

how the Department ultimately addresses protecting roadless values would depend on a number of factors. Those included court decisions, public comments, and practical options for amending the current rule or using other administrative tools to implement inventoried roadless area protections.

During the public comment period for the first ANPR that closed on September 11, 2001, the Forest Service received over 726,000 responses. The responses represented two main points of view on natural resource management and perspectives on resource decisionmaking: (1) Emphasis on environmental protection and preservation, and support for making national decisions; and (2) emphasis on responsible active management, and support for local decisions made through the forest planning process. A 1,200 page summary of this public comment was prepared in May of 2002, and is available on the Forest Service internet site for Roadless Area Conservation at <http://www.roadless.fs.fed.us>.

#### *Relationship of Rulemaking Proposals to Alaska Litigation*

In January of 2001, the State of Alaska and six other parties filed a lawsuit against USDA contending that the roadless rule violated various statutes. On June 10, 2003, a settlement agreement was signed by the U.S. Department of Justice, the State of Alaska, and intervenor-plaintiffs to resolve and dismiss this litigation. This settlement agreement calls for the Federal Government to publish in the **Federal Register**, within 60 days: (1) A proposed temporary regulation that would exempt the Tongass National Forest from the application of the roadless rule until completion of the rulemaking process for any permanent amendments to the roadless rule; and (2) an advance notice of proposed rulemaking to exempt both the Tongass and the Chugach National Forests from the application of the roadless rule. This advance notice of proposed rulemaking, and a proposed rule published elsewhere in today's **Federal Register** to exempt the Tongass National Forest from the applicability of the roadless rule, fulfill these terms of the settlement agreement.

#### *A Unique Situation Exists in the State of Alaska*

In 1980, Congress passed the Alaska National Interest Lands Conservation Act (ANILCA). In ANILCA, Congress found that the Act provided the proper balance between the protection of environmental values while providing

opportunity for the satisfaction of the economic and social needs of the people in Alaska. The Act set aside millions of acres in Alaska for the National Park Service, Forest Service, National Monuments, National Wildlife Refuges and Wilderness Areas.

If the Tongass and the Chugach National Forests are exempted from the roadless rule, the Forests would continue to be managed pursuant to the existing Forest Plans. Both the 1997 Revised Forest Plan (as readopted by the February 2003 Record of Decision) for the Tongass and the 2002 Revised Forest Plan for the Chugach were developed through fair and open planning processes, based on years of extensive public involvement and thorough scientific review, and provide full consideration of social, economic, and ecological values. The net effect of amending the roadless rule to exclude National Forest System lands in the State of Alaska would be to allow timber harvest in approximately 300,000 additional acres (approximately 3 percent) on the Tongass out of 9.34 million inventoried roadless acres, and possible access and development on 150,000 additional acres out of 5.4 million roadless acres on the Chugach. Timber harvest would be prohibited on approximately 95 percent of National Forest System lands in the State of Alaska under the existing forest plans, if both the Tongass and the Chugach National Forests were excluded from application of the prohibitions of the roadless rule.

#### **Public Comment Solicitation**

All interested parties are encouraged to express their views in response to this request for public comment on the following question:

Should any exemption from the applicability of the roadless rule to the Tongass National Forest be made permanent and also apply to the Chugach National Forest?

#### **Regulatory Findings**

This second advance notice of proposed rulemaking is being issued to report on public input received and to obtain public comment regarding the protection and management of inventoried roadless areas in the State of Alaska. Because the Department is not proposing any specific action at this time, there are no regulatory findings associated with this notice. Comments received will help the Department determine the extent and scope of any future rulemaking.

#### **Conclusion**

The Department of Agriculture is considering a permanent exemption for the Tongass and Chugach National Forests from the applicability of the roadless rule. Public input and comment received through this second advance notice of proposed rulemaking will help inform the Department's consideration of future rulemaking proposals.

Dated: June 30, 2003.

**Dale N. Bosworth,**  
*Chief.*

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## **DEPARTMENT OF AGRICULTURE**

### **Forest Service**

#### **36 CFR Part 294**

#### **RIN 0596-AC04**

#### **Special Areas; Roadless Area Conservation; Applicability to the Tongass National Forest, Alaska**

**AGENCY:** Forest Service, USDA.

**ACTION:** Notice of proposed rulemaking; request for comment.

**SUMMARY:** The Department of Agriculture, Forest Service is proposing to amend regulations concerning the Roadless Area Conservation Rule (hereinafter, referred to as the roadless rule) to exempt the Tongass National Forest (hereinafter, referred to as the Tongass) from prohibitions against timber harvest, road construction, and reconstruction in inventoried roadless areas until a final rule is promulgated as announced by the Forest Service on July 10, 2001, in an advance notice of proposed rulemaking.

In seeking public comment on this proposal to amend the roadless rule, the agency is fulfilling part of the Department's obligations under the June 10, 2003 settlement agreement for *State of Alaska v. USDA*, while maintaining the ecological values of inventoried roadless areas in the Tongass National Forest.

In *State of Alaska v. USDA*, the State of Alaska and other plaintiffs alleged that the roadless rule violated a number of federal statutes, including the Alaska National Interest Lands Conservation Act of 1980 (ANILCA). Passed overwhelmingly by Congress in 1980, ANILCA sets aside millions of acres in Alaska for the National Park Service, Forest Service, National Monuments, National Wildlife Refuges, and Wilderness Areas with the