

## U.S. Forest Service Locatable Minerals Operation Regulatory Flexibility Act Assessment

On July 14 the Office of Advocacy (Advocacy) filed comments with the U.S. Forest Service (Forest Service) regarding its Regulatory Flexibility Act (RFA) Assessment for its proposed *Locatable Minerals Operations* rule. A complete copy of Advocacy's comments may be accessed at: [www.sba.gov/advo](http://www.sba.gov/advo).

- On March 25, 2008, the Forest Service published a Notice of Proposed Rulemaking (NPRM) revising its regulations for locatable minerals operations conducted on National Forest System lands. The proposed revisions would apply to prospecting, exploration, development, mining and processing operations, and reclamation. Pursuant to the RFA, the Forest Service certified that the proposed revisions would not have a significant economic impact on a substantial number of small entities; however, the Forest Service did not include the required factual basis for its certification.
- Advocacy spoke with representatives of the small mining operations affected by the March 2008 proposed rule. Several of the representatives Advocacy spoke with expressed strong concerns that the Forest Service certification was incorrect and unsupported. On June 18, 2008, the Forest Service published a notice in the *Federal Register* seeking comment on a supplemental RFA Assessment which seeks to provide a factual basis for its previous RFA certification. The RFA Assessment concludes that, while the proposed rule will have an impact on a substantial number of small entities, the impact will not be economically significant.
- In comments, Advocacy commended the Forest Service for publishing its RFA Assessment and providing another opportunity for small business to comment on the proposed rule. While appreciative of the Forest Service's efforts to comply with the RFA, Advocacy expressed concerns that the Forest Service has not accurately calculated the cost of the proposed rule on small business.
- Advocacy recommended that the Forest Service reexamine its calculations to determine whether it can still certify that the proposed regulations will not have a significant economic impact on a substantial number of small entities. Advocacy also recommended that the Forest Service examine feasible alternatives that would lessen the burden on small entities, and publish an Initial Regulatory Flexibility Analysis if the Forest Service has reason to believe that it can no longer make such a certification.

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