

**ALASKA ROADLESS RULEMAKING
REGULATORY FLEXIBILITY ANALYSIS
OPPORTUNITIES FOR SMALL ENTITIES**

SUMMARY

In January 2018, the State of Alaska submitted a petition requesting that the Secretary of Agriculture consider exempting the Tongass National Forest (NF) from the 2001 Roadless Rule, in accordance with the Administrative Procedures Act (APA), section 553(e) and the USDA's rulemaking procedures in 7 Code of Federal Regulations (CFR) 1.28. In June 2018, the USDA secretary directed the Forest Service to begin working to develop an Alaska state-specific roadless rule under the APA. Since the 2001 Roadless Area Conservation Rule was promulgated it has been the subject of uncertainty, due to litigation, on the Tongass National Forest. In August 2018, the Forest Service granted cooperating agency status to the State of Alaska. The USDA and the State of Alaska believe that an Alaska-specific roadless rule provides a unique opportunity to collaboratively resolve and offer certainty to roadless area management within the State of Alaska. In addition, the proposed rule would provide an administrative procedure for correcting and modifying inventoried roadless area boundaries on the Chugach National Forest.

The Forest Service published a Notice of Intent (NOI) to prepare an environmental impact statement and initiate a public rulemaking process to address the management of inventoried roadless areas on the Tongass National Forest on August 30, 2018 (83 Federal Register [FR] 44252). As stated in that NOI, the U.S. Department of Agriculture (USDA) proposed to develop a durable and long-lasting regulation for the conservation and management of roadless areas on the Tongass National Forest (NF). The State-specific roadless rule would establish a land classification system designed to conserve roadless area characteristics on the Tongass NF while accommodating timber harvesting and road construction/reconstruction activities that are determined to be needed for forest management, economic development opportunities, and the exercise of valid existing rights or other non-discretionary legal authorities.

For this rulemaking, USDA has elected to circulate the, full text, proposed rule for public comment. The proposal corresponds to the roadless management regime represented in Alternative 6 of the Draft Environmental Impact Statement for the Alaska Roadless Rule. The Department believes that providing the full text rendition of the rule will facilitate public understanding and comment for this rulemaking.

None of the regulatory alternatives propose changes to the projected timber sale quantity or timber demand projections set out in the Tongass Land and Resource Management Plan. The Tongass National Forest, in compliance with the Tongass Timber Reform Act (1990), seeks to provide an annual supply of timber to meet market demand to the extent consistent with providing for multiple use and sustained use of all renewable forest resources, and other requirements. While projected harvest levels are not expected to be materially different under any of the alternatives under consideration, the roadless rule can influence the potential location or likelihood of future timber harvesting between the various alternatives. In other words, the alternatives examine different mixes of land areas and timber restrictions that would

incrementally increase management flexibility for how the forest plan's timber harvest goals can be better achieved, but does not fundamentally alter the plan's underlying goals or projected outcomes. In addition to timber related impacts this report includes discussion of recreation and tourism, commercial fisheries, mining related industries and impacts to non-market or non-use benefit categories.

The Alternative 6 proposed rule has been considered in light of Executive Order 13272 (E.O. 13272) regarding proper consideration of small entities and the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), which amended the Regulatory Flexibility Act (5 U.S.C. 601 et. seq.). The Forest Service has determined that this action will not have a significant economic impact on a substantial number of small entities as defined by the E.O. 13272 and SBREFA, because the proposed rule does not directly subject small entities to regulatory requirements. Therefore, an initial regulatory flexibility analysis is not required for the proposed rule. A number of small and large entities may experience time or money savings as a result of flexibility provided by the proposed rule, or otherwise benefit from activities on National Forest System (NFS) lands under the proposed rule. As such, the proposed rule as a whole is not expected to result in direct or indirect beneficial impacts to small entities (businesses, governments, and organizations). The agency has therefore determined that the Alternative 6 proposed rule would not have a significant economic impact on a substantial number of small entities.

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INTRODUCTION

The Roadless Area Conservation Rule (2001 Roadless Rule) was adopted into regulations at Title 36 of the CFR Part 294 (36 CFR 294), Subpart B (66 FR 3244) in January 2001. Currently, about 9.2 million acres (55 percent) of the Tongass are managed as “inventoried roadless areas” (IRAs). IRAs contain generally undeveloped areas that are typically 5,000 acres or greater in size. The 2001 Roadless Rule applies nationwide (except Idaho and Colorado), and currently provides management direction for IRAs on 44.7 million acres of National Forests (approximately 24 percent of total NFS lands) by prohibiting road construction and reconstruction and timber cutting, sale, or removal in those IRAs, with certain exceptions.

Since its promulgation, the 2001 Roadless Rule has been the subject of litigation. In 2001, the State of Alaska filed a complaint, challenging the USDA promulgation of the 2001 Roadless Rule and its application in Alaska. The USDA and the State of Alaska reached a settlement in 2003, and the USDA subsequently issued a rule temporarily exempting the Tongass NF from the 2001 Roadless Rule. In 2011, a federal court (District of Alaska) set aside the Tongass NF’s exemption and reinstated the 2001 Roadless Rule on the Tongass NF (with special instructions). The Alaska District Court’s ruling was initially reversed by a three-judge panel of the Ninth Circuit, but the District Court’s ruling was ultimately upheld in a 6–5 en banc ruling of the Ninth Circuit in 2015. Consequently, the 2001 Roadless Rule remains in effect in Alaska and the Forest Service continues to apply the 2001 National Rule to the Tongass NF.

In January 2018, the State of Alaska submitted a petition requesting that the Secretary of Agriculture consider exempting the Tongass NF from the 2001 Roadless Rule, pursuant to the APA and the USDA’s petition procedures in 7 CFR 1.28. In June 2018, the Secretary of Agriculture directed the Forest Service to begin working to develop an Alaska state-specific roadless rule. In August 2018, the Forest Service granted cooperating agency status to the State of Alaska. The Forest Service published a NOI to prepare an environmental impact statement (EIS) and initiate a public rulemaking process to address the management of IRAs on the Tongass NF on August 30, 2018 (83 FR 44252). As stated in that NOI, the USDA proposes to develop a durable and long-lasting regulation for the conservation and management of roadless areas on the Tongass NF. The state-specific roadless rule would establish a land classification system designed to conserve roadless area characteristics on the Tongass NF while accommodating timber harvest and road construction/reconstruction activities that are determined to be needed for forest management, economic development opportunities, and the exercise of valid existing rights or other non-discretionary legal authorities.

The Alternative 6 proposed rule is intended to provide for economic development opportunities in Southeast Alaska. The proposed rule is programmatic and does not authorize the implementation of any ground-disturbing activities. Because the proposed rule does not directly subject small entities to regulatory requirements, the Forest Service does not believe that the Regulatory Flexibility Act and subsequent amendments (SBREFA) apply to the proposed rule. However, given public and agency interest in the effects of the proposed rule on small entities, including rural counties and economies, and efforts to be consistent with related rule making analysis in the past, this document characterizes the adverse indirect effects or reasonably foreseeable losses in potential small entity opportunities associated with the regulatory alternatives.

This report provides small entity effects of the proposed rule (Alternative 6) in comparison to baseline conditions represented as a continuation of current land management pursuant to the 2001 Roadless Rule, presented as “baseline 2001 Roadless Rule” in the discussion below.

Alternative 1 applies to the provisions of the 2001 Roadless Rule to inventoried roadless areas under the No Action Alternative and is referred to as the baseline 2001 roadless rule throughout this document. Alternative 1 takes no action and leaves all of Alaska under the 2001 Roadless Rule, including the Tongass NF. Under Alternative 1, roadless areas consist of 110 IRAs identified in the 2001 Roadless Rule. As a result of ownership changes and boundary alignment corrections these IRAs currently encompass 9.2 million acres of NFS land. Provisions of the 2001 Roadless Rule remain intact across the 110 IRAs, encompassing approximately 55 percent of the Tongass NF. Under Alternative 1 baseline 2001 roadless rule, about 230,000 acres of old growth and 334,000 acres of young growth are currently suitable for timber production.

Alternative 2 maximizes roadless area protection, by adding an additional 133,000 acres as Alaska Roadless Areas, while providing for additional timber harvest opportunities by removing areas generally known as “roaded roadless” areas that also include additional areas considered to be substantially altered.

Alternative 3 provides more timber harvest opportunities than Alternative 2 by removing substantially-altered roadless areas (including roaded roadless, similar to Alternative 2) and extending the bounds of these areas to logical end points of existing road and timber harvest systems (212,000 million acres), generally defined as the nearest watershed boundary (i.e., ridgeline of 14th-field hydrologic unit) from an existing road system. Removing these areas from the roadless inventory represents the logical extensions of substantially altered acres from existing infrastructure and likely encompasses the more economically feasible locations for future timber harvest with the least impact to roadless characteristics. Approximately 3,208,000 acres under Alternative 3 would be managed under Watershed Priority category and applied to areas identified in the 2016 Forest Plan as Tongass 77 (T77) Watersheds and The Nature Conservancy (TNC)/Audubon Conservation Priority Areas. Alternative 3 also provides additional timber harvest opportunity by designation of Community Priority areas around five communities, namely Yakutat, Juneau, Sitka, Ketchikan, and Wrangell. Based on cooperating agency input, the Community Priority should have also been applied around the communities of Hydaburg and Kake and will be accounted for in the Final Rule. Community Priority areas allow for small-scale timber harvest and associated road construction and reconstruction. Further detail on this and other Alaska Roadless Area Land Management Categories are provided in the next section.

Alternative 4 provides significant additional timber harvest opportunity while maintaining roadless protections for Scenic Viewsheds Land Use Designations (LUD) and T77 Watersheds and the TNC/Audubon Conservation Priority Areas that are in roadless areas. There is a small amount of young growth within these areas that would be available for timber harvest. Approximately 375,000 acres are removed from roadless designation, including substantially-altered areas and logical extensions of substantially-altered acres (similar to Alternatives 2 and 3), along with selected additional locations for potentially feasible economic timber sales. These

acres are also converted from unsuitable to suitable timber lands, resulting in significant additional timber harvest opportunity.

Alternative 5 provides the same timber harvest opportunity as the Alternative 6 proposed rule while maintaining some roadless area protection in areas where the Forest Plan currently does not allow commercial timber harvest. Though the 2001 Roadless Rule represents baseline conditions, the proposed rule is compared to the other regulatory alternatives to fully understand the impacts of the proposed rule. Table 1 provides a comparison of the regulatory alternatives and further discussion of the Alaska Roadless Areas (ARA) management categories are provided below.

Alternative 6 is the proposed rule and provides maximum additional timber harvest opportunity and is the full exemption alternative. Under the proposed rule, roadless protection would be removed from all roadless areas on the Tongass, resulting in a reduction of 9.2 million acres of roadless areas (Table 1). Former roadless areas would be managed in accordance with the 2016 Forest Plan (USDA Forest Service 2016) with an estimated net gain of about 165,000 acres of suitable old growth, including 59,000 acres of high-volume suitable old growth (Table 1). This estimated gain (165,000 acres) is equivalent to about 72 percent of the acres available under the baseline 2001 roadless rule and almost seven times the old-growth acres expected to be harvested over the next 25 years (24,000 acres).

Aspects of the Tongass Forest Plan are consistent with the proposed rule including the goals, objectives, management prescriptions, standards, guidelines, projected timber sale quantity, projected wood sale quantity, and young-growth transition strategy. Analysis relies on baseline conditions described in the 2016 Forest Plan that includes standards and guidelines for other non-timber resources, for example Riparian Management standards and guidelines providing protection for fisheries with subsistence and commercial importance. All timber harvest, including harvest in areas formerly designated as IRAs, would be compelled to adhere to these resource standards and guidelines (fisheries, water quality, air, recreation, etc.), thus providing continuation of 2016 Forest Plan protections under all the regulatory alternatives.

Table 1. Roadless Areas by Alternative and Management Category

Roadless Category (acres)	Alternative					
	Baseline	2	Alternative 3	Alternative 4	5	Proposed Rule
	2001 Roadless Rule	Roadless Alternative	Logical Extension Alternative	Partial Dev LUDs ¹ Alternative	All Dev LUDs Alternative	Full Exemption Alternative
Total Roadless Area	9,200,000	9,220,000	8,103,000	8,857,000	06,905,000	0
ARA Management Categories						
Roadless Priority	N/A	5,114,000	4,653,000	7,252,000	06,078,000	0
LUD II Priority	N/A	856,000	0	856,000	0828,000	0
Watershed Priority	N/A	3,250,000	3,208,000	0	0	0
Community Priority	N/A	0	241,000	0	0	0
Timber Priority	N/A	0	0	749,000	0	0
Old-Growth Acres Suitable for Timber Production						
Total Acres	230,000	247,000	305,000	388,000	395,000	395,000
Net Change	0	18,000	76,000	158,000	165,000	165,000
T77 & TNC/ Audubon Conservation Priority Areas Outside of Roadless given Long-term Protection						
Total Acres	0	0	377,000	0	0	0

N/A = not applicable

¹ Includes Timber Production and Modified Landscape LUDs, but not Scenic Viewshed.

² Includes old growth that would be suitable except for prohibition on old-growth harvests in Tongass 77 (T77) and The Nature Conservancy (TNC)/ Audubon Conservation Priority Areas. Overall, there are 171,000 acres of old growth within T77 and TNC/ Audubon Conservation Priority Areas outside of roadless areas.

RELATIONSHIP OF PROPOSED RULE TO THE FOREST PLAN

The National Forest Management Act of 1976 (NFMA) requires the Forest Service to develop, maintain and as appropriate, revise land and resource management plans (forest plans) for units of the National Forest System. Land management plans provides a framework for integrated resource management and for guiding project and activity decision making, but plans do not authorize projects or activities or commit the Forest Service to take action. A revised Tongass Land Management Plan was issued in 1997, and amended in 2008 and 2016. Forest planning is a distinct and separate process from USDA's various roadless rulemakings. See *Kootenai Tribe of Idaho v. Veneman*, 313 F.2d 1094 (9th Cir. 2002); and *State of Wyoming v. USDA*, 661 F.3d 1209 (10th Cir. 2011).

All forest plans must conform to existing laws and regulations as well as new laws and regulations. See 36 CFR 219.1(f) and 219.13(c). All of USDA's previous roadless rules, national and state-specific, have directed that: (1) no amendment or revision of any forest plan was compelled by promulgation of such rules, (2) subsequent forest planning decisions could not revise the Secretary's regulatory instructions, and (3) line officers were to conform project decisions to the prohibitions and exceptions set forth in the applicable rules. The proposed rule would continue this approach with one minor exception.

The proposed rule would direct the Forest Supervisor to provide notice of an administrative change (36 CFR 219.7(c)) concerning lands that were deemed unsuitable in the 2016 Tongass Forest Plan solely due to the 2001 Rule's roadless designation if boundary adjustments are made in a final rule that remove particular lands from a roadless classification. Any such lands would be appropriately returned to the suitable timber base via the administrative change provision of the planning regulations. All other aspects of the Tongass Forest Plan are consistent with the proposed rule including the goals, objectives, management prescriptions, standards, guidelines, projected timber sale quantity, projected wood sale quantity, and young-growth transition strategy. This includes standards and guidelines for other non-timber resources, for example riparian management standards and guidelines providing protection for fisheries with subsistence and commercial importance. All timber harvest, including harvest in areas formerly designated as inventoried roadless areas, would be compelled to adhere to these resource standards and guidelines (fisheries, water quality, air, recreation, etc.), thus providing continuation of 2016 Forest Plan protections under all the regulatory alternatives. Although a forest plan amendment or revision is neither required nor expected to occur due to this rulemaking, the public involvement opportunities associated with this rulemaking are certainly equivalent to any notice or public involvement requirements under the National Forest Management Act. Currently, the Forest Service is uncertain when the Tongass Forest Plan will be revised or amended; however, when it occurs, the public will have the opportunity to comment and participate in any revision or amendment process.

Although the Forest Service has broad discretion during forest plan revision to modify management direction, any change would need to be consistent with applicable law, regulation, and policies, including the proposed Alaska Roadless Rule. This includes the agency's responsibilities under the Tongass Timber Reform Act, which directs the Forest Service to seek to provide a supply of timber from the Tongass National Forest that meets annual market demand and the market demand for each planning cycle to the extent consistent with providing for the multiple-use and sustained-yield of all renewable resources and other applicable requirements. The current Forest Plan provides sufficient timber to meet projected demand as described in the 2016 Tongass Forest Plan Amendment Final EIS and Record of Decision. In addition, the 2016 Tongass Forest Plan provides guidance to conduct annual monitoring and review to estimate current timber demand. This approach to meeting the agency's obligations under the Tongass Timber Reform Act or a similar approach is likely to continue when the Tongass Forest Plan is revised or amended because it is a statutory requirement. In addition, watershed protection measures in the 2016 Tongass Forest Plan, such as riparian buffers and application of watershed conservation measures, are not likely to substantially change with any future revision or amendment because of other requirements such as the Clean Water Act, Endangered Species Act, Magnuson–Stevens Fishery Conservation and Management Act, and Alaska's Department of Environmental Conservation Water Quality Standards.

A unique aspect of the Tongass Forest Plan is the land use designation (LUD) called LUD II, a statutorily established land classification that applies on lands as described in the Tongass National Forest Land Management Plan, completed March, 1979 and amended winter 1985-1986, for areas allocated to be managed in a roadless state to retain their wildland character. Wildlife and fish habitat improvement and primitive recreation facility development are permitted in these areas. LUD II areas are defined in the Tongass Timber Reform Act (TTRA; Title II, Section 201) and the National Defense Authorization Act for Fiscal Year 2015 (Public Law 113-291, 128 Stat. 3729, Section 3720(f)). The statutory direction for LUD II areas would remain in place regardless of whether the 2001 Rule or any other rule is promulgated.

Alaska Roadless Area Land Management Categories

Regulatory alternatives, apart from the baseline 2001 Roadless rule and the proposed rule, provide for a variety of management approaches within roadless areas through ARA land management categories which include Land Use Designation (LUD) II Priority, Watershed Priority, Community Priority, Roadless Priority, and Timber Priority. The management categories prohibit timber harvest, road construction, and road reconstruction with a range of exceptions that are applied differentially across the regulatory alternatives. A brief description of each management category follows.

Roadless Priority (Alternatives 2, 3, 4 and 5)

The Roadless Priority management category is similar to the 2001 Roadless Rule but is less restrictive and addresses Alaska-specific concerns. Specifically, it expressly provides for infrastructure development to connect and support local communities, and road construction/reconstruction for access to renewable energy and leasable minerals. The leasable minerals exception provides for roading associated with geothermal, oil, gas, and/or coal development. In addition, the Roadless Priority category includes specific exceptions that, while they are already allowed under the 2001 Roadless Rule, included to improve overall clarity.

LUD II Priority (Alternatives 2, 4 and 5)

Land Use Development (LUD) II designated areas existed before the 2001 roadless rule and approximately 870,000 acres of the Tongass are congressionally designated as LUD II (826,000 acres currently are additionally designated as IRA under the 2001 Roadless Rule and 44,000 acres currently not designated as IRA) managed in a roadless state to retain their wildland character (as defined in the Tongass Timber Reform Act of 1990 and the National Defense Authorization Act for Fiscal Year 2015).

Under Alternatives 2, 4 and 5 the LUD II Priority category would reduce confusion by having the roadless regulatory management direction manage these areas only in accordance with the statutory direction: that these lands will be managed in a roadless state to retain their wildland character as defined in the Tongass Timber Reform Act of 1990 (Title II, Section 201) and the National Defense Authorization Act for Fiscal Year 2015 (Public Law 113-291, 128 Stat. 3729, Section 3720(e)(4)). Alternatives 2 and 4 propose to designate all of the congressionally designated LUD II acres as LUD II Priority ARAs. Notably, Alternative 3 proposes to remove all LUD II areas from roadless designation rather than designating an ARA category. LUD II areas under Alternative 3 would continue to be managed under their congressional designation. Alternative 5 proposes to apply the LUD II Priority category only to LUD II areas that are currently designated as IRA.

Watershed Priority (the Alternatives 2 and 3)

The Watershed Priority category is more protective than the 2001 Roadless Rule as it offers fewer exceptions for timber harvest, road construction, and road reconstruction. It also provides for activities specific to aquatic habitat improvement. Approximately 3,250,000 acres in Alternative 2 whilst 3,208,000 acres under Alternative 3 would be managed under this management category. The Watershed Priority category is applied to areas identified in the 2016 Forest Plan as Tongass 77 (T77) Watersheds and The Nature Conservancy (TNC)/Audubon Conservation Priority Areas. Additionally, for Alternative 3, commercial old-growth timber harvest would be prohibited on National Forest System lands in T77 and TNC/Audubon Conservation Areas including those that extend beyond Alaska Roadless Area boundaries.

Community Priority (Alternative 3)

The Community Priority category allows for small-scale timber harvest and associated road construction and reconstruction. In addition, it allows for infrastructure development to connect and support local communities, and traditional Alaska Native cultural uses. In all cases, activities within Community Priority ARAs would have to be consistent with the underlying Forest Plan LUD requirements. This is to say that even if a timber harvest, road building, or other activity would be permissible under the Alaska Roadless Rule, it may not be allowable because of Forest Plan requirements specific to the LUD that applies to the area. This management category applies to approximately 241,000 acres and is only proposed under Alternative 3 adjacent to five communities: Sitka, Wrangell, Juneau, Ketchikan, and Yakutat. However, based on cooperating agency input, the Community Priority should have also been applied around the communities of Hydaburg and Kake and will be accommodated in the Final Rule.

This management category was developed to address specific desires of some communities to retain roadless protections while also allowing for small timber operators in the community, infrastructure development to support the community, and provide for traditional Alaska Native cultural uses. The provision allows for road building to accommodate small commercial sale less than one million board feet (which does not exclude larger operators but designed to reduce barriers to entry for smaller operators). The Forest Service is seeking public input on this management category, specifically with respect to whether this designation should be applied to other communities/areas. The Forest Service proposes to consider applying the Community Priority land management category to ARAs either adjacent to communities or within Community Priority areas as requested by non-profit community associations organized under State of Alaska law (Alaska Statute 10.20.005), municipal governments, or tribal governments.

T77 Watersheds and TNC/Audubon Conservation Priority Areas – Additional Protections (Alternative 3)

Watershed protection is a key element of roadless management. Watersheds are highly valued sources of municipal drinking water, support fisheries and wildlife habitat, and can act as keystones for economic activities. Under Alternative 3, areas identified in the 2016 Tongass Forest Plan as T77 and TNC/Audubon Conservation Priority Areas (high priority watershed areas) would be afforded added protection through the roadless regulation. Specifically, old-growth timber harvest would be prohibited within these areas, subject to the described exceptions. A prohibition on old growth harvesting already exists through the Tongass Forest Plan. But Alternative 3 establishes regulatory continuity between these roadless and watershed management systems given how extensively they overlap (the listed watersheds comprise over half of the Tongass' roadless areas, and approximately 90% of the watershed areas are within roadless area boundaries). Thus the old growth harvest prohibition would be extended beyond the designated roadless area boundaries in order to maintain the balance and integrity of the watershed protection system. Young-growth timber harvest outside of Alaska Roadless Areas within the high priority watershed areas is not prohibited.

As with all roadless rule instructions, the new old growth harvest prohibition would operate as an overlay to the forest plan, with the plan continuing to provide management direction in other regards. In this manner, Alternative 3 affords high priority watershed areas greater protection than under the 2001 Roadless Rule.

Timber Priority (Alternative 4)

The Timber Priority category allows timber harvest, road construction, and road reconstruction to facilitate timber management and provide economic opportunity. This management category applies to approximately 856,000 acres and is only proposed under Alternative 4.

ANALYSIS REQUIREMENTS

This report summarizes information and analysis regarding the effects of the draft Alaska Roadless Rule (i.e., proposed rule), as evaluated in the DEIS (USDA Forest Service 2019) on small entities in the context of requirements under the Regulatory Flexibility Act.

The Regulatory Flexibility Act (RFA, 5 U.S.C. et seq., Public Law 96-354) as amended by the Small Business Regulatory Flexibility Enforcement Fairness Act of 1996 (SBREFA) generally

requires an agency to prepare a regulatory flexibility analysis describing the impact of the regulatory action on small entities as part of the rulemaking. This is required of any rule subject to notice and comment requirements under the Administrative Procedure Act (APA) or any other statute unless the agency certifies that the rule will not have a “significant impact on a substantial number of small entities”. The RFA acknowledges small entities have limited resources and makes it the responsibility of the regulating federal agency to avoid burdening such entities unnecessarily. If, based on an initial assessment, a regulation is likely to have a significant economic impact on a substantial number of small entities, the RFA requires a regulatory flexibility analysis (Initial Regulatory Flexibility Analysis (IFRA) for the proposed rule, Final or FRFA analysis for the proposed rule).

The RFA requires analysis of a rule’s economic impact on the small entities that will be subject to the rule’s requirements; rules that do not establish requirements applicable to small entities are thus not susceptible to RFA analysis. It is also noted that the Act states that the purpose of analysis is to identify and address regulatory alternatives “which minimize any significant economic impact of the proposed rule on small entities” (sections 603 and 604, emphasis added). Consequently, rules that relieve regulatory burden, or otherwise have a positive economic effect on small entities subject to the rule, should not require an IFRA or FRFA.

General Methodology and Assumptions

This report summarizes analysis of potential small entity opportunities associated with six regulatory alternatives summarized in the Introduction. For a discussion about the overall impacts to employment and labor income across all entities, the reader is referred to the DEIS for the proposed rule (USDA Forest Service 2019) and the Regulatory Impact Assessment for the proposed rule (USDA Forest Service 2019b). The proposed rule does not directly regulate, nor have a direct impact on any small entities. However, this analysis considers the indirect impacts on small entities, consistent with recommendations in recent SBA guidance.¹

This report begins by describing small entity² characteristics in the region potentially affected by the proposed rule. The analyses in this report then address (1) opportunities for small businesses associated with industry sectors projected to experience effects under the proposed rule (i.e., timber, recreation, commercial fisheries and mining), and (2) opportunities for small governments (i.e., boroughs and municipalities in Census Areas) such as revenue sharing and infrastructure effects.

The RFA references the definition of "small business" found in the Small Business Act. The Small Business Act further authorizes the Small Business Administration (SBA) to define "small business" by regulation, which it does for each of the business categories listed in the North

¹ “An agency should examine the reasonably foreseeable [indirect] effects on small entities that purchase products or services from, sell products or services to, or otherwise conduct business with entities directly regulated by the rule.” A guide for government agencies – How to comply with the Regulatory Flexibility Act” (US Small Business Administration, August, 2017).

² Small entities include small businesses (as defined by US Small Business Administration (SBA) size standards regarding number of employees or annual receipts, by North American Industrial Classification System (NAICS) codes), small organizations (“not-for-profit enterprise which is independently owned and operated and is not dominant in its field”), and small governments (government of city, county, town, school district or special district with a population of less than 50,000).

American Industrial Classification System (NAICS). Size standards are provided by the SBA. For each NAICS code and are set by the number of employees or average annual receipts (SBA 2018). Business and size standards for industries related to resource uses potentially affected by ARR are listed in the table below.

Table 2. Small business size standards

NAICS Codes	NAICS Industry Description	Size Standards in millions of dollars	Size standards in number of employees
Timber related			
115310	Support Activities for Forestry	\$7.5	
321113	Sawmills	NA	500
321114	Wood Preservation	NA	500
321211	Hardwood Veneer and Plywood Manufacturing	NA	500
321212	Softwood Veneer and Plywood Manufacturing	NA	1,250
321213	Engineered Wood Member (except Truss) Manufacturing	NA	750
321214	Truss Manufacturing	NA	500
321219	Reconstituted Wood Product Manufacturing	NA	750
321911	Wood Window and Door Manufacturing	NA	1,000
321912	Cut Stock, Resawing Lumber, and Planing	NA	500
321918	Other Millwork (including Flooring)	NA	500
321920	Wood Container and Pallet Manufacturing	NA	500
321991	Manufactured Home (Mobile Home) Manufacturing	NA	1,250
321992	Prefabricated Wood Building Manufacturing	NA	500
321999	All Other Miscellaneous Wood Product Manufacturing	NA	500
Commercial fishing related			
114111	Finfish Fishing	\$20.5	NA
114112	Shellfish Fishing	\$5.5	NA
114119	Other Marine Fishing	\$7.5	NA
Outfitter and Guide related			
713990	All Other Amusement and Recreation Industries ³	\$7.5	NA
Mining related			
212221	Gold Ore Mining	NA	1,500
212222	Silver Ore Mining	NA	250

Methods used to examine the impacts to small business opportunities rely on discussion of jobs and labor income and other effects under the alternatives from the DEIS for the proposed rule

³ Includes seven guiding related NAICS “Index Entries”: Fishing guide services; Guide services (i.e., fishing, hunting, tourist); Guide services, fishing; Guide services, hunting; Guide services, tourist; Hunting guide services; and Tourist guide services

(USDA Forest Service 2019). Changes in resource outputs are not projected in the DEIS and adverse impacts to small entities are not anticipated. Resource areas discussed include timber and wood products, recreation, commercial fishing, and minerals. Analysis of these sectors is limited to a summary of effects from the DEIS and descriptions of small entity characteristics.

The RFA defines "small governmental jurisdiction" as the government of a city, county, town, school district or special district with a population of less than 50,000. Small governments examined include all eight boroughs (Haines, Juneau, Ketchikan Gateway, Petersburg, Sitka, Skagway, Wrangell, and Yakutat) and the municipalities included in two Census Areas (CAs) (Hoonah-Angoon CA⁴ and Prince of Wales-Hyder CA⁵) since all contain populations less than 50,000. Methods used to examine impacts to small governments rely on information from the DEIS such as effects related to revenue-sharing and infrastructure.

SMALL ENTITY CHARACTERISTICS

Information regarding small entities were obtained from the DEIS for the proposed rule (USDA Forest Service 2019) and the SBA profile for Alaska (SBA 2018). Criteria for defining small businesses are obtained from SBA's small business size standards (SBA 2018) displayed in Table 2 above.

Small Business Characteristics in Alaska

Alaska had an estimated total of 71,840 small businesses, including non-employer firms, in 2015, based on a general standard of 500 employees⁶ (SBA 2018). These small businesses made up 99 percent of all Alaska businesses during 2015. Small business employment was 53 percent (142,448 employees) of total private employment (267,999 employees) within the state.

Small firms classified as "Agriculture, Forestry, and Fishing and Hunting" (NAICS 11) and "Manufacturing" (NAICS 31-33) made up 13 percent (9,325 firms) and 2 percent (1,589 firms), respectively, of all small business firms in the state (71,841 firms). Small firms classified as "Arts, Entertainment, and Recreation" (NAICS 71) and "Mining, Quarrying, and Oil and Gas Extraction" (NAICS 21) made up 6 percent (4,017 firms) and less than 1 percent (410 firms), respectively, of all small business firms in the state.

Small business employment as a share of total private employment in these firms varies. Employment in small firms classified as "Agriculture, Forestry, and Fishing and Hunting" (NAICS 11) and "Manufacturing" (NAICS 31-33) made up 68 percent (556 employees) and 35 percent (4,282 employees), respectively, of all private employment in their sectors. Employment in small firms classified as "Arts, Entertainment, and Recreation" (NAICS 71) and "Mining, Quarrying, and Oil and Gas Extraction" (NAICS 21) made up 69 percent (3,206 employees) and 15 percent (2,041 employees), respectively, of all private employment in their sectors.

⁴ Angoon, Gustavus, Hoonah, Pelican, and Tenakee Springs in Hoonah-Angoon CA.

⁵ Coffman Cove, Craig, Edna Bay, Hydaburg, Kake, Kasaan, Klawock, Port Alexander, and Thorne Bay in Prince of Wales-Hyder CA

⁶ 500 employees is adopted as a conservative and generic standard in this case, recognizing that standards vary by industry classification according to current Small Business Administration direction (See SBA 2006), recognizing that standards for different sectors vary (see table 2 in this document); some standards are specified in terms of average annual receipts (e.g., Forestry Services (NAICS 1153)).

The extent to which these firms are affected by the proposed rule and/or the potential significance of economic impacts are discussed in resource-specific sections below. It is important to note that this type of data (SBA 2018) focuses on firms and not necessarily ownership; a given firm or employer may be owned by a larger parent corporation or entity that would exceed the small business standards and disqualify the establishment from being classified as small business. As such, this data is more reliable than data regarding establishments⁷ but is still likely to overestimate numbers of small businesses. Additional details about sector-specific small business conditions are noted in some sections below.

Small Business Characteristics for the Timber Industry

The wood products industry in Southeast Alaska in its current form consists of individual- and family-owned sawmills and independent logging businesses. The Forest Service has conducted an annual on-site survey of sawmills in the region since 2000. To maintain consistency, the survey includes only those mills assessed in previous survey years. The original list of mills to be surveyed, initially identified in 2000, consisted of 20 sawmills that regularly operated and met established criteria for medium- to large-size classification. This total was subsequently increased to 22 in 2007. The annual survey for 2017 found that eight of these sawmills (36 percent) were still active; three (14 percent) remained installed with significant equipment on site, but were idle during 2017; and the remaining 11 (50 percent) were no longer in production, either decommissioned or uninstalled (Parrent and Grewe 2018). The eight active and three idle mills included in the survey are identified in Table 3.

Table 3. Forest Service Mill Survey: Estimated Mill Capacity, Production, and Utilization, 2017

Mill Name ¹	Location	Estimated Capacity (MBF) ²	Estimated Production (MBF) ³	Percent Utilization
Viking Lumber Co.	Craig	80,000	14,000	18%
Icy Straits Lumber & Milling Co. ⁴	Hoonah	3,000	500	17%
Good Faith Lumber Co. LLC	Thorne Bay	6,250	200	3%
Western Gold Cedar Products	Thorne Bay	6,500	650	10%
D&L Woodworks	Hoonah	1,750	60	3%
Thuja Plicata Lumber	Thorne Bay	1,000	100	10%
The Mill	Petersburg	6,000	24	0%
Falls Creek Forest Products ⁵	Petersburg	3,000	10	0%
Total Active⁸	Southeast Alaska	107,500	15,544	14%
Porter Lumber Co. ⁶	Thorne Bay	2,500	NA	NA
St. Nick Forest Products ⁷	Craig	1,150	NA	NA
Northern Star Cedar (NSC)	Thorne Bay	2,500	NA	NA
Total Idle⁸	Southeast Alaska	6,150	NA	NA
Overall Total⁸	Southeast Alaska	113,650	15,544	14%
Notes:				

⁷ A firm may consist of or own one or more physical establishments within a region or state of interest.

MBF = thousand board feet; NA = not applicable

¹ Data are presented for those mills included in the Forest Service's annual on-site survey only.

² Estimated mill capacity is an estimate of the processing capability of the mill based on the amount of net sawlog volume (Scribner log scale) that could be utilized by the mill as currently configured, during a standard 250-day per year, two shifts per day, annual operating schedule, not limited by availability of employment, raw materials or market.

³ Estimated Mill Production is the estimated net sawlog volume used during the year to manufacture sawn products.

⁴ Estimated capacity for the Icy Straits mill was reduced from 21 MMBF as a result of a major mill fire in July 2010. Mill production occurred prior to the fire.

⁵ Formerly Southeast Alaska Wood Products.

⁶ Formerly Thorne Bay Wood Products.

⁷ Formerly W.R. Jones & Son Lumber Co.

⁸ Totals may not sum due to rounding. Source: Parrent and Grewe 2018

The Tongass NF supplied about 8.4 MMBF or 54 percent of the total volume (15.5 MMBF) processed by the mills identified in Table 3 in 2017, with state lands responsible for most of the remaining volume (Parrent and Grewe 2018). The Tongass share of timber processed locally (8.4 MMBF) was equivalent to about 52 percent of the total (16.0 MMBF) harvested on the Tongass in 2017 (Table 3). Viking Lumber processed 14 MMBF, approximately 90 percent of the total (15.5 MMBF) processed in 2017 (Table 3).

As noted above, the annual Forest Service mill survey is not a comprehensive inventory of all sawmills in Southeast Alaska. While no new sawmills of sufficient size classification to be added to the annual mill survey have been established since 2007, many other smaller sawmills operate across the region, including facilities that operate on a seasonal, part-time, or contingent basis. The number of active mills and timber operators in Southeast Alaska varies at any given time. A review of business licenses in December 2018, for example, identified 22 additional sawmills in Southeast Alaska that are not included in the Forest Service survey (Table 4). The University of Montana's Bureau of Business and Economic Research (BBER), in conjunction with the PNW Inventory and Analysis Program of the Forest Service, conducted a census of timber processors in Alaska in 2011 and identified 27 sawmills in Southeast Alaska, with almost half this total (12 facilities) located on Prince of Wales Island (Berg et al. 2014).

Table 4. Additional Sawmills in Southeast Alaska Based on a Review of Business Licenses, 2018

Mill Name ¹	Location
Cedar Street Enterprises	Port Alexander
Chilkat Valley Sawmill	Haines
Crew Lumber	Edna Bay
CSL Farm & Services	Edna Bay
Cutting Edge Wood Products	Ketchikan
D and L Woodworks	Hoonah
Dale R. Bakula Construction	Ketchikan
Dark Horse Lumber	Haines
Fair & Square Milling	Coffman Cove
Falls Creek Forest Products	Petersburg
Glacier Bay Woodcraft	Gustavus
K & D Lumber	Thorne Bay

Mud Bay Lumber Company, LLC	Haines
Peavey Log	Thorne Bay
Pitch Enterprises	Thorne Bay
Seakwood.com	Petersburg
Spruce Point Mill	Petersburg
Tenakee Logging Company	Tenakee Springs
Windy Point Sawmill and Bobcat Service	Craig
Wood Marine	Klawock
The Woodshed	Petersburg
Yakutat Supply	Yakutat
Note: ¹ These businesses were identified through a review of business licenses in December 2018 and includes businesses listed as sawmills (North American Industrial Classification System [NAICS] Code 321113 – Sawmills). This table identifies additional sawmills that are not included in the Forest Service's mill survey (see Table 3.2-4). Source: Alaska DCCED 2018	

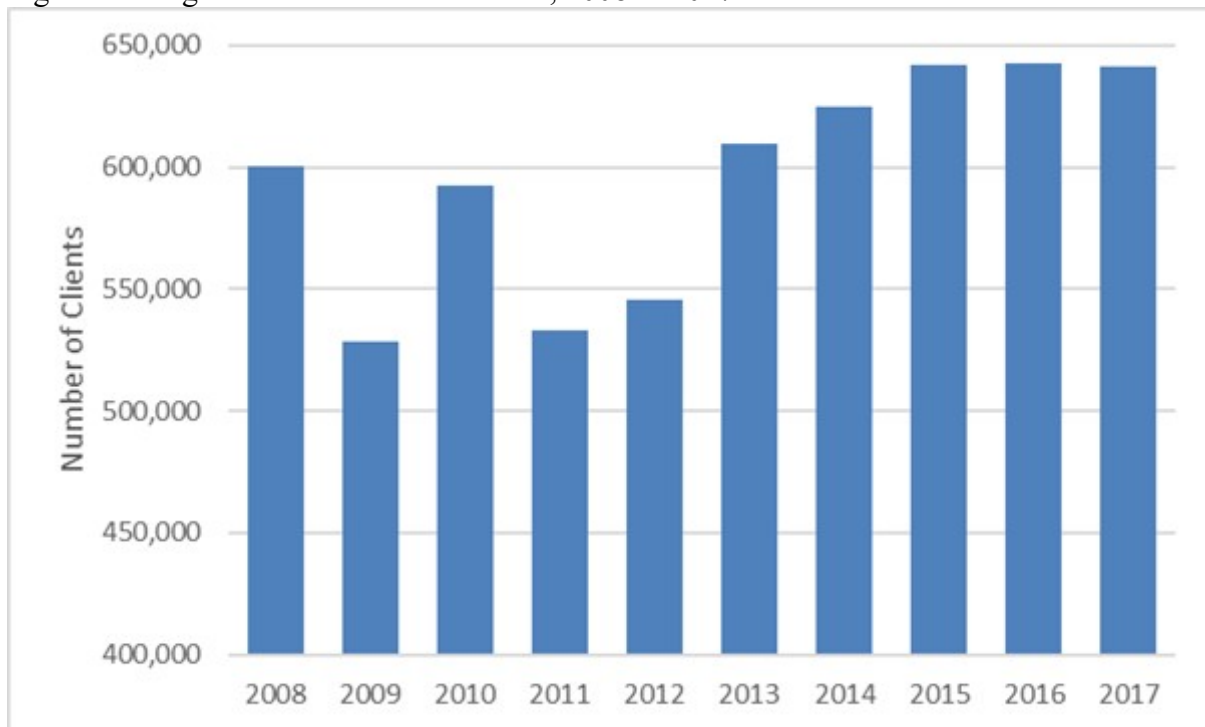
Detailed data on the size of logging firms or sawmills by employment or receipts is not available for the boroughs and Census Areas of interest⁸ in Southeast Alaska. This data is often withheld to avoid disclosing data for individual companies. To maintain confidentiality, the U.S. Census Bureau suppresses data to protect the identity of any business or individual. Thus data across business sizes is used for NAICS code 11 and 31-33 since data for the specific timber related codes in Table 2 are not disclosed for boroughs and Census Areas of interest in Southeast Alaska. NAICS code 11 is specific to Agriculture, forestry, fishing and hunting industries and includes logging and other forestry support. NAICS code 31-33 characterizes manufacturing and includes wood product processing sectors listed in Table 2 above. Within the boroughs and Census Areas of interest, the average receipts per establishment for sector 11 was \$120,000 and ranged from a minimum of \$23,000 to a maximum of \$253,000, across all businesses in this NAICS aggregation. This suggest all industries are likely to meet the small business size standards for small entities in Table 2 (less than \$7.5 million in earnings) (US Department of Commerce 2012). For NAICS code 31-33 the average number of employees per establishment was 20 with a minimum of 2 and a maximum of 59, across available data for boroughs and Census Areas of interest, indicating most if not all firms meet the size standards for small firms across all industries in Table 2 (US Department of Commerce 2012b).

Small Business Characteristics of Outfitters and Guides

A total of 242 permitted outfitter/guides provided services to Forest visitors during 2013 to 2017. More than half of these operators (132) use the Forest consistently (at least four out of the five years). Outfitter/guides reported an annual average of 632,000 service days over this period, with a total of 614,149 service days to clients reported in 2017. A service day is defined as a day or any part of a day for which an outfitter or guide provides service to a client on NFS lands. Figure 1 shows reported outfitter/guide use on the Forest from 2004 to 2017.

⁸ Haines, Juneau, Ketchikan Gateway, Petersburg, Sitka, Skagway, Wrangell, and Yakutat; and the two Census Areas Hoonah-Angoon and Prince of Wales-Hyder

Figure 1. Tongass NF Outfitter/Guide Use, 2008 to 2017



Note:

A service day is defined as a day or any part of a day for which an outfitter or guide provides service to a client on NFS lands.

Source: USDA Forest Service 2018

Detailed data on outfitter/guide firm size by employment or receipts is not available for the boroughs and Census Areas of interest⁸ in Southeast Alaska. This data is often withheld to avoid disclosing data for individual companies. To maintain confidentiality, the U.S. Census Bureau suppresses data to protect the identity of any business or individual. Thus data across business sizes is used for NAICS code 713 since data specific to NAICS code 713990 is not disclosed for boroughs and Census Areas of interest in Southeast Alaska. NAICS code 713 is specific to Amusement, gambling, and recreation industries and includes the seven guiding related NAICS “Index Entries”: Fishing guide services; Guide services (i.e., fishing, hunting, tourist); Guide services, fishing; Guide services, hunting; Guide services, tourist; Hunting guide services; and Tourist guide services. Within the boroughs and Census Areas of interest, the average receipts per establishment was \$550,000 and ranged from a minimum of \$76,000 to a maximum of \$850,000, across all businesses in this NAICS aggregation (US Department of Commerce 2012c). This suggest all firms are likely to meet the small business size standards for small entities in Table 2 (less than \$7.5 million in earnings).

Small Business Characteristics for Commercial Fishing and Seafood Processing

In 2017, an estimated 302 million pounds of seafood was harvested in Southeast Alaska with an ex-vessel value of \$289 million. Viewed in terms of value, salmon accounted for more than half (56 percent) of the total commercial catch in Southeast Alaska in 2017, with the remainder divided among black cod (16 percent), halibut (15 percent), crab (8 percent), herring (2 percent), and other (5 percent) (Southeast Conference 2018). Total pounds landed and ex-vessel values in

2017 were similar to regional 10-year averages, and a substantial improvement over the 2016 season, which was the worst in more than a decade (Southeast Conference 2018).

Employment in the seafood harvesting and processing sectors varies from year- to-year, but remains relatively stable compared to the fluctuations in the volumes and value of salmon harvested each year. Salmon harvesting employed an estimated 1,283 people in Southeast Alaska in 2016, with an additional 992 people employed harvesting other fish (Alaska DOL 2016). A further total of 1,400 people were employed in fish processing in 2016 for a combined total of 3,675 jobs (Alaska DOL 2017). Seafood harvesting and fish processing employment trends are shown for 2000 to 2013 in the 2016 Forest Plan Final Environmental Impact Statement (FEIS) (USDA Forest Service 2016, pp. 3-501 to 3-503).

Small Business Characteristics for Mining and Mineral Development

Mineral exploration and mining have been a part of life in Southeast Alaska for more than a century. Estimates developed using Alaska DOL data found that a total of 886 workers were employed in the mining sector in Southeast Alaska in 2017 (USDA Forest Service 2019). According to a recent economic impact study prepared for Alaska's mining industry, the Greens Creek and Kensington mines employed 414 workers and 325 workers in 2016, respectively, with the Kensington Mine employing an additional 90 contractors (McDowell Group 2018). Mining jobs are the highest-paying jobs in the region, with annual wages of \$102,000 in 2017 (Southeast Conference 2018). The high wages in this sector reflect the skilled nature of the job, as well as the demands of working in remote locations (Abrahamson 2013). Mining employment in Southeast Alaska increased in 2017, up 11 percent from the preceding year, with the region's two large mines (Greens Creek and Kensington) accounting for the majority of this employment. Despite increasing employment, production dropped at both mines in 2017 (Southeast Conference 2018).

Both the Greens Creek and Kensington mines are located in the City and Borough of Juneau, mostly on Tongass NFS lands. Greens Creek Mine is a primary silver mine located on Admiralty Island; Kensington Mine is a gold mine located on the mainland approximately 45 miles north of Juneau. Alaska residents make up about two-thirds of the total labor force at each mine, 66 percent at Greens Creek and 67 percent at Kensington. Alaska resident employees of both mines live throughout the region. More than two-thirds of Greens Creek's Alaska resident employees live in Juneau. The other third live in other Southeast Alaska communities or elsewhere in the region (McDowell Group 2018).

Two proposed underground mine projects on NFS lands on Prince of Wales Island received approval for financial assistance through the Alaska Industrial Development and Export Authority in June 2014 (Bradner 2014). Senate Bill 99 authorized \$145 million and \$125 million in infrastructure and construction financing, respectively, for the proposed Bokan Mountain and Niblack projects. The Bokan Mountain project is a rare earths mine that would include on-site ore processing facilities. The McDowell Group (2013), in a study prepared for the Bokan Mountain project, estimated that construction of the project would last 2 years and employ an average construction workforce of 200, with peak employment potentially reaching 300 workers. Operation would be expected to employ 190 workers with approximately \$18 million in annual payroll (McDowell Group 2013). The Niblack Project is a proposed underground copper-gold-

zinc- silver mine. The project owners estimate that the construction and operation phases of the project would both employ approximately 200 workers (Niblack Project LLC 2015). No exploration activity was reported for either project in 2016 and 2017 (McDowell Group 2018).

Information Relevant to Small Governments

Prior to 2000, in states with national forests, 25 percent of the returns to the U.S. Treasury from revenue producing Forest Service activities such as timber sales, were returned to each state for distribution back to counties (or in Alaska, boroughs) having acreage within a national forest. Those payments were called the “25 percent fund payments” and were dedicated by law to be used for roads and schools. In October 2000, the Secure Rural Schools and Community Self Determination Act of 2000 was enacted to stabilize federal payments to states in response to declining federal receipts.

The legislation was authorized for implementation for fiscal years 2001 through 2007 and allowed counties and/or boroughs to choose between 25 percent of current receipts or a full payment amount based on the average of the highest three payments made to the state during the 14-year period between 1986 and 1999. Alaska boroughs and communities have elected to receive a full payment amount rather than 25 percent of receipts since enactment of this legislation.

Those annual full payment amounts are primarily dedicated to roads and schools, with provisions for special project funding under certain conditions. Under the full payment approach, Forest Service payments to the State of Alaska have been based on the high 3-year historic average, rather than linked to annual Forest Service revenue.

The Secure Rural Schools Act has been reauthorized since 2008, most recently in March 2018 for Fiscal Years 2017 and 2018. The program was not reauthorized for Fiscal Year 2016, resulting in a substantial drop in payments. Tongass-related secure rural schools payments to Southeast Alaska totaled \$8.9 million in 2013 and \$6.7 million 2017. Detailed payments for each borough and CAs over this period are presented in Table 3.2-7 of the DEIS for the proposed rule (USDA Forest Service 2019).

SMALL BUSINESS OPPORTUNITIES AND EFFECTS

The DEIS for the proposed rule (USDA Forest Service 2019) and the Regulatory Impact Assessment for the proposed rule (USDA Forest Service 2019b) provide further detail on the regional economy including Southeast Alaska industry employment and earnings characteristics by industry and unemployment trends. The reader is encouraged to review those reports for details about environmental effects. This report focuses on opportunities for small businesses associated with industry sectors projected to experience effects under the proposed rule (i.e., timber, recreation, commercial fisheries and mining).

Timber Industry

Timber program output levels are expected to remain constant between the baseline 2001 Roadless Rule, the proposed rule and remaining regulatory alternatives; and involve a similar number of acres under all regulatory alternatives, varying only by the location of timber harvest. None of the regulatory alternatives propose changes to the projected timber sale quantity or

timber demand projections set out in the Tongass Land and Resource Management Plan. The Tongass National Forest, in compliance with the Tongass Timber Reform Act (1990), seeks to provide an annual supply of timber to meet market demand to the extent consistent with providing for multiple use and sustained use of all renewable forest resources, and other requirements. Thus, the proportion of cutting activity occurring within versus outside of roadless areas would vary by regulatory alternative, but overall economic impacts are assumed to remain constant. These impacts were estimated for the first decade following implementation in the 2016 Forest Plan FEIS (USDA Forest Service 2016), with all six regulatory alternatives based on an annual average harvest of 46 MMBF. All regulatory alternatives, including the proposed rule, are assumed to support a similar range of direct jobs and income. Based on the 2016 Forest Plan EIS assessment, all of the regulatory alternatives would support an estimated 92 jobs in logging, 49 to 100 jobs in sawmilling, and 29 to 46 jobs related to transportation and other services, with direct income ranging from \$9.8 million to \$10.4 million. Thus no change in timber related employment or income is expected as a result of the proposed rule or other regulatory alternatives.

The local sawmilling and transportation-related employment estimates (from the 2016 Forest Plan EIS) were based on a range, from maximum possible shipment out of state (export of all Alaska yellow-cedar and western redcedar plus hemlock and Sitka spruce export equal to 50 percent of total sale net sawlog volume), to no shipment of western redcedar, hemlock, or Sitka spruce, and export of 100 percent Alaska yellow cedar. Transportation and other services include water transportation, independent trucking, stevedoring, scaling, and export marking and sort yard employment for export volume, and water transportation, scaling, and independent trucking for locally sawn volume. Export employs more workers in transportation and other services per million board feet harvested than domestic production, which is reflected in the range of values estimated for transportation and related services.

Actual employment and income in Southeast Alaska would depend on choices made by purchasers; those choices may change as markets and prices shift. Under current market conditions, purchasers are likely to export as much as they can while processing enough material locally to keep manufacturing facilities open, and take advantage of opportunities to produce high-value sawn material in Southeast Alaska. In addition, the Regional Forester has allowed increased export on a case-by-case basis, as discussed above and explained in Appendix H of the 2016 Forest Plan (USDA Forest Service 2016). If purchasers were allowed on a case-by-case basis to export a larger share of a particular sale in unprocessed form, there would be a commensurate reduction in sawmilling jobs and an increase in transportation-related jobs.

In practice, many factors can influence the cost of timber harvest, adding economic risks for potential purchasers and affecting the ability of the Forest Service to offer timber sales. Road construction, helicopter yarding, complex silvicultural prescriptions, setting size, and other factors may increase costs, which then decrease the value of the offering. The value of the timber offered must be sufficient to cover costs and include profit for the purchaser. Estimated costs per thousand board feet vary substantially across the Forest. Transportation infrastructure costs and haul distances are typically higher in more remote areas, i.e., those areas that are further from existing infrastructure and markets. Market in this context may include a mill or export yard.

The Record of Decision for the 2016 Forest Plan estimated that a total of approximately 24,000 old-growth acres would be harvested Forest-wide after 25 years, with a total of 42,500 old-growth acres harvested after 100 years (USDA Forest Service 2016a). These estimates represent an approximate upper ceiling of the number of roadless acres that could be potentially harvested under any of the regulatory alternatives. The 2016 Forest Plan Final Environmental Impact Statement (FEIS) (USDA Forest Service 2016) estimated that approximately 5 MMBF of small and micro-sales of old-growth timber is required each year to meet the needs of existing small old-growth mills that produce high value products such as appearance grade lumber and cedar shingles. This annual small and micro-sale demand (5 MMBF) is anticipated to be met for the duration of the planning period under all of the regulatory alternatives, including the baseline 2001 Roadless Rule.

For larger sales, more acres of suitable old-growth land would allow the Forest Service greater flexibility in the selection of future timber sale areas, as well as the potential for more flexibility in sale design, depending on the planning areas selected. This improved flexibility could, in turn, potentially improve the Forest Service's ability to offer economic sales that meet the needs of industry. This greater flexibility could be especially beneficial during the first two decades of the 2016 Forest Plan (the transition period), when most old-growth harvest would take place. While many factors can influence the cost of timber harvest, as noted above, areas along existing roads are typically more economically efficient, followed by areas where existing roads can be easily extended. Transportation infrastructure costs can include road construction, reconditioning, reconstruction, and maintenance, as well as log transfer facility development. Road construction, reconditioning, reconstruction, and maintenance involve substantial costs and have the potential to strongly influence timber sale economics.

Areas closer to markets, either a mill or export facility, are also more likely to offer more economic timber sale options. Existing old-growth mills in Southeast Alaska are primarily located in the south part of the region, with a concentration of mills, including the last remaining medium-sized mill (Viking Lumber), on Prince of Wales Island. Sales on the south part of the Forest are, therefore, more likely to appraise positive. In cases where the Regional Forester allows 100 percent export, which is permissible on a case-by-case basis (as discussed above), proximity to an export facility may also result in sales being more likely to appraise positive.

The Regulatory Impact Assessment (RIA) for the proposed rule (USDA Forest Service 2019b) provides detail related to harvest cost savings (felling, yarding, loading, etc.) to the timber industry: from \$1 to \$2 million dollars in cost savings would be provided as a result of improved flexibility under the proposed rule and Alternatives 2 through 5. Estimated cost savings depend on the level of harvest thus two estimates of harvest are used: one standard deviation less than the average annual harvest on the Tongass NF, over the last 16 years (24 MMBF) and the harvest ceiling under the 2016 Forest Plan (46 MMBF). This range of harvest accounts for uncertainty in timber demand; accounting for past influences of the 2016 and 2008 Forest Plans by using the annual average harvest (see Table 4 in the RIA; USDA Forest Service 2019b). In addition the upper-bound or ceiling of 46 MMBF, set forth by the 2016 Forest Plan, is a projection of future demand. This includes the agency's responsibilities under the Tongass Timber Reform Act, which directs the Forest Service to seek to provide a supply of timber from the Tongass National Forest that meets annual market demand and the market demand for each planning cycle to the

extent consistent with providing for the multiple-use and sustained-yield of all renewable resources and other applicable requirements. Cost savings would accrue to both small and large entities harvesting timber from the Tongass NF. Cost savings would range from \$30,000 to \$61,000 if averaged across the 11 mills in Table 3 and additional 22 mills in Table 4. Assuming these mills are similar to the characteristics of timber industry entities, described above, within the boroughs and Census Areas of interest in Southeast Alaska, cost saving would range from a quarter to a half of average annual receipts of available data for representative firms (\$120,000) (U.S. Department of Commerce 2012). These estimates provide a conservative upper-bound or ceiling for consideration of potential cost savings to the timber industry and should not be used as precise estimates outside this analysis.

Outfitters and Guides

Changes in land management under the proposed rule and regulatory alternatives have the potential to affect outfitter/guide operations that provide commercial recreation opportunities on the Forest. Impacts to existing outfitter/guide use are likely to be greatest where changes in roadless protections allow development in remote areas that are used for outfitter/guide activities dependent on high scenic integrity and undisturbed landscapes. Changes in roadless area protections could also affect outfitter/guide use in other adjacent or nearby areas as outfitter/guides displaced from one location seek other places to take clients. Some use areas are presently at capacity, which could serve to exacerbate potential displacement effects. Long-term changes in roadless area management could affect the Forest's ability to meet future outfitter/guide demand, especially for operators seeking more remote areas.

The outfitter/guide analysis prepared for this EIS used changes in suitable old-growth acres in conjunction with information on existing outfitter/guide use to help focus on potentially affected areas. The resulting analysis identified 15 outfitter/guide use areas where potential conflicts between existing outfitter/guide use and future management could occur. In most of these areas, existing outfitter/guide use occurs near areas where development has occurred in the past, either near or along shorelines and/or Forest road systems. Similarly, in most cases, harvest that could already occur in these areas (under the baseline 2001 Roadless Rule) has the potential to conflict with existing outfitter/guide use. Viewed in terms of increases in acres suitable for harvest, impacts under Alternatives 2 and 3 would be minimal in all areas, with increases in roadless acres and reductions in suitable acres occurring in some areas. By expanding the acres available for harvest, the proposed rule and Alternatives 4 and 5 could add to these potential impacts by increasing the geographic extent of the acres affected. Even though the level of harvest would be the same under all regulatory alternatives, this latter group of alternatives could also result in more adverse effects due to roads because they would result in more timber becoming suitable for harvest in remote areas. In some locations, new road construction could create new opportunities for operators who use Forest roads for access. However, nearly all new roads constructed under the proposed rule and other regulatory alternatives would be closed following harvest. As a result impacts to small business entities associated with outfitter and guide use on the Tongass NF are anticipated to be minimal.

The RIA for the proposed rule (USDA Forest Service 2019b) provides useful detail related to potential lost revenue associated with IRA recreation visitation. Total expenditure for all estimated IRA visitors are approximately \$245 million; while approximately \$319,000 by the

2,400 visitors potentially displaced under the upper-bound estimate of annual harvest of suitable young- and old-growth; this assumes that the 1.8 million general forest area visitors and harvest locations are both evenly distributed over IRAs. These estimates provide a conservative upper-bound ceiling for consideration of potential lost revenue from displacement costs alongside cost savings to the timber industry and should not be used as precise estimates of IRA visitor expenditures. The three cost categories, based on visitor expenditures from National Visitor Use Monitoring survey sampling (White 2017) used to derive IRA displacement costs in the RIA are: gas and oil; local transportation costs (bus, shuttles etc.); and recreation and entertainment (which include guide fees, equipment rental). Only the last category affect outfitter and guide use since the other expenditures occur in retail sectors and transportation related sectors (not 713 Amusement, gambling, and recreation industries). However, considering a range of expenses provides for uncertainty and variation in outfitter and guide dependence on these expenditures. The three categories make up 24 percent of all IRA visitor expenditure while the recreation and entertainment category (which include guide fees, equipment rental) accounts for 4 percent (White 2017); indicating potential lost revenue from displacement related to outfitter and guide use ranges from \$13,000 to \$77,000. The average across all 242 outfitter and guide firms would thus range from \$55 to \$317 dollars per year. The upper bound estimate is less than a tenth of one percent of average annual receipts for representative firms⁹ (and less than a half of one percent of the maximum and less than a tenth of one percent of the minimum annual per firm receipts) in boroughs and Census Areas of interest in Southeast Alaska (U.S. Department of Commerce 2012c). These estimates are not costs associated with losses to outfitter and guides but expenses incurred by visitors and thus subject to displacement related changes. While some outfitter and guides may lose these receipts¹⁰ if visitors choose not to travel to Southeast Alaska others may see increases in receipts if visitors choose to stay longer or travel to substitute sites within Southeast Alaska.

Salmon Harvesting and Processing

The proposed rule and other regulatory alternatives are not expected to have a significant change to the commercial fishing or fish-processing industries over the planning period provided the 2016 Forest Plan protections remain in place. Riparian Management standards and guidelines established in the 2016 Forest Plan (USDA Forest Service 2016) would remain in place under the proposed rule and all of the regulatory alternatives. While there would be some variation in the level of protection, these variations are not expected to affect the fishing industry. Regardless of the absence of Watershed priority protections under the proposed rule, the Riparian Management standards and guidelines established in the 2016 Forest Plan would continue. The future of the fishing industry in Southeast Alaska is more likely to depend upon occurrences outside of the Tongass NF such as hatchery production, offshore harvest levels, and changes in ocean conditions.

⁹ NAICS code 713 is specific to Amusement, gambling, and recreation industries and includes the seven guiding related NAICS “Index Entries”: Fishing guide services; Guide services (i.e., fishing, hunting, tourist); Guide services, fishing; Guide services, hunting; Guide services, tourist; Hunting guide services; and Tourist guide services.

¹⁰ less than a half of one percent of the maximum and less than a tenth of one percent of the minimum annual per firm receipts in boroughs and Census Areas of interest in Southeast Alaska (U.S. Department of Commerce 2012c).

The 1997 FEIS for the Tongass NF (USDA Forest Service 1997) noted that the amount of acreage of timber harvest was at most less than 20,000 acres per year, representing approximately 0.5 percent of the total remaining productive old growth (or 5 percent over the next decade) and less than 0.02 percent of the entire Forest. That EIS concluded that this was not expected to result in a significant change to commercial fishing employment. All of the regulatory alternatives would allow considerably less timber harvest and new road construction than the alternatives evaluated in the 1997 FEIS. Total annual old-growth harvest allowed over the 100-year planning period would be approximately 42,500 acres, substantially lower than the maximum proposed in the 1997 FEIS.

As a result impacts to small business entities associated with Salmon Harvesting and Processing are not anticipated under the proposed rule.

Mining and Mineral Development

The Forest Service divides minerals resources into three groups: locatable minerals, leasable minerals, and salable minerals. A locatable mineral is any mineral that is “valuable” in economic terms or has a property that gives it distinct and special value. Examples of locatable minerals on the Tongass include gold, silver, copper, molybdenum, iron, nickel, lead, and zinc. The General Mining Law of 1872, as amended, grants every United States citizen the right to prospect and explore public domain lands open to mineral entry. The right of access is guaranteed and is not at the discretion of the Forest Service. Exploration, mining, and mineral processing activities, including road construction and reconstruction, are presently allowed in Inventoried Roadless Areas and would continue to be allowed under the proposed rule and all the other regulatory alternatives. Changes in roadless management under the proposed rule is, therefore, not expected to affect existing or future locatable mineral exploration or mining activities on the Forest.

Leasable minerals are certain types of minerals, primarily energy resources (e.g., oil, gas, coal, and geothermal resources) that are not subject to mining claim location but are available for exploration and development under provisions of the Mineral Leasing Act of 1920. Roadbuilding is currently prohibited for any new leasable projects, including geothermal projects, within IRAs. For Alternatives 2 through 5, this prohibition would continue in ARAs with watershed (Alternative 2) and LUD II priorities. Following project-specific analyses, roads could be approved for leasable projects within Timber Priority (Alternative 4) or Roadless Priority ARAs. The Tongass has no current leasable mineral activity and the anticipated demand for leasable minerals is expected to remain low. The Bureau of Land Management (BLM) conducted an assessment of mineral resource potential in support of a resource management plan for the Ring of Fire planning area, which includes Southeast Alaska. While there has been oil and gas exploration activity in the Yakutat area in the past, the resource development potential is considered low; therefore, the BLM expects no exploration or development activity within the 2016 Forest Plan period of analysis (10 to 15 years). Outside of the Yakutat area, oil and gas occurrence potential elsewhere in the Tongass is considered low to none. Occurrences of coal found at several locations in Southeast Alaska; however, the BLM considers development of these resources to be uneconomic in the near future, other than possibly for local use, and does not foresee associated exploration or development activity (USDA Forest Service 2016). As a result, changes in roadless management are expected to have limited impacts on related economic activity.

Salable minerals from the Forest are mainly used to construct NFS roads. Since road construction is not expected to vary much between regulatory alternatives, there would be little difference in salable mineral development between the regulatory alternatives.

As a result impacts to small business entities associated with locatable, leasable and salable minerals material uses are not anticipated under the proposed rule and regulatory alternatives.

SMALL GOVERNMENT OPPORTUNITIES AND EFFECTS

Revenue Sharing

As noted in the discussion above, the Secure Rural Schools Act has been reauthorized since 2008, most recently in March 2018 for fiscal years 2017 and 2018. The amount of these payments received by boroughs and CAs would not be affected by the proposed rule or any of the regulatory alternatives.

Infrastructure Effects

With some exceptions, federal and state road development is presently limited in IRAs. Exceptions include roads with reserved or outstanding rights, roads provided for by statute or treaty, or road development related to a Federal Aid Highway project. Roadless protection would be removed to various degrees under the proposed rule and Alternatives 2 through 5 with corresponding implications for regional highway development. In most cases, changes in roadless management, as well as changes in the number of acres managed as roadless, would be more permissive with respect to regional road systems. In addition to those roads presently excepted, Roadless Priority ARAs would also allow roads needed for the connection of communities and development of the regional transportation system as identified in the State of Alaska's Southeast Alaska Transportation Plan. Timber Priority ARAs and areas removed from roadless protection would remove roadless rule- related restrictions on road building. As a result, more areas would be available for additional types of regional road development under the proposed rule and Alternatives 4 and 5.

None of the regulatory alternatives are expected to substantially affect the development of energy projects or related infrastructure. Removing roadless designations in areas under the proposed rule and Alternatives 2 through 5 would simplify the process for projects but would not necessarily result in an increase in the number of projects developed.

In areas where new roadless areas are added or expanded, the permitting process could be more complicated, but projects would not be prohibited. An exemption for utility systems in Roadless Priority ARAs under Alternatives 2 through 5 and Community Priority ARAs (Alternative 3) would allow for tree cutting and road construction. Under Alternative 4, Timber Priority ARAs would not prohibit tree cutting or road construction at all. Where restrictions are removed, or exemptions added, the greatest effect may be in making the permitting process for developers less burdensome, resulting in more a rapid permitting process rather than an increase in the number of sites developed.

CONCLUSIONS

The proposed rule is intended to provide for economic development opportunities in Southeast Alaska in response to the State of Alaska's petition requesting that the Secretary of Agriculture consider exempting the Tongass NF from the 2001 Roadless Rule. The proposed rule is programmatic and do not authorize the implementation of any ground-disturbing activities. The proposed rule is expected to yield a range of benefits (or cost reductions) derived from greater flexibility and a positive net benefit (USDA Forest Service 2019b) and economic opportunities for small business. For example, greater flexibility is provided for the selection of future timber sale areas and sale design (depending on the planning areas selected); and could, in turn, potentially improve the Forest Service's ability to offer economic sales that meet the needs of industry. In addition, the proposed rule would allow additional timber harvest opportunities provided by dropping roadless protections for areas that are currently protected under the 2001 Roadless Rule. None of the regulatory alternatives propose changes to the projected timber sale quantity or timber demand projections set out in the Tongass Land and Resource Management Plan; thus the proposed rules would not decrease timber related jobs, income or output. In addition, the proposed rule is not anticipated to significantly impact a substantial number of small entities in local economies associated with outfitter and guide use, commercial fisheries and mining related industries assuming existing protections remain in place, including those in the 2016 Forest Plan.

The proposed rule has been considered in light of Executive Order 13272 regarding proper consideration of small entities and the Regulatory Flexibility Act (5 U.S.C. 601 et. seq) as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA). Based on the evidence summarized above, the proposed rule is expected to provide opportunities for small entities. The ability of the proposed procedures to expand opportunities and therefore promote the growth and well-being of small entities, suggests that the proposed procedures are not expected to result in significant impacts to a substantial number of small entities (i.e., no SISNOSE), as defined by the E.O. 13272 and SBREFA.

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