U.S. FOREST SERVICE

ALASKA ROADLESS RULEMAKING

Civil Rights Impact Analysis

By Henry Eichman

9/3/2019

The draft Alaska Roadless proposed rule (corresponding to Alternative 6) and Draft Environmental Impact Statement (DEIS) has been reviewed and analyzed to ensure compliance with Departmental Regulation (DR) 4300-4 to determine if the implementation of the new Rule would have adverse impacts based on civil rights laws, regulations and/or USDA's policy on nondiscrimination; have disproportionately adverse impact on employees or program beneficiaries because of membership in a protected class; and establish any mitigation strategies that would lesson any adverse impact.

Alaska Roadless Rulemaking
Civil Rights Impact Analysis

Certification

This is to certify that the undersigned:

- Worked with subject matter experts, including Agency civil rights officials, during the planning and development of the civil rights impact analysis (CRIA) for the draft **Alaska Roadless Rule**.
- Identified and analyzed the civil rights implications and impacts of eligibility criteria, methods of administration, and other requirements associated with the Rule.
- Instituted civil rights strategies to eliminate, alleviate, or mitigate adverse and disproportionate civil rights impacts identified in the CRIA.
- Agrees to work with the Washington Office, National Forest System, Ecosystem Management Coordination (EMC) Staff to monitor implementation on all civil rights strategies that were instituted in connection with the Rule, evaluate their effectiveness, and take follow-up action where adverse civil rights impacts persist.

Concurrence by:

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Background

This civil rights impact analysis (CRIA) was prepared for the draft Alaska Roadless Rule corresponding to Alternative 6 in the DEIS (hereafter proposed rule). The analysis incorporates: (1) the proposed rule (2) demographic data of Tongass National Forest (NF) users and beneficiaries in the affected region of Alaska. This CRIA analysis evaluates whether there are potential adverse or disproportionate impacts from the draft Alaska Roadless Rule on those specific populations identified in US Department of Agriculture (USDA) Departmental Regulation (DR) 4300-4 and 5600-002. This analysis has been undertaken to evaluate how the American public could be affected by the proposed rule, particularly whether populations including (but not limited to) ethnic and racial minorities, people with disabilities, and women could receive potential adverse or disproportionate impacts from the proposed rule. The U.S. Forest Service will publish the proposed rule in the Federal Register in the fall of 2019.

Objective and purpose of the rule: The proposed rule exempts the Tongass National Forest from the 2001 Roadless Rule and is fully responsive to the State of Alaska's petition. It removes all 9.2 million inventoried roadless acres on the Tongass National Forest from roadless designation and provides maximum additional timber harvest opportunity. There would be no prohibitions on timber harvest or road construction/reconstruction activities within roadless areas on the Tongass National Forest. The proposed rule would also convert a total of 165,000 old-growth acres and 20,000 young-growth acres previously identified as unsuitable timber lands to suitable timber lands. The 2001 Roadless Rule would remain applicable to the Chugach National Forest. However administrative provisions for correcting and modifying inventoried roadless area boundaries would be applied to the Chugach National Forest. The proposed rule is programmatic and does not directly authorize any ground-disturbing activities.

Authorities: This proposed rule is being promulgated under 36 CFR Part 294 (36 CFR, Part 294—Special Areas, Subpart E—Alaska Roadless Area Management) This Civil Rights Impact Analysis Report is being required under USDA DR 4300-4 (civil rights).

Description of the Proposed Action:
The Roadless Area Conservation Rule (2001 Roadless Rule) was adopted into regulations at Title 36 of the Code of Federal Regulations (CFR) Part 294 (36 CFR 294), Subpart B (66 Federal Register [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 National Forest System [NFS] lands) by prohibiting road construction and reconstruction and timber cutting, sale, or removal in those IRAs, with certain exceptions.

A national CRIA was completed for the 2001 Roadless Area Conservation Rule as a part of that analysis effort. The focus of this CRIA is on the proposed Alaska Roadless Rule and the populations impacted by the proposed rule. The population affected by the proposed action is presented in **Appendix A** - Demographics of U.S. Communities Potentially Served by the Rule, by race, gender, national origin, and disability (RSNOD).

Since its promulgation, the 2001 Roadless Rule has been the subject of litigation. In 2001, the State of Alaska filed a complaint, challenging the U.S. Department of Agriculture's (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 National Forest from the 2001

Roadless Rule. In 2011, a federal court (District of Alaska) set aside the Tongass National Forest's exemption and reinstated the 2001 Roadless Rule on the Tongass National Forest (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 and Chugach National Forests.

In January 2018, the State of Alaska submitted a petition requesting that the Secretary of Agriculture consider exempting the Tongass National Forest from the 2001 Roadless Rule, pursuant to the Administrative Procedure Act (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 and the State of Alaska believe that the proposed action represents a unique opportunity to collaboratively resolve and provide certainty to the roadless issue in the State of Alaska. The Forest Service published a Notice of Intent (NOI) to prepare an environmental impact statement (EIS) and initiate a public rulemaking process to address the management of IRAs on the Tongass National Forest 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 National Forest. The state-specific roadless rule would establish a land classification system designed to conserve roadless area characteristics on the Tongass National Forest 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 proposed rules is programmatic and does not directly authorize any ground-disturbing activities. Before authorizing a land-use activity, the Forest Service must complete a site-specific environmental analysis, pursuant to the NEPA and its implementing regulations. When a specific project or activity is proposed on NFS land, the Forest Service conducts site-specific analyses of the effects associated with that project or activity and makes a decision that authorizes implementation of that project or activity. Refer to Chapter 2 of the DEIS (USDA Forest Service 2019) for a description of alternatives and comparison of the potential impacts.

Summary of the comments received: During the public comment scoping period following the Aug. 30, 2018 publication of the Notice of Intent of Proposed Rulemaking in the Federal Register (83 FR 44252) which ended Oct. 15, 2018, just over 144,000 entries were logged. This total quantity includes:

- Form letters: 32,500
- Petitions: 110,000 signatures
- Unique submissions: 1,400

The majority of comments received opposed changing the 2001 Roadless Area Conservation Rule for Alaska.

Commenters provided both support for and opposition to the three general alternatives for the proposed Alaska Roadless Rule identified in the Notice of Intent.

Alternatives considered by the public during scoping

These general alternatives and a summary of comments supporting and opposing each alternative are listed below.

- A No Action Alternative - the 2001 Roadless Rule remains in effect on the Tongass NF.
    - No Action Alternative Support – Supporters of the current 2001 Roadless Rule, equivalent to the no action alternative, stressed concerns the Tongass NF's ecosystem cannot support additional resource extraction and agency efforts should turn towards restoration of forest to a more pristine state.
    - No Action Alternative Opposition – Commenters who are opposed to the 2001 Roadless Rule generally noted that the current rule is too restrictive for certain industries that rely on the Tongass NF to exist. They also state that current regulations and policies, such as the Tongass Land and Resource Management Plan, provide sufficient environmental protections.
- An Alaska-specific Roadless Rule - an alternative management regime for Alaska roadless areas.
    - Alaska-Specific Roadless Rule Opposition – Commenters opposed to the Alaska-Specific Roadless Rule cited concerns that any change to the 2001 Roadless Rule (for Alaska) are unnecessary and not in the best interests of Alaska residents, industries that rely on the Tongass NF's natural setting and environment, or the Tongass NF's ecosystem.
    - Alaska-Specific Roadless Rule Support – Commenters providing support for the Alaska-Specific Roadless Rule generally stated Southeast Alaska's ecosystem and economy are dependent on the Tongass NF and should not be managed in the same way as other national forests.
- A Full Exemption Alternative -- the 2001 Roadless Rule no longer applies to the Tongass NF.
    - Full Exemption Support – Supporters of the full exemption alternative generally indicated the economic stability of Alaska is dependent on resource extraction and the Tongass NF can support both resource extraction and a thriving ecosystem.
    - Full Exemption Opposition – Commenters opposed to the exemption alternative were generally supportive of maintaining current regulations, or making those regulations more restrictive, citing environmental concerns.

Methodology

Disproportionate Impact Analysis Parameters (USDA DR 4300-004(9)(a)): This CRIA conducts a "disparate impact analysis" to identify whether disproportionate impacts would occur as a result of the proposed Alaska Roadless Rule.

- ***Civil Rights Impact*** is defined as: "*The consequences of policies, actions, and decisions which impact the civil rights and opportunities of protected groups or classes of persons who are USDA employees or program beneficiaries.*" *See* USDA DR 4300-4(5)(g).
- ***Civil Rights Impact Analysis*** (CRIA) is defined as: "*An analytical process used to determine the scope, intensity, direction, duration, and significance of the effects of an Agency's proposed employment and program policies, actions, and decisions. A CRIA identifies the effects of: (1) proposed employment actions; (2) eligibility criteria for USDA benefits; (3) methods of implementation, (4) underrepresentation or lack of diversity within its programs; or (5) any other Agency-imposed requirements that may adversely and disproportionately impact employees or program beneficiaries based on their membership in a protected group. Proper follow-up actions based on CRIA findings can lessen, eliminate or substantially alleviate these adverse impacts on protected groups.*" *See* USDA DR 4300-4(5)(h).
- ***Disproportionate Impact*** is defined as: "*A theory of liability which prohibits an employer or program from using a facially neutral employment practice that has a greater adverse impact on*

members of a protected class. A facially neutral employment practice or program that does not appear to be discriminatory on its face; rather it is discriminatory in its application or effect." See USDA DR 4300-4(5)(P).

- This CRIA examines the following data in Appendix A: Race/Ethnicity by Borough/Census Area Associated with the Tongass NF (Table 1); Income and Poverty by Borough/Census Area associated with the Tongass NF (Table 2); Women and Youth by Borough/Census Area associated with the Tongass NF (Table 3); Disability Status by Borough/Census Area associated with the Tongass NF (Table 4); Forest Service Workforce Demographic Composition (Table 5); Percent of National Forest Visits by Distance Traveled (Table 6) and Demographics of National Forest Visits for the Tongass NF and Disparate Impact Analysis (Table 7).

In conducting the disparate impact analysis, this CRIA compares the proposed rule to users and beneficiaries of the proposed rule. This analysis addresses the users and groups in the following sections. Appendix A - Table 7 - Disparate Impact Analysis - Demographics of National Forest Visits for the Tongass NF indicate that the proposed action and subsequent on the ground programmatic actions may disproportionately affect or adversely impact up to seven (7) protected group populations in Alaska. While this potential for disproportionate and adverse effect is not specifically attributable to the proposed rule it is crucial to acknowledge since the nature and extent of mitigation actions should consider the distinctive roles the Tongass NF plays to all groups. More information on effects of the proposed action on population demographics and the disparate impact analysis can be found in Appendix A.

Area and scope of the CRIA:
The proposed rule exempts the Tongass National Forest from the 2001 Roadless Rule and is fully responsive to the State of Alaska's petition. It removes all 9.2 million inventoried roadless acres on the Tongass National Forest from roadless designation and provides maximum additional timber harvest opportunity. There would be no prohibitions on timber harvest or road construction/reconstruction activities within roadless areas on the Tongass National Forest. The 2001 Roadless Rule would remain applicable to the Chugach National Forest. However administrative provisions for correcting and modifying inventoried roadless area boundaries would be applied to the Chugach National Forest. The proposed rule is programmatic and does not directly authorize any ground-disturbing activities.

Users and beneficiaries potentially served by the proposed rule:
The Tongass NF is available to all U.S. citizens; however, in an effort to better focus the analysis, eight boroughs (Haines, Juneau, Ketchikan Gateway, Petersburg, Sitka, Skagway, Wrangell, and Yakutat) and two Census Areas (CAs) (Hoonah-Angoon CA and Prince of Wales-Hyder CA) were used to help further define the area of potential CRIA impacts.

This CRIA analysis examines **users** and **beneficiaries** of Tongass NF. Users are those who visit or directly use the lands on the Tongass NF, while **beneficiaries** also include those who indirectly benefit from resources on the Tongass NF in the broader area (that includes the 8 boroughs and two CAs) such as timber for wood product processing, water for commercial fishing, mineral material, and spending related to recreational opportunities on the forest.

This civil right analysis includes population breakouts of race and ethnicity, gender, women and youth, disability, and low-income populations in eight boroughs (Haines, Juneau, Ketchikan Gateway, Petersburg, Sitka, Skagway, Wrangell, and Yakutat), two Census Areas (CAs) (Hoonah-Angoon CA and Prince of Wales-Hyder CA), and for Forest Service visitors from 2012-2016. The data comes from U.S.

Department of Commerce, Census Bureau, American Community Survey, and the Forest Service National Visitor Use Monitoring (NVUM) Report (2005-2016). This data is used to answer the questions above regarding disproportionate impacts to these groups. **(Identification required in USDA DR 4300-004(9)(a)).** Appendix A - Table 7 displays NVUM survey data on race, ethnicity, gender and age of visitors to the Tongass NF, and compares these protected group visitor use percentages to Alaska (state-wide) and U.S. (total) population statistics for each group.

Analysis

i. Analysis of the proposed rule for effects related to eligibility, benefits, and/or services, that may have the purpose or effect of excluding, limiting, or otherwise disadvantaging any group or class of persons on one or more prohibited bases (as required by USDA DR 4300-004(9)(a)

The proposed rule is not projected to exclude, limit, or otherwise disadvantage any group or class of persons from using or benefiting from resources on the Tongass NF. Rather the proposed rule is deregulatory and provides flexibility and benefits for users of the Tongass NF.

The proposed rule issue no requirements related to eligibility, benefits of, and services to, protected classes. Nor are there a purpose or effect of treating classes of persons differently. Access to resources and opportunities on the Tongass NF is open to the public as a whole.

The proposed rule and alternatives are programmatic, meaning that they establish direction and allowable activities for broad land areas, rather than schedule specific activities in specific locations. This makes it difficult to predict effects on individual communities. This is a common source of frustration to local residents, who want to know exactly how they and the places they care about could be affected. While many potentially affected outputs of forest management, such as scheduled timber harvest, generally translate into social and economic activity, such as employment in the timber industry, it is difficult to predict which communities would benefit the most from that activity. Forest Service activities provide economic opportunities to the private sector. How that sector and the various industries that comprise it respond depends on many variables in addition to Forest Service management. Communities that rely on a given resource-related industry would, however, be expected to be the first to benefit or lose from significant changes in planned output levels affecting that industry.

Appendix A - Table 7 displays NVUM survey data on race, ethnicity, gender and age of visitors to the Tongass NF, compares these protected group visitor use percentages to Alaska (state-wide) and U.S. (total) population statistics for each group. This Disparate Impact Analysis indicates the seven (7) following protected groups' visitor use is below the corresponding Alaska or U.S. population statistic percentage, indicating there has been the potential for disparities in overall program administration and delivery toward these protected group populations, by the current Tongass NF workforce (demographics) or through existing outreach/information/media/language and communication strategies to these seven protected groups. This disparate impact analysis indicates: 1) American Indian/Alaskan Native, 2) Asian, 3) Black/African American, 4) Native Hawaiian/Pacific Islander, 5) Hispanic/Latino, 6) Women, and 7) persons with disabilities may experience disproportionate affects or adverse impacts under the current administration of Tongass NF programs, service delivery or outreach/communication tools and media strategies toward these groups. Indicating the need for

leadership' consideration these protect groups and mitigation actions going forward during the application of the proposed rule and related-subsequent Tongass NF programs, activities going forward, i.e., during the Federal Register notice for the proposed rule and outreach strategy, and into the Final Rule implementation phases.

The proposed rule would allow the cutting, utilization, customary trade, and removal of trees for the purposes of Alaska Native customary and traditional uses, as well as road construction deemed necessary by a federally recognized Tribe for access to Alaska Native cultural sites. These types of uses would also be allowed in areas removed from roadless protection, subject to applicable Forest Plan standards and guidelines.

The DEIS (USDA Forest Service 2019) notes there is the potential for effect on heritage resources, that have particular significance for Alaska Native populations. Overall effects on heritage resources are expected to be low under all the alternatives because of the protection offered by Forest-wide standards and guidelines.

The subsistence analysis conducted for the 1997 Forest Plan Revision FEIS found that some effects to fish habitat may result from land management activities, but the magnitude of the effects could not be calculated. The 1997 FEIS (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. The proposed rule and other 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. Regardless of the absence of Watershed priority protections under the proposed rule, Riparian Management standards and guidelines established in the 2016 Forest Plan (USDA Forest Service 2016) would remain in place.

The proposed rule, and other regulatory alternatives, including the baseline 2001 Roadless Rule, would result in a reduction in deer habitat capability from existing conditions due to the harvest of mature young-growth and productive old-growth forest. Over the long term, reductions in habitat capability would reduce carrying capacity, or the numbers of deer an area is capable of supporting given the available resources. This could lead to a decline in the deer population, particularly following severe winters, if the demand for resources (e.g., food or habitat) exceeds the amount available.

Timber harvest tends to affect deer-related subsistence activities in two ways. In the short run, approximately 20 to 30 years following harvest, deer populations tend to increase in harvested areas. In the long run, populations tend to decline as the canopy in even-aged forest stands closes, resulting in lower habitat quality. Reductions in habitat quality can be reduced through management (e.g., thinning) of young-growth stands.

Deer populations in unharvested areas are likely to remain at fairly constant levels that are typically lower than a comparable harvested area in the short run, but higher in the long run. Road construction also affects subsistence by providing subsistence hunters with ready access to areas that may have been previously inaccessible. This effect may be perceived as either positive or negative depending on the parties involved, as increased access may lead to increased competition for resources. Potential effects are likely to vary by community and may be perceived differently by members of the same or

neighboring communities. Potential effects by community are assessed in the Communities section in the 2016 Forest Plan EIS (USDA Forest Service 2016).

While there would be some new road access under all alternatives in the long run, nearly all new roads constructed under the alternatives would be closed following harvest. These roads would, therefore, not be available for use by highway vehicles or high-clearance vehicles. They would, however, be available for access by other methods and would, as a result, have the potential to affect existing subsistence patterns. Some roads would be left open and available for access on maintained roads for administrative use, recreation and other uses such as infrastructure.

ii. Determination of whether or not the civil rights impacts will adversely affect one or more groups or classes of persons (as required by USDA DR 4300-004(9)(a)), and whether, and the extent to which, each group or class of persons may be potentially affected, positively or negatively (as required by USDA DR 4300-004(9)(a))

Leadership consideration of the identified protected groups and action alternatives including implementation of mitigation/outreach action strategies during the application of the proposed rule and related-subsequent Tongass NF programs and activities going forward, and during the development of the proposed rule and Federal Register notice and outreach strategy phase; and into the Final Rule implementation phases; will not affect engagement and access of protected groups, or have the potential for disproportionate effects and/or adverse impacts to local populations served. As a result, there are no adverse impacts anticipated to any specific groups. In addition, the proposed rule is programmatic thereby not authorizing activities not already covered under the existing forest plan. There are potential positive social and economic benefits realized by public groups and program beneficiaries and users, which use forest resources; such as watersheds, wildlife and recreation and participate in Tongass NF programs, as the proposed rule provide greater management flexibility under certain circumstances to address unique and local land management challenges to for all beneficiaries and users regardless of groups or classes of persons (race and ethnicity, gender, women and youth, disability, or low-income).

This CRIA analysis examines **users** and **beneficiaries** of Tongass NF. Users are those who visit or directly use the Tongass NF, while **beneficiaries** also include those who indirectly benefit from resources on the Tongass NF in the broader area (that includes the 8 boroughs and two CAs) such as timber for wood product processing, water for commercial fishing, mineral material, and spending related to recreational opportunities on the forest. The following assessment is based on the information in Appendix A:

- Workforce population: As indicated in Table 2 of Appendix A, 21 percent of Forest Service workforce identify as minority (8 percent Hispanic, 4 percent African American, 4 percent Native American, 3 percent of those identifying as two or more races and 2 percent Asian American) and 9 percent report having a disability. The demographics of the workforce for the Tongass NF are likely different but not reported to avoid disclosure of personally identifiable information (PII)[1]. National data in Table 2 of Appendix A provide a benchmark for discussion.

[1] The U.S. Department of Labor (U.S.DOL. 2019) defines PII as information: (i) that directly identifies an individual (e.g., name, address, social security number or other identifying number or code, telephone number, email address, etc.) or (ii) by which an agency intends to identify specific individuals in conjunction with other data elements, i.e.,

By maintaining the status quo of the level of timber harvest, and management associated with other resource uses (recreation, fisheries, minerals, etc.), the proposed rule is not expected to have any disproportionate adverse effects on any class of employees based on race, ethnicity, gender, or income-level, on human resource and employment decisions. Similarly, the entire workforce, including protected classes, will be able to apply the regulations under the proposed rule uniformly, so there should not be any effects on how existing employees are treated.

In general, the Forest Service is striving to conduct strategic workforce planning to improve the skill and diversity of the workforce and more closely mirror the civilian labor workforce benchmarks established by the 2010 U.S. Census Bureau. However, the proposed rule will not have any effect on the demographics of the Forest Service workforce.

- Users and Beneficiaries of the Tongass NF: This CRIA examines impacts to **users** and **beneficiaries** of Tongass NF. Users are those who visit or directly use the Tongass NF, while **beneficiaries** also include those who indirectly benefit from resources on the Tongass NF in the broader area (that includes the 8 boroughs and two CAs). There are no anticipated adverse impacts, for any classes of people, as a result of the proposed rule. There is no indication that the race, ethnicity, national origin, gender, or disability status of users or beneficiary will have any bearing on changes in use, benefits received or other impacts under the proposed rule.

  Additionally, public notice of all activities proposed on National Forest System lands would still occur through the National Environmental Policy Act (NEPA) process. Public notice and involvement would be carried out consistent with requirements under the NEPA regulations and would not be affected by, the proposed rule or, the race, ethnicity, national origin, gender, or disability status of users or beneficiaries of the Tongass NF. In addition, opportunities for public outreach, notice and comment on proposed activities as required by other applicable laws and regulations would still occur. Therefore, no adverse civil rights impacts are anticipated to any protected class as a result of the proposed rule.

iii. Description of the civil rights impacts, including whether they are likely to be beneficial, maintain the status quo, or have adverse effects as required by (as required by USDA DR 4300-004(9)(a))

The 36 CFR, Part 294 (promulgation of the proposed rule) will maintain the **status quo**. Through the proposed rule, including implementation of identified outreach and mitigation action strategies implemented as predicted, there will be no anticipated adverse impacts or disparate treatment to any protected groups or classes, including within the Forest Service workforce administering the proposed directive, and/or to any National Forest System visitors and beneficiaries, states, tribal governments, or any public beneficiary. The proposed rule is deregulatory and are intended to provide greater management flexibility under certain circumstances to address unique and local land management challenges for all users and beneficiaries of the Tongass NF.

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indirect identification. (These data elements may include a combination of gender, race, birth date, geographic indicator, and other descriptors).

In some cases changes in patterns of use may occur, as described in the DEIS (USDA Forest Service 2019), however the **status quo** level of use will remain the same. Through comprehensive administration of program outreach and mitigation actions at the local level, predicted changes in use would occur and designed for the benefit of all forest user groups, entities, non-profit organizations, other federal and state agencies, and private land owners and individuals, regardless of their race, ethnicity, national origin, gender, or disability status. Mitigation of impacts from changes in use are provided through development of alternatives, design elements, and mitigation measures. These are also discussed below in the sections on mitigation and outreach strategy.

iv. Determination of any barriers in the proposed rule that prevent the increase of minority, women, or persons with disabilities' participation (as required by USDA DR 4300-004(9)(k))

Analysis of the proposed rule indicates there are no barriers to equal program participation nor access to benefits available to all affected populations. As indicated, administration of the proposed rule (proposed action alternative and outreach/mitigation strategy) is designed to consider and eliminate any potential barriers to effective/efficient land management planning for the equitable allocation of forest resources and benefits, program administration and public services. The administration of the proposed rule would improve participation and access of minorities, women, or persons with disabilities to uses or benefits received from the Tongass NF. As previously mentioned, the proposed rule itself is programmatic and does not authorizing activities not already covered under the existing forest plan. Through the effective/efficient and equitable administration of the proposed rule by the Forest Service workforce will guarantee there are numerous and multiple potential positive uses available to affected public groups whom benefit from the programs, information, and resources on the Tongass NF; as the proposed rule is intended to provide greater management flexibility under certain circumstances to address unique and local land management challenges for all beneficiaries and users regardless of groups or classes of persons (race and ethnicity, gender, women and youth, disability, or low-income).

v. Summary

The State-specific roadless rule would accommodate 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. The DEIS and the proposed rule will be available for public comment in 2019 prior to finalization.

Mitigation

Public notice of all activities proposed on National Forest System lands will still occur through the NEPA process, and ensure that protected groups within the affected environment are notified. Public notice and involvement would be carried out consistent with requirements under the NEPA regulations and would not be affected by the proposed rule or, the race, ethnicity, national origin, gender, or disability status of users or beneficiaries of the Tongass NF. In addition, opportunities for notice and comment on proposed activities as required by other applicable laws and regulations would still occur and ensure that protected groups within the affected environment are notified. As such, there should not be any barrier to input and participation by minorities, women, or persons with disabilities from implementation of activities consistent with the forest plan and the proposed rule.

The Forest Service's civil rights and environmental justice polices will continue to be implemented in conjunction with the proposed rule, and should aid in mitigating any unintended consequences.

If any additional civil rights information, issues or barriers are recognized or discovered, leadership will consider additional mitigation or outreach actions to alleviate potential adverse impacts to protected group populations.

Outreach Strategy

As indicated in Appendix A, there are low visitation rates by racial, ethnic, and groups of women and youth in comparison to their demographic representation in boroughs and census areas in Southeast Alaska. This indicates that there may be barriers to Tongass NF program participation and thus, there exists a potential for disparate impacts that could disproportionately affect these groups. For example, specific minority or underrepresented groups may not have access to information or outreach efforts or outreach may not be not consistent with cultural norms, values, attitudes and beliefs of these groups. While this potential for disproportionate and adverse effect is not specifically attributable to the proposed rule it is crucial to acknowledge since the nature and extent of mitigation actions should consider the distinctive roles the Tongass NF plays to all groups. The outreach strategies here provide considerations for public engagement and outreach to these groups to address cultural differences and low use/participation trends, to avoid the potential for disparate impacts to these groups into the foreseeable future. In addition, the outreach strategy, discusses measures to ensure the public and protected groups are: (1) given opportunities to comment on the development of these policies, (2) informed when the policies are finalized, and (3) continually involved in program implementation.

- **The communication strategy** for the proposed rule was developed by communication specialists to ensure that all Tongass NF users, beneficiaries and interested public, including those that are members of protected groups, receive timely notification of the changes to management on the Tongass NF. By affirmatively educating the public on these changes, the Forest Service hopes that all interested members of the public are able to take advantage of opportunities and benefits from the proposed rule.

- **The entire Alaska and U.S. and population continues to be notified through Federal Register notices:** The Forest Service issued a NOI in August of 2018. It plans to publish a public Notice of proposed rulemaking available for public comment in summer of 2019.

- **Advanced notice has been given to tribal governments:** The Forest Service sent out official invitations for formal consultation to all federally-recognized tribes and Alaska Native Corporations prior to the publication of the NOI. The agency will initiate consultation again prior to the publication of the proposed rule in 2019. Formal consultation will be conducted in the field by the line officers. All federally-recognized tribes associated with the Tongass NF were invited to be a cooperating agency.

- As discussed above, the DEIS notes there is the potential for effect upon subsistence use, that have particular significance for Alaska Native populations. Public meetings will be held in communities throughout Southeast Alaska between the Draft and Final versions of this DEIS.

vi. Net Civil Rights Impact

The civil rights implications of the proposed rule are, generally, expected to maintain the status quo. No adverse effects are expected through implementation of the proposed rule and outreach/mitigation action strategies; through implementation and for the development of the proposed rule. As such, **(identification of which is required by USDA DR 4300-004(9)(a)** - Monitoring of the associated action alternative outreach and mitigation strategies will occur. The Forest Service will continue to implement environmental justice analyses in NEPA analyses when appropriate and as required by EO 12,898. The Forest Service will continue to monitor visitor demographics benchmarks through the National Visitor Use Monitoring, which is often used in civil rights and environmental justice analyses when needed in order to estimate and compare anticipated program participation. The proposed rule does not have any known Office of the Assistant Secretary for Civil Rights recommendations from prior CRIA responses **(identification of which is required by USDA DR 4300-004(9)(a)).**

vii. Monitoring and Evaluation

Monitoring and evaluation of the proposed rule and associated outreach and mitigation action strategies will occur; providing leadership and staff opportunities to consider additional civil rights information, issues or barriers, and to consider additional mitigation or outreach actions to alleviate potential adverse impacts to protected group populations.

APPENDIX A

Demographics of U.S. Communities Potentially Served by the Rule
By race, gender, national origin, and disability

The groups potentially affected by the proposed rule include the agency personnel responsible for implementing Forest Service programs—through planning, on-the-ground implementation, and business operations—and the general public with interest in forest land resources on the Tongass NF. These affected users and beneficiaries of the Agency's NEPA policy are depicted in the following tables:

Table 1 - Race/Ethnicity by Borough/Census Area Associated with the Tongass NF - identifies (1) the total population potentially affected by the proposed rule, and (2) breaks down the demographics of the populations affected by the 36 CFR Part 220 revisions once implemented.

Table 2 - Forest Service Workforce Demographic Composition - displays the diversity of the Forest Service workforce

Table 3 - Percent of National Forest Visits* by Distance Traveled – demonstrates how far Tongass NF users and beneficiaries travel to use places and services.

Table 4 - Demographics of National Forest Visits* for the Tongass NF – demonstrates demographic data of users of Tongass NF recreational opportunities.

The data in Table 1 show that 63 percent of the population of Southeast Alaska identified as White; as most recently estimated for the year 2017 by the Census Bureaus' American Community Survey. American Indian and Alaska Native was the largest minority group, accounting for 15 percent of the total Southeast Alaska population. Table 1 indicates there are relatively large proportions of Alaska Natives in Prince of Wales-Hyder, Hoonah-Angoon, and Yakutat. The populations of Haines, Juneau, Petersburg, and Skagway in contrast, have relatively low proportions of Alaska Natives, below the Southeast Alaska average of 15 percent.

The demographics of the Southeast Alaska boroughs and census areas vary from the U.S. as a whole. The White, American Indian and Alaska Native population, and those identifying as Two or More Races are a larger proportion than in the U.S. as a whole. This variation shows the broad diversity of local Tongass NF users. This finding has implications for program delivery and communications methods and strategies with bi-lingual and bi-cultural communities, including outreach to limited English proficiency communities.

American Indian Tribes

Unlike other groups, the unique relationship between American Indian Tribes and the Federal Government is based on the U.S. Constitution, Articles I and VI. The Federal Government has a "government-to-government" relationship with tribes as it does with other sovereigns. The potentially affected population in any area would be those who live within or near Tongass NF lands, those who depend upon Tongass NF lands for their livelihood regardless of location, and those people who have other interests in or are otherwise potentially affected by the management and use Tongass NF lands.

American Indian Tribes who maintain treaty rights on National Forests although their reservation or tribal lands may be distantly located from treaty lands managed by the Tongass NF, may also be potentially affected by the proposed rule. Many tribes have ancestral ties and maintain Treaty Rights on NFS lands and thus may be affected by regulatory changes.

Table 1 – Race/Ethnicity[1] by Borough/Census Area Associated with the Tongass NF
compared to Alaska and the nation as a whole

Geographic Area	Total Population	Percent of Total Population				
		White[2]	American Indian and Alaska Native[2]	Hispanic or Latino	Other Race[2,3]	Two or More Races[2]
Haines Borough	2,537	79%	7%	3%	4%	7%
Hoonah-Angoon CA	2,146	44%	37%	5%	6%	8%
Juneau City and Borough	32,434	65%	11%	6%	9%	8%
Ketchikan Gateway Borough	13,745	64%	14%	5%	9%	9%
Petersburg Borough	3,275	67%	7%	11%	8%	7%
Prince of Wales-Hyder CA	6,473	45%	40%	4%	2%	9%
Sitka City and Borough	8,810	62%	13%	6%	8%	10%
Skagway Municipality	1,038	79%	5%	7%	5%	5%
Wrangell City and Borough	2,475	64%	21%	3%	3%	9%
Yakutat City and Borough	682	44%	28%	6%	8%	15%

Southeast Alaska Total	**73,615**	**63%**	**15%**	**6%**	**8%**	**9%**
Alaska	738,565	62%	14%	7%	10%	7%
United States	321,004,407	61%	1%	18%	18%	2%

CA – Census Area
[1] Estimates are annual totals developed as part of the 2013-2017 American Community Survey 5-Year Estimates.
[2] Non-Hispanic only. The Federal Government considers race and Hispanic/Latino origin (ethnicity) to be two separate and distinct concepts. People identifying as Hispanic or Latino origin may be of any race. In this table people identifying as Hispanic or Latino are included in the Other Race category only.
[3] The "Other Race" category presented here includes census respondents identified as Black or African American, Asian, Native Hawaiian and Other Pacific Islander, or Some Other Race.
Source: U.S. Census Bureau 2018a

Poverty

Following the Office of Management and Budget Statistical Policy Directive 14, the Census Bureau uses a set of money income thresholds that vary by family size and composition to determine who is in poverty. If a family's total income is less than the family's threshold, then that family and every individual in it is considered in poverty. The official poverty thresholds do not vary geographically, but they are updated for inflation using a consumer price index. The official poverty definition uses money income before taxes and does not include capital gains or noncash benefits (such as public housing, Medicaid, and food stamps).

Median household income and the percent of households below the poverty line are presented by borough in Table 2. Statewide, the estimated share of the population below the poverty line was 9 percent in 2017. Median household income was approximately $76,100. Juneau is the only borough in the region with median household income above the state median. Median household income as a share of the state median in the other boroughs ranged from 68 percent in Prince of Wales-Hyder to 93 percent in Haines, Sitka, and Skagway (Table 2). The share of the population below the poverty level in 2017 ranged from 5 percent in Skagway to 16.0 percent in Prince of Wales-Hyder. Prince of Wales-Hyder was the only borough to be substantially larger (one standard deviation of 3 percent) than the statewide average of 10 percent (Table 2). While the poverty rate for the total U.S. population was 15 percent, it was lower in all Boroughs and Census Areas of Southeast Alaska apart from Prince of Wales-Hyder CA (16 percent).

Table 2 – Income and Poverty by Borough/Census Area[1] associated with the Tongass NF
compared to Alaska and the nation as a whole

Geographic Area	Median Household Income		Population Below the Poverty Level
	2017 Dollars	Percent of State Median	
Haines Borough	70,640	93%	8%
Hoonah-Angoon CA	57,900	76%	11%
Juneau City and Borough	90,749	119%	7%
Ketchikan Gateway Borough	67,321	88%	11%
Petersburg Borough	63,490	83%	8%
Prince of Wales-Hyder CA	52,114	68%	16%
Sitka City and Borough	70,765	93%	9%
Skagway Municipality	70,673	93%	6%
Wrangell City and Borough	56,094	74%	12%
Yakutat City and Borough	64,583	85%	6%
Alaska	**76,114**	**100%**	**10%**
United States	**57,652**	**76%**	**15%**

CA – Census Area
[1] Estimates are annual totals developed as part of the 2013-2017 American Community Survey 5-Year Estimates.
Source: U.S. Census Bureau 2018b, 2018c

Women and Youth

The data in Table 3 show that 48 percent of the population of Southeast Alaska is female and 78 percent were in the age category of 0 to 19 years. These percentages do not vary much from state percentages (48 percent women and 75 percent youth) however vary from percentages for the nation as a whole. A bit over half of the U.S. population is female (51 percent) while 23 percent were in the age category of 0 to 19 years.

Persons with Disabilities

Table 4 shows - The percent of people living with disabilities in the U.S and Alaska (12 and 13 percent of the non-institutionalized population) is very close to the percent in Southeast Alaska boroughs and census areas (12 percent). Percentages were one standard deviation greater than the state in 5 of these boroughs and census areas (Hoonah-Angoon CA, Ketchikan Gateway Borough, Petersburg Borough, Prince of Wales-Hyder CA, and Wrangell City and Borough).

Section 504 of the Rehabilitation Act of 1973 requires that Forest Service programs, services, and benefits are accessible and available to persons with disabilities. Programs include facilities and lands in their natural state. This requirement would not likely be affected by regulatory change.

Table 3 – Women and Youth by Borough/Census Area[1] associated with the Tongass NF
compared to Alaska and the nation as a whole

Geographic Area	Total Population	Male		Female		Youth to age 19
Haines Borough	2,537	1,323	52%	1,214	48%	2,037
Hoonah-Angoon CA	2,146	1,123	52%	1,023	48%	1,796
Juneau City and Borough	32,434	16,663	51%	15,771	49%	25,339
Ketchikan Gateway Borough	13,745	7,065	51%	6,680	49%	10,677
Petersburg Borough	3,275	1,724	53%	1,551	47%	2,537
Prince of Wales-Hyder CA	6,473	3,509	54%	2,964	46%	4,936
Sitka City and Borough	8,810	4,520	51%	4,290	49%	6,833
Skagway Municipality	1,038	594	57%	444	43%	902
Wrangell City and Borough	2,475	1,280	52%	1,195	48%	1,994
Yakutat City and Borough	682	366	54%	316	46%	533
Southeast Alaska	**73,615**	**38,167**	**52%**	**35,448**	**48%**	**57,584**
Alaska	738,565	386,319	**52%**	352,246	**48%**	552,319
United States	321,004,407	158,018,753	**49%**	162,985,654	**51%**	73,601,279

CA – Census Area
[1] Estimates are annual totals developed as part of the 2013-2017 American Community Survey 5-Year Estimates.
Source: U.S. Census Bureau 2018d

Table 4 – Disability Status[1] by Borough/Census Area associated with the Tongass NF
compared to Alaska and the nation as a whole

Geographic Area	Total Population*	Percent with a Disability
Haines Borough	2,531	13%
Hoonah-Angoon CA	2,141	16%
Juneau City and Borough	31,791	11%
Ketchikan Gateway Borough	13,474	15%
Petersburg Borough	3,263	16%
Prince of Wales-Hyder CA	6,473	20%
Sitka City and Borough	8,631	12%
Skagway Municipality	1,038	11%
Wrangell City and Borough	2,458	16%
Yakutat City and Borough	682	9%
Southeast Alaska	72,482	13%
Alaska	714,038	12%
United States	316,027,641	13%

CA – Census Area
[1] Estimates are annual totals developed as part of the 2013-2017 American Community Survey 5-Year Estimates.
*Total Civilian Noninstitutionalized Population
Source: U.S. Census Bureau 2018e

Table 5 – Forest Service Workforce Demographic Composition
Potentially Affected by Administration/Implementation of the proposed rule

By Race, Sex, National Origin, and Disability Status, Fiscal Year 2018TOTAL				RACE/ETHNICITY														Persons w/Disabilities	
				Hispanic or Latino		Non-Hispanic or Latino													
						White		Black or African American		Asian		Native Hawaiian or Other Pacific Islander		American Indian/Alaska Native		Two or More Races			
All	Male	Female	Minorities	Male	Female	Male	Female	Male	Female	Male	Female	Male	Female	Male	Female	Male	Female	Targeted	Non-Targeted
36,247	23,875	12,372	7,541	1,925	877	18,862	9,838	699	592	386	293	92	24	940	476	968	269	2,416	786

%	65.87%	34.13%	20.79%	5.31%	2.42%	52.04%	27.14%	1.93%	1.63%	1.06%	0.81%	0.25%	0.07%	2.59%	1.31%	2.67%	0.74%	6.67%	2.17%

Affected Forest Service Workforce

The demographics of the workforce for the Tongass NF are likely different than the data across the nation but not reported here avoid disclosure of personally identifiable information. National data in Table 5 – Forest Service Workforce Demographic Composition, above provide a benchmark for discussion. Among the Forest Service workforce in Table 2 approximately 21 percent identify as minorities and approximately 9 percent have either a reported or targeted disability. Hispanic Americans make up the largest portion of this minority population, accounting for approximately 8 percent of the total workforce. African Americans and Native Americans make up the next largest portions of this minority population, each accounting for approximately 4 percent of the total workforce. Those identifying as two or more races accounted for approximately 3 percent of the national workforce while Asians approximately 2 percent of the total workforce.

Table 6 - Percent of National Forest Visits* by Distance Traveled
National Visitor Use Monitoring Report 2012-16
*Data self-reported by users

Miles from Survey Respondent's Home to Interview Location	National Forest Visits (%)
0 - 25 miles	68.0
26 - 50 miles	5.0
51 - 75 miles	0.5
76 - 100 miles	0.3
101 - 200 miles	0.6
201 - 500 miles	0.8
Over 500 miles	24.8
Total	**100.0**

Table 6 demonstrates how far Forest Services beneficiaries travel to use places and services. Almost three-quarters (73%) of visitors traveled under 50 miles to the Tongass NF. This illustrates the importance of local users and beneficiaries included in this analysis who come from the eight boroughs (Haines, Juneau, Ketchikan Gateway, Petersburg, Sitka, Skagway, Wrangell, and Yakutat) and two Census Areas (CAs) (Hoonah-Angoon CA and Prince of Wales-Hyder CA). While the highest incidence of users are local, about a quarter traveled over 500 miles to use the Tongass NF.

This illustrates that while visitors from the local area in the eight boroughs and two Census Areas are important, the U.S. population as a whole has a relevant stake in how land is managed on the Tongass NF. Accordingly data for both the nation, Alaska and the Southeast Alaska Regional data (eight boroughs and two CAs) are examined relative to self-reported demographic data for the forest in Table 7 below.

Table 7 – Disparate Impact Analysis and Demographics of National Forest Visits* for the Tongass NF
National Visitor Use Monitoring Report 2005-12, and U.S Census Bureau 2018b
*Data self-reported by users

Demographic	Wilderness and Non-Wilderness	Percent of Wilderness and	U.S. Population	Southeast Alaska

	Visits to the Tongass NF	Non-Wilderness Visits to the Tongass NF		Boroughs and Census Areas
Race - American Indian/Alaskan Native	192,600	7%	1%	15%
Race – Asian	43,100	2%	5%	6%
Race - Black/African American	8,600	0.3%	12%	1%
Race - Hawaiian/Pacific Islander	17,200	1%	0.2%	1%
Race – White	2,647,000	92%	61%	63%
Race – Hispanic	60,400	2%	18%	6%
Multi-racial	34,500	1%	2%	9%
Gender – Female	1,201,300	42%	51%	48%
Gender – Male	1,672,700	58%	49%	52%
Disability	1,700	6%	13%	13%
Youth to age 19	373,600	13%	23%	78%

Table 7 displays National Visitor Use Monitoring (NVUM) survey data on race, ethnicity, gender and age of visitors to the Tongass NF, and compares these protected group visitor use percentages to (benchmarks) Alaska (state-wide) and U.S. (total) population statistics for each group (U.S. Census Bureau 2018a). This Disparate Impact Analysis indicates the seven (7) following protected groups visitor use is below the corresponding Alaska or U.S. population statistic percentage, indicating potential disparities toward these protected group populations from programs/activities administered by the Tongass NF. This disparate impact analysis indicates: 1) American Indian/Alaskan Natives, 2) Asian Americans, 3) Black/African Americans, 4) Hispanic/Latino Americans 5) Hawaiian/Pacific Islander Americans, 6) Multi-Racial Americans 7) Women, 8) persons with disabilities may be disproportionately affected or adversely impacted overall by the related-subsequent Tongass NF programs and activities, or future local on the ground projects going forward, and the proposed rule if administration is not mitigated.

There are differences when compared to data in Table 1 showing race and ethnicity (U.S. Census Bureaus' American Community Survey) for the Southeast Alaska population and the U.S. as a whole (as indicated by Table 6 over 25 percent of visitors to the Tongass NF travelled over 500 miles). American Indian and Alaska Natives made up 15 percent of the Southeast Alaska population (1 percent in the U.S) while accounting for 7 percent of Tongass NF visitors. Those identified as Asian, Black or African American, Native Hawaiian and Other Pacific Islander, or Some Other Race made up 8 percent of the Southeast Alaska population (18 percent in the U.S) and 2 percent of Tongass NF visitors while persons identifying themselves as Asian, Black or African American, and Hawaiian or Pacific Islanders accounted for only, 2 percent of Tongass NF visitors. Persons identifying as Hispanic or Latino made up 6 percent of the Southeast Alaska population (18 percent in the U.S) and 2 percent of Tongass NF visitors.

In addition there are differences when comparing data on women and youth in Table 3 to the NVUM survey data in Table 7. The data in Table 3 show that 48 percent of the population of Southeast Alaska is female (51 percent in the U.S) and 78 percent were in the age category of 0 to 19 years (23 percent in

the U.S). Table 7 data indicate 42 percent of visitors to the Tongass NF were female and 13 percent were in the age category of 0 to 19 years.

While NFS program participation data is not available for all Tongass NF programs (timber, range, minerals, etc.), this data indicates low participation by these racial, ethnic, and groups of women and youth in comparison to their demographic representation in boroughs and census areas in Southeast Alaska. This indicates that there may be barriers to Tongass NF program participation and thus, there exists a potential for disparate impacts that could disproportionately affect these groups. While this potential for disproportionate and adverse effect is not specifically attributable to the proposed rule it is crucial to acknowledge since the nature and extent of mitigation actions should consider the distinctive roles the Tongass NF plays to all groups. The outreach and mitigation strategies above provides considerations for public engagement and outreach to these groups to address cultural differences and low use/participation trends, to avoid the potential for disparate impacts to these groups into the foreseeable future.

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