

TITLE 16 - CONSERVATION
CHAPTER 36 - FOREST AND RANGELAND RENEWABLE RESOURCES PLANNING
SUBCHAPTER I - PLANNING

§ 1612. Public participation

(a) Adequate notice and opportunity to comment

In exercising his authorities under this subchapter and other laws applicable to the Forest Service, the Secretary, by regulation, shall establish procedures, including public hearings where appropriate, to give the Federal, State, and local governments and the public adequate notice and an opportunity to comment upon the formulation of standards, criteria, and guidelines applicable to Forest Service programs.

(b) Advisory boards

In providing for public participation in the planning for and management of the National Forest System, the Secretary, pursuant to the Federal Advisory Committee Act (86 Stat. 770) and other applicable law, shall establish and consult such advisory boards as he deems necessary to secure full information and advice on the execution of his responsibilities. The membership of such boards shall be representative of a cross section of groups interested in the planning for and management of the National Forest System and the various types of use and enjoyment of the lands thereof.

(Pub. L. 93–378, § 14, as added Pub. L. 94–588, § 11, Oct. 22, 1976, 90 Stat. 2958.)

References in Text

The Federal Advisory Committee Act, referred to in subsec. (b), is Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, as amended, which is set out in the Appendix to Title 5, Government Organization and Employees.

Transfer of Functions

For transfer of certain enforcement functions of Secretary or other official in Department of Agriculture under this subchapter to Federal Inspector, Office of Federal Inspector for Alaska Natural Gas Transportation System, and subsequent transfer to Secretary of Energy, then to Federal Coordinator for Alaska Natural Gas Transportation Projects, see note set out under section 1601 of this title.

Forest Service Decisionmaking and Appeals Reform

Pub. L. 102–381, title III, § 322, Oct. 5, 1992, 106 Stat. 1419, provided that:

“(a) In General.—In accordance with this section, the Secretary of Agriculture, acting through the Chief of the Forest Service, shall establish a notice and comment process for 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. 1601 [1600] et seq.) and shall modify the procedure for appeals of decisions concerning such projects.

“(b) Notice and Comment.—

“(1) Notice.—Prior to proposing an action referred to in subsection (a), the Secretary shall give notice of the proposed action, and the availability of the action for public comment by—

“(A) promptly mailing notice about the proposed action to any person who has requested it in writing, and to persons who are known to have participated in the decisionmaking process; and,

“(B)(i) in the case of an action taken by the Chief of the Forest Service, publishing notice of action in the Federal Register; or

“(ii) in the case of any other action referred to in subsection (a), publishing notice of the action in a newspaper of general circulation that has previously been identified in the Federal Register as the newspaper in which notice under this paragraph may be published.

“(2) Comment.—The Secretary shall accept comments on the proposed action within 30 days after publication of the notice in accordance with paragraph (1).

NB: This unofficial compilation of the U.S. Code is current as of Jan. 5, 2009 (see <http://www.law.cornell.edu/uscode/uscpri.html>).

“(c) Right to Appeal.—Not later than 45 days after the date of issuance of a decision of the Forest Service concerning actions referred to in subsection (a), a person who was involved in the public comment process under subsection (b) through submission of written or oral comments or by otherwise notifying the Forest Service of their interest in the proposed action may file an appeal.

“(d) Disposition of an Appeal.—

“(1) Informal disposition.—

“(A) In general.—Subject to subparagraph (B), a designated employee of the Forest Service shall offer to meet with each individual who files an appeal in accordance with subsection (c) and attempt to dispose of the appeal.

“(B) Time and location of the meeting.—Each meeting in accordance with subparagraph (A) shall take place—

“(i) not later than 15 days after the closing date for filing an appeal; and

“(ii) at a location designated by the Chief of the Forest Service that is in the vicinity of the lands affected by the decision.

“(2) Formal review.—If the appeal is not disposed of in accordance with paragraph (1), an appeals review officer designated by the Chief of the Forest Service shall review the appeal and recommend in writing, to the official responsible for deciding the appeal, the appropriate disposition of the appeal. The official responsible for deciding the appeal shall then decide the appeal. The appeals review officer shall be a line officer at least at the level of the agency official who made the initial decision on the project or activity that is under appeal, who has not participated in the initial decision and will not be responsible for implementation of the initial decision after the appeal is decided.

“(3) Time for disposition.—Disposition of appeals under this subsection shall be completed not later than 30 days after the closing date for filing of an appeal, provided that the Forest Service may extend the closing date by an additional 15 days.

“(4) If the Secretary fails to decide the appeal within the 45-day period, the decision on which the appeal is based shall be deemed to be a final agency action for the purpose of chapter 7 of title 5, United States Code.

“(e) Stay.—Unless the Chief of the Forest Service determines that an emergency situation exists with respect to a decision of the Forest Service, implementation of the decision shall be stayed during the period beginning on the date of the decision—

“(1) for 45 days, if an appeal is not filed, or

“(2) for an additional 15 days after the date of the disposition of an appeal under this section, if the agency action is deemed final under subsection (d)(4).”