



**File Code:** 2430  
**Route To:** 2430

**Date:** March 18, 2022

**Subject:** Trinity Market Area 5 Year Recomputation

**To:** Shasta-Trinity National Forest Timber Purchasers and Interested Parties

In a letter dated December 1, 2020, you were notified of the proposed small business share for the Trinity Market Area of the Shasta-Trinity National Forest as the result of the regularly scheduled five-year recomputation. In addition, on January 15, 2021, you received written notification that the decision on the small business share would be delayed pending a court ruling that may affect the five-year recomputation. The court has now made its ruling and the Forest is proceeding with the five-year recomputation. The share was recomputed after consultation with the Small Business Administration (SBA) and in accordance with procedures governing the SBA program as outlined in Forest Service Handbook 2409.18, Chapter 90. Comments were solicited from qualifying timber sale purchasers and interested parties. A thirty-day review and comment period was provided to give you an opportunity to address the proposed share and the information used in the recomputation analysis that was disclosed in the December 1, 2020 letter.

Pursuant to the provisions of the Small Business Timber Sale Set-Aside Program, I have considered the comments received and have made my decision for the final share percentage.

#### DECISION:

It is my decision to establish the small business share of 34 percent for the Trinity Market Area of the Shasta-Trinity National Forest as a result of the regularly scheduled five-year recomputation. In addition, zero ccf volume will be carried forward. This decision is effective for the period beginning October 1, 2020. There have been no qualifying sales in period 1 (10/01/2020 to 03/31/2021), period 2 (04/01/2021 to 09/30/2021), or period 3 (10/01/2021 to 03/31/2022), so this decision does not effect those periods.

#### ISSUES IDENTIFIED and RESPONSE:

Contacts were made by letter with individuals, firms and associations that might have been affected by the recomputation of small business shares. Four written comments were received, two from small business and two from large business.

*Comment from small business firm identified three issues of concern. First issue of concern was that there were only two qualifying sales in the 5-year period and not enough data to warrant a reduction of 10%.*



The number of sales offered in the five-year period is typical for this market area as historically the market area has only offered anywhere from two to three qualifying sales during a five-year period. Forest Service handbook direction, FSH 2409.18, 91.13, does not take into account the number of sales and, instead, considers volume for share computation.

*Second issue of concern was that one of the two sales was used to recompute the structural change share percentage of 44% and therefore is being used twice in calculating a new share.*

If the structural change had occurred within a specified time frame of the five-year recomputation, the five-year recomputation would have been skipped. However, this was not the case in this circumstance. When recomputing the share in a five-year recomputation, FSH 2409.18, 91.22a requires that the share limit not be decreased or increased more than ten percentage points. Even if the one sale that was used in the three-year data for structural change is excluded, the limit to share change would still be applicable and computed to 34%.

*Third issue of concern was that the second sale was a fire salvage sale and should have been excluded, in addition to being a low value sale.*

Per FSH 2409.18, 92.44, sales excluded from the analysis would need concurrence from SBA and Regional Forester approval prior to excluding. The Forest did not identify or request the fire salvage sale be excluded from the analysis. The sale value was above the minimum threshold and included as specified in FSH 2409.18, 2.11d.

*Small Business Administration commented that the handbook direction was appropriately applied, however they concurred with the small business firm that there was a lack of data, and the share should remain at 44%.*

The Trinity Market Area typically has a limited number of qualifying sales. The SBA analysis reflects there are no small businesses purchasing sales in this market area as of the structural change in 2015. The procedures for computing the five-year recomputation and the limit to share change was applied per handbook direction.

#### APPEAL OPPORTUNITY:

Small business share decisions may be appealed under 36 CFR 223.118 which governs the appeal process for small business timber sale program share recomputations. As defined in 36 CFR 223.118(c), only those timber sale purchasers, or their representatives, who are affected by the recomputation of the small business share of timber sales **and** who submitted pre-decisional written comments may appeal the final decision made by the Forest Supervisor. If comments were submitted only through an association but not by the individual member, the individual may be ineligible to appeal the decision or file comments on an appeal.

This decision may be appealed by filing a written notice of appeal in duplicate to:

Regional Forester, Pacific Southwest Region  
ATTN: Tim Howard  
1323 Club Drive  
Vallejo, CA. 94592  
(email: [timothy.howard@usda.gov](mailto:timothy.howard@usda.gov))

Any written Notice of Appeal of this decision must be fully consistent with 36 CFR 223.118(f), Content of Notice of Appeal, must include reasons for appeal and must be postmarked by April 7, 2022, which is 20 days from the date of this notice of decision.

The Forest Service administers the Small Business Timber Sale Program under provisions outlined in Forest Service Manual FSM 2439 and Forest Service Handbook FSH 2409.18, Chapter 90. You may obtain information on the share recomputation and appeal procedures from the Forest Supervisor's Office or the Small Business Administration Representative:

Due to the pandemic, please email copies of any written correspondence as employees may still be teleworking and not physically in the office.

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RACHEL BIRKEY  
Forest Supervisor

cc: Tim Howard