L. 108-148 (enacting this subchapter and section 2103b of this title), was omitted in view of the repeal of sections 2103b and 6542 of this title.

§ 6542. Water Source Protection Program**(a) Definitions**

In this section:

(1) End water user

The term “end water user” means a non-Federal entity, including—

- (A) a State;
- (B) a political subdivision of a State;
- (C) an Indian tribe;
- (D) a utility;
- (E) a municipal water system;
- (F) an irrigation district;
- (G) a nonprofit organization; and
- (H) a corporation.

(2) Forest management activity

The term “forest management activity” means a project carried out by the Secretary on National Forest System land.

(3) Forest plan

The term “forest plan” means a land management plan prepared by the Forest Service