

example, reports submitted by USACIDC containing only USACIDC investigative data need not be coordinated with HQDA, Office of the Provost Marshal General (DAPM-MPD-LE).

#### § 635.30 Crime rate reporting.

(a) The USACRC is the Army's collection point and analytic center for all Army aggregate crime data. Requests for Army-wide crime data reports will be forwarded through HQDA, Office of the Provost Marshal General (DAPM-MPD-LE) to the Director, USACRC. Replies will be routed back through HQDA Office of the Provost Marshal General (DAPM-MPD-LE) where they will be coordinated, as appropriate, prior to release. Requests for USACIDC, MACOM, or subordinate command specific crime data reports can be made directly to the specific command. Replies need not be coordinated with HQDA.

(b) Requests for Army aggregate crime reports are limited to data collected and accessible through the Automated Criminal Investigative Reporting System (ACIRS) and COPS.

(c) Routine collection of MACOM crime data, for use in Army-wide database, will be limited to that data collected by the above systems. MACOMs may determine internal data collection requirements.

(d) All provost marshal crime data will be recorded and forwarded by installations through MACOMS using the COPS system.

(e) In support of the Secretary of the Army and the Office of the Chief of Staff of the Army, the Chief, Operations Division, Office of the Provost Marshal General, will determine the requirements for routine publication of Army aggregate crime statistics.

(f) Normally, raw data will not be released without analysis on routine or non-routine requests. Comparison of MACOM crime data is generally not reported and should be avoided. General categories of CONUS or OCONUS are appropriate.

#### Subpart E—Victim and Witness Assistance Procedures

##### § 635.31 General.

(a) This subpart implements procedures to provide assistance to victims and witnesses of crimes that take place on Army installations and activities. The procedures in this subpart apply to—

- (1) Every victim and witness.
- (2) Violations of the UCMJ, including crimes assimilated under the Assimilative Crimes Act reported to or investigated by military police.

(3) Foreign nationals employed or visiting on an Army installation OCONUS.

(b) Provost marshal personnel should refer to AR 27-10, Chapter 18, for additional policy guidance on the Army Victim/Witness Program.

##### § 635.32 Procedures.

(a) As required by Federal law, Army personnel involved in the detection, investigation, and prosecution of crimes must ensure that victims and witnesses rights are protected. Victims rights include—

- (1) The right to be treated with fairness, dignity, and a respect for privacy.
- (2) The right to be reasonably protected from the accused offender.
- (3) The right to be notified of court proceedings.
- (4) The right to be present at all public court proceedings related to the offense, unless the court determines that testimony by the victim would be materially affected if the victim heard other testimony at trial, or for other good cause.
- (5) The right to confer with the attorney for the Government in the case.
- (6) The right to restitution, if appropriate.
- (7) The right to information regarding conviction, sentencing, imprisonment, and release of the offender from custody.

(b) In keeping with the requirements listed in paragraph (a) of this section, provost marshals must ensure that—

- (1) All law enforcement personnel are provided copies of DD Form 2701 (Initial Information for Victims and Witnesses of Crime).
- (2) A victim witness coordinator is appointed in writing.
- (3) Statistics are collected and reported into COPS.
- (4) Coordination with the installation staff judge advocate victim witness coordinator occurs to ensure that individuals are properly referred for information on restitution, administrative, and judicial proceedings.
- (5) Coordination with installation Family Advocacy Program's Victim Advocate occurs to support victims of spouse abuse. Victim Advocacy services include crisis intervention, assistance in securing medical treatment for injuries, information on legal rights and proceedings, and referral to military and civilian shelters and other resources available to victims.

(c) Coordination with installation Family Advocacy Program's Victim Advocate occurs to support victims of spouse abuse. Victim Advocacy services include crisis intervention, assistance in securing medical treatment for injuries, information on legal rights and proceedings, and referral to military and civilian shelters and other resources available to victims.

##### § 635.33 Notification.

(a) In addition to providing crime victims and witnesses a DD Form 2701,

law enforcement personnel must ensure that individuals are notified about—

- (1) Available military and civilian emergency medical care.
- (2) Social services, when necessary.
- (3) Procedures to contact the staff judge advocate victim/witness liaison office for additional assistance.

(b) Investigating law enforcement personnel, such as military police investigators—

(1) Must ensure that victims and witnesses have been offered a DD Form 2701. If not, investigating personnel will give the individual a copy.

(2) In coordination with the provost marshal victim witness coordinator, provide status on investigation of the crime to the extent that releasing such information does not jeopardize the investigation.

(3) Will, if requested, inform all victims and witnesses of the apprehension of a suspected offender.

##### § 635.34 Statistical reporting requirements.

(a) DOD policies on victim witness assistance require reporting of statistics on the number of individuals who are notified of their rights. The DA Form 3975 provides for the collection of statistical information.

(b) The COPS system supports automated reporting of statistics. HQDA, Office of the Provost Marshal General (DAPM-MPD-LE) as the program manager may require periodic reports to meet unique requests for information.

(c) It is possible that a victim or witness may initially decline a DD Form 2701. As the case progresses, the individual may request information. If a case is still open in the provost marshal office, the provost marshal victim witness coordinator shall provide the DA Form 2701 to the individual and update the records. Once the case is referred to the staff judge advocate or law enforcement activity ceases, COPS will not be updated.

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## DEPARTMENT OF AGRICULTURE

### Forest Service

#### 36 CFR Part 294

##### RIN 0596-AC10

#### Special Areas; State Petitions for Inventoried Roadless Area Management

AGENCY: Forest Service, USDA.

ACTION: Notice of proposed rulemaking; request for comment.

**SUMMARY:** The Department of Agriculture, Forest Service is proposing changes to Subpart B of Title 36, Code of Federal Regulations, Protection of Inventoried Roadless Areas (the roadless rule), adopted on January 12, 2001 (66 FR 3244). This proposed rule would replace the existing rule with a petitioning process that would provide Governors an opportunity to seek establishment of management requirements for National Forest System inventoried roadless areas within their States. This opportunity for State petitions would be available for 18 months following the effective date of the final rule. It is anticipated that this timeframe will be sufficient for States to collaborate effectively with local governments, stakeholders and other interested parties to develop proposals that consider a full range of public input. A State petition would be evaluated and, if accepted by the Secretary of Agriculture, the Forest Service would initiate subsequent State-specific rulemaking for the management of inventoried roadless areas in cooperation with the State involved in the petitioning process, and in consultation with stakeholders and experts.

In proposing this rule and seeking public comment, the agency is responding to the continued controversy, policy concerns, and legal uncertainty surrounding the implementation of the roadless rule. Public comments received will be considered in the development of the final rule.

**DATES:** Comments must be received in writing by September 14, 2004.

**ADDRESSES:** Send written comments by mail to: Content Analysis Team, Attn: Roadless State Petitions, USDA Forest Service, P.O. Box 221090, Salt Lake City, UT 84122; by facsimile to (801) 517-1014; or by e-mail at [statepetitionroadless@fs.fed.us](mailto:statepetitionroadless@fs.fed.us). If you intend to submit comments in batched e-mails from the same server, please be aware that electronic security safeguards on Forest Service and Department of Agriculture computer systems for prevention of commercial spamming may limit batched e-mail access. However, the Forest Service is interested in receiving all comments on this proposed rule. Therefore, please call (801) 517-1020 to facilitate transfer of comments in batched e-mail messages. Comments also may be submitted via the World Wide Web/Internet Web site <http://www.regulations.gov>. Please note that all comments, including names and addresses when provided, will be

placed in the record and will be available for public inspection and copying. The agency cannot confirm receipt of comments. Individuals wishing to inspect comments should call Jody Sutton at (801) 517-1023 to schedule an appointment.

**FOR FURTHER INFORMATION CONTACT:** Dave Barone, Planning Specialist, Ecosystem Management Coordination Staff, Forest Service, USDA, (202) 205-1019.

**SUPPLEMENTARY INFORMATION:**

**Background**

The U.S. Department of Agriculture (USDA) Forest Service commitment to land stewardship and public service is the framework within which the agency manages natural resources as provided by law, regulation, and other legal authorities. Implicit in this statement is the agency's collaboration with public, private, and nonprofit partners. As a leader in natural resource conservation, the USDA Forest Service provides leadership in the conservation, management, and use of the Nation's forest, rangeland, and aquatic ecosystems.

The USDA Forest Service manages National Forest System (NFS) lands to maintain and enhance the quality of the environment to meet the Nation's current and future needs. Activities implemented consistent with land and resource management plans (forest plans) provide for sustainable management by restoring and maintaining species diversity and ecological productivity, and support recreation, water, timber, minerals, fish, wildlife, wilderness, and aesthetic values for current and future generations.

State governments are important partners in management of the Nation's land and natural resources. States, particularly in the West, own and manage large tracts of land with tremendous social and biological value. State governments have frequently pioneered innovative land management programs and policies. State governments exert considerable influence over statewide economic development and private land use, both of which significantly affect natural resource management. In addition, State conservation agencies' relationships with others offer additional partnership opportunities. Strong State and Federal cooperation regarding management of inventoried roadless areas can facilitate long-term, community-oriented solutions.

On January 12, 2001, the Department promulgated the roadless rule at 36 CFR

part 294 (66 FR 3244), which fundamentally changed the Forest Service's longstanding approach to management of inventoried roadless areas by establishing nationwide prohibitions generally limiting, with some exceptions, timber harvest, road construction, and road reconstruction within inventoried roadless areas on NFS lands.

Concerns were immediately expressed by those most impacted by the roadless rule's prohibitions. These concerns included the sufficiency and the accuracy of the information available for public review during the rulemaking process; the inclusion of an estimated 2.8 million acres of roaded lands in the land base affected by the rule's prohibitions; the denial of requests to lengthen the public review period; the denial of cooperating agency status requested by several Western States; the sufficiency of the range of alternatives considered in the rulemaking process; the need for flexibility and exceptions to allow for needed resource management activities that would enhance or improve roadless values or characteristics; and the changes made in the proposed rule after the closure of the public comment period. Concerns were also expressed about applying one set of standards uniformly to every inventoried roadless area.

On May 4, 2001, the Secretary of Agriculture expressed the Administration's commitment to the objective of conserving inventoried roadless areas in the NFS, and also acknowledged concerns raised by local communities, tribes, and States impacted by the roadless rule. At that time, the Secretary indicated that USDA would move forward with a responsible and balanced approach to re-examining the roadless rule in an effort to address those concerns while enhancing roadless area values and characteristics. To meet this objective, management of inventoried roadless areas must address those activities having the greatest likelihood of altering, fragmenting, or otherwise degrading roadless area values and characteristics. Appropriate management of inventoried roadless areas must also address reasonable and legitimate concerns about how the agency provides for the conservation of roadless areas. For example, providing for outdoor recreation opportunities for fishing and hunting in remote areas may at times require access and active management activities to restore or maintain habitat conditions for the management of some fish and wildlife species.

On July 10, 2001, the Forest Service published an advance notice of

proposed rulemaking (ANPR) (66 FR 35918) seeking public comment concerning how best to proceed with long-term conservation and management of inventoried roadless areas. The ANPR also acknowledged that the future management of inventoried roadless areas would depend on a number of factors, such as court decisions, public comments, and the consideration of practical options and other administrative tools for amending the current roadless rule to address inventoried roadless area protection.

The Forest Service received over 726,000 responses to that ANPR. 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 conservation decisions made through the land and resource management planning process. A 1,200-page summary of this public comment was prepared in May of 2002, and is available on the World Wide Web/Internet on the Forest Service Web site for Roadless Area Conservation at: <http://www.roadless.fs.fed.us>.

Until promulgation of the 2001 roadless rule, the Forest Service managed roadless areas based on individual forest plans. Forest plans have been developed for each unit of the NFS through a public notice and comment process, building on years of scientific findings and extensive public involvement in forest planning. Forest plans typically identify and recommend areas that would be appropriate to be designated as wilderness by the Congress, and provide guidance on activities and uses in these areas.

#### Litigation History

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 one of these lawsuits, the U.S. District Court for the District of Idaho issued a preliminary injunction prohibiting implementation of the roadless rule on May 10, 2001.

The preliminary injunction decision was reversed by the U.S. Court of Appeals for the Ninth Circuit.

On June 10, 2003, a settlement agreement was reached in another of those lawsuits, the *State of Alaska v. USDA* litigation. In that settlement, the Department of Agriculture agreed to propose an amendment to the roadless rule to temporarily withdraw the

Tongass National Forest in Alaska from the provisions of the rule, as well as to issue an ANPR to seek public comment on permanently withdrawing both the Tongass and the Chugach National Forests from the provisions of the roadless rule. On December 30, 2003, the Department adopted a final rule that temporarily withdrew the Tongass National Forest. Management of inventoried roadless areas on the Tongass is now governed by the existing forest plan. Pursuant to the current revised forest plans for the Tongass and the Chugach National Forests, road construction will not occur on approximately 90 percent of roadless area lands and timber management will not occur on over 95 percent of roadless area lands.

In still another lawsuit, on July 14, 2003, the U.S. District Court for the District of Wyoming found the roadless rule to be unlawful and ordered that the rule "be permanently enjoined." That ruling has been appealed to the Tenth Circuit by intervenors.

#### Conclusion

USDA is committed to conserving and managing roadless areas and considers roadless areas an important component of the NFS. The Department believes that revising 36 CFR part 294 to replace the existing rule with a State petitioning process that will allow State-specific consideration of the needs of these areas is an appropriate solution to address the challenges of roadless area management on NFS lands.

States affected by the roadless rule have been keenly interested in inventoried roadless area management, especially the Western States where most of the agency's inventoried roadless areas are located. Collaborating and cooperating with States on the long-term strategy for the management of inventoried roadless areas on NFS lands would allow for the recognition of local situations and resolution of unique resource management challenges within a specific State. Collaboration with others who have a strong interest in the conservation and management of inventoried roadless areas would also help to ensure balanced management decisions that maintain the most important characteristics and values of those areas.

The State petitions under this proposed rule would have to include specific information and recommendations for the management requirements for individual inventoried roadless areas within a particular State. Petitions would have to be submitted to the Secretary of Agriculture within 18 months of the effective date of the final

rule. USDA is seeking comments on the sufficiency of this timeframe. Petitions would be evaluated, and if accepted the Secretary would initiate subsequent rulemaking for inventoried roadless areas within that State. The Department's general petitioning process for the approval, amendment or repeal of rules (7 CFR 1.28) would remain available after expiration of the 18 month petitioning period.

The Secretary is considering the establishment of a national advisory committee to provide expert consultation on the implementation of this State-specific petition rulemaking process and seeks public input regarding whether to establish such a committee. The advisory committee would provide input regarding whether additional information is needed from a petitioner (proposed § 294.13 (a)(1)), the Secretary's response to a petition (proposed § 294.13 (a)(2)), the nature and extent of appropriate NEPA documentation associated with development of a State-specific rule, and the Secretary's decision on promulgating a State-specific rule (proposed § 294.15). The advisory committee would include members with expertise in fish and wildlife biology, fish and wildlife management, forest management, outdoor recreation, and other important disciplines, as well as representatives of State and local governments.

#### Regulatory Certifications

##### *Regulatory Impact*

This proposed rule has been reviewed under USDA procedures and Executive Order (E.O.) 12866, Regulatory Planning and Review. It has been determined that this is not an economically significant rule. This proposed rule would not have an annual effect of \$100 million or more on the economy nor adversely affect productivity, competition, jobs, the environment, public health or safety, nor State or local governments. This proposed rule would not interfere with an action taken or planned by another agency. Finally, this action would not alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients of such programs. However, because this proposed rule raises novel legal or policy issues arising from legal mandates or the President's priorities, it has been designated as significant and, therefore, is subject to Office of Management and Budget (OMB) review in accordance with the principles set forth in E.O. 12866.

Moreover, this proposed rule has been considered in light of Executive Order

13272 regarding proper consideration of small entities and the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), which amended the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Predicting the economic impacts of this proposed rule on small entities as defined by SBREFA is difficult since it is not known how many petitions would be submitted or how they would propose to change management requirements for inventoried roadless areas. The agency is seeking comment on this determination. Comments can be submitted as provided in the **ADDRESSES** section of this preamble. This proposed rule would not impose record keeping requirements; would not affect small entities' competitive position in relation to large entities; and would not affect small entities' cash flow, liquidity, or ability to remain in the market.

A cost-benefit analysis has been prepared for this proposed rule that incorporates by reference the November 2000 detailed regulatory impact analysis prepared for the roadless rule promulgated in January of 2001. A quantitative analysis of costs and benefits associated with this proposed rule is not feasible, however, because there is no experience with implementing the roadless rule, and thus there are no data available. In addition, many of the effects of this proposed rule are not readily quantifiable in financial terms because they would be based on future State-specific rulemaking. For these reasons, the cost-benefit analysis prepared for this proposed rule focuses on the qualitative aspects of implementing a State petition process. Detailed quantitative analysis would be conducted in the future if and when any State-specific rulemaking proposals are made.

The range of potential costs and benefits of this proposed rule has been estimated by comparing selected effects if 58.5 million acres of inventoried roadless areas are managed following the prohibitions for road construction and timber management activities in the 2001 roadless rule, or if these same areas are managed in accordance with the existing management requirements contained in land management plans. Approximately 25 percent of the total acres of inventoried roadless areas are in the State of Alaska. About 72 percent of the total is in 11 Western States of Montana, Idaho, Wyoming, Washington, Utah, Oregon, New Mexico, Nevada, Colorado, California, and Arizona. The remaining 3 percent is scattered among the remaining 27 States. While it is currently unknown which States may

choose to submit a petition for State-specific rulemaking, the Forest Service assumes that all 39 States will do so in the first year after the rule is final. The costs to the Forest Service and the Department to evaluate and make a decision on a petition are estimated to range from \$75,000 to \$150,000. Costs could range from \$25,000 to \$100,000 for an individual State submitting a petition. Total costs to the States for 39 petitions would range from \$975,000 to \$3,900,000, therefore; and total costs to the Government would range from \$2,925,000 to \$5,850,000. Total costs of the rule are therefore estimated to range from \$3,900,000 to \$9,750,000.

While the effects of implementing this proposed rule are speculative due to the programmatic nature of establishing a petitioning process, they are expected to be within the existing parameters of the effects of implementing the provisions of the 2001 roadless rule or of implementing existing land management plans. This proposed rule is expected to provide a variety of potential beneficial effects, which include the conservation of roadless areas; the protection of human health and safety; the reduction of hazardous fuels and restoration of essential wildlife habitats; the assurance of reasonable access to public and private property or facilities; and the improvement of collaboration and partnerships with States.

#### *Environmental Impact*

The Department prepared a draft environmental impact statement (EIS) (May 2000) and a Final EIS (November 2000) in association with promulgation of the 2001 roadless rule. The DEIS and FEIS examined in detail the no action alternative in which no rule prohibiting activities in inventoried roadless areas would be issued, and management of inventoried roadless areas would be governed by existing forest plans. The environmental impacts of revising 36 CFR part 294 are essentially those disclosed and discussed for the no action alternative displayed in FEIS. The FEIS is available in the document archives section of the Roadless Area Conservation World Wide Web/Internet site at <http://www.roadless.fs.fed.us>.

This proposed rule would establish administrative procedures to allow a Governor to petition the Secretary of Agriculture to undertake future rulemaking for the management of inventoried roadless areas within a specific State. Thus, subsequent State-specific roadless area rulemaking may be proposed in the future, at which time the agency would fully consider the environmental effects of that rulemaking

in compliance with National Environmental Policy Act (NEPA) procedures. This proposed rule is merely procedural in nature and scope and, as such, has no direct, indirect, or cumulative effect on the environment. Section 31.1b of Forest Service Handbook 1909.15 (57 FR 43168; September 18, 1992) excludes from documentation in an environmental assessment or impact statement "rules, regulations, or policies to establish Service-wide administrative procedures, program processes, or instruction." The agency's assessment is that this rule falls within this category of actions and that no extraordinary circumstances exist which would require preparation of an environmental assessment or an environmental impact statement.

#### *No Takings Implications*

This proposed rule has been analyzed in accordance with the principles and criteria contained in Executive Order 12360, and it has been determined that the proposed rule would not pose the risk of a taking of private property, as the proposed rule is limited to the establishment of administrative procedures.

#### *Energy Effects*

This proposed rule has been analyzed under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. It has been determined that this proposed rule does not constitute a significant energy action as defined in the Executive order.

#### *Civil Justice Reform*

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. After adoption of this proposed rule as a final rule, (1) all State and local laws and regulations that conflict with this rule or that would impede full implementation of this rule would be preempted; (2) no retroactive effect would be given to this rule; and (3) this rule would not require the use of administrative proceedings before parties could file suit in court challenging its provisions.

#### *Unfunded Mandates*

Pursuant to Title II of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538), which the President signed into law on March 22, 1995, the Department has assessed the effects of this proposed rule on State, local, and tribal governments and the private sector. This proposed rule does not compel the expenditure of \$100 million or more by any State, local, or tribal government, or anyone in the private

sector. Therefore, a statement under section 202 of the act is not required.

#### *Federalism*

The agency has considered this proposed rule under the requirements of Executive Order 13132, Federalism. The agency has made a preliminary assessment that the rule conforms with the federalism principles set out in this Executive order; would not impose any significant compliance costs on the States; and would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Based on comments received on this proposed rule, the agency will consider if any additional consultation will be needed with State and local governments prior to adopting a final rule.

#### *Consultation and Coordination With Indian Tribal Governments*

This proposed rule does not have tribal implications as defined by Executive Order 13175, Consultation and Coordination with Indian Tribal Governments. Therefore, advance consultation with tribes is not required.

#### *Controlling Paperwork Burdens on the Public*

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501, *et seq.*) and implementing regulations at 5 CFR part 1320, Controlling Paperwork Burden on the Public, § 294.13 and § 294.14 of this proposed rule contain information collection requirements and, therefore, require approval by the Office of Management and Budget (OMB). Proposed § 294.13 describes the administrative process that Governors must follow to petition the Secretary for rulemaking to govern inventoried roadless areas with their States. Proposed § 294.14 sets out what must be included in a petition submitted to the Secretary requesting State-specific rulemaking.

*Estimate of burden:* If a State decides to submit a petition, the management requirements for each inventoried roadless area within the State must be reviewed and evaluated on area-specific unique situations, or circumstances. The State petition will have to be accompanied by the appropriate level of detailed information and rationale to allow the Department to evaluate the recommended management requirements and make a disposition on the petition. Although the Secretary's response and any subsequent rulemakings will be developed in

collaboration with the State, a State's petition represents solely the views of the petitioner and do not prejudice or reflect the views of the Forest Service or Secretary. Information provided by or obtained from outside parties which USDA subsequently adopts, endorses, or uses to formulate or support a regulation will be publicly available.

The agency estimates that the burden for an individual State could be as high as 1,000 hours for a single petition, depending on the quantity of inventoried roadless areas within the State and the extent of adjustment to inventoried roadless area management recommended in an individual petition.

*Respondents:* State Governors.

*Estimated annual number of respondents:* There are 39 States with inventoried roadless areas on National Forest System lands within their boundaries that would be eligible to submit petitions to the Secretary under this rule. The agency anticipates that all petitions would be submitted during the first year this rule is in effect.

*Estimated annual number of responses per respondent:* One per State.

*Estimated annual number of responses:* The maximum number of responses from States that could be received in a given year would be 39.

*Estimated total annual burden on respondents:* The estimated total burden for 39 respondents is 39,000 hours.

Accordingly, the agency seeks comments 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.

Comments can be submitted as provided in the **ADDRESSES** section of this preamble. In submitting the request for approval of this information collection to OMB, the agency will summarize and address comments received on the information collection component of this proposed rule.

#### *Government Paperwork Elimination Act Compliance*

The Forest Service is committed to compliance with the Government Paperwork Elimination Act (44 U.S.C. 3504), which requires Government agencies to provide the public the option of submitting information or transacting business electronically to the maximum extent possible.

#### **List of Subjects in 36 CFR Part 294**

National Forests, Navigation (air), Recreation and recreation areas, Wilderness areas, Recordkeeping and reporting requirements.

Therefore, for the reasons set forth in the preamble, the Forest Service proposes to revise part 294 of title 36 of the Code of Federal Regulations to read as follows:

#### **PART 294—SPECIAL AREAS**

##### **Subpart B—State Petitions for Inventoried Roadless Area Management**

Sec.

294.10	Purpose.
294.11	Definition.
294.12	State petitions.
294.13	Petition process.
294.14	Petition contents.
294.15	State-specific rulemaking.
294.16	Scope and applicability.

**Authority:** 16 U.S.C. 472, 529, 551, 1608, 1613; 23 U.S.C. 201, 205.

##### **§ 294.10 Purpose.**

The purpose of these administrative procedures is to set forth a process for State-specific rulemaking to address the management of inventoried roadless areas in areas where the Secretary determines that regulatory direction is appropriate based on a petition from the affected Governor.

##### **§ 294.11 Definition.**

*Inventoried roadless areas*—Areas identified in a set of inventoried roadless area maps, contained in the Forest Service Roadless Area Conservation, Final Environmental Impact Statement, Volume 2, dated November 2000, which are held at the National headquarters office of the Forest Service, and any subsequent update or revision of those maps.

##### **§ 294.12 State petitions.**

The Governor of any State that contains National Forest System lands may petition the Secretary of Agriculture to promulgate regulations establishing management requirements for all or any portion of National Forest System inventoried roadless areas within that State. Any such petition

must be submitted to the Secretary of Agriculture not later than [date to be inserted 18 months from the effective date of the final rule].

#### § 294.13 Petition process.

(a) Review and consideration of petitions made pursuant to § 294.12 shall be accomplished as follows:

(1) Review—The Secretary shall review petitions and may request additional information from a petitioner before deciding whether to accept the petition. If the Secretary requests additional information from a petitioner, the petition will be considered complete when the petitioner provides the additional information.

(2) Disposition—The Secretary or the Secretary's designee shall respond to the petition within 180 days of receipt of a completed petition. The response shall accept or decline the petition to initiate a State-specific rulemaking.

#### § 294.14 Petition contents.

(a) Any petition made pursuant to § 294.12 shall provide the following:

(1) The location and description of the particular lands for which the petition is being made, including maps and other appropriate resources in sufficient detail to enable consideration of the petition;

(2) The particular management requirements recommended for the lands and any exceptions;

(3) The identification of the circumstances and needs intended to be addressed by the petition, including conserving roadless area values and characteristics; protecting human health and safety; reducing hazardous fuels and restoring essential wildlife habitats; maintaining existing facilities such as dams, or providing reasonable access to public and private property or public and privately owned facilities; and technical corrections to existing maps such as boundary adjustments to remove existing roaded areas;

(4) A description of how the recommended management requirements identified in accordance with paragraph (a)(2) of this section differs from existing applicable land management plan(s) or policies related to inventoried roadless area management, while still complying with applicable laws and regulations;

(5) A description of how the recommended management requirements identified in accordance with paragraph (a)(2) of this section compares to existing State land conservation policies and direction set forth in any applicable State land and resource management plan(s);

(6) A description of how the recommended management requirements identified in accordance with paragraph (a)(2) of this section would affect the fish and wildlife that utilize the particular lands in question and their habitat;

(7) A description of any public involvement efforts undertaken by the State during development of the petition, including efforts to engage local governments and persons with expertise in fish and wildlife biology, fish and wildlife management, forest management, outdoor recreation, and other important disciplines; and

(8) A commitment by the State that it will participate as a cooperating agency in any environmental analysis for a rulemaking process.

#### § 294.15 State-specific rulemaking.

If the Secretary or the Secretary's designee accepts a petition, the Forest Service shall be directed to initiate notice and comment rulemaking to address the petition. The Forest Service shall coordinate development of the proposed rule with the State. The Secretary or the Secretary's designee shall make the final decision for any State-specific inventoried roadless area management rule.

#### § 294.16 Scope and applicability.

(a) The provisions of this regulation apply exclusively to the development and review of petitions made pursuant to this subpart.

(b) Nothing in this regulation shall be construed to provide for the transfer to, or administration by, a State or local authority of any Federally owned lands.

Dated: July 12, 2004.

**Dale N. Bosworth,**

*Chief.*

[FR Doc. 04-16191 Filed 7-15-04; 8:45 am]

**BILLING CODE 3410-11-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 62

[Region II Docket No. R02-OAR-2004-NJ-0003, FRL-7788-4]

### Approval and Promulgation of State Plans for Designated Facilities; New Jersey

**AGENCY:** Environmental Protection Agency.

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) proposes to approve a negative declaration submitted by the State of New Jersey. The negative

declaration fulfills EPA's promulgated Emission Guidelines for existing commercial and industrial solid waste incinerator (CISWI) sources. In accordance with the Emission Guidelines, States are not required to submit a plan to implement and enforce the Emission Guidelines if there are no existing CISWI sources in the State and if it submits a negative declaration letter in place of the State Plan.

**DATES:** Comments must be received on or before August 16, 2004.

**ADDRESSES:** Submit your comments, identified by Regional Material in EDocket (RME) ID Number R02-OAR-2004-NJ-0003 by one of the following methods:

A. Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.

B. Agency Web site: <http://docket.epa.gov/rmepub/> Regional Material in EDocket (RME), EPA's electronic public docket and comment system, is EPA's preferred method for receiving comments. Once in the system, select "quick search," then key in the appropriate RME Docket identification number. Follow the on-line instructions for submitting comments.

C. E-mail: [Werner.Raymond@epa.gov](mailto:Werner.Raymond@epa.gov)

D. Fax: (212) 637-3901.

E. Mail: "RME ID Number R02-OAR-2004-NJ-0003", Raymond Werner, Chief, Air Programs Branch, Environmental Protection Agency, Region 2 Office, 290 Broadway, 25th Floor, New York, New York 10007-1866.

F. Hand Delivery or Courier. Deliver your comments to: Raymond Werner, Chief, Air Programs Branch, Environmental Protection Agency, Region 2 Office, 290 Broadway, 25th Floor, New York, New York 10007-1866. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30 excluding Federal holidays.

*Instructions:* Direct your comments to Regional Material in EDocket (RME) ID Number R02-OAR-2004-NJ-0003. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at <http://docket.epa.gov/rmepub/>, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you