

The Roadless Area Conservation Rule was published in the Federal Register on January 12, 2001, as a discretionary rule that fundamentally changed the Forest Service's longstanding approach to management of inventoried roadless areas. The rule established blanket, nationwide prohibitions generally limiting, with some exceptions, timber harvest and road construction and reconstruction within inventoried roadless areas on national forests and grasslands across the country.

These nationally applied prohibitions would have superceded the management prescriptions for inventoried roadless areas applied through the development of individual land management plans, and would not have been revisited through subsequent plan amendments or revisions. Nor would they have allowed changes in management direction due to changes on the landscape caused by natural occurrences—like catastrophic wildfire.

During the development of the Roadless Rule in 1999 and 2000, the Governors of several western states requested cooperating-agency status to work with the Forest Service in the development of the Environmental Impact Statement and the roadless rule. All requests were denied.

Of the 58.5 million acres of inventoried roadless areas used as the basis for the roadless rule, about 34.3 million acres were allocated to management prescriptions in local planning processes that allowed road construction and reconstruction, and 24.2 million acres were allocated to prescriptions that prohibited road construction.

Beginning in 2001, the roadless rule has been the subject of nine lawsuits in Federal district courts in Idaho, Utah, North Dakota, Wyoming, Alaska, and the District of Columbia.

In June 2003 the litigation with the State of Alaska was settled. It resulted in a December 2003 amendment to the roadless rule that temporarily exempted the Tongass National Forest from the rule's prohibitions.

On July 14, 2003, in the litigation with the State of Wyoming, the U.S. District Court for the District of Wyoming issued a permanent injunction and set aside the roadless rule.

The court found that the roadless rule was promulgated in a manner that was illegal, both procedurally and substantively. The court ruled against the government on five of six claims under NEPA, and also found that the roadless rule violated the Wilderness Act of 1964 because the timber harvest and road construction prohibitions constitute establishment of *de facto* wilderness (only Congress can designate wilderness areas). This decision has been appealed to the U.S. Court of Appeals for the Tenth Circuit by intervenors. There continues to be much uncertainty concerning the implementation of the roadless rule as legal proceedings are ongoing and the ultimate outcome is far from certain.

The Forest Service and USDA are committed to protecting and managing roadless values and consider inventoried roadless areas an important component of the National Forest System. The Department has concluded that revising the rule by providing this petitioning opportunity is an appropriate solution to address the challenges of roadless area management.