



DEPARTMENT OF AGRICULTURE

Forest Service

Information Collection; Small Business Timber Sale Set-aside Program;

Appeal Procedures on Recomputation of Shares.

AGENCY: Forest Service, USDA.

ACTION: Notice; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Forest Service is seeking comments from all interested individuals and organizations on the extension with no revision of a currently approved information collection, *Small Business Timber Sale Set-Aside Program; Appeal Procedures on Recomputation of Shares*.

DATES: Comments must be received in writing on or before **[Insert date 60 days from date of publication in the *Federal Register*]** to be assured of consideration. Comments received after that date will be considered to the extent practicable.

ADDRESSES: Comments concerning this notice should be submitted by email to glen.vanzandt@usda.gov. Comments may also be submitted by mail, addressed to Director, Forest Management, Mail Stop 1103, Forest Service, USDA, 1400 Independence Avenue SW., Washington, DC 20250. Comments submitted in response to this notice may be made available to the public through relevant Web sites and upon request. For this reason, please do not include in your comments information of a confidential nature, such as sensitive personal information or proprietary information. If you send an email comment, your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. Please note that

responses to this public comment request containing any routine notice about the confidentiality of the communication will be treated as public comments that may be made available to the public notwithstanding the inclusion of the routine notice.

The public may request an electronic copy of the draft supporting statement and/or any comments received. Requests should be emailed to *glen.vanzandt@usda.gov*.

FOR FURTHER INFORMATION CONTACT: Glen Van Zandt, Forest Management Staff, by phone (202) 617-1095 or by email at *glen.vanzandt@usda.gov*. Individuals who use telecommunication devices for the hearing-impaired (TDD) may call the Federal Relay Service (FRS) at 1-800-877-8339 twenty-four hours a day, every day of the year, including holidays.

SUPPLEMENTARY INFORMATION:

Title: Small Business Timber Sale Set-Aside Program; Appeal Procedures on Recomputation of Shares.

OMB Number: 0596-0141.

Expiration Date of Approval: June 30, 2021.

Type of Request: Extension with no Revision of a currently approved information collection.

Abstract: The Forest Service adopted the Small Business Timber Sale Set-Aside Program (Set-Aside Program) on July 26, 1990 (55 FR 30485). The Agency administers the Set-Aside Program in cooperation with the Small Business Administration (SBA) under the authorities of the Small Business Act (15 U.S.C. 631), the National Forest Management Act of 1976, and SBA regulations in 13 CFR part 121. The Set-Aside Program is designed to ensure that small business

timber purchasers have the opportunity to purchase a fair proportion of National Forest System timber offered for sale.

Under the Set-Aside Program, the Forest Service must recompute the shares of timber sales to be set aside for qualifying small businesses every 5 years based on the actual volume of sawtimber that has been purchased by small businesses.

Additionally, shares must be recomputed if there is a change in manufacturing capability, if the purchaser size class changes, or if certain purchasers discontinue operations.

In 1992, the Agency adopted new administrative appeal procedures (36 CFR part 215), which excluded the Set-Aside Program. Prior to adoption of 36 CFR part 215, the Agency accepted appeals of recomputation decisions under 36 CFR part 217, and therefore decided to establish procedures for providing notice to affected purchasers offering an opportunity to comment on the recomputation of shares (61 FR 7468). The Conference Report accompanying the 1997 Omnibus Appropriation Act (Pub. L. 104-208) directed the Forest Service to reinstate an appeals process for decisions concerning recomputation of Small Business Set-Aside shares, structural recomputations of SBA shares, or changes in policies impacting the Set-Aside Program prior to December 31, 1996. The Small Business Timber Sale Set-Aside Program, Appeal Procedures on Recomputation of Shares (36 CFR 223.118; 64 FR 411, January 5, 1999), outlines the types of decisions that are subject to appeal, who may appeal decisions, the procedures for appealing decisions, the timelines for appeal, and the contents of the notice of appeal.

The Forest Service provides qualifying timber sale purchasers 30-days for pre-decisional review and comment on draft decisions to reallocate shares, including

the data used in making the proposed recomputation decision. Within 15 days after the close of the 30-day pre-decisional review period, an Agency official makes a decision on the shares to be set aside for small businesses and gives written notice of the decision to all parties on the national forest timber sale bidders list for the affected area. The written notice provides the date by which the appeal may be filed and how to obtain information on appeal procedures.

Only those timber sale purchasers, or their representatives, who are affected by small business share timber sale set-aside recomputation decisions and who have submitted pre-decisional comments, may appeal recomputation decisions. The appellant must file a notice of appeal with the appropriate Forest Service official within 20 days of the date on the notice of decision. The notice of appeal must include:

1. The appellant's name, mailing address, and daytime telephone number;
2. The title or type of recomputation decision involved and date of the decision;
3. The name of the responsible Forest Service official;
4. A brief description and date of the decision being appealed;
5. A statement of how the appellant is adversely affected by the decision being appealed;
6. A statement of facts in dispute regarding the issue(s) raised by the appeal;
7. Specific references to law, regulation, or policy that the appellant believes have been violated (if any) and the basis for such an allegation;

8. A statement as to whether and how the appellant has tried to resolve the appeal issues with the responsible Forest Service official, including evidence of submission of written comments at the pre-decisional stage; and
9. A statement of the relief the appellant seeks.

The data gathered in this information collection is not available from other sources.

Affected Public: Timber sale purchasers, or their representatives, who are affected by recomputations of the small business share of timber sales.

Estimate of Burden Per Response: 9 hours.

Estimated Annual Number of Respondents: 40.

Estimated Annual Number of Responses per Respondent: 2.

Estimated Total Annual Burden on Respondents: 720 hours.

Comment is Invited:

Comment is invited on: (1) Whether this collection of information is necessary for the stated purposes and the proper performance of the functions of the agency, including whether the information will have practical or scientific utility; (2) the accuracy of the agency's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

All comments received in response to this notice, including names and addresses when provided, will be a matter of public record. Comments will be summarized

and included in the submission request provided to the Office of Management and Budget for approval.

John G. Church,
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Forest & Rangeland Management and Vegetation Ecology,
National Forest System.

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