

**DEPARTMENT OF AGRICULTURE****Forest Service****36 CFR Part 294**

RIN 0596-AC62

**Special Areas; Roadless Area Conservation; Applicability to the National Forests in Idaho****AGENCY:** Forest Service, USDA.**ACTION:** Final rule and record of decision.

**SUMMARY:** The U.S. Department of Agriculture (USDA or Department) is adopting a state-specific, final rule establishing management direction for designated roadless areas in the State of Idaho. The final rule designates 250 Idaho Roadless Areas (IRAs) and establishes five management themes that provide prohibitions with exceptions or conditioned permissions governing road construction, timber cutting, and discretionary mineral development.

The final rule takes a balanced approach recognizing both local and national interests for the management of these lands. The Department and Forest Service are committed to the important challenge of protecting roadless areas and their important characteristics. The final rule achieves this through five land classifications that assign various permissions and prohibitions regarding road building, timber cutting, and discretionary mineral activities. The final rule also allows the Forest Service to continue to be a *good neighbor* and reduce the risk of wildland fires to at-risk communities and municipal water supply systems. The rule does not authorize the building of a single road or the cutting of a single tree; instead it establishes permissions and prohibitions that will govern what types of activities may occur in IRAs. Any decision to build a road, allow mineral activities, harvest a tree, or conduct any other activity permissible under this final rule will require appropriate site-specific analysis under the National Environmental Policy Act (NEPA) and other applicable laws. Projects will also be consistent with the applicable land management plan (LMP) components.

This final rule supersedes the 2001 Roadless Area Conservation Rule (2001 roadless rule) for National Forest System (NFS) lands in the State of Idaho.

**DATES:** *Effective Date:* This rule is effective October 16, 2008.**FOR FURTHER INFORMATION CONTACT:** Idaho Roadless Rule Team Leader Brad

Gilbert at (208) 765-7438. Individuals using telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1-800-877-8339 between 8 a.m. and 8 p.m. Eastern Standard Time, Monday through Friday.

**SUPPLEMENTARY INFORMATION:** This document serves as both notice of final rule and record of decision.**Decision**

For the reasons set out below, the Department hereby promulgates a regulation establishing IRAs as described in Alternative 4 of the "Roadless Area Conservation National Forest System Lands in Idaho Final Environmental Impact Statement," USDA Forest Service, 2008, and the supporting record. This decision is not subject to Forest Service appeal regulations.

**Outline**

The following section outlines the contents of the preamble.

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**Introduction and Background**

On October 5, 2006, Idaho Governor James Risch submitted a petition to the Secretary of Agriculture (Secretary) to establish new management for Idaho's inventoried roadless areas on NFS lands. Idaho's petition divided roadless areas into five broad management themes: Wild Land Recreation (WLR); Special Areas of Historic or Tribal Significance (SAHTS); Primitive; Backcountry/Restoration (BCR); and General Forest, Rangeland, and Grassland (GFRG). The petition was submitted under section 553(e) of the Administrative Procedure Act and Department regulations at 7 Code of Federal Regulations (CFR) 1.28. The Roadless Area Conservation National Advisory Committee (RACNAC) (72 FR 13469) reviewed the Idaho petition on

November 29 and 30, 2006, in Washington, DC. The committee issued a unanimous, consensus-based recommendation on December 19, 2006, that the Secretary direct the Forest Service, with the State of Idaho as a cooperating agency, to proceed with rulemaking. The Committee's report provided specific advice and suggested clarifications regarding particular issues. After considering the advisory committee's review and report, the Secretary accepted the petition and directed the Forest Service to initiate rulemaking on December 22, 2006.

A notice of intent to prepare an environmental impact statement (EIS) was published in the **Federal Register** April 10, 2007, (72 FR 17816). A notice of availability for the draft environmental impact statement (DEIS) was published on December 21, 2007, (72 FR 72708). The Forest Service published a proposed rule for conservation of NFS inventoried roadless areas within Idaho on January 7, 2008, (73 FR 1135). The notice of availability for the final environmental impact statement (FEIS) was published on September 5, 2008, (73 FR 51815). Additional information, maps, and other materials concerning the FEIS, IRAs, and roadless areas nationally, can be found at <http://roadless.fs.fed.us/>.

The Department is committed to conserving and managing inventoried roadless areas. The Department considers the final rule as the most appropriate solution to address the challenges of inventoried roadless area management on NFS lands in the State of Idaho. Collaborating and cooperating with states and other interested parties regarding the long-term strategy for the conservation and management of inventoried roadless areas allows recognition of both national values and local situations.

The Department believes that the final Idaho Roadless Rule collaboratively resolves an issue of great importance to the people of Idaho and the nation. The management of large tracts of undeveloped land has been a contentious issue since the founding of the Forest Service in 1905. The Forest Service has engaged in numerous approaches and periodic reviews to address how to best manage these lands. The Idaho Roadless Rule represents a unique effort to address these difficult questions. How can the Agency best conserve open space? How can the Agency protect some of the most magnificent areas in Idaho and the nation? How much active management, including reducing fuel levels through timber harvest, should the Agency consider allowing to reduce the risk of

unwanted wildland fire effects on adjacent private and other public lands?

The State of Idaho petition included specific information and recommendations for the management of individual inventoried roadless areas in the State. Additionally, the State of Idaho examined roadless areas sharing boundaries or overlapping with all neighboring states and determined coordination with Montana and Utah was necessary to ensure consistency of management themes assigned to these inventoried roadless areas.

The unique perspectives and knowledge provided by the State and its citizens was of great assistance throughout this rulemaking. Many of these roadless areas form the backdrop for Idaho communities and have become part of their identity. They are used for hiking, camping, hunting, and motorized recreation on backcountry trails. Local communities are also sensitive to the economic consequences of Federal land management, whether for recreation or other multiple-use purposes. Although this rule does not provide management direction for recreation and access management, its emphasis on retaining the roadless characteristics over the vast majority of IRA acres will address recreation and scenery concerns from both national and local perspectives.

Recently, there have been several attempts to resolve the roadless issue nationally and in the State of Idaho. Since the Forest Service Roadless Area Review and Evaluation (RARE II), the Agency has used locally driven forest plans to manage inventoried roadless areas. While these plans accounted for the comments of local communities by considering the characteristics of each individual roadless area, some felt these plans lacked a national perspective and allowed too much modification of roadless characteristics.

The 2001 roadless rule sought to answer these questions from a national perspective, but many felt that the rule's approach would cause undue harm to local communities. Some states and communities felt disenfranchised by the process.

The State of Idaho indicated that its decision to petition was precipitated by the State's belief that it was not provided an adequate opportunity to participate in the development of the 2001 roadless rule. The State expressed concern that the rule could be interpreted as not allowing adequate protection for communities and municipal water supplies from the threat of unwanted wildland fire effects. Additionally, the State indicated its belief that the 2001 roadless rule could

negatively affect some local communities that are dependent on use of resources from NFS lands.

On August 12, 2008, the Federal District Court for the District of Wyoming declared that the 2001 Roadless Area Conservation Rule (2001 roadless rule) was promulgated in violation of the National Environmental Policy Act (NEPA) and the Wilderness Act. The court held "the roadless rule must be set aside" and that "[t]herefore, the Court ORDERS that the Roadless Rule, 36 CFR 294.10 to 294.14, be permanently enjoined, for the second time." Previously, another Federal district court in California had issued an order that reinstated the 2001 roadless rule, including the Tongass-specific amendment, and specified that "federal defendants are enjoined from taking any further action contrary to the [2001] Roadless Rule \* \* \*." Both these orders have been appealed and the Forest Service has sought relief in both Federal district courts. For purposes of this rulemaking, however, nothing in the pending litigation limits the Secretary from conducting state-specific rulemaking regarding roadless area management or from evaluating the 2001 roadless rule as one alternative in the FEIS.

The Department has continued to seek a middle ground to resolve this issue by using forest plans, the locally driven state petition process, and integrating the national perspective provided by RACNAC. While the proposed rule made strides in accomplishing this objective, several respondents and RACNAC expressed concern whether some provisions could be read to allow portions of the BCR areas to be managed in a way that varied from the Governor's stated intent to manage the BCR similar to the way the area would be managed under the 2001 roadless rule while providing for limited stewardship activities. This was not the intent.

This final rule refines provisions and represents a compromise that balances the nationally recognized need for conservation of IRAs with being more responsive to local communities and citizens. Specifically, the final rule conserves the undeveloped/unroaded character for the vast majority of the IRAs; allows limited fuel treatment activities to reduce the risk of wildland fire effects to private and public property and municipal water supply systems; and accommodates limited exceptions for some communities highly dependent on the natural resources found on NFS lands.

These undeveloped lands will become increasingly important as sources of public drinking water, plant and animal

diversity, natural appearing landscapes, and other unique resources as the nation continues to grow in population and faces increasing demands for the various multiple-use resources available from NFS lands.

### Roadless Area Inventories in Idaho

This rulemaking relies on the most recent inventory available for roadless areas within each national forest in the State of Idaho. Land management plans were used, as well as other assessments and the inventories associated with the 2000 Roadless Area Conservation Final Environmental Impact Statement. Using these inventories, the Forest Service has identified approximately 9.3 million acres of inventoried roadless areas that are the subject of this rule.

The Agency has sought to be particularly sensitive to concerns over the accuracy of the inventories. The 2001 roadless rule used the inventories of record from late 1999 as their basis for boundaries. This final rule uses these inventories as a starting point but also looked at updates identified through land management plan (LMP) revisions, most notably on the Caribou-Targhee National Forest (NF) in 1998 and the southwest Idaho forests (Boise, Payette and Sawtooth NFs) in 2003. New inventories for northern Idaho forests (Idaho Panhandle, Clearwater, and Nez Perce NFs) currently in LMP revision were also used. These inventories are based on agency direction in Forest Service Handbook (FSH) 1909.12, section 70. The oldest inventory used is from the Salmon-Challis NF, which dates to their LMP from mid-1980.

Changes to the roadless inventory reflect improvements in mapping and elimination of some areas that had been developed since the last inventory of record and inclusion of some areas after review. Inventories used for this final rule have all received review and comment by the public during the LMP revision process prior to this rulemaking.

### Purpose and Need for the Idaho Roadless Rule

The purpose of the Idaho Roadless Rule is to respond to the State's petition to recommend State-specific direction for the conservation and management of inventoried roadless areas within the State of Idaho. The final Idaho Roadless Rule integrates local management concerns and the need to protect these areas with the national objectives for protecting roadless area values and characteristics.

Collaborating with the State of Idaho on the long-term strategy for the

management of IRAs recognizes national values and local situations and resolves unique resource management challenges. Collaboration with others who have a strong interest in the conservation and management of inventoried roadless areas also helps ensure balanced management decisions that maintain the most important characteristics and values of those areas.

The management direction established by the rule is based on individual roadless characteristics for lands containing outstanding or unique features where there is minimal or no evidence of human use; culturally significant areas; general roadless characteristics where human uses may or may not be apparent; as well as some areas displaying high levels of human use. The Department also recognizes there is compelling interest in—

- Reducing the threat to communities, homes, and property from the risk of severe wildfire or other risks associated with adjacent Federal lands;
- Reducing the threat to forests from the negative effects of severe wildfire and insect and disease outbreaks; and
- Assuring access to property, for the State, Tribes, and citizens that own property within roadless areas.

Between 2001 and 2007, wildland fires burned about 3.1 million acres in Idaho, of which about 1 million acres were in IRAs. Wildland fire is a natural component of these roadless areas; however, actions to reduce the risk of wildland fire effects to communities and municipal water supply systems may be needed in some situations. In 2003, Congress recognized the need to improve the capacities of the Departments of Agriculture and Interior to conduct hazardous fuel reduction projects, by passing the Healthy Forests Restoration Act (HFRA) (Pub. L. 108–148).

Aware of all of these concerns and the long unresolved debates over conserving and managing inventoried roadless areas in the absence of wilderness legislation for the State of Idaho and after considering the State's petition, the advice and recommendations of the RACNAC, Tribes, and public; the Secretary determined that regulatory direction for managing Idaho's roadless areas was needed.

#### **Public Involvement on the Proposed Rule**

- How Was Public Involvement Used in the Rulemaking Process?

A notice of intent to prepare an EIS on "Roadless Area Conservation; National Forest System Lands in Idaho" was published in the **Federal Register**, April 10, 2007, (68 FR 17816). The

public comment period ended on May 10, 2007. The Forest Service received about 38,000 comments, of which 32,000 were form letters. The remaining letters consisted of original comments or form letters with additional original text.

A notice of availability for the DEIS was published in the **Federal Register** on December 21, 2007, (72 FR 72708). The Forest Service published a proposed rule for conservation of national forests inventoried roadless areas in Idaho on January 7, 2008, (73 FR 1135). A copy of the proposed rule and the DEIS has been available on the World Wide Web/Internet at <http://roadless.fs.fed.us/> since January 7, 2008. A public meeting on the proposed rule was held in Washington, DC on January 14, 2008. Sixteen public meetings were held in Idaho between January 22 and February 28, 2008.

In addition to the suggestions from the RACNAC, the Department received approximately 140,000 responses. Responses included advocacy for a particular outcome or regulatory language, as well as suggestions for analyses to conduct, issues to consider, alternatives to the proposed action, and calls for compliance with laws and regulations. Response to comments on the DEIS are in Appendix R of the FEIS. These comments played a key role in the development of modifications to the proposed rule and the decision made in this record of decision.

It is noteworthy that many of the improvements between draft and final were made in response to requests made by Idaho Indian Tribes. Some of the theme changes were made in direct response to Tribal requests (see FEIS Appendix P). Chapters 3.15 (Cultural Resources) and 3.16 (Idaho and Affected Indian Tribes) were modified in the FEIS based on Tribal input. Section 294.28(h) was added to Scope and Applicability assuring Tribes this rule would not affect any of their rights or Federal Government responsibilities to consult on projects in roadless areas. The Department and Forest Service are grateful for the insights and serious attention the Tribes have provided during this rulemaking.

- How Did the RACNAC Participate in the Rulemaking Process?

The RACNAC held open meetings in various locations across the country. The meetings helped the RACNAC develop recommendations to the Secretary to be considered in the development of the final rule. The RACNAC submitted their final recommendations to the Secretary in a letter dated May 30, 2008.

Through the public meetings as well as Tribal and public comments, the Agency and State repeatedly heard that any exception to the 2001 roadless rule's road building prohibitions must be based on an actual on-the-ground need. Most notable among those needs was the protection of property and municipal water supply systems for at-risk communities, and phosphate development.

The Agency and State sought the RACNAC's advice concerning a framework for better achieving the objectives laid out in the proposed rule. The RACNAC recognized that a one-size-fits-all management regime for the BCR theme was unrealistic. The committee provided advice on a framework for protecting at-risk communities and their water systems after several public meetings and careful deliberation. The Department adopted most of these recommendations in the final rule. The Department carefully considered all input before making a decision in areas where the RACNAC could not reach consensus; for example, building new roads for forest health activities.

The RACNAC served a critical role in advising the Department regarding the critical need to go beyond past differences and focus on the on-the-ground management issues for these lands. This focus led to important adjustments including: (1) Reducing GFRG acres by 200,000; (2) increasing BCR acres by 280,000, primarily in recognition of high fish and wildlife values; (3) lowering the determination threshold for temporary roads and timber cutting within the community protection zone (CPZ), which increases opportunities for the Forest Service to address local communities' concerns with wildfire risks; (4) defining more clearly the permissions for hazardous fuel treatments outside CPZ to clarify that the vast majority of these acres will be subject to management direction that is similar to the 2001 roadless rule; and (5) defining with greater precision where phosphate mining, a nationally strategic mineral, may occur.

The Department recognizes the invaluable work and advice provided by the RACNAC throughout the rulemaking process.

#### **Alternatives Considered**

##### *Alternatives Considered by the Department*

The FEIS examines four fully developed alternatives based on public comments: No Action, Existing Plans, Proposed Idaho Roadless Rule, and Modified Idaho Roadless Rule.

Additional alternatives were considered but were eliminated from detailed analysis because they did not meet some aspect of the purpose and need or for other reasons in response to public comments including: Alternative allocations of management themes; additional conservation measures for the GFRG theme; additional limitations on management activities in the various themes; motorized access; and expansion of the scope of the proposal. Chapter 2 of the FEIS provides a more complete discussion of the disposition of these alternatives.

#### Alternative 1 (No Action) (2001 Rule)

The 2001 roadless rule was the product of a national process and established management direction at the national level with limited focus on state or local issues. The 2001 roadless rule (66 FR 3244, Jan. 12, 2001) proposed to ensure that inventoried roadless areas sustain their values for this generation and for future generations. By sustaining these values, a continuous flow of benefits associated with healthy watersheds and ecosystems was expected.

The Forest Service identified timber cutting and road construction or reconstruction as having the greatest likelihood of altering and fragmenting landscapes and the greatest likelihood of resulting in an immediate, long-term loss of roadless area values and characteristics. Therefore, the 2001 Rule prohibited these activities with certain exceptions in each roadless area.

The 2001 Rule alternative identified a list of exceptions to the prohibitions on road construction (sec. 294.12) that respond to circumstances where the prohibitions might conflict with legal responsibilities to provide for public health and safety or environmental protection. The Department noted that while in some cases, the exceptions could result in effects contrary to the purpose of the rule; the Department determined that they were necessary to honor existing law or address social or economic concerns (66 FR 3255).

The 2001 Rule alternative also allows for timber cutting for activities such as improving threatened, endangered, proposed, or sensitive species habitat; maintaining or restoring the characteristics of ecosystem composition and structure to reduce the risk of uncharacteristic wildfire effects; selling or removing timber incidental to other authorized activities; cutting, selling, or removing timber needed for personal or administrative uses; or improving roadless characteristics that have been substantially altered in a portion of an inventoried roadless area

due to the construction of a classified road and subsequent timber harvest.

These exceptions, with some modifications, are carried forward as part of Alternatives 3 and 4.

#### Alternative 2 (Existing Plans)

Management direction in this alternative represents a roadless area management regime based on each forest's land management plan (LMP). Each forest's plan is unique to its planning area. Collectively the LMPs provide a broad range of management opportunities from wilderness to intensive management. When revising a LMP, each forest or group of forests collaborates with the public to develop management direction for their roadless areas. Overall, as national forests in Idaho have revised the LMPs, the trend has been to move more roadless areas into management prescriptions that emphasize the conservation of roadless characteristics. Under this alternative, management of roadless areas would be governed by the specific management allocations assigned in each LMP. Management direction would be periodically reviewed as plans are revised.

#### Alternative 3 (Proposed Idaho Roadless Rule) (Proposed Rule)

Alternative 3 considers establishment of regulatory direction based on the State's petition, as presented to the RACNAC and set forth in the Proposed Rule. This alternative represents a strategy for the conservation and management of Idaho Roadless Areas (IRAs) that takes into account State and local situations and unique resource management challenges, while recognizing and integrating the national interest in maintaining roadless characteristics for future generations.

Building from the petition's examination of the management direction assigned in each forest's existing or proposed LMPs, the Proposed Rule assigned the lands within each roadless area to one or more of five broad management themes: Wild Land Recreation (WLR); Special Areas of Historic or Tribal Significance (SAHTS); Primitive; Backcountry/Restoration (BCR); and General Forest, Rangeland, and Grassland (GFRG). These themes span a continuum that includes at one end, a restrictive approach emphasizing passive management and natural restoration approaches, and on the other end, active management designed to accomplish sustainable protection of roadless characteristics. The continuum accounts for stewardship of the uniqueness of each roadless area's landscape and the

quality of roadless characteristics in that area.

The Proposed Rule did not apply to other special areas referred to as *forest plan special areas* such as research natural areas; wild and scenic rivers (designated, eligible, and suitable); special interest areas; and visual corridors. Table S-1 in the FEIS shows 334,500 acres as forest plan special areas. These areas would be managed according to applicable current and future LMP direction. However, if the current special status designations for an area are changed in the future, these lands would be subject to the terms of the rule and a modification would be undertaken.

The Proposed Rule presented a continuum of prohibitions and permissions for each roadless area through the allocation of themes. Allocation to a specific theme does not mandate or direct the Forest Service to propose or implement any action; rather, the themes provide an array of permitted and prohibited activities related to cutting, selling or removing timber; road construction or reconstruction; and discretionary mineral activities.

The Proposed Rule would have established prohibitions and permissions for discretionary mineral activities that vary according to an area's classification theme. However, like the 2001 Rule alternative, the Proposed Rule allowed for road construction or reconstruction in the case of reserved or outstanding rights or as provided for by statute or treaty, including roads associated with locatable mineral activities pursuant to the General Mining Law of 1872. The Proposed Rule provided additional direction regarding common variety minerals.

#### Alternative 4 (Modified Idaho Roadless Rule) (Final Rule)

Alternative 4 considers establishment of regulatory direction based on modifications to the Proposed Rule (Alternative 3). Public comment identified the need for modifications to the Proposed Rule and DEIS. The Department and Forest Service officials, in consultation with the State, reviewed and considered the public comment, Tribal recommendations, and the advice of the RACNAC and concluded the rule could be improved. Many of the suggested modifications contributed to the development of the final rule and FEIS.

Alternative 4 (Final Rule) uses the thematic approach of Alternative 3 but adds refinements to address five principle concerns:

(1) The amount and type of roadless areas placed in the various themes;

(2) The permissions and restrictions for road construction and reconstruction, and timber cutting, sale, and removal in the BCR theme;

(3) Management of lands containing phosphate deposits in BCR areas;

(4) Tribal interests regarding activities in roadless areas and future consultations; and

(5) Public comment requirements for corrections and modifications.

The Final Rule alternative reflects consideration of other adjustments beyond these principal issues as well.

Overall, Alternative 4 provides more protections from development than the 2001 Rule alternative on 3.25 million acres of IRAs. These lands are in the WLR, Primitive, and SAHTS themes. All road construction and reconstruction is prohibited, except when provided by statute or treaty, or pursuant to valid existing rights or other legal duty of the United States. In addition, Alternative 4 prohibits surface use and occupancy and road construction or reconstruction to access new mineral leases. Similarly, Alternative 4 provides the same or more restrictions than the 2001 Rule alternative for cutting, selling, or removing timber for lands in the Primitive and SAHTS themes. By reassigning acres to the WLR, Primitive, or SAHTS themes, Alternative 4 provides greater protection from development for 76,400 acres more than the Existing Plans alternative and 199,500 acres more than the Proposed Rule alternative.

As to lands managed under the BCR theme, Alternative 4 provides similar management direction as the 2001 Rule alternative for 5.26 million acres, although an estimated 442,000 acres would be subject to special consideration of specific situations involving reducing the risk of wildland fire to at-risk communities within the CPZ. Outside the CPZ, temporary roads could be constructed only where, in the regional forester's judgment, such roads are the only reasonable way to meet the objectives of reducing the significant risk of wildland fire effects to an at-risk community or municipal water supply system, and the activity is developed in a way that maintains or improves one or more roadless characteristics over the long-term. Infrequent use of this provision, with its conditions, is anticipated due to resource conditions, agency budgets, and regional forester approval and oversight. CPZ status will be confirmed at the project level, based on the definition of CPZ provided in section 294.21.

Alternative 4 reduces the lands managed under the GFRG theme to 405,900 acres. These areas are mainly managed according to forest plan direction except that roads may not be constructed to access new mineral or energy leases other than to access specific areas of phosphate deposits. Design of projects in these areas will consider roadless characteristics and will meet all environmental laws, and the area will remain on the roadless inventory.

In sum, Alternative 4 assures retention of the roadless characteristics of approximately 8.5 million acres of roadless lands. On the remaining 0.8 million acres (community protection zones in the BCR theme and GFRG acres), the Agency's best estimates indicate only about 0.1 percent of IRAs would likely see any changes in roadless characteristics over the next 15 years.

#### *The Environmentally Preferred Alternative*

Under NEPA, the Department is required to identify the environmentally preferred alternative (40 CFR 1505.2(b)). This is interpreted to mean the alternative that will promote the national environmental policy as expressed in NEPA's section 101 and that would cause the least damage to the biological and physical components of the environment. This alternative best protects, preserves, and enhances historic, cultural, and natural resources (Council on Environmental Quality, Forty Most Asked Questions Concerning CEQ's National Environmental Policy Act Regulations (46 FR 18026).

The Department believes the alternative that best meets these criteria is Alternative 1 (No Action, 2001 Rule). Alternative 1 generally protects all inventoried roadless areas from adverse environmental impacts associated with limited exceptions for road construction, reconstruction, and tree cutting for commodity purposes and discretionary mineral activities and is projected to result in the least road construction (15 miles) and fewest harvested acres (9,000 acres) over the next 15 years.

Alternatives 2, 3, and 4 allow for an array of vegetation management activities potentially needed to maintain or improve roadless characteristics or restore ecological structure, function, composition, or processes; including reducing the risks of uncharacteristic or unwanted wildland fire effects. In addition, these alternatives provide additional protections to certain lands with outstanding roadless characteristics. However, these

alternatives provide varying levels of road construction and reconstruction to facilitate timber cutting and also provide differing levels of limited tree cutting for commodity purposes and mineral resource development. The total projected road construction or reconstruction over the next 15 years is 15 miles (Alternative 1, 2001 Rule), 180 miles (Alternative 2, Existing Plans), 61 miles (Alternative 3, Proposed Rule), and 50 miles (Alternative 4, Modified Rule). Alternative 1 projects the fewest ground disturbing activities and is deemed the environmentally preferred alternative.

#### **Comments on the Proposed Rule and Changes Made in Response**

The Department received approximately 140,000 comments in response to the proposed rule and DEIS. A detailed analysis and response to public comment is set out in Appendix R of the FEIS. The Forest Service considered all comments as part of the rulemaking. The discussion of public comment below is divided between general comments and those that involve particular regulatory provisions, as well as providing a summary of changes made in the final rule.

#### *General Comments Not Related to Particular Rule Provisions*

*Comment:* State role in rulemaking. Some respondents expressed concerns over the legality of the State of Idaho's efforts to submit a petition to change current Federal land management or that the State would have undue influence on the outcome of the rule.

*Response:* This is a Federal rule and the Department has, in no way, abdicated or delegated its authority or responsibility for management of these NFS lands. The Governor of Idaho, pursuant to 5 U.S.C. 553(e) and 7 CFR 1.28 filed a petition to conduct rulemaking for these immensely valuable lands. The Forest Service has worked cooperatively with the State of Idaho during consideration of the petition and during the development of this final rule as is expected under numerous statutes, regulations, and Executive orders.

Pursuant to NEPA's implementing regulations, State, local, and Tribal governments are frequently granted cooperating agency status. State governments are especially 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 frequently pioneer 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.

Collaborating with the State of Idaho on the long-term strategy for the management of IRAs recognizes national values and local situations and resolves unique resource management challenges. Collaboration with the State, Tribes and others who have a strong interest in conserving and managing inventoried roadless areas also helps to ensure balanced management decisions that maintain the most important characteristics and values of those areas.

*Comment:* Idaho's Roadless Rule Implementation Commission. Some respondents questioned the role and authority of the Governor's Roadless Rule Implementation Commission (Idaho Executive Order No. 2006-43 of December 21, 2006). Other respondents thought the structure of the commission should be better defined, that there should be a time frame for the commission to respond to a proposed project, and that county commissioners and rural communities should be involved in designing and implementing projects. Some respondents raised concern over the legality of the commission. The RACNAC recommended additional procedural requirements in the rule, which includes collaborative review of projects, especially in the BCR theme, by a State Implementation Commission with a regional advisory committee-like structure.

*Response:* Although it is the Department's position that it cannot mandate the creation of or the scope of the commission's responsibilities to the State, the Department supports this collaborative concept and feels it would be an essential part of the overall collaborative process with the public, Tribes, and local and state governments. The Forest Service shared public comments and the RACNAC recommendations on the composition and function of the implementation commission received during this rulemaking with the State of Idaho. The State of Idaho has already committed to having the implementation commission as its way of providing a collaborative approach pursuant to State of Idaho Executive Order 2006-34 and may continue to determine its own course for

providing input and cooperation during the NEPA process for a proposal affecting an IRA. It is the Department intent that the State of Idaho can request cooperating agency status for proposals affecting IRAs like it has done for this rulemaking. It is important to note that although the recommendations provided by the commission will be non-binding on the Agency, the Department encourages the responsible Forest Service officials to give priority to those projects recommended by the commission.

*Comment:* Compliance with Executive Order 13175, Consultation and Coordination with Indian Tribal Governments. Some Tribal officials requested more government-to-government consultation on the proposed rule. One Tribe expressed concern that the change clause builds in categorical exclusions that will exclude public input and Tribal government-to-government consultation on individual projects. One Tribe questioned the use of the theme approach suggesting that maintaining all roadless areas should provide the same or similar values and opportunities. Another Tribe stated the themes do not incorporate the holistic nature of Tribal rights and interests that include areas outside those identified as SAHTS, and clarification was needed so areas of Tribal interest would still have project-by-project consultation with affected Tribes.

*Response:* On September 20, 2007, the State of Idaho and the Forest Service met with the Idaho Council on Indian Affairs and presented a joint overview of the history of the Idaho Roadless Petition and the DEIS associated with development of the proposed rule. The Forest Service and the State of Idaho committed to meeting with each Tribe to discuss in more detail the Idaho Roadless Rule prior to the release of the DEIS. These meetings took place between October 2007 and January 2008 and were tailored to meet each Tribe's preference. After the release of the DEIS and the proposed rule, several staff-to-staff and government-to-government meetings were held between January and August 2008 with each Tribe. Many of the Tribes' ideas and suggestions resulted in improvements to the final rule.

Nothing in the final rule should be construed as eliminating public input or Tribal consultation requirements for future projects conducted in accordance with this rule. The final rule clarifies that it does not modify the unique relationship between the United States and Indian Tribes. The final rule requires the Federal government to work with federally recognized Indian Tribes,

government-to-government, as provided for in treaties, laws, or Executive orders. Nor does the final rule limit or modify prior existing Tribal rights, including those involving hunting, fishing, gathering, and protecting cultural and spiritual sites. Finally, the Department listened carefully and understood Tribal concerns that the Tribe's holistic interests are in no way limited to one particular theme or management classification. The SAHTS designation highlights and protects certain areas that possess historically and culturally important attributes, but is not the exclusive indicator of areas that possess such values. The final rule allows continued recognition of Tribal rights and interests in IRAs outside of the SAHTS theme.

*Comment:* NEPA requirements for projects. Some respondents felt an EIS should be required for all projects proposed in IRAs and the use of an environmental assessment (EA) should be disallowed.

*Response:* The Idaho Roadless Rule focuses on general land classifications rather than project-level analysis and documentation requirements. However, since 1992, the Forest Service has routinely required the use of EISs for proposals that "would substantially alter the undeveloped character of an inventoried roadless area or a potential wilderness area." This requirement, originally in its implementing procedures in Forest Service Handbook 1909.15 at section 20.6, is now in the Agency's regulations at 36 CFR 220.5(a) (73 FR 43095). The Department has determined that a general prohibition on the use of EAs is not warranted as some proposed actions will not have significant environmental effects and will not harm roadless characteristics. Public response to scoping for a proposed action in an IRA will help the responsible Forest Service official determine the appropriate level of documentation for compliance with NEPA.

*Comment:* Endangered species consultation. Several respondents expressed concern regarding the proposed rules effects to threatened and endangered species and sought clarifications regarding consultation under the Endangered Species Act (ESA).

*Response:* Idaho Roadless Areas have been identified as an important habitat for a variety of terrestrial and aquatic wildlife and plants, including some threatened and endangered species. The large, relatively undisturbed areas provide biological strongholds and play a key role in providing for diversity of plant and animal communities.

The National Oceanic and Atmospheric Administration (NOAA) Fisheries and the U. S. Fish and Wildlife Service (FWS), have oversight responsibilities for implementation of the Endangered Species Act (ESA). Informal consultation and conferencing on the proposed rule began with frequent discussions among Forest Service, FWS, and NOAA Fisheries biologists. The Agency has prepared a biological assessment on the final rule and formally consulted with the FWS and NOAA. The biological opinions can be found at <http://roadless.fs.fed.us/idaho.shtml> and effects are discussed in the FEIS at sections 3.7 Botanical Resources, 3.8 Aquatic Species, and 3.9 Terrestrial Animal Habitat and Species.

*Summary of Changes and Comments Related to Particular Rule Provisions*

Proposed Section 294.20 Purpose

*Summary of Changes in Proposed Section 294.20 (Final Rule Section 294.20).* Text about the relationship between this rule and other roadless rulemakings was removed from paragraph (a) and is now addressed in section 294.28(a). Paragraph (b) was removed as unnecessary because the multiple-use mission of the Forest Service is well understood and is provided for elsewhere in statute and regulation.

*Comment:* Purpose and need. A respondent suggested the same statement of purpose and need as described in the DEIS should be included in the rule.

*Response:* The regulatory purpose set out in the final rule has been slightly revised and is now a more accurate statement of purpose of the Idaho Roadless Rule as providing State-specific direction for management of roadless areas. The purpose and need statement included with the DEIS

served a related but distinct function under NEPA.

Proposed Section 294.21 Definitions

*Summary of Changes in Proposed Section 294.21 (Final Rule Section 294.21).* Definitions of the following terms have been included in response to public comment: *community protection zone, fire hazard and risk, fire occurrence, Forest Plan Special Area, forest type, hazardous fuels, road decommissioning, and uncharacteristic wildland fire effects.* Most of these definitions were added to improve clarity on the use of the exemptions allowed for road construction and reconstruction, timber cutting, and mineral activities. Rational for their inclusion is discussed in the appropriate sections below. Definitions for *significant risk* and the individual management classification themes have been removed. Significant risk is now addressed at section 294.24(c)(1)(ii). The Department believes the themes are best understood in terms of the specific permissions and restrictions established by the rule for each land classification rather than a generalized description of desired conditions.

*Comment:* Definition of road. A respondent stated it was unclear if user-created roads or unclassified roads under the 2001 roadless rule are roads for purposes of this rule and whether deciding officers can designate an unclassified road as a forest road.

*Response:* First, the definition of *forest road* used in the proposed and final rule is drawn from the Agency's definition of that term in the travel management regulations found at 36 CFR part 212. Travel management decisions are not affected by this rule as noted in section 294.26(a). Adjustments to NFS road inventories are made pursuant to the Travel Management rule (70 FR 68264).

*Comment:* Management theme definitions. Several respondents requested clarification of the management themes. Some suggested that specific references to recreation in the theme definitions should be dropped.

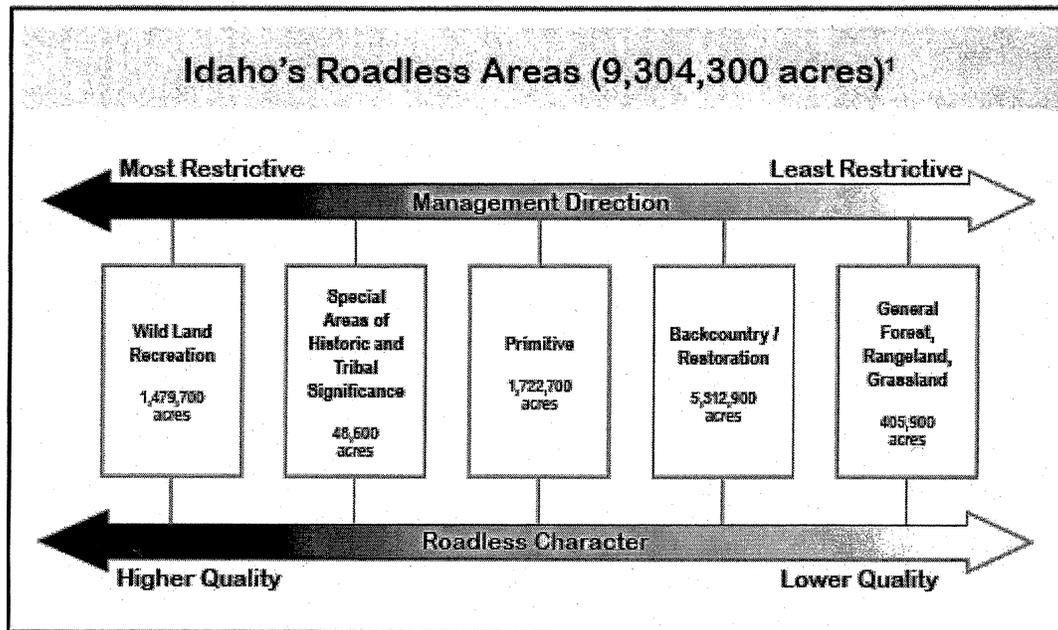
*Response:* Definitions for individual themes are removed in the final rule. The Department believes the prohibitions and permissions established for each individual theme best defines the management intended and the redundant definitions in the proposed rule were unnecessary and led to confusion.

Proposed Section 294.22 Idaho Roadless Areas

*Summary of Changes in Proposed Section 294.22 (Final Rule Section 294.22).* Paragraphs (b) and (c) have been reordered to improve continuity. Similarly, the narrative description of the management continuum that was set out in proposed paragraph (c) has been removed as unnecessary.

The final rule remains structured around five themes: (1) Wild Land Recreation (WLR); (2) Special Areas of Historic or Tribal Significance (SAHTS); (3) Primitive; (4) Backcountry/Restoration (BCR); and (5) General Forest, Rangeland, and Grassland (GFRG). These five themes were proposed following review of the allocations set out in the existing and proposed revisions to land management plans. The five themes and allocations for particular areas were refined in response to public comment on the proposed rule. The themes span a continuum from more restrictive to more permissive (see Figure 1). This continuum accounts for stewardship of each roadless area's unique landscape and the quality of roadless characteristics in that area.

Figure 1. Roadless Area Conservation Rule for Idaho—Management Themes



<sup>1</sup> 334,500 acres of forest plan special areas will be managed in accordance with applicable current and future forest plans

Allocation to a specific theme does not mandate or direct the Forest Service to propose or implement any action; rather, the themes provide an array of permitted and prohibited activities regarding road construction, timber cutting, and discretionary mineral activities. Although the ability of the Forest Service to conduct certain activities (road building, activities associated with mineral development, and timber cutting) typically varies from theme-to-theme, other activities (motorized travel, current grazing activities, or use of motorized equipment and mechanical transport) is not changed by this final rule. Although these other activities are not regulated by this rule, these activities and others not addressed by this rule are still subject to the allowances and restrictions of their current LMP and would be subject to future planning and decisionmaking processes of the Forest Service. For example, when allowed under the LMP, the use of prescribed fire as a management tool would be available across all themes as this rule does not require, limit or prohibit the use of prescribed fire. Similarly, some activities (e.g., locatable mineral access and operations) are governed under entirely separate regulations. Additionally, like the 2001 roadless rule, timber cutting, sale, or removal in inventoried roadless areas is permitted when incidental to implementation of a management activity not otherwise prohibited by the final rule. Examples of

these activities include, but are not limited to, trail construction or maintenance; removal of hazard trees adjacent to forest roads for public health and safety reasons; fire line construction for wildland fire suppression or control of prescribed fire; survey and maintenance of property boundaries; other authorized activities such as ski runs and utility corridors; or for road construction and reconstruction where allowed by this rule.

*Comment:* Eliminate the use of multiple themes. A respondent suggested the removal of the multiple theme approach from the rule and return to the single theme approach used for the 2001 roadless rule.

*Response:* The Governor's petition sought refinement of the 2001 roadless rule's *one-size-fits-all* approach maintaining that some areas deserved higher protections, others similar, and others less protection than those granted in the 2001 roadless rule. Comments received by the various Idaho County commissioners and other members of the public were in accord. The wide-variety of management regimes given these areas by individual Forest Service LMPs further demonstrates the value of a more measured approach. Therefore, the Department has elected to maintain the flexibility the multiple theme approach allows and has retained it in the final rule.

*Comment:* Theme assignment. Some respondents requested changes in theme assignments for specific IRAs.

*Response:* In response to these requests, some theme assignments were adjusted for the final rule. In general, public requests for changes in theme assignments for IRAs in section 294.29 in this final rule were adopted when the Forest Service review, demonstrated that the theme change would better reflect the uniqueness of the roadless area and the appropriate level of conservation needed for the protection and management of the particular area. The FEIS, Appendix P describes each of the specific requests and the disposition of those requests.

The following changes were made to theme assignments as a result of public and Tribal comments.

(1) Approximately 279,800 acres were changed from GFRG to BCR. This includes important big game habitat and known phosphate lease areas on the Caribou portion of the Caribou-Targhee NF where development would be precluded because of aquatic concerns (portions of Deer Creek).

(2) Approximately 75,900 acres were changed from BCR to GFRG. This includes lands that were already roaded on the Salmon and Targhee NFs and lands adjacent to Jesse Creek Watershed that are outside the CPZ but where the community wildfire protection plans (CWPPs) anticipate treatment is needed to protect the municipal water supply system.

(3) Approximately 149,200 acres were changed from BCR to Primitive.

(4) Approximately 68,400 acres of the Rapid River Roadless Area on the Payette and Nez Perce NFs were changed from Primitive to WLR.

(5) Approximately 10,700 acres of the Selkirk Roadless Area on the Idaho Panhandle NF were changed from Primitive to WLR.

(6) Approximately 21,000 acres of the Pioneer Area in the Mallard Larkins Roadless Area on the Idaho Panhandle NF was changed from SAHTS to WLR.

*Comment:* Management under existing LMPs for certain areas. A respondent suggested areas not recommended for wilderness in the 2001 roadless rule should be removed from this process and be managed under their existing plans.

*Response:* The 2001 roadless rule made no wilderness recommendations. The Forest Service makes preliminary wilderness recommendations through the land management planning process. Recommendations to Congress concerning wilderness

recommendations are an authority reserved to the Secretary. However, the suggested approach of directing that preliminarily recommended areas be managed in accordance with existing LMP direction would essentially be achieved through the approach described in FEIS Alternative 2. The Department believes that in the absence of Congressional action, it is appropriate to include such lands in the IRA system.

*Comment:* Wild Land Recreation (WLR) theme. A respondent suggested the WLR theme should be eliminated as it unlawfully creates de facto wilderness. Another respondent felt the rule should maintain current wilderness recommendations, maintain the current type of recreation activities allowed in each individual WLR area, and recommend additional areas for wilderness designation.

*Response:* It is important to note that IRAs are not de facto wilderness areas and the final rule does not make any recommendations for potential wilderness. The Department is mindful that only Congress can establish additions to the National Wilderness Preservation System and that Congress has not called for the creation of protective perimeters or buffer zones around wilderness areas. The Department maintains that the WLR theme provides appropriate protections for selected areas.

It is correct that most lands in the WLR theme were identified and recommended for wilderness designation during the land management planning process. In the context of land management planning, the Forest Service Manual 1923.03

states, "Any inventoried roadless area recommended for wilderness or designated wilderness study is not available for any use or activity that may reduce the wilderness potential of an area. Activities currently permitted may continue, pending designation, if the activities do not compromise wilderness values of the area." Similarly, the final rule does not change current recreational opportunities in WLR areas, including motorized travel (see sections 294.27(a) and 294.28). A wide-array of motorized and mechanical recreation and other multiple-use activities that are not allowed in designated wilderness areas will continue to be available and are unaffected by this rule.

*Comment:* Primitive theme. A respondent suggested the Primitive theme should be avoided because areas designated as Primitive would fall short of the wilderness suitability criteria because of the proposed rule's permitted activities.

*Response:* This rule is not designed to address potential wilderness designations. However, agency wilderness evaluation criteria associated with LMPs provide that although a forest road or other permanently authorized road is one criteria for not considering an area for potential wilderness, Forest Service Handbook (FSH) 1909.12, section 71.11, paragraph 9, provides for including areas where prior timber harvest and road construction is not evident. Road construction and reconstruction is prohibited in the Primitive theme except to access reserved or outstanding rights, or other legal duty of the United States. Any roads constructed for these purposes could affect consideration for wilderness. Timber cutting, sale, or removal is also prohibited except under limited conditions and only when done from an existing road or using aerial systems and is subject to numerous restrictions. The FEIS, section 3.14 Roadless Characteristics, discloses that the existing character may be modified on the edges of a roadless area with the interior kept intact. Future activities in the Primitive theme could have potential effects on the undeveloped and natural qualities of a roadless area but these activities are expected to be limited, infrequent, and would not affect natural ecosystems processes or opportunities for primitive and unconfined recreation.

*Comment:* Backcountry/Restoration theme (BCR). Several respondents felt the use of the BCR theme should be avoided because it would allow road construction, logging, and other development.

*Response:* The BCR theme represents the largest amount of acreage across all of the theme designations in this rule, and it received the majority of the comments. During his original presentation to the RACNAC, Governor Risch expressed a desire to have the areas designated under this theme managed similar to the 2001 roadless rule while also providing for certain stewardship activities. The proposed rule sought to provide this balance by only allowing new road construction or reconstruction facilitating timber cutting where necessary to address significant risks and to facilitate permitted forest health activities.

Many respondents felt that the criteria by which new roads could be constructed were left undefined and potentially could vary from the purpose of the 2001 roadless rule. Specifically, several respondents felt that new road construction to facilitate timber cutting should only be done in cases of imminent threat to people and property, although others felt significant risk was too restrictive and did not have enough flexibility to address forest health issues in IRAs. Based on public comments and advice from the RACNAC, the Department saw a need to refine the scope and conditions by which temporary roads could be constructed in the BCR theme.

The RACNAC spent a considerable amount of time discussing this theme and recognized that the theme did not lend itself to a *one-size-fits-all* management approach, particularly with regard to fuel treatments for protecting at-risk communities and municipal water supply systems, but also felt that the proposed rule was too expansive and needed further clarification and refinement.

The Department agrees that the principles articulated by the RACNAC represented a good starting point. The final rule adopts the RACNAC's advice of borrowing the CPZ concept from HFRA to focus timber cutting and temporary road construction where needed to protect at-risk communities. The definition of *at-risk communities* used in the proposed and final rule reflects the definition of that term as used in the HFRA. Within the CPZ, the Department believes the balance should tip in favor of community protection while ensuring that temporary road construction is not undertaken where in the responsible official's judgment the project cannot reasonably achieve the community protection objectives without a temporary road. Additionally, the RACNAC recognized that the geographic definition from HFRA may not provide enough flexibility for some

IRAs. Therefore, the Department is limiting the scope of temporary road building for fuels treatments outside the CPZ to projects that can demonstrate significant risk of wildland fire effects to an at-risk community or a municipal water supply system while positively determining that one or more roadless characteristics will be maintained or improved over the long-term. The long-term perspective is especially important because a temporary road may have the potential for immediate short-term effects to an area's roadless characteristics, but stand thinning, strategic fuel breaks, and other activities accomplished by building a temporary road could have long-term beneficial effects. The final rule also emphasizes the importance of maximizing the retention of large trees, as appropriate for the forest type, to the extent the trees promote fire resilient stands and exercises restraint by permitting projects that cannot reasonably be accomplished without a temporary road. Notably, the final rule does not permit new road construction for the purpose of conducting limited forest health activities. Under the final rule, the vast majority of the BCR acres will be managed comparable to the 2001 roadless rule with a small amount of additional timber cutting and temporary road construction to allow fuel treatments to better protect vital community interests.

*Comment:* General Forest, Rangeland, and Grassland (GFRG) theme. A respondent suggested elimination of the GFRG theme. Another suggested any small strips of GFRG lands should go into adjacent BCR and felt that the GFRG theme should be eliminated to avoid the conflict of the rule allowing for activities not permissible in LMPs. A respondent thought the Agency should reconsider the roadless character for some of the GFRG designations based on the Idaho Conservation League maps.

*Response:* The FEIS considered the request to eliminate the GFRG theme in, section 2.3, Consideration of Comments and determined that this request was effectively accomplished through examination of the 2001 Rule alternative (Alternative 1). Based on public comment, including Idaho Conservation League's maps, some areas were changed from GFRG to BCR to better retain the roadless character in these areas to respond to Tribal interests and to provide important big game habitat. For example, several small strips adjacent to the outer boundaries of roadless areas were changed to BCR, including lands associated with the East Cathedral, Magee, Mallard Larkins, and Upper Priest Roadless Areas on the

Idaho Panhandle NF and the Scotchmans Peak Roadless Area on the Idaho Panhandle and Kootenai NFs. Some developed lands, which are areas that have been previously roaded and harvested, were changed from the BCR theme to the GFRG theme. In total, the land area encompassing the GFRG theme was reduced by approximately 203,700 acres. See Appendices E and P of the FEIS.

*Comment:* Forest Plan Special Areas. Several respondents asked for clarification about whether wild and scenic river management areas and other LMP special areas have precedence over the rule.

*Response:* Under section 294.28(f), Forest Plan Special Areas (FPSA), like wild and scenic river management areas, are managed in accordance with local LMP components. For clarification, a definition of FPSA has been added to the final rule. These lands include areas such as research natural areas, designated and eligible wild and scenic river corridors, developed recreation sites, or lands identified for other specified management purposes. A listing of all the FPSAs is set out in the FEIS, Appendix Q. The State's petition identified that some roadless areas are already part of other land classification systems that are governed by specific agency directives and existing LMP direction. The petition did not request the Forest Service to impose additional or superseding management direction or restrictions for these FPSAs. Instead, the petition identified a preference that these lands be administered under the laws, regulations, and other management direction unique to the special purpose of the applicable land classification. The Department agrees, and although these lands are included in section 294.29 for the sake of completeness, the final rule does not establish any management direction for, or that applies to, any of these identified FPSAs.

#### Proposed Section 294.23 Road Construction and Reconstruction in Idaho Roadless Areas

*Summary of Changes in Proposed Section 294.23 (Final Rule Section 294.23).* No substantive changes were made to paragraph (a). In response to advice from the RACNAC and public comment, the Department refined the road construction provisions concerning the BCR theme. The proposed rule allowed roads for classes of timber cutting activities per the 2001 roadless rule with the addition of a *significant risk* threshold determination and allowed for forest health activities

consistent with the timber cutting provision. The final rule follows the list of exempted activities from the 2001 roadless rule and adds two refined categories of actions.

First, the final rule accepts advice from the RACNAC and public comment to retain the 2001 roadless rule's general exceptions. All exceptions are retained except the minerals roads provision which is separately addressed in section 294.25. Second, there was confusion regarding the expected level of treatment to address significant risk situations in BCR theme areas. RACNAC and many respondents wanted clarification for the situations in which road building would be permitted. Some respondents expressed concern that all 5.3 million acres would be treated under these provisions. This was never the Department's or the State's intention. The State had noted, at the January 2008 RACNAC meeting, that it desired such projects to focus mainly on protecting the wildland urban interface (WUI) and municipal water supply systems. The RACNAC agreed that such refinements were appropriate but were unable to reach consensus regarding road construction for forest health treatments outside CPZ. See the discussion under *Summary of Changes in Proposed Section 294.25 (Final Rule Section 294.24)*.

In light of these considerations, the Department refined the final rule and will allow temporary roads in CPZ recognizing that in balancing public interests of community protection and roadless characteristics—the balance tips sharply in favor of communities within the CPZ. Further, the Department has found there is broad support for addressing instances where wildland fire can affect vital community interests and infrastructure even beyond CPZs. Local communities, the RACNAC, and various officials strongly supported providing limited opportunities for hazardous fuel reduction projects in a way that continues to recognize the importance of conserving roadless area characteristics. In contrast to treatments within the CPZ, the Department believes the balance tips in favor of maintaining or improving roadless characteristics over the long-term for projects conducted outside the CPZ. However, the Department will allow temporary roads outside CPZ to protect at-risk communities and municipal water supply systems under limited circumstances. To meet these goals, Forest Service officials will make a positive determination that the community or water supply system is facing a significant risk from a wildland fire disturbance event, and the project

will maintain or improve one or more roadless characteristics over the long-term. A significant risk exists where the history of fire occurrence and fire hazard and risk indicated a serious likelihood that a wildland fire disturbance event would present a high risk of threat to an at-risk community or municipal water supply system. Officials must also determine that the project cannot be reasonably accomplished without a temporary road. Clearly, temporary roads will not need to be constructed to address every significant risk situation inside or outside a CPZ.

In paragraph (c), new wording has been added that specifically directs the minimizing of effects and clarifies the intent to conform to applicable LMP components. Existing LMPs for these areas set out forestwide and area specific direction and make general suitability determinations but do not generally authorize any particular projects. Under this framework the Forest Service examines site-specific environmental effects when projects or activities are actually proposed. See *Ohio Forestry Ass'n v. Sierra Club*, 118 S. Ct. 1665, 1668, 1671 (1998). The RACNAC and some members of the public suggested that the requirements for roads under the proposed minerals section be carried forward and applied to all road construction. In response, the final rule at section 294.23(d) provides additional direction concerning temporary roads comparable to that provided for mineral activities. Additionally, a provision has been added that existing roads and those permitted under this final rule may be maintained.

*Comment:* Significant risk. Several respondents requested the establishment of more guidelines to determine what constitutes a significant risk situation. Others suggested that the significant risk criteria should be confined to WUI areas and only apply the imminent threat criteria for the remaining areas. Some respondents felt vegetation activities outside CPZs should have more restrictions than those inside the zone. A respondent suggested inclusion of threats to irrigation and water rights as part of the significant risk exception.

*Response:* The Department, based on public comment and advice from the RACNAC, concluded that the significant risk threshold should not be required for projects, including temporary road construction, in the CPZ as defined in this rule. See also the discussion below under *Summary of Changes in Proposed Section 294.25 (Final Rule Section 294.24.)* However, the Department,

based on the RACNAC's advice, does not believe that all BCR theme areas outside the CPZ should have to demonstrate the imminent threat standard of the 2001 roadless rule. Instead, this rule provides the flexibility needed to implement Community Wildfire Protection Plans (CWPPs) where consistent with this rule and allows for limited treatment of hazardous fuels that threaten at-risk communities and municipal water supply systems. Thus, the Department has determined an allowance will be made for individual projects that can demonstrate a significant risk that a wildland fire disturbance event could adversely affect an at-risk community or municipal water supply system and maintain or improve one or more roadless characteristics in the long-term. Notably, the responsible Forest Service official must determine that the activity cannot be reasonably accomplished without a temporary road. For further clarity, a definition taken from the 2006 Interagency *Protecting People and Natural Resources: A Cohesive Fuels Treatment Strategy* (2006 Cohesive Strategy) for hazardous fuels has been added to the Final Rule.

Furthermore, on advice from the RACNAC, the Department has limited the application of the term *significant risk* in geographic terms as well. First, a proposed project must demonstrate that its purpose is to treat hazardous fuels connected to an at-risk community or municipal water supply system. This greatly reduces the potential geographic scope of road building and treatments in the BCR theme from those in the proposed rule. Second, the Department refined the term *significant risk* to situations where the history of fire occurrence, and fire hazard and risk, indicated a serious likelihood that a wildland fire disturbance event would present a high risk of threat to an at-risk community or municipal water supply system. The final rule defines *fire hazard* and *risk* to mean the fuel conditions on the landscape. *Fire occurrence* is defined as the probability of wildfire ignition based on historic fire occurrence records and other information. Under these definitions, this significant risk determination focuses largely on landscape conditions, probability of ignition (serious likelihood), departure from historical fire frequencies, and the severity of the risk of adverse affects (significant) to an at-risk community or municipal water supply system. The Department's experience indicates that much of this pertinent information may be in individual Idaho county CWPPs and

encourages responsible officials to use these plans where appropriate in determining whether or not a project qualifies under this exception. The Department expects that responsible officials will give due consideration during the public comment process to input from the State's Collaborative Implementation Commission. The Commission's recommendations would be considered along with other public and Tribal comments.

The Department believes it has appropriately considered roadless area characteristics and the interests in protecting at-risk communities or municipal water supply systems in defining the scope of the significant risk exception. Expansion of the significant risk determination to include irrigation and water rights is beyond the scope of the HFRA provision used as a model for this provision and therefore was not adopted.

*Comment:* Temporary roads standards, reclamation, and alternatives. Several respondents suggested the rule should include plans and standards for temporary road design criteria, identification of the responsible party to close it, and timeframes for rehabilitation. They felt definitions for decommissioning, rehabilitation, and closure of roads should be included in the rule. One respondent suggested that the Agency should require monitoring and funding to occur for temporary roads prior to their construction thus ensuring the temporary road is reclaimed and re-vegetated to meet roadless characteristics. The RACNAC recommended further clarifications when temporary roads could be built, who could use them, and how they would be decommissioned.

*Response:* The final rule now contains a definition of *temporary road*. Use of such roads is restricted, although use of these roads for Forest Service administrative purposes is permissible, as defined at 36 CFR 212.51(a)(5) (involving fire, military, emergency, or law enforcement vehicles for emergency purposes). In the final rule, the use of a discretionary temporary road outside the CPZ will be limited in scope and only occur if no other reasonable alternative for treating the fuels is available. If a temporary road is determined to be necessary to support allowed activities such as fuel treatments to reduce a significant risk situation, the Forest Service can ensure closure and rehabilitation through contract provisions for any associated timber sale or stewardship contract. Temporary roads are sometimes necessary to allow purchasers to access and transport timber. Specific timber

and stewardship contract provisions govern the authorization, construction, operation, and restoration of these temporary roads. In the past, the Agency has sometimes waived the contract's decommissioning requirement because the Agency intended to continue to use the road for other multiple-use purposes, such as post-sale reforestation projects, monitoring, or fire protection. However, closure of these roads then became dependent upon the Agency receiving funding. This led to many temporary roads remaining open without decommissioning. The final rule reinforces that new temporary fuel treatment roads must be decommissioned when the project is completed and will not be open for public use while the project is underway. Additional funding for road closures would not be necessary. A definition for *road decommissioning* is provided in the final rule. Definitions for rehabilitation and closure are not provided as these terms are not used in the final rule. Agency road definitions are found at 36 CFR 212.1, and the regulations found in 36 CFR part 212 are applied for all road construction and do not need to be repeated in this rule. See FEIS Appendix O for more details regarding road construction and decommissioning.

*Comment:* Roads in the BCR theme. Several respondents felt that the proposed rule allowed too many opportunities to build roads in the BCR theme. They suggested that the 2001 roadless rule language should be used to protect these areas. One respondent suggested no roads be built in the BCR theme. Another respondent suggested limiting all roads in BCR to temporary roads and using them only for fire protection needs, not habitat improvement projects. If a permanent road is needed, the respondent wanted more justification requirements. Others suggested more roads should be allowed in the BCR theme without restrictions.

*Response:* The Department agrees with respondents that the scope and conditions for building temporary roads in the BCR theme needed refinement. The Department has concluded that building new roads for fuels treatments should be limited to two circumstances: (1) To conduct fuel treatment activities within the CPZ; and (2) to conduct fuel treatment activities outside the CPZ only where a significant risk of wildfire effects to an at-risk community or municipal water supply system can be demonstrated and only when roadless values can be improved or maintained over the long-term. Other exceptions are made in the BCR theme for public health and safety reasons or for reserved

or outstanding rights. The 2001 roadless rule lists the same exemptions. Like the 2001 roadless rule, roads for habitat improvement projects are not allowed. It is anticipated that most roads will be temporary. However, the Department recognizes that a permanent road may need to be constructed in some situations, such as access for a private land inholding. Justification for a permanent road will need to be established for any proposed project.

*Comment:* Roads for forest health activities. Several respondents recommended that no roads be allowed in the BCR and the GFRG themes for the purpose of forest health. Other respondents suggested that temporary roads should be permitted only for vegetation management for wildlife and forest health reasons. Another respondent suggested allowing temporary roads for only forest health activities but not habitat improvement projects in the BCR theme.

*Response:* The RACNAC could not come to a consensus on whether new roads to facilitate forest health activities should be permitted outside the CPZ. After careful deliberation, the Department decided that no new roads (temporary or permanent) for forest health purposes should be built in the BCR theme, but such activities could be conducted from existing permanent roads, temporary roads allowed by this rule, or by aerial harvest systems. The final rule does permit road construction for forest health activities in the GFRG theme as long as the activity is consistent with applicable LMP components.

*Comment:* Responsible official for authorizing construction of permanent roads. One respondent thought that decisions regarding whether or not a permanent road is needed should be made at a higher level than that of the local line officer.

*Response:* The final rule identifies roles for responsible officials in connection with various activities across the different themes. Regional foresters will be responsible for certain determinations, for example road construction activities in BCR theme outside the CPZ. Standard delegation of decisionmaking authority found at Forest Service Manual (FSM) 1230 will operate unless specified otherwise in the final rule.

*Comment:* Roads in GFRG. One respondent felt that no permanent roads should be built GFRG. Another respondent felt that the 2001 roadless rule approach should be the minimum protection for the GFRG theme.

*Response:* Based on public comment, input from Tribal representatives, and

RACNAC advice, the Department made a net reduction in the amount of the GFRG theme by approximately 203,700 acres. In addition, roads may not be constructed or reconstructed to access new mineral leases except in association with specific phosphate deposits. The Agency has carefully reviewed existing management direction and potential uses of these lands to ensure that the appropriate management theme is being applied for each IRA. This specific review goes beyond what was undertaken during the 2001 rulemaking and these refinements reflect the best judgment and expertise of the Forest Service.

#### Proposed Section 294.24 Mineral Activities in Idaho Roadless Areas

*Summary of Changes to Proposed Section 294.24 (Final Rule Section 294.25).* Mineral and energy potential within IRAs was given serious consideration. The minerals portion of the rule has been reorganized and now provides management direction for each theme. Paragraphs (a) and (b) separately identify that the rule provisions apply prospectively and only where the Department exercises discretionary authority.

The final rule does not include the proposed rule's (section 294.24(a)) language "including any subsequent renewal, reissuance, continuation, extension, or modification, or new legal instruments, for mineral and associated activities on these or adjacent land." This provision, in particular, the *adjacent land* phrase allows new access and road building, mainly for phosphate mining, to occur where a post-rule modification to a pre-existing lease resulted in an enlargement of the original lease boundary regardless of theme. The RACNAC could not reach consensus on the issue of phosphate mining. However, there were discussions during committee deliberations expressing support for a recommendation that the final rule eliminate the exception for phosphate mining in the BCR theme lands and move appropriate acres of known phosphate lease areas (KPLAs) and a buffer zone into GFRG theme lands.

Based on these comments, the Department is eliminating the *adjacent lands* provision. New access will only be permitted where the expansion falls within the GFRG theme. This change is not to be construed as limiting access or other related activities associated with mineral leasing, including lease renewals, reissuances, continuations, extensions, or modifications issued prior to the effective date of this rule regardless of the theme. The Forest

Service in cooperation with the State, Bureau of Land Management (BLM), the RACNAC, and other interested parties identified the locations of phosphate mining activities most likely to occur in the future and adjusted the land classifications to focus on a smaller number of acres that could be available for mineral development and conserving the roadless character of the remaining areas. These adjustments allow the Agency to preserve the unroaded character of the vast majority of these lands, especially certain high quality fish and game habitat (e.g., portions of Deer Creek and Bear Creek), while recognizing long-standing interest in limited development of nationally critical phosphate mineral resources by industry and local communities. By adjusting the classifications for specific lands the Agency will provide better resource protection while making essentially the same number of acres available for phosphate development.

Because of these adjustments, the proposed rule's exceptions for new phosphate activities in the BCR theme were no longer necessary and have been removed. Thus, for leases obtained after the effective date of this rule, road construction and other associated activities can only occur in areas designated as GFRG theme to access specific phosphate deposits identified in Figure 3-20 in the FEIS. As a result, under the final rule road construction or reconstruction will only be permissible in specific areas (5,770 acres of KPLAs) where there is very high potential for development in the future. This refinement addresses concerns regarding unbounded geographic scope of these possible activities within IRAs. Road construction is not permitted after the effective date of the final rule for mineral leasing in BCR theme areas, but the final rule does not bar surface occupancy unless prohibited by the applicable LMP.

The Forest Service will no longer recommend, authorize, or consent to road construction or reconstruction associated with post-rule mineral leases in GFRG theme areas, except for phosphates. Currently, the known oil and gas potential is low and some LMPs restrict or prohibit new exploration. Geothermal development is currently speculative in IRAs and a major part of the areas with potential for its development is outside IRAs. Therefore, an exception for oil and gas or geothermal leasing is not warranted. The final rule also clarifies that surface occupancy is permissible within GFRG theme areas unless prohibited by the applicable LMP. This is consistent with the approach taken by the 2001 roadless

rule. The Agency will also require that permissible road construction or reconstruction associated with mining activities in the GFRG theme will only be approved after evaluating other access options. The use or sale of common variety mineral materials in the GFRG theme will only be permitted where it is incidental to an otherwise lawful activity.

*Comment:* Mineral activities. One respondent asked for clarifying language concerning surface use and roading for mineral activities with respect to each of the themes. Others felt that the proposed regulations did not provide adequate environmental protection for mineral extraction operations. Some respondents felt there should not be any new roads allowed for mineral development. Others felt there should be no mineral development of any kind on national forests and suggested pursuing a formal statutory withdrawal of lands under the mining laws.

*Response:* After consideration of these comments, the Department determined that surface use and occupancy for leasable minerals will only be permitted in the BCR and GFRG theme areas, and that any such operations may be further restricted or prohibited by the applicable LMP components. Comparatively, these limitations are more restrictive than the 2001 roadless rule, which permitted surface use and occupancy on any inventoried roadless area. However, the Department declines the request submitted by some respondents that USDA request the Secretary of Interior to initiate the Federal Land Policy and Management Act (FLPMA) withdrawal process for all roadless areas or all NFS lands. Instead, the final rule establishes limitations on the future exercise of discretion available to Forest Service responsible officials. These limitations include: (1) No road construction or reconstruction or surface occupancy in the WLR, SAHTS, and Primitive theme areas; (2) no road construction or reconstruction for mineral leases in BCR theme areas; (3) no road construction or reconstruction for mineral leases in GFRG theme areas except for activities associated with phosphate deposits; and (4) in the BCR and GFRG theme areas, the use and sale of common variety mineral materials, and associated road construction access these mineral materials may occur only when the use of these mineral materials is incidental to an activity otherwise permissible by this rule.

*Comment:* Saleable minerals. One respondent suggested that sale of common variety minerals should be restricted within BCR theme areas.

Another respondent asked for clarification for why some saleable mineral activities are allowed when associated with other allowable activities, what these other allowable activities would be, how frequent, and what is the public benefit. Another suggestion was to provide an exception for the Forest Service to use of common variety minerals in support of its activities, like road or trail maintenance.

*Response:* Commercial permitting of saleable minerals in the BCR and GFRG themes is prohibited in the final rule. This addresses public concerns over this type of mineral development. Practically speaking, there is no independent commercial interest in development of these saleable minerals in IRAs. The total average production of mineral materials from NFS lands represents only about 1 percent of the total mineral materials production for all of Idaho (FEIS, section 3.5 Minerals and Energy).

Saleable minerals will only be made available as incidental to an otherwise permissible activity. The majority of saleable mineral use has been gravel for road construction, reconstruction, and maintenance or for Agency facilities development including trails. For example, gravel may be necessary to reduce the sediment from a road permitted in the BCR theme by this rule and could be authorized where an appropriate gravel source is in proximity of the road. This exception is expected to be rarely used, but is important because it allows use of saleable minerals for protection of other resources in IRAs without the increased costs of hauling these materials long distances. It also allows the Agency to use these sources in support of permissible road, trail, or facilities construction or maintenance.

*Comment:* Phosphate and leasable minerals. Several respondents expressed concern over allowing any expansion of phosphate mining in IRAs, especially Primitive and WLR themes, although phosphate is only known to occur on about 14,460 acres in IRAs. Many comments pertained to public concern for the phosphate mining-related effects of selenium on water quality. Some Tribes shared this concern and also expressed concern over the potential loss of trust resources. Respondents requested clarification about how far road construction and development would extend outside of existing leases into roadless areas. The BLM suggested the rule allow for a one-half mile expansion buffer around existing leases as there are some leases outside the known phosphate lease areas (KPLAs) and the rule should not restrict access

to these deposits. The BLM sought other clarifications and urged the Department to provide flexibility to administer existing leases to ensure maximum recovery of the resource by allowing the building of roads, water wells, power lines, and other supporting facilities on off-lease sites. Other respondents stated that the rule should clarify whether modifications of existing leases in an IRA, which are part of the KPLA, are allowed and how existing lease rights are dealt with in the Primitive designation. One respondent felt that all KPLA and existing leases should be moved to the GFRG theme. Other respondents felt phosphate leases should be confined to KPLAs and not to the entire BCR theme. Another respondent suggested known and high potential KPLA areas should be moved to the GFRG theme, and all other KPLAs moved to BCR where their development should not be allowed. Another respondent felt the rule should include requirements for mine clean up and the prevention of any future selenium pollution before any expansion of phosphate mining areas. One respondent felt there should be no expansion of phosphate mines under any circumstances.

*Response:* Mineral activities were one of the areas where the Department made a specific request for public comment in the preamble to the proposed rule (73 FR 1139). The RACNAC could not come to consensus on the issue of phosphate mining within IRAs. However, during RACNAC's deliberations, several committee members recommended that if the Agency were to allow road construction and reconstruction for leases obtained after the effective date of this final rule, that those activities be limited to areas managed pursuant to the GFRG theme.

The Department agrees, and believes that with fine tuning of the allocations, all new road construction or reconstruction associated with post-rule phosphate leases can be limited to the GFRG theme. After careful review of KPLAs and the specific classifications in the proposed rule, the Agency changed the proposed designation of some BCR theme areas in the proposed rule to the GFRG theme in the final. Not all KPLAs with phosphate potential proposed as BCR theme were changed to the GFRG theme. Several areas including the Bear Creek IRA, retain their BCR theme designation because those areas exhibit other high resource values. Approximately 1,280 acres of unleased phosphate are retained in the Primitive theme and 6,500 acres in the BCR theme. In addition, about 910 acres are in the GFRG theme in the Bear Creek

Roadless Area but are not specified on figure 3–20. Therefore, roads may not be constructed to access any of these areas.

The Agency also agreed with the BLM's recommendation that, consistent with local land management plan components, the KPLAs should have a one-half mile buffer to allow for any uncertainties about where the ore body is located. For leases obtained after the effective date of this rule, road construction and other associated activities can only occur in areas designated as GFRG theme to access phosphate deposits identified in Figure 3–20 in the FEIS. This rule does not grant automatic access across the GFRG theme to ore bodies depicted in the map. However, it does allow consideration and review of the merits of individual applications which will undergo site-specific environmental analysis, including consideration of access options.

The Department believes maintaining future options within the select GFRG theme areas are important to communities in Southeast Idaho and to the nation because of the increasing demand for phosphate. The Department believes these permissions and restrictions provide a balance between providing access to a limited portion of a significant national resource and protecting roadless area values. Of course, any future development proposals would themselves require site-specific environmental analysis.

Additionally, the final rule directs the responsible official to review other access options and assure consistency with applicable LMP components before authorizing any new road construction associated with mineral activities in IRAs. Similar to the proposed rule, the final rule also directs that temporary road construction must be conducted in a way that minimizes effects on surface resources, is consistent with LMP components, and may only be used for specified purposes. Like the 2001 roadless rule, this final rule honors valid existing leases. In this situation, the Forest Service will permit necessary road construction, road reconstruction, and surface occupancy for existing leases regardless of the theme.

The issue of phosphate mining and selenium pollution is discussed in the FEIS at pp. 186, 187, 205, 208, 210, 211, 216, 259, 262, 264, 267, 277, 291, and 294. The Department has determined that requirements for mine clean up and the prevention of any future selenium pollution is best handled at the site-specific project level.

*Comment:* Locatable minerals. One respondent suggested language allowing access similar to the language proposed

under leasable minerals should be included for locatable minerals.

*Response:* The final rule is clear that it does not intend to regulate mining activities conducted pursuant to the General Mining Law of 1872. The Agency has separate requirements relating to road construction and maintenance for locatable minerals at 36 CFR 228.8(f) that adequately provide for these protections. Recently, the Agency proposed a revision of its locatable mineral regulations; questions concerning access to locatable minerals will be governed by that final rule. Therefore, it was determined that no further adjustment of this regulation is necessary.

*Comment:* Energy resources. Several respondents suggested that the rule should not include an exemption for oil and gas or geothermal development as there is currently no known potential for their development. These respondents further asserted that future energy exploration should be dealt with under the proposed change clause, and that there are sufficient places outside roadless areas where alternative energy sources like wind, biomass, and geothermal can be developed.

*Response:* As identified in the FEIS, there is low potential for oil and gas development in Idaho but there is some potential for geothermal energy. Wind energy is more developed in southern Idaho and there appears to be ample opportunities for expansion outside roadless areas. The Western Energy Corridor study was also considered during development of this rule and no corridors have been identified in IRAs. There is currently one geothermal facility in Idaho generating electricity. Because the development of this resource is in its infancy and would be widely available on private and the roaded portion of NFS lands, the Department has determined there is not a need to allow roads for developing geothermal energy in IRAs at this time. If the State or other parties believe new information or circumstances warrant an adjustment, a change of the rule's restrictions can be sought and considered through the rule's modification process. For now, the final rule prohibits new road construction or reconstruction within any theme for post-rule oil and gas, and geothermal leasing. Surface use and occupancy would still be permitted in the BCR and GFRG themes so long as the LMP components do not expressly prohibit such activities.

*Comment:* Consultation with mining and energy interests. A respondent suggested the Agency should consult with State of Idaho agencies and

mining, energy, and geothermal industry representatives to assure the rule does not restrict or confuse development.

*Response:* The Department highlighted its desire for public comment concerning mineral and energy issues in the proposed rule. With regard to phosphates, as noted above, the Agency and State have coordinated with BLM, representatives of the affected industry, Tribal representatives, environmental groups, and other interested parties to identify the IRAs that possess resource values other than phosphate development and placed those areas in themes that would preclude future development. The Forest Service also worked with the BLM to ensure that both agencies understood the extent of phosphate development that would be permissible in IRAs.

*Comment:* Project-by project approach. One respondent recommended that decisions regarding mineral exploration and development should be made project-by-project rather than rule classifications for BCR and GFRG themes.

*Response:* A project-level approach would effectively be the same as the system examined in Alternative 2—Existing Plans, which is analyzed in detail in the draft and final EISs. The Department believes that the final rule (Alternative 4) presents a better approach blending local understanding of these regional interests along with national interest in roadless area management, minerals management, and energy security. Additionally, the modification provision set out in section 294.27 is available for adjustments as needed for individual projects.

#### Proposed Section 294.25 Timber Cutting, Sale, or Removal in Idaho Roadless Areas

*Summary of Changes in Proposed Section 294.25 (Final Rule Section 294.24).* Paragraph (a) has been reworded for clarity but retains the same limitations on timber cutting in WLR presented in the proposed rule. The proposed rule's use of significant risk in paragraph (b)(1)(ii) in the Primitive and SAHTS themes has been eliminated and has been revised with language that better describes a narrower exception focusing on protection for at-risk communities and municipal water supply systems from uncharacteristic wildland fire effects. As explained in the FEIS at section 3.3, Fuels Management, these fuel treatments are necessary to reduce potential direct and indirect effects of wildland fires to these communities. This aligns more closely

to the Department's, Forest Service's, and State's desire to provide protections similar or beyond those provided by the 2001 roadless rule without sacrificing necessary flexibility for the protection of critical community interests. Instead of splitting limitations on these activities across multiple paragraphs as in the proposed rule, section 294.24(b)(2) lists all limitations. The final rule also clarifies that when assessing whether actions maintain or improve roadless characteristics, responsible official's evaluations examine long term effects rather than only immediate consequences.

Several refinements have been made to the provisions concerning timber cutting in the BCR theme. The final rule includes new provisions in section 294.24(c)(1)(i–ii) to refine instances where timber cutting can be conducted to reduce hazardous fuel conditions. The rule now distinguishes between cutting for fuel reduction purposes inside and outside CPZs and requires additional protections and findings for actions taken outside a CPZ. The final rule clarifies that significant risk will be addressed in terms of landscape condition and fire event probability. Consistent with the concepts of the 2006 Cohesive Strategy, the regulation now identifies and defines the factors that go into that determination—history of fire occurrence along with fire hazard and risk. These adjustments parallel changes made in the road construction provision in the final rule discussed above.

The RACNAC and some respondents expressed concern regarding whether temporary roads should be constructed for facilitating forest health or other permissible timber cutting, sale, or removal activities in BCR theme areas. The Department agrees that new roads, even temporary roads, should not be developed to undertake these types of timber cutting activities because of their potential to diminish roadless characteristics. However, the final rule recognizes that with appropriate limitations, such as maximizing the retention of large trees, these activities could make use of roads that already exist and roads authorized under the various provisions of this rule (including temporary roads until decommissioned). By allowing the use of existing and permissible roads to support limited timber cutting activities, the ability to accomplish limited forest health objectives can be met without diminishing roadless characteristics over the long-term. Such roads would not be available to support further timber cutting operations once they are decommissioned. General instructions regarding temporary roads have been

added in a new paragraph (d) based on input from RACNAC and the public.

*Comment:* Limits on timber cutting. One respondent suggested limiting timber cutting, sale, or removal in the Primitive theme to only those timber activities that will improve one or more of the roadless characteristics. Several respondents suggested timber cutting should be limited in the Primitive theme to instances where it would improve one or more roadless characteristics and maintain the quality of game and fish habitat and recreation experience. Other respondents suggested that an exception be included for the Primitive theme allowing treatment for human health and safety near trails or other recreation sites. For the BCR theme, it was suggested the cutting, selling, or removing of timber be limited to where it will maintain all roadless characteristics or improve one or more of the roadless characteristics. Another respondent felt the rule should disclose the controversy over the use of logging as a fuels reduction method. Another felt that the proposed rule exceptions were ambiguous and that the DEIS underestimated potential effects. Other respondents wanted to know why language in the 2001 roadless rule concerning generally small diameter and the range of variability were not carried forward into the proposed rule. Similarly, other respondents asked for clarification about whether large diameter trees can be logged and consideration of a limitation to small diameter trees and/or an old-growth, large tree retention requirements.

*Response:* Based on these comments, the Department has elected to follow the approach used in the Healthy Forests Restoration Act (HFRA) with modifications recommended by the RACNAC. In the Primitive theme, timber cutting under the final rule would be prohibited unless existing roads or aerial systems are used and the cutting, selling, or removing of timber would: (1) Improve threatened, endangered, proposed, or sensitive species habitat; (2) maintain or restore ecosystem composition, structure, and processes; or (3) reduce the risk of uncharacteristic wildfire to at-risk communities and municipal water supply systems. Such cutting, selling, or removing of timber would also have to maintain or improve one or more of the roadless characteristics over the long-term. Some additional requirements for timber cutting were added, including: (1) Timber cutting, selling, or removing must be approved by the regional forester; (2) retention of large trees as appropriate for the forest type to the extent the trees promote fire-resilient

stands must be maximized; and (3) projects must be consistent with applicable plan components. With these limitations, timber cutting activities on these lands is expected to be limited and infrequent. The cutting of hazard trees near trails and recreation sites for human health and safety is allowed under section 294.24(b)(v) as it is incidental to a management activity not otherwise prohibited by this final rule.

For the BCR theme, the final rule modifies the proposed rule's timber cutting provisions (section 294.25(c)(1)(ii)) to be more specific about where and under what conditions timber cutting is permissible. The final rule identifies that timber cutting would only be allowed as follows: (1) To reduce hazardous fuel conditions within the CPZ; (2) to reduce the significant risk of wildland fire effects to an at-risk community or municipal water supply system outside the CPZ; (3) to improve threatened, endangered, proposed, or sensitive species habitat; (4) to maintain or restore the characteristics of ecosystem composition, structure, and process; (5) to reduce the risk of uncharacteristic wildland fire effects; (6) for personal or administrative use; (7) where incidental to implementation of a management activity not otherwise prohibited by this rule; or (8) in a substantially altered portion of an IRA.

Additional conditions were added for actions undertaken to reduce significant risk of wildland fire effects outside of a CPZ; to maintain or restore characteristics of ecosystem composition, structure, and process; and to reduce the risk of uncharacteristic wildland fire. These actions must also maintain or improve one or more of the roadless characteristics over the long-term; maximize the retention of large trees as appropriate for the forest type, to the extent the trees promote fire-resilient stands; are consistent with LMP components; and are approved by the regional forester.

The 2001 roadless rule used the phrase *generally small diameter*. The requirement to *retain large trees as appropriate for the forest type* replaces that terminology. This language was recommended by the RACNAC and has been part of the Agency's implementation of HFRA and the Agency believes the language will be better understood by field personnel. The new language reflects the site-specific flexibility needed to treat certain forest types in Idaho (e.g., lodgepole pine). A definition of *forest type* has been added in the final rule that is drawn from the definition of that term in the Dictionary of Ecology. The Agency will continue to emphasize the

use of stand thinning, strategic fuel breaks, and prescribed fire where possible to reduce the forest fuel loading. Similarly, the language "within the range of variability that would be expected to occur under natural disturbance regimes of the current climatic period" found in the 2001 roadless rule is not used in this rule because it does not easily account for species like lodgepole pine that routinely experiences stand replacement fires, and although it may not be outside of its natural disturbance regimes, it could pose a significant risk to at-risk communities.

*Comment:* Restrictions on logging methods. One respondent suggested that only selective logging by helicopter should be allowed in themes where timber cutting is allowed because it would allow for better quality wood without habitat destruction. Another respondent felt that the rule should clarify whether maintaining roadless character means that there will be no clear-cutting or seed tree harvest methods.

*Response:* The Department believes selection of logging methods to meet silvicultural treatment objectives is best left to project-specific decisionmaking. A general prohibition on particular harvest systems, like clear-cutting or seed tree harvest methods, could preclude necessary and otherwise permissible activities for treating areas. Some areas with low commercial value, like lodgepole pine stands, may be in need of treatment to protect local communities and municipal water supplies. Restricting logging methods would unnecessarily endanger these at-risk communities and municipal water supplies.

*Comment:* Timber cutting and vegetative treatments to improve roadless characteristics. Several respondents felt it was confusing to allow timber cutting under proposed section 294.25 if it will maintain or improve one or more of the roadless characteristics and suggested changing the standard to be an assurance that timber cutting does not degrade roadless character. One respondent suggested more rationale is needed before conducting vegetative treatments to reduce significant risks or for forest health activities in the Primitive and BCR themes. Other respondents felt language was needed that requires scientific documentation before activities for the maintenance and improvement of threatened, endangered, and sensitive species can be authorized in roadless areas.

*Response:* The final rule language has been modified and section

294.24(c)(2)(i) now provides that actions should maintain or improve roadless characteristics over the long-term. The final rule includes additional definitions and clarifications addressing when and where actions undertaken for maintaining or restoring the characteristics of ecosystem composition, structure, and processes; or *significant risk* situations may occur. Agency procedures already require responsible officials to identify the reasons for their decisions and the scientific and other source material relied upon for agency conclusions. Therefore, additional requirements are not necessary.

*Comment:* Wildland urban interface (WUI). Many respondents requested clarifications and definition concerning WUIs and communities. One respondent felt that a roadless area by definition is not part of the urban interface and should not be included in WUI areas. Some respondents suggested expanding the radius beyond one mile, while others suggested reducing the radius to 200 feet. Still others wanted more application of science when determining WUI boundaries.

*Response:* The proposed rule did not specifically use WUI as a condition for road construction or timber cutting. The proposed rule permitted road construction or reconstruction and timber cutting, sale, or removal in the BCR theme to reduce the significant risk of wildland fire effects. Significant risk was defined as "a natural resource condition threatening an at-risk community or municipal water supply system." WUI as defined by the HFRA includes an area within or adjacent to an at-risk community that is identified in a community wildfire protection plan (CWPP) or is based on default criteria if a CWPP does not exist. CWPPs are completed for all counties in Idaho.

Based on public comment and RACNAC recommendations, the timber cutting section was modified to be more precise about where and under what conditions timber cutting could be done. Timber cutting, sale, or removal could be done in the CPZ as described as an at-risk community in HFRA. The CPZ is an area extending one-half mile from the boundary of an at-risk community; or an area within one and a half miles of the boundary of an at-risk community, where any land (1) has a sustained steep slope that creates the potential for wildfire behavior endangering the at-risk community; (2) has a geographic feature that aids in creating an effective fire break, such as a road or a ridge top; or (3) is in condition class 3 as defined by HFRA meaning areas where fire regimes on

land have been significantly altered from historical ranges; there exists a high risk of losing key ecosystem components from fire; fire frequencies have departed from historical frequencies by multiple return intervals, resulting in dramatic changes to: (1) The size, frequency, intensity, or severity of fires; and (2) landscape patterns; and vegetation attributes have been significantly altered from the historical range of the attributes. The final rule's definition of an *at-risk community* comes from the HFRA.

*Comment:* Use of community wildfire protection plans (CWPPs). Several respondents raised concerns over the legality of using CWPPs in the rule to define the WUI because the development of a CWPP is not solely in the control of the Federal Government. Some felt the Proposed Rule's references to HFRA may unintentionally broaden forest fuels treatments in roadless areas beyond limited community protection needs. Others suggested adding language to cover any updates to the HFRA Interim Field Guide. They also noted the field guidance is not limited to community protection and includes municipal watersheds, ecosystem components, and forest/rangeland resources.

*Response:* CWPPs were not specifically referenced in the proposed rule. However, consideration of CWPPs was implied in provisions regarding timber cutting and road construction to reduce significant risk. The CWPPs were considered when developing the final rule as a way to define a geographic area for projects that reduce significant risks to communities and municipal water supply systems. However, this concept was not considered in detail because it is too difficult to define. Each CWPP is developed based on a variety of information, some more scientific than others; and a set distance may not work in many cases. While CWPPs can provide helpful information, they are not developed and controlled solely by the Federal Government, and can vary widely. In some instances, the county's CWPP indicates the entire county is a WUI including all IRAs within the county. Therefore, the Department decided that reliance exclusively on CWPPs was not appropriate. After consideration of public comments and the RACNAC's recommendation for allowing road building in certain circumstance described above, the Department has decided to use a combination of specific geographic criteria (the CPZs) and added requirements for the situations when road construction and reconstruction

could be used to facilitate timber cutting to reduce significant risk outside the CPZs. Responsible officials can consider information from CWPPs as in many instances they may be a useful tool for determining whether a significant risk situation exists.

*Comment:* Vegetation treatments in the BCR theme. One respondent suggested that documentation should be required for maintenance or improvement of habitat for threatened, endangered, proposed, indicator, and sensitive species. Another respondent recommended inclusion of aspen as a type of restoration project. One respondent felt that the rule should be more flexible in the BCR theme to allow for management treatments outside of WUI and municipal watersheds. Another respondent questioned if timber cutting activities in the BCR theme would maintain all roadless characteristics or improve one or more of the roadless characteristics.

*Response:* Agency planning procedures (i.e., NFMA, NEPA, ESA) already require analysis, documentation and disclosure of the scientific and other information relied upon for agency conclusions regarding wildlife habitat. Therefore, additional requirements are not necessary. Treatments in aspen stands are allowed as long as they conform to the requirements of the rule. For a discussion of activities outside of WUI, see the discussions above under significant risk and under *Summary of Changes in Proposed Section 294.25 (Final Rule Section 294.24)*. As a clarification, the final rule limits timber cutting in the BCR theme to situations that (1) maintain or improve one or more of the roadless characteristics over the long-term; (2) maximize the retention of large trees as appropriate for the forest type to the extent the trees promote fire-resilient stands; (3) are consistent with LMP components other than those inconsistent with this final rule; and (4) are approved by the regional forester.

*Comment:* Forest health activities. Some respondents were concerned over the possible abuse of this exception and thought the language should be struck from the rule. One respondent thought the two exceptions in proposed section 294.25(c)(1) should stand on their own and the reference to forest health should be removed. Others felt that a definition was needed for the term *forest health* and that further parameters should be included. Another respondent thought forest health projects should not be allowed in the BCR theme, making the proposed rule more like the 2001 roadless rule. One respondent felt forest

health should not be confined to the health of trees but other parts of the ecosystem.

*Response:* The final rule has been designed to address vital forest health needs. The final rule removes the proposed criteria that a road could be constructed "to facilitate forest health activities." The final rule does not include a definition for *forest health* because the term is not used. The BCR theme in the final rule does not permit road building for the purpose of conducting limited forest health activities. However, these limited forest health activities may proceed using other means, including the use of aerial systems and existing roads, including those temporary roads authorized by this rule until the road is decommissioned. This adjustment is intended to add a small degree of flexibility under special circumstances while maintaining essentially the same management regime for these lands as directed under the 2001 rule. The final rule does not impose restrictions on forest health activities for the betterment of the ecosystem beyond those expressly addressed by the regulation. For example, stream habitat improvements like willow planting for shade improvement are unaffected by the rule.

#### Proposed Section 294.26 Other Activities in Idaho Roadless Areas

*Summary of Changes in Proposed Section 294.26 (Final Rule Section 294.26).* The rule language concerning motorized travel, motorized equipment, and mechanical transport has been simplified with no change in intent. Along with other minor wording changes, the grazing provision now uses *permit* rather than *allotment*. The proposed and final rules both indicate that future grazing operations will conform to the rule, but that current operations are not affected. Standard Forest Service grazing permits have a maximum ten-year term. Allotment management planning occurs periodically and has no set term. The Department's intention for bringing future grazing operations into conformance with the rule classifications is more readily accomplished through the mandatory term permit system than through the optional allotment management planning system as not all operations are covered by an existing allotment management plan.

*Comment:* Public involvement during transportation planning. A respondent suggested the rule should require that any present or future roads analysis conducted in an Idaho roadless area

should be shared with county commissioners.

*Response:* The Governor's petition and final rule at section 294.26(a) identify that decisions concerning the future management and/or status of existing roads or trails in IRAs under this rule will be made during the applicable travel management processes. Forest Service responsible officials are already directed to coordinate with counties when engaged in travel management decisionmaking regarding designation or revision of NFS roads, trails, and areas on NFS land as directed in 36 CFR 212.53. No additional regulatory direction is needed.

*Comment:* Ski areas. A respondent suggested ski areas should be taken out of roadless area designations, including the Primitive theme. Several respondents felt ski areas should be moved into the Forest Plan Special Area (FPSA) designation. Another respondent requested a re-evaluation of the ski area permit boundaries in LMPs and the ski area master development plan to consider the actual ski use boundaries.

*Response:* The status and theme assignment for all ski areas was further evaluated based on public comment. Based on the review, it was determined that some existing LMP prescriptions did not match the authorized ski area permit boundary. In the proposed rule, not all the developed winter recreation sites had been placed into the FPSA category. In the final rule, all developed winter recreation sites, based on their permit boundaries are placed into FPSA. These areas would be managed according to the applicable LMP.

For example, the potential for future expansion of Brundage Mountain has been acknowledged in its master development plan, including approximately 7,000 acres in the Patrick Butte Roadless Area. The final rule identifies these lands as a FPSA and, as such, the lands will be managed in accordance with the local land management plan and standard administrative and environmental review processes for evaluation of ski areas will apply. The final rule is neutral regarding potential expansion, neither assuring nor barring the outcome of future decisionmaking.

Classifications for ski areas, or parts of ski areas, where only snowcat skiing is authorized were not adjusted as no rule related activities are associated with these uses.

#### Proposed Section 294.27 Scope and Applicability

##### *Summary of Changes in Proposed Section 294.27 (Final Rule Sections*

*294.27 and 294.28).* Several adjustments were made to the scope and applicability provisions set out in the proposed section 294.27. First, a new paragraph 294.28(a) was added to respond to requests that the rule clarify the relationship of this subpart to the 2001 roadless rule. Paragraph (a) of the final rule is intended to make clear that this rule supersedes the 2001 roadless rule. Therefore the 2001 roadless rule shall have no effect within the State of Idaho regardless of the legal uncertainties of the 2001 roadless rule because of pending litigation as noted above. The Department has reexamined management direction for these lands under various regimes, considering national and local interests, and determined that the final rule represents a balanced solution that best meets the needs of the American public for these lands. A clarification has been added about the relationship of this final rule and LMPs in section 294.28(d). A further clarification of the relationship between the rule and plans was made by adding paragraph 294.28(f) in the final rule that expressly states that the final rule is not intended to overwrite management direction applicable within FPSAs. Paragraphs 294.28(g) and (h) are added to expressly note that nothing in the rule waives any applicable requirements regarding site-specific environmental analysis, public involvement, consultation with Tribes and other agencies, or compliance with applicable laws; nor modifies the relationship between the United States and Indian Tribes. Finally, the corrections and modifications process has been simplified to improve readability and placed in a separate section (294.27).

*Comment:* Role of LMP components during implementation of the rule. Several respondents raised concerns that the proposed rule was silent on meeting LMP standards and guidelines or other interagency standards established to meet resource objectives, for example INFISH.

*Response:* The final rule (section 294.28(d)) makes it clear that applicable LMP components (desired conditions, objectives, suitability, guidelines, and standards) must be adhered to during the planning and implementation of a project. For example, in the GFRG theme, LMP components generally permit road construction. However, some components set sideboards or conditions for road construction (e.g., roads may not be constructed in riparian areas unless certain conditions are met or may not be constructed in grizzly bear habitat unless certain road densities are met). In particular LMPs

provide management direction to reduce or minimize adverse effects to threatened and endangered species. This direction is not inconsistent with the final rule. Therefore, these conditions would still apply to actions permissible under the final rule and if the project cannot comply with the plan requirements, the proposed project would have to be modified, abandoned, or the specific LMP component amended. There are some IRAs where the management theme direction established in the final rule would be more permissive than existing LMPs, for example allowing the use of a temporary road for fuels treatment within a CPZ while the existing LMP does not allow for roads in the area. In these few instances, the rule would override the plan's general allocation and road construction could be permitted. However, any such road building must still be consistent with all LMP direction that provides specific criteria for designing projects or activities. In the example above, the road must still meet requirements found in INFISH, PACFISH, southwest Idaho Group Forest-wide requirements, the Final Conservation Strategy for the Grizzly Bear in the Greater Yellowstone Area, the Northern Rockies Lynx Amendment, or other species-specific direction.

*Comment:* Administrative corrections and modifications. Several respondents felt that more clarity was needed on the procedures for boundary changes to the IRA maps identified in proposed section 294.21. Others requested further clarification regarding the proposed significance determination for modifications. Several respondents recommended public involvement no matter the magnitude of change even if the proposed change is perceived by the Agency to be non-significant or an administrative correction. In addition, respondents requested a 30-day public comment period before any change is made. One respondent expressed concern that the change clause would allow incremental erosion of IRA protections. A Tribal respondent felt that the change clause would result in the categorical exclusions of public input and Tribal government-to-government consultation. Other respondents felt that the revision of boundary lines for the themes and roadless areas should be made simpler.

*Response:* The Department identified the correction and modification process as an aspect of the proposed rule where public input was most desired. To improve readability, the final rule establishes a separate provision for corrections and modifications. Although there was widespread agreement that a

modification provision is needed, respondents sought clarifications regarding two particular points: the public comment process and the significance threshold for modifications.

The proposed rule identified that all changes, except correcting typographic or mapping errors, would be subject to an opportunity for public comment. The extent of public involvement was intended to vary depending on whether a proposed change was deemed a significant modification. Some respondents found the proposed rule's approach overly complicated or confusing. Several respondents, including the RACNAC, urged that an opportunity for public comment be provided for all changes. Therefore, the Department has simplified the process. The final rule directs the Chief to provide notice and comment for all changes, including corrections for typographic or mapping errors. Further, the significance test has been eliminated and the Agency will provide a 30-day comment period for corrections and a minimum 45-day comment period for all other modifications. Adjustments will comply with applicable administrative and environmental analysis requirements.

#### Proposed Section 294.28 List of Designated Idaho Roadless Areas

*Summary of Changes in Proposed Section 294.28 (Final Rule Section 294.29).* The final rule designations reflect adjustments to area boundaries and assigned classifications for specific IRAs based upon further review by Forest Service field units, the State, and in response to public comment since publication of the 2001 roadless rule. The FEIS Appendix A lists each adjustment and identifies the reason the change was made. These roadless areas are based on the most current inventory, found either in existing forest plans, proposed forest plans, or the 2001 roadless rule. In most cases, the boundaries from the three sources are the same.

Most of the Idaho's 2001 roadless rule roadless area boundaries were based on forest plan inventories completed in the mid-1980s. Most of these inventories were not updated for the 2001 roadless rule to reflect activities that had occurred in the 1990s. During LMP revisions since the 2001 roadless rule, national forests in Idaho updated their inventories. Some roadless areas have decreased in size from the inventories used by the 2001 roadless rule due to road construction and timber sales that occurred between the mid-1980 inventory and prior to the implementation of the 2001 roadless

rule. Other roadless areas increased in size due to lands gained through land exchanges or a new inventory during a LMP revision found more adjacent lands qualifying for consideration FSH 1909.12 Land Management Planning, Chapter 70 requirements. Additionally, some minor changes were made to correct mapping errors found since the 2001 roadless rule.

*Comment:* Several respondents raised concerns that the proposed theme designations for the proposed rule did not correctly reflect current LMP direction for the area. In addition, some respondents felt that too many acres are being placed in the GFRG theme.

*Response:* As previously noted, the GFRG theme was reduced by 203,700 acres (from 609,600 to 405,900 acres) in the final rule as described in FEIS, Appendices E and P. The Forest Service reviewed current LMP direction for each IRA. Based on public comment and Forest Service review, several changes were made to place some additional areas into the forest plan special area (FPSA) category as this category better reflects the management intent of the rule for these areas. They include small developed or designated dispersed sites on the Caribou-Targhee, Payette, and Sawtooth NFs, and the ski areas of Brundage Mountain discussed above. A change was also made to remove potential wild and scenic river corridors from the FPSA in the Idaho Panhandle NFs. Similarly, a change was made on the Challis NF where Management Areas 11 and 12 had been placed into the Primitive theme based on the interpretation of LMP direction. However, after further review by the Challis NF of the road construction or reconstruction activities that have occurred in these management areas, it was determined that the appropriate theme for these two areas is the BCR theme. More information on these changes can be found in Appendix E of the FEIS.

#### Regulatory Certifications

##### *Regulatory Planning and Review*

This final rule was reviewed under USDA procedures, Executive Order (E.O.) 12866 issued September 30, 1993, as amended by E.O. 13258 and E.O. 13422 on Regulatory Planning and Review and the major rule provisions of the Small Business Regulatory Enforcement and Fairness Act (5 U.S.C. 800). This final rule is not an economically significant rule. This final rule will not have an annual effect of \$100 million or more or adversely affect the economy or economic sectors. This final rule is not expected to interfere

with an action taken or planned by another agency, nor raise legal or policy issues. This final rule will not alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients of such programs. However, due to the level of interest in roadless area management, this final rule has been designated as significant and is therefore subject to Office of Management and Budget (OMB) review under E.O. 12866.

A regulatory impact analysis has been prepared for this final rule. OMB circulars as well as guidance regarding E.O. 12866 indicate that regulatory impact analysis should include a benefit cost analysis and an assessment of distributional effects. The benefits, costs, and distributional effects of four alternatives referred to as follows: 2001 Roadless Rule (2001 Rule), existing forest plans (Existing Plans), the Proposed Rule and the final rule are analyzed over a 15-year time period from 2008 to 2022. For the purpose of regulatory impact analysis, the 2001 Rule is assumed to be the no action alternative to represent baseline conditions or goods and services provided by national forests and grasslands in the near future in the absence of the final rule. The baseline assumption is consistent with no action alternative used in the final environmental impact statement for the final rule. The IMPLAN modeling framework is used to estimate the economic impacts of the regulatory action.

##### *Summary of the Results of Impact Analysis*

The regulatory impact analysis examines four alternatives establishing regulatory direction for the management of the 9.3 million acres of Idaho Roadless Areas (IRAs):

- (1) Direction based on the 2001 Roadless Area Conservation Rule (2001 Rule);
- (2) Direction based on existing land management plans for national forests in Idaho (Existing Plans);
- (3) Direction based on the proposed rule (Proposed Rule).
- (4) Direction based on this final rule (Final Rule).

The purpose of the Final (and Proposed) Rule is to provide State-specific direction for the conservation and management of Idaho's inventoried roadless areas. The Final Rule integrates local management concerns with the national objectives for protecting roadless area values and characteristics.

### The 2001 Rule

The 2001 Rule is the baseline alternative. The 2001 Rule alternative presents a roadless area management regime based on prohibitions with exceptions. This alternative prohibits road construction and reconstruction in roadless areas with exceptions. Timber cutting, sale, or removal, is prohibited with exceptions. Unless an exemption applied, road construction would not be allowed for discretionary (leasable and saleable) mineral activities.

### Existing Plans

The Existing Plans alternative represents an Idaho Roadless Area management regime based on each forest's land management plan (LMP). Generally, LMPs would allow timber cutting and road construction or reconstruction on 1.26 million acres of the 9.3 million acres of IRAs. Road construction and timber cutting would be allowed on an additional 4.48 million acres over the baseline. Permissions for mineral activity vary by each National Forest land management plan from limited to full development.

### Proposed Rule

The proposed Idaho Roadless Area Conservation Rule is programmatic in nature and consists of five management themes. The themes provide a management spectrum intended to meet the purpose of the rule. Depending on the theme, road construction or reconstruction, timber cutting, and discretionary mineral activities are allowed or prohibited with or without exceptions.

### Final Rule

The Final Rule refines and clarifies parts of the Proposed Rule based on comments received on the Proposed Rule from the public, Tribes, the State of Idaho, and recommendations from the RACNAC. The major modifications between the Proposed Rule and Final Rule include:

- The amount and type of roadless areas placed in the various themes.
- Clarifications on the permissions and restrictions associated with road construction and reconstruction and timber cutting, sale, or removal with fuel treatments in areas associated with at-risk communities and municipal water supplies.
- Restrictions on road construction in association with leasable minerals other than phosphate.
- The public comment requirements to make changes in the future.

For more information on the alternatives, see discussion under *Alternatives Considered by the*

*Department section in this preamble and FEIS Chapter 2 ([http://roadless.fs.fed.us/documents/idaho\\_roadless/feis/feis\\_vol\\_1.pdf](http://roadless.fs.fed.us/documents/idaho_roadless/feis/feis_vol_1.pdf)).*

The final rule establishes five management themes to clarify direction in IRAs in contrast to the single management strategy assigned to all IRAs under the 2001 Rule alternative. The five themes are Wild Land Recreation (WLR), Primitive, Special Areas of Heritage and Tribal Significance (SAHTS), Backcountry/Restoration (BCR), and General Forest, Rangeland, and Grassland (GFRG). In general, these themes vary according to the degree to which road construction, timber cutting, and discretionary minerals activity are prohibited in IRAs, with the WLR theme being the most restrictive and the GFRG theme being the least restrictive. Management direction under the 2001 Rule alternative is most similar to the BCR theme under the final rule. The final rule does not prescribe site-specific activities on the ground nor does it irreversibly commit resources. Direct effects of site-specific activities would be disclosed through NEPA project-level analysis when site-specific decisions are made. Table 1 compares roadless acres by theme, across alternatives.

Because the rule does not prescribe site-specific activities, it is difficult to quantify the benefits and costs of the alternatives. It should also be emphasized that the types of benefits derived from roadless characteristics and the uses of roadless areas are far ranging and include a number of non-market and non-use benefit categories. Consequently, benefits and costs are not monetized, nor are net present values or benefit cost ratios estimated. Instead, increases and/or losses in benefits are discussed separately for each resource area in a quantitative or qualitative way. Benefits and costs are organized and discussed in the context of *local resource concerns* and *roadless characteristics* to remain consistent with overall purpose of the rule, recognizing that benefits associated "with local concerns may trigger indirect benefits in roadless characteristics in some cases (such as, forest health)." Table 2 summarizes the potential benefits and costs of the final rule, the 2001 Rule, the Proposed Rule, and Existing Plans alternatives.

Distributional effects or economic impacts, in terms of jobs and labor income, are quantified for Idaho's five economic areas (EAs) using regional impact models (IMPLAN). Economic impacts are evaluated only for changes in activities directly affected by the rule (timber cutting, minerals extraction, and

road construction and reconstruction). Distributional effects are also discussed in relation to revenue sharing, small entities, and to the resource dependent communities (counties) most likely to be affected by the rule. Table 3 summarizes distributional effects and economic impacts of the final rule and alternatives. The precision of these estimates are unknown since a formal analysis of uncertainty has not been undertaken. Discussion of estimated economic impacts therefore focuses on the direction of change and the relative differences in impacts across alternatives, not absolute values of impacts.

Details about the environmental effects of the rule are in the Roadless Area Conservation; National Forest System Lands in Idaho Final Environmental Impact Statement (FEIS).

In general, projected activity levels associated with future road construction and timber cutting are anticipated to be greater for the final rule, relative to the 2001 Rule alternative baseline conditions. For example, the final rule projects an increase in road construction by 18 miles over the next 15 years. Reasonably foreseeable levels of activities such as road construction can be projected, but the effects of permitted activities on resource conditions or roadless characteristics are more difficult to predict. As a consequence, the agency is often limited to describing the extent to which particular resource conditions (e.g., highly sensitive soils) overlap with roadless areas where opportunities for activities (e.g., road construction) exist under the different alternatives. The actual extent of resource effects would be significantly smaller than the area of overlap because reasonably foreseeable activities are projected to occur on very small fractions of the total area where activities are permitted under the alternatives. In addition, other requirements to minimize or reduce adverse effects, such as management direction found in land management plans would apply.

### Local Resource Concerns

Local resource concerns include protecting communities, property, and resources from risk of wildland fire, as well as protecting forests from the adverse effects of wildfire, insects and disease, and ensuring access (see Table 2).

Projected levels of timber cutting for reducing hazardous fuels and/or reducing the risks from insects and disease in roadless areas over 15 years, are greatest under Existing Plans alternative (40,500 acres) followed by

the Proposed Rule alternative (18,000 acres), the final rule (15,000 acres), and the 2001 Rule alternative (9,000 acres). Projected timber cutting is estimated to generate approximately 3.0 million board feet (MMBF) per year for the 2001 Rule alternative, 13.36 MMBF per year for Existing Plans alternative, 5.8 MMBF per year for the Proposed Rule alternative, and 5.0 MMBF per year for the final rule and would account for 2 percent, 11 percent, 5 percent, and 4 percent respectively of the average annual harvests from NFS land in Idaho. A majority of the volume under the final rule is projected for the Idaho Panhandle National Forest (NF) in the northern EA.

Approximately 1.44 million acres in Idaho Roadless Areas (IRAs) are estimated to be at risk of 25 percent or more tree mortality (i.e., high risk) over the next 15 years. Under the 2001 Rule alternative, a majority of the high-risk areas would remain untreated. Under the final rule, opportunities for treatment increase as a result of acreage assigned to the GFRG and BCR themes. Approximately 39,600 of the 1.44 million acres at risk are in the GFRG under the final rule. An estimated 877,000 at-risk acres are in the BCR theme, of which 56,600 acres are in community protection zones (CPZs). The final rule specifies that road construction under the BCR theme is primarily limited to areas in CPZs (or areas determined to be at significant risk) with the intent of focusing treatment opportunities in those areas where reductions in wildfire to at-risk communities and/or community water supplies can be obtained. The areas at high risk of tree mortality that are located in the GFRG theme (39,600 acres) or in CPZs under the BCR theme (56,600 acres) therefore have the most potential to be treated under the final rule.

Compared to the final rule, the Proposed Rule alternative decreases the amount of high risk acreage assigned to the GFRG theme to 25,600 acres and increases high risk acreage assigned to the BCR theme to 939,400 acres. The areas identified in the GFRG theme would have the most potential to be treated given treatment flexibility. Timber cutting in the BCR theme would be limited and would be done to retain roadless characteristics. In contrast to the final rule, the Proposed Rule alternative does not specify that road construction is limited to CPZs or areas at significant risk under the BCR theme. Under the Existing Plans alternative, the high risk acreage assigned to the GFRG theme increases to 187,500 acres while 755,800 acres are assigned to BCR. The

Existing Plans alternative provides flexible opportunities to treat high risk acres through timber cutting on lands assigned to BCR and GFRG themes without constraints associated with roadless characteristic retention requirements under the Proposed and final rules.

Approximately 731,000 acres (8 percent) of IRAs are in the Wildland Urban Interface (WUI), and about 418,900 acres (57 percent) of those acres are in high priority fire risk areas as defined by fire regime and condition class. Projected harvests for hazardous fuel reductions could treat the equivalent of approximately 4 percent of high priority areas in the WUI under the Proposed and final rules over a 15 year period. In contrast, approximately 10 percent of high priority WUI areas could be treated under Existing Plans alternative. An insignificant amount of high priority WUI acreage would be treated under the 2001 Rule alternative. As noted above, the final rule is more prescriptive about where road construction is permitted in association with treatments compared to the Proposed Rule alternative, thereby clarifying the intent to focus projected treatments and tree-cutting in areas at high risk of wildland fire, including the WUI.

Opportunities to use a full range of treatment methods to address severe wildland fire risk, particularly in the WUI, are substantially greater under the Proposed and final rules relative to the 2001 Rule alternative. Treatment flexibility expands only slightly under the Proposed and final rules compared to the Existing Plans alternative. Approximately 66 percent of WUI acreage in IRAs is assigned to management themes that permit flexible treatment methods (mechanical or prescribed fire) with road construction under the final rule, compared to 67 percent under the Proposed Rule alternative, and 65 percent under the Existing Plans alternative.

Under the final rule, approximately 16 percent of community public water system acreage that overlaps roadless areas is assigned to themes that permit flexible treatments with road construction. Flexible treatments with road construction are conditionally permitted on an additional 42 percent of community public water systems acreage under the final rule when significant risk conditions are met; these areas are located primarily outside of CPZs. In contrast, flexible treatments with road construction are permitted on 58 percent and 47 percent of community public water systems areas under the

Proposed Rule and Existing Plans alternatives respectively.

There is some potential for spreading of noxious weeds under the Existing Plans alternative, with decreasing potential under the Proposed and final rules due to projected amounts of road construction or reconstruction, timber cutting, and mineral activity. However, the limited extent of projected activities would minimize the potential for spreading noxious weeds.

The environmental consequences associated with climate change have been considered in the context of carbon dioxide releases associated with projected activity levels and the varying capability to respond to climate change under the alternatives. Details about these consequences are provided in the vegetation and forest health section of chapter 3 in the final environmental impact statement (FEIS) for the final rule.

Phosphate mining activity on existing leases will be similar across the alternatives over the next 15 years. However, 13,190 acres of unleased IRAs with known phosphate reserves (593 million tons) will be made available for future leasing or lease expansion under the Proposed Rule alternative that would not be accessible under the 2001 Rule alternative. Areas of unleased reserves accessible under the final rule decrease to 5,770 acres (260 million tons) due to additional road construction prohibitions. Opportunities to recover phosphate from unleased areas are negligible under the 2001 Rule alternative. Unleased areas with known phosphate reserves accessible under the Existing Plans alternative are estimated to be 13,620 acres (613 million tons). Development of these areas is expected to occur over an extended period of time (50+ years).

There are negligible opportunities for geothermal development under the 2001 Rule alternative as well as the final rule due to road construction prohibitions. Geothermal opportunities increase under the Proposed Rule alternative where a total of 382,400 acres of land suitable for leasing (less than 40 percent) are assigned to the GFRG theme, though roadless acres (7,033 acres) under current lease applications would not be accessible using road construction. Under the Existing Plans alternative, opportunities increase to include a total of 3,091,900 acres under the BCR and GFRG themes. Roadless areas under current lease applications would be accessible under the Existing Plans alternative. All future phosphate and geothermal lease proposals are subject to NEPA review. There are currently no existing geothermal leases

on NFS lands in Idaho, implying that information is not available to project reasonably foreseeable geothermal activity in roadless areas.

The final rule is not expected to have a significant impact on other local resource issues or concerns including livestock grazing, saleable minerals, other leasable minerals (oil, gas, and coal), locatable minerals, energy corridors, or wind or biomass energy.

#### *Roadless Characteristics*

Roadless characteristics include: high quality soil, water (including drinking water), air; plant and animal diversity; habitat for sensitive species; reference landscapes and high scenic quality; primitive and semi-primitive recreation; cultural resources; and other locally identified unique characteristics (see Table 2). Shifts in the number of acres assigned to more permissive management themes can increase the potential for adverse effects to roadless characteristics. However, reasonably foreseeable effects in the next 15 years are likely to be limited by the levels of road construction or reconstruction, timber harvest, and leasable minerals activity that are projected to be reasonably foreseeable during that time.

Based on activity prohibitions and the relative acreage assigned to different management themes (e.g., GFRG), the final rule creates greater potential for reductions in scenic integrity compared to the 2001 Rule alternative but lower potential relative to the Proposed Rule and Existing Plans alternatives. Based on projected levels of timber harvest over the next 15 years, reasonably foreseeable reductions in scenic integrity from high to moderate levels are expected to occur on 15,000 acres under the final rule compared to 40,500 acres under the Existing Plans alternative and 18,000 acres under the Proposed Rule alternative. Reasonably foreseeable reductions in scenic integrity from high to low levels from long-term development (50+ years) of the Caribou-Targhee NF's unleased phosphate reserves are also lower under the final rule (5,770 acres) compared to the Proposed Rule alternative (13,190 acres) and the Existing Plans alternative (13,620 acres). Development within a half-mile buffer around long-term future phosphate activity could affect additional acres (e.g., estimated 812 acres under the final rule). Reductions in scenic integrity associated with development of existing phosphate leases are similar across the other three alternatives.

The final rule does not directly affect wilderness designations in the context of the National Wilderness Preservation

System, but the changes in activities permitted in IRAs under the final rule have the potential to affect visitor experience in adjacent wilderness and the degree to which IRAs are considered for future wilderness designation. The final rule and Proposed Rule alternatives significantly reduce GFRG theme acreage located adjacent to existing wilderness (9,400 GFRG acres) compared to the Existing Plans alternative (158,300 GFRG acres adjacent to wilderness); thereby limiting the potential for impacts on wilderness experience in adjacent areas. There would be little or no impact on wilderness experience under the 2001 Rule alternative.

Approximately 1,320,500 acres are recommended for wilderness under the Existing Plans alternative. There is no change or effect on recommended wilderness expected under the 2001 Rule alternative. Under the final rule, parts of three of the recommended wilderness areas would be managed under less protective themes (Primitive, BCR); however, eight areas would benefit from a net increase in protection under theme assignments under the final rule. Overall, a total of 1,479,700 acres would be managed under the WLR theme under the final rule, implying 159,200 acres of additional protection of wilderness-type characteristics. The Proposed Rule alternative also offers additional overall protection (1,378,000 acres assigned to the WLR theme) but to a lesser extent compared to the final rule. Parts of three recommended wilderness areas would be assigned to less protective themes with seven areas benefiting from a net increase in protection under the Proposed Rule alternative. No measurable differences in dispersed recreation opportunities are expected across alternatives. Losses in dispersed recreation associated with development of existing phosphate leases are equal for all alternatives over the next 15 years. Development of future leases may affect dispersed recreation associated with 13,620 and 13,190 acres under the Existing Plans and the Proposed Rule alternatives respectively. Potential impacts decrease to 5,770 acres under the final rule. Perceptions of remoteness and solitude may be affected in dispersed recreation areas where timber cutting and road construction occur under all alternatives, but effects are constrained by projected levels of these activities. No adverse effects to hunting and fishing are expected under the final rule with the exception of potential effects to opportunities in areas associated with development linked to phosphate leases.

Approximately 257,700 acres were reassigned from the GFRG theme to the BCR theme under the final rule to provide greater protection of big game habitat compared to the Proposed Rule alternative.

Opportunities for developed recreation are limited under the Proposed and final rule alternatives but increase to some extent under the Existing Plans alternative, though reasonably foreseeable development is minimal (there are no foreseeable developments planned). Opportunities for maintaining dispersed recreation opportunities are high under the 2001 Rule alternative with little potential for increases in developed recreation opportunities. The potential for shifts in recreational opportunity spectrum classes is slight across the alternatives due to relatively limited activity level projections and the focus on temporary roads that are not accessible for recreation. Concerns about access and designations for motorized versus non-motorized recreation were raised in comments during scoping; however, the final rule does not provide direction on where and when off-highway vehicle (OHV) use would be permissible and makes clear that travel planning-related actions should be addressed through travel management planning and individual forest plans.

Existing special use permits for outfitters and guides would be unaffected by the final rule. The potential for adverse effects to outfitter and guide opportunities are expected to be limited because the projected extent of activities or development would be relatively small and localized in any outfitter's area of operation. Likewise, existing permits for ski areas would not be affected by the final rule. There are no foreseeable ski area expansions or developments into roadless areas over the next 15 years for which an EIS does not already exist. Future ski area expansion into roadless areas with road construction would not be permitted under the 2001 Rule alternative. Under the Existing Plans alternative, ski area expansion or development could occur as permitted by the forest plan. Under the Proposed and final rules, existing ski areas with development and any additional development authorized in their master development plans are in the forest plan special area theme and the applicable land management plan direction would apply.

The overall effects of the 2001 Rule alternative on endangered, threatened, candidate, or sensitive species are expected to be beneficial, as are the effects derived from assigning roadless areas to the WLR, Primitive, and SAHTS

themes under the other alternatives. There is some potential for adverse effects from activities permitted under the BCR and GFRG themes, with relative risks being highest under the Existing Plans alternative and lowest under the final rule. Eleven threatened or candidate plant and 339 to 345 sensitive plant populations are known to occur in the BCR and GFRG themes under the Proposed Rule and Existing Plans alternatives. These populations decrease to six and 51 in the GFRG theme and in the CPZ areas within the BCR theme under the final rule. In general, foreseeable effects to sensitive populations and biodiversity are constrained by projected activity levels. No measurable changes in populations are expected across the alternatives; however, activities may impact individuals.

Road building associated with timber cutting will have a negligible effect on high hazard soils under all alternatives. Acres of high sensitivity soils assigned to themes where road construction is permitted decreases from approximately 2 million acres under the Existing Plans and Proposed Rule alternatives to 253,500 acres under the final rule. Land management plan direction that provides guidance on road construction across sensitive soils would apply across all alternatives. Road construction is conditionally permissible on 1,786,400 acres of high sensitivity soils under the final rule. Road construction is not permitted in areas that overlap with highly sensitive soils under the 2001 Rule alternative. Road building is likely to affect high hazard soils in areas associated with existing phosphate leases but effects are equivalent across alternatives. Similar effects associated with future leases are possible but not likely to occur within the next 15 years under the Proposed Rule and Existing Plans alternatives (future leases are not feasible under the 2001 Rule alternative).

Road construction and timber cutting under the 2001 Rule alternative, the Proposed Rule alternative, and the final rule are expected to have negligible effects on the water quality of 303(d)-listed (i.e., impaired water quality) streams and drinking water. Unleased known phosphate areas with potential for development over a period of 50 or more years under the Existing Plans alternative, the Proposed Rule alternative, and the final rule are estimated to overlap with three 303(d)-listed streams, one of which is impaired by selenium, and 640 acres of community water supplies (groundwater). Development of these areas could affect the listed water

bodies; however, mine development or expansion would be required to use a variety of environmental commitments and best management practices (BMPs) to reduce the potential for exceeding environmental standards for selenium. The EIS for the Smoky Canyon mine expansion predicts that water quality criteria will not be exceeded. Operators would also be required to monitor for selenium impacts and migration.

The final rule is expected to have negligible adverse effects on other resources associated with roadless characteristics including cultural resources, air quality, and non-timber products based on reasonably foreseeable activity projections. Any adverse impacts to these resources and services would be addressed through analysis conducted in accordance with NEPA and minimized through compliance with forest plan standards and guidelines.

#### *Agency Costs and Revenues*

Under all alternatives, road construction or reconstruction likely would not see an increase in the foreseeable future (next 15 years) because the appropriated road budget is expected to be flat or declining. Reasonably foreseeable changes in agency costs associated with roads are not likely to be significant under the Proposed or final rules relative to the Existing Plans alternative given the types of roads constructed (e.g., temporary, single-purpose, and/or built by the user) and relative levels of construction or reconstruction projected. None of the alternatives would restrict or limit road maintenance. Given the current backlog of road maintenance, there is no emphasis on constructing new roads that need to be maintained. New roads under the Proposed and final rules must be temporary unless certain exceptions are met. Many roads under the Existing Plans alternative are expected to be single-purpose, closed between uses, and/or temporary. As a result, road maintenance costs are not expected to be significantly different across alternatives.

Timber sales are often used as a least-cost method (revenue is returned to the Federal treasury to offset the costs of preparing and carrying out the timber harvest) of managing vegetation to meet resource objectives or to achieve desired ecosystem conditions. Net revenues associated with reasonably foreseeable volumes may increase under the Proposed and final rules relative to the 2001 Rule alternative, primarily for the Idaho Panhandle NF and the northern EA based on projected levels of timber

cutting, though changes in harvest are relatively small and may not result in significant changes to aggregate volumes from all NFS lands. Net revenue may decrease under the Proposed and final rules relative to the Existing Plans alternative.

Vegetation treatments for forest health or fuel reductions can be challenging in roadless areas because of the potential costs of accessing sites and implementing treatment practices in areas that are remote or otherwise dominated by roadless characteristics. Current trends in silvicultural practices often require thinning and other treatments with greater frequency, thus needing road access more often. Thinning to remove excessive forest fuels, before using prescribed fire, or to treat diseased or insect-infested stands is often economically feasible only if a road system is present. Allowing road construction for harvesting timber in the GFRG theme and to a limited degree in the BCR theme under the Proposed and final rules reduces the cost of using treatment methods that may contribute to forest health objectives. Fuel treatments are likely to be more expensive and less efficient to implement under the 2001 Rule alternative because road construction or reconstruction is prohibited, and mechanical treatments would generally occur near the limited number of existing roads.

Based on a qualitative comparison of relative treatment cost per acre, treatments in the WUI are potentially most costly per acre for the 2001 Rule alternative, followed by the Existing Plans alternative, the Proposed Rule alternative and final rule. Relative treatment costs per acre in areas with community public water systems ranked highest for the 2001 Rule alternative, followed by the Existing Plans and Proposed Rule alternatives. Relative costs under the final rule are expected to be similar to the Proposed Rule if all community public water systems are treated using a *significant risk determination*, thereby allowing greater treatment flexibility. Otherwise, final rule treatment costs are likely to fall between the 2001 Rule alternative and the Existing Plans alternative.

#### *Distributional Effects*

Distributional effects, as represented by changes in employment and income contributed under the final rule, are a function of projected levels of road construction, timber cutting, and discretionary minerals activity in roadless areas under the different alternatives. Employment and income impacts (Table 3) are quantified for

reasonably foreseeable levels of activities over the next 15 years.

Phosphate mining on existing leases is estimated to contribute the greatest number of jobs and income, but jobs from this sector are not projected to differ by alternative. Timber cutting is primarily responsible for differences in jobs and income across alternatives. Under baseline or no-action conditions, as represented by the 2001 Rule alternative, timber harvest and road construction are estimated to contribute 19 jobs per year. Projected harvest and accompanying road construction under the final rule is estimated to contribute an additional 15 jobs and \$371,900 in labor income per year, relative to baseline conditions. These contributions are expected to occur in the northern (Idaho Panhandle NF) and southeastern (Caribou/Targhee NF) EAs where current employment in agriculture, mining, and construction sectors is approximately 41,000 jobs in the northern EA and 32,000 jobs in the

southeastern EA, suggesting that distributional effects are relatively small or insignificant under the final rule. Employment and income are estimated to decrease by 53 jobs and \$1.49 million per year under the final rule compared to conditions expected under the Existing Plans alternative. Impacts relative to the Existing Plans alternative are likely to occur within the northern, southeastern, and central (Clearwater NF) EAs but are again expected to be relatively small compared to current employment levels in these economic areas. Employment and income decreases by only 5 jobs and \$134,500 per year under the final rule relative to the Proposed Rule alternative.

Timber-dependent counties where changes in harvest opportunities and corresponding jobs and income may have the most significant impact on local economies are identified by EA. Timber cutting or harvest opportunities increase or remain constant for all counties under the final rule compared

to the 2001 Rule alternative. When comparing the opportunities under the final rule to those of the Existing Plans alternative, nine counties are identified for the northern EA, while five such counties are located in the central EA, one of which is located in the State of Washington. One additional county is located in the southeastern EA.

Payments to counties are expected to remain the same under all alternatives as long as the Secure Rural Schools and Community Self-Determination Act (SRSA) remains in effect. Mineral-based payments to states are a function of receipts from leasable minerals, including receipts from phosphate operations, but no differences in phosphate production are projected across alternatives. Opportunities for mining-dependent counties (e.g., Caribou, Oneida, Power, and Bannock) are therefore expected to remain the same in the reasonably foreseeable future (15 years).

TABLE 1—COMPARISON OF ALTERNATIVES—THEMES

	2001 rule	Existing plans	Proposed rule	Final rule
<b>Idaho Roadless Rule and equivalent themes for the 2001 Rule and Existing Plans (acres)</b>				
WLR .....	0	1,320,500	1,378,000	1,479,700
Primitive .....	0	1,903,100	1,652,800	1,722,700
SAHTS .....	0	0	70,700	48,600
Similar to BCR * .....	9,304,300	0	0	0
BCR .....	0	4,482,000	5,258,700	5,312,900
GFRG .....	0	1,263,200	609,600	405,900
<b>Other lands (acres)**</b>				
FPSAs .....	0	334,500	334,500	334,500
Total Idaho Roadless Area Acres .....	9,304,300	9,304,300	9,304,300	9,304,300

\* The 2001 roadless rule is similar to the BCR theme for timber cutting, and discretionary mineral activities, except for the allowance for road construction or reconstruction to access phosphate deposits, and the allowance for road construction or reconstruction to facilitate timber cutting in specific situations.

\*\* The final rule would not apply to Forest Plan Special Areas (FPSA).

TABLE 2—COMPARISON OF BENEFITS AND COSTS

	2001 rule	Existing plans	Proposed rule	Final rule
<b>LOCAL RESOURCE CONCERNS</b>				
<b>Forest Health</b>				
Insects and disease .....	Most of the 1.44 million acres currently at risk of 25 percent mortality or significant growth loss (i.e., high-risk forests) would remain untreated. Projected treatments on 9,000 acres likely to be effective over 15 years.	Opportunities for treatment of high-risk forests: 187,500 acres of high-risk forests in GFRG; 755,800 acres in BCR. Projected treatments on 40,500 acres likely to be effective over 15 years.	Opportunities for treatment of high-risk forests: 25,600 acres in GFRG; 939,400 acres in BCR. Opportunities to treat GFRG. Opportunity for treatment in BCR if done for forest health or to reduce hazardous fuels. Projected treatments on 18,000 acres likely to be effective over 15 years.	Opportunities for treatment of high-risk forests: 39,600 acres in GFRG; 877,000 acres in BCR, of which 56,600 acres are in the CPZ. Opportunities to treat GFRG. Opportunity for treatment in BCR if done in the CPZ or to reduce significant risk of wildland fire effects to at-risk communities or municipal water supply systems. Projected treatments on 15,000 acres likely to be effective over 15 years.
Noxious weeds—Potential for noxious weed spread.	Spreading is unlikely given limited potential for soil disturbance. 42,250 acres of weeds currently in IRAs.	Some potential for spreading based on acreage assigned to GFRG (1.26 million acres); the limited degree of projected road construction, timber cutting, and mineral activity would minimize the potential for spreading. 5,170 acres of weeds currently in GFRG.	Some potential for spreading based on acreage assigned to GFRG (609,600 acres); the limited degree of projected construction, harvest, and mineral activity would minimize the potential for spreading. 2,750 acres of noxious weeds currently in GFRG.	Some potential for spreading based on acreage assigned to GFRG (405,900 acres); the limited degree of projected construction, harvest, and mineral activity would minimize the potential for spreading. 3,070 acres of noxious weeds currently in GFRG.
<b>Fuels Management</b>				
Ability to treat Wildland Urban Interface (WUI) and Community Public Water System (CPWS) areas.	Road construction not permitted in conjunction with treatments on 100 percent of the WUI or CPWS that overlap roadless areas. Treatments more expensive; insignificant acreage treated relative to acres at risk. Limited capacity to treat high-priority Condition class 2 and 3 areas. Projected harvests could treat 2 percent of high-priority areas (Fire Regimes I, II, and III; Condition class 2 and 3) within WUIs or less than half a percent of high-priority areas overall. Does not directly permit timber cutting to reduce risk of unwanted wildland fire.	Treatments (mechanical and prescribed fire) permitted on 89% of the WUI and 93% of CPWS. Treatments with road construction permitted on 65% of WUI and 47% of CPWS. Projected harvests could treat 10 percent of high-priority areas (Fire Regimes I, II, and III; Condition class 2 and 3) within WUIs or 1 percent of high-priority areas overall. May permit timber cutting to reduce risk of unwanted wildland fires. May permit fuel reduction to reduce wildland fire risks to municipal water supply systems.	Treatments (mechanical and prescribed fire) permitted on 89% of the WUI and 92% of CPWS. Treatments with road construction permitted on 67% of WUI and 58% of CPWS. Projected harvests could treat 4 percent of high-priority areas (Fire Regimes I, II and III, Condition class 2 and 3) within WUIs or less than half a percent of high-priority areas overall. Directly permits timber cutting to reduce risk of unwanted wildland fires in the Primitive, BCR, and GFRG themes. Permits fuel-reduction activities to reduce wildland fire risks to CPWSs in the Primitive, BCR, and GFRG themes.	Treatments (mechanical and prescribed fire) permitted on 87% of the WUI and 92% of CPWS. Treatments with road construction permitted on 66% of WUI and 16% of CPWS. Mechanical treatments with road construction are permitted in 42 percent of the CPWS areas only when the significant risk conditions are met. Projected harvests could treat 4 percent of high-priority areas (Fire Regimes I, II, and III; Condition class 2 and 3) within WUIs or less than half a percent of high-priority areas overall. Directly permits timber cutting to reduce significant risk of unwanted wildland fires in the BCR and generally permitted in GFRG themes. Permits fuel-reduction activities to reduce wildland fire risks to CPWS in the Primitive, BCR, and GFRG themes.

TABLE 2—COMPARISON OF BENEFITS AND COSTS—Continued

	2001 rule	Existing plans	Proposed rule	Final rule
Potential for increase in human-caused fire starts.	Prescribed burning is permitted in 100 percent of the WUI or to protect CPWS areas.			
	No increase .....	Potential for increase .....	No measurable increase ...	No measurable increase.
<b>Timber Cutting—Projected</b>				
Timber harvest (Acres over 15 years).	9,000 .....	40,500 .....	18,000 .....	15,000.
Harvest (MBF/year) <sup>1</sup> .....	3,000 (2% of annual avg.)	13,360 (11% of annual avg.).	5,840 (5% of annual avg.)	5,040 (4% of annual avg.).
<b>Roads—Projected (miles over 15 years)</b>				
Construction—Permanent	12 .....	72 .....	12 .....	12.
Construction—Temporary	3 .....	33 .....	26 .....	21.
Reconstruction .....	0 .....	75 .....	23 .....	17.
Total .....	15.0 .....	180 .....	61 .....	50.
Decommissioning .....	1.0 .....	3.2 .....	2.7 .....	2.4.
<b>Leasable Minerals</b>				
Geothermal development ..	No existing leases on NFS land. Trend data not available to project reasonably foreseeable activity. Current lease applications include 7,033 acres within roadless areas.			
	Negligible opportunities for development.	No opportunities on 38% of acreage. Development opportunities on 53% of BCR theme (2,354,100 suitable acres) and on 58% of GFRG theme (737,800 suitable acres) <sup>3</sup> . 7,033 under current lease applications accessible.	No opportunities on 93% of acreage. Development opportunities on 63% of GFRG theme (382,400 suitable acres) <sup>3</sup> . 7,033 under current lease applications would not be accessible.	Negligible opportunities for development.
Phosphate—Reasonably foreseeable output (short term within 15 years).	Projected output is equal (2,000,000 tons per year) across all alternatives because (i) none of the alternatives prohibit road construction and reconstruction associated with existing leases and (ii) existing leases are expected to meet demand in reasonably foreseeable future.			
Phosphate—Reasonable foreseeable development in roadless areas.	1,100 acres of road construction and mining disturbance proposed in Sage Creek and Meade Peak Roadless Areas; development over next 15 years.			
Phosphate—Additional acres under lease in roadless areas.	6,100 acres of remaining unmined phosphate currently under lease in seven roadless areas; development expected to be spread out over 50 or more years.			
Phosphate—Long term leasing of unleased phosphate deposits (50 or more years).	Opportunities to recover phosphate from IRAs are negligible.	Estimated 613 million tons of phosphate deposits from 13,620 unleased acres available for development. 1/2 mile buffer could affect additional 1,910 acres.	Estimated 593 million tons of phosphate deposits from 13,190 unleased acres available for development. 1/2 mile buffer could affect additional 1,850 acres. Road construction prohibited in WLR, SAHTS, Primitive, BCR theme acres.	Estimated 260 million tons of phosphate deposits from 5,770 unleased acres available for development. 1/2 mile buffer could affect additional 812 acres. Road construction prohibited in WLR, SAHTS, Primitive, BCR themes, and 910 acres of GFRG themes.
<b>Other Resource and Service Areas where Relative Impacts are Insignificant or Negligible</b>				
Livestock Grazing .....	Differences in activity, revenue, and operating costs are expected to be minimal across alternatives; existing processes will regulate management direction related to grazing (allotments and permitted use).			
Leasable Minerals: Oil, gas, and coal.	Differences in activity and revenue associated with oil, gas, and coal development are expected to be minimal based on existing trends and inventories.			
Locatable Minerals: Gold, silver, lead, etc.	None of the alternatives would affect rights of reasonable access to prospect and explore lands open to mineral entry and develop valid claims under the General Mining Law of 1872. Rights to reasonable access continue.			
Saleable minerals (sand, stone, gravel, pumice, etc.).	Differences in production of saleable minerals are projected to be minimal across alternatives because of the relative inefficiencies of providing saleable minerals from IRAs.			

TABLE 2—COMPARISON OF BENEFITS AND COSTS—Continued

	2001 rule	Existing plans	Proposed rule	Final rule
Energy corridors .....	None of the proposed corridors designated for oil, gas, and/or electricity under section 368 of the Energy Policy Act are within IRAs. Opportunities for non-section 368 corridors within IRAs are a function of the themes assigned to the areas proposed for corridor development; differences in opportunities across alternatives cannot be discerned.			
Wind and biomass energy	Low potential for wind energy in IRAs because of technological, logistical, and environmental issues associated with constructing wind turbines in the more mountainous roadless areas. Biomass energy could be a by-product from any alternative. It is unlikely that any medium- to large-scale wood biomass in roadless areas would be conducted independently.			
Road Construction allowed for CERCLA violations.	Road construction to address CERCLA violations is allowed in all alternatives.			

**ROADLESS CHARACTERISTICS**

**Physical Resources—Soils**

Acres of highly sensitive soils where road construction/ reconstruction is permitted (BCR and GFRG themes).	0 .....	2,049,300 .....	2,121,300 .....	253,500 (GFRG and BCR/CPZ).
Acres of highly sensitive soils where road construction is conditionally permissible.	0 .....	0 .....	0 .....	1,786,400.
Effects from road construction on high-hazard soils.	Land management plan direction that provides guidance on road construction on sensitive soils would apply across all alternatives; therefore although road construction could be permitted land management plans may provide design criteria to minimize effects, such as avoidance or mitigation practices. No or negligible effect from road building associated with timber cutting. Effects to soils are equal for road construction associated with phosphate mining over next 15 years. Effects to high-hazard soils from long-term future (50 or more years) phosphate leases are likely under the Existing Plans and the Proposed Rule, but limited risk under the Final and 2001 Rules.			

**Physical Resources—Water**

Effect of road construction, reconstruction, and timber harvest on listed streams and drinking water.	Negligible effect .....	Minimal effect .....	Negligible effect .....	Negligible effect.
Effect of mining on listed streams and drinking water.	Overlap with unleased phosphate in roadless areas: Three 303(d) streams (one in roadless areas due to selenium); 640 acres of community water supplies (groundwater); Possible effect on 303(d) streams from selenium—mitigation required at time of analysis.	Overlap with unleased phosphate in roadless areas: Three 303(d) streams (one in roadless areas due to selenium); 640 acres of community water supplies (groundwater); Possible effect on 303(d) streams from selenium—mitigation required at time of analysis.	Overlap with unleased phosphate in roadless areas: Three 303(d) streams (one in roadless areas due to selenium); 640 acres of community water supplies (groundwater); Possible effect on 303(d) streams from selenium—mitigation required at time of analysis.	Overlap with unleased phosphate in roadless areas: Three 303(d) streams (one in roadless areas due to selenium); 640 acres of community water supplies (groundwater); Possible effect on 303(d) streams from selenium—mitigation required at time of analysis.
Selenium Mitigation .....	Mine development or expansion would use a variety of environmental commitments and Best Management Practices to reduce the potential for selenium mobilization and migration from the mine site. Operators required to monitor impacts on water, soils, vegetation, wildlife, and fisheries. Analysis for preferred alternative for Smoky Canyon predicts that groundwater quality protection standards or surface water quality standards would not be exceeded.			

**Sensitive Species and Biodiversity**

Effects on terrestrial and aquatic animal species or habitat.	Projected activities may impact individuals, but no measurable change in populations is expected. Projects and development would be subject to NEPA and other regulatory requirements related to monitoring and mitigation for sensitive species.			
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TABLE 2—COMPARISON OF BENEFITS AND COSTS—Continued

	2001 rule	Existing plans	Proposed rule	Final rule
Effects on biodiversity of botanical species.	Beneficial .....	Beneficial in WLR, Primitive, or SAHTS; some potential risk of adverse effects in management prescriptions similar to BCR and GFRG.	Beneficial in WLR, Primitive, or SAHTS; limited potential risk of adverse effects for activities occurring in BCR; some potential risk in GFRG, but less than Existing Plans.	Beneficial in WLR, Primitive, or SAHTS, BCR outside CPZ; limited potential risk of adverse effects for activities occurring in BCR CPZ; some potential risk in GFRG, but less than Existing Plans or the Proposed Rule.
	Beneficial .....	Beneficial in WLR, Primitive, or SAHTS. Some potential risk of adverse effects for activities conducted in the GFRG and BCR themes.	Beneficial in WLR, Primitive, or SAHTS. Some potential risk of adverse effects for activities conducted in the GFRG and BCR themes, but less than Existing Plans.	Beneficial in WLR, Primitive, or SAHTS, BCR outside CPZ. Some potential risk of adverse effects for activities conducted in GFRG and BCR CPZ but less than Existing Plans or the Proposed Rule.
Number of occurrences of known threatened and candidate plant populations, by theme				
WLR/Primitive/SAHTS .....	0 .....	0 .....	0 .....	0.
BCR .....	16 .....	9 .....	9 .....	11 (6 in BCR CPZ).
GFRG .....	0 .....	2 .....	2 .....	0.
Forest Plan Special Areas	0 .....	5 .....	5 .....	5.
Number of occurrences of known sensitive plant populations, by theme				
WLR .....	0 .....	81 .....	90 .....	102.
Primitive/SAHTS .....	0 .....	97 .....	82 .....	100.
BCR .....	686 .....	284 .....	336 .....	312 (46 in BCR CPZ).
GFRG .....	0 .....	55 .....	9 .....	3.
Forest Plan Special Areas	0 .....	169 .....	169 .....	169.
<b>Scenic Integrity</b>				
Potential for change in scenic integrity—based on activity projections				
Acres that stay in High to Very High scenic integrity.	9,228,000 .....	9,242,980 .....	9,234,740 .....	9,276,230.
Acres likely to change to High or Moderate scenic integrity from timber cutting or road construction or reconstruction.	9,000 .....	40,500 .....	18,000 .....	15,000.
Acres likely to change from High to Low due to development of existing phosphate leases.	7,200 acres associated with development of existing phosphate mining leases under all alternatives.			
Acres likely to change to Moderate or Low scenic integrity from phosphate mining over long-term (50 or more years).	0 .....	13,620 .....	13,190 .....	5,770.
<b>Recreation</b>				
Dispersed Recreation (including Hunting and Fishing).	Feeling of solitude or remoteness may change in areas where projected road construction and timber cutting occur (see above for projected activity levels, by alternative).			
	No measurable change to dispersed recreation opportunities.	No measurable change to dispersed recreation opportunities, except if unleased phosphate deposits (13,620 acres) are developed.	No measurable change to dispersed recreation opportunities, except if unleased phosphate deposits (13,190 acres) are developed.	No measurable change to dispersed recreation opportunities, except if unleased phosphate deposits (5,770 acres) are developed.

TABLE 2—COMPARISON OF BENEFITS AND COSTS—Continued

	2001 rule	Existing plans	Proposed rule	Final rule
Developed recreation—ability to construct or reconstruct roads to access new or expanded developed recreation areas.	There are no foreseeable developments under any of the alternatives.			
	No road construction/reconstruction permitted to access new developed recreation sites (9.3 million acres).	Road construction/reconstruction generally permitted to access new developed recreation sites in management prescriptions similar to BCR and GFRG (5.7 million acres).	Road construction/reconstruction permitted to access new developed recreation sites management in GFRG (0.6 million acres).	Road construction/reconstruction permitted to access new developed recreation sites management in GFRG (0.4 million acres).
Recreation Opportunities <sup>2</sup>	In general, the magnitude of shifts in recreational opportunity spectrum classes is slight across the alternatives because: (i) differences in road construction is minimal, and (ii) many constructed roads are likely to be temporary and not accessible for recreation purposes. As a consequence, changes in dispersed compared to developed recreation opportunities are small across alternatives. Relative differences include the following:			
	Relatively high potential for maintaining existing dispersed recreation opportunities; little potential for increasing developed recreation.	Greatest opportunity for developed and road-based recreation to occur and expand, but magnitude of shift is tempered by limited amount of construction projected to occur.	High level of protection for dispersed recreation, foreseeable threats from construction and development are remote.	High level of protection for dispersed recreation, foreseeable threats from construction and development are remote.
Special uses—Ski areas ...	Existing permits are unaffected. No foreseeable ski area expansions or developments into IRAs over next 15 years.			
	Expansion or development with roads not permitted.	Expansion or development as permitted by the forest plan.	Existing ski areas with development and any additional development authorized in their master development plans are in FPSA theme and the rule does not apply.	
Special uses—Outfitters and Guides.	Existing permits are unaffected. None of the alternatives directly affect the processing or administration of special use permits. Potential for adverse effects is limited because projected levels of activity would be relatively small and localized within any outfitter's area of operation. Recreational experience may change in some areas where activities occur, but outfitter and guide services are not expected to be affected due to the dispersed nature of the activities.			
Hunting and fishing .....	No effect on opportunities	Opportunities could be affected in locations of phosphate leasing and geothermal development. No effect from timber cutting and limited road construction.	Opportunities could be affected in locations of phosphate leasing and geothermal development. No effect from timber cutting and limited road construction.	Opportunities could be affected in locations of phosphate leasing. No effect from geothermal development. No effect from timber cutting and limited road construction. Additional protections provided to 257,700 acres moved from GFRG to BCR because of big game habitat.
<b>Wilderness</b>				
Existing wilderness areas (1,723,300 acres of IRAs adjacent to existing wilderness).	Limited to no indirect effects to wilderness from activities in roadless areas.	158,300 acres of GFRG adjacent to wilderness; 841,900 acres of BCR. Limited potential for impacts to wilderness experience.	9,400 acres of GFRG adjacent to wilderness; 951,000 acres of BCR. Limited potential for impacts on wilderness experience.	9,400 acres of GFRG adjacent to wilderness; 951,000 acres of BCR. Limited potential for impacts on wilderness experience.

TABLE 2—COMPARISON OF BENEFITS AND COSTS—Continued

	2001 rule	Existing plans	Proposed rule	Final rule
Recommended wilderness	No change or effect on recommended wilderness in Existing Plans.	Existing Plans recommend 1,320,500 as wilderness.	No change to recommendations in Existing Plans. 1,378,000 acres in WLR, implying 57,500 acres of additional protection over existing plans. Seven recommended wilderness areas benefit from increased protection on a total of 93,100 acres. Net decreases in protection occur in three areas (total of 35,600 acres).	No change to recommendations in Existing Plans. 1,479,700 acres in WLR, implying 159,200 acres of additional protection over Existing Plans. Eight recommended wilderness areas benefit from increased protection on a total of 172,200 acres. Net decreases in protection occur in three areas (total of 13,000 acres).
Roadless area characteristics associated with wilderness.	Majority of roadless areas retain their existing character.	Areas developed could have reduced roadless area character. Activities in GFRG may not change roadless character if prior activities are still evident.		
	Based on projections, 99.9 percent unaffected over the next 15 years.	Based on projections, 99.55% of roadless areas unaffected over the next 15 years.	Based on projections, 99.9% of roadless areas unaffected over the next 15 years.	Based on projections, 99.9% of roadless areas unaffected over the next 15 years.

**Other Resource and Service Areas where Relative Impacts are Negligible or Minimal**

Non-timber products .....	Current access for the harvest of non-timber products is not expected to change under the Proposed and Final Rules. Assignment of roadless acres to themes that restrict road construction may limit access opportunities for some individuals, but construction may also reduce availability of some species.			
Cultural resources .....	Prior to management actions taking place on the ground under any alternative or theme, cultural resource inventories and appropriate mitigation are required by law. Differences in risk to cultural resources are not expected to be measurable across alternatives because of projected levels of road construction and long-term use and fate of new roads. There is low potential for disturbance/vandalism under all alternatives with the exception of low to moderate potential under Existing Plans.			
Air Quality .....	Negligible effects on air quality from fuel reduction projects are expected; subject to strict guidelines for minimizing impacts.			

**AGENCY COSTS AND REVENUES**

Roads .....	Reasonably foreseeable changes in agency costs associated with roads (administration, construction, maintenance) are not likely to be significant under the Proposed or Final Rules relative to the 2001 Rule given the types of roads constructed (e.g., temporary, single-purpose, and/or built by the user), relative levels of construction or reconstruction projected, and flat budget expectations.			
Timber and Vegetation/ Fuel Treatments.	Accessing sites and implementing treatments in remote areas, dominated by roadless characteristics can be costly. Revenue from timber sales are often used to offset the costs of treatments. There is slight potential for gains in net revenues for some forest units (e.g., Idaho Panhandle) under the Final and Proposed Rules, as well as Existing Plans, relative to the 2001 Rule, but projected changes in harvest are relatively small and may not result in significant changes to aggregate volumes from all forest system lands.			
	Highest cost per acre and less efficient treatments due to road construction prohibitions.	Second highest cost per acre for treatments in the WUI and community public water system (CPWS) areas.	Lowest cost per acre for treatments in the WUI and CPWS areas (and equal to the Final Rule in the WUI).	Lowest cost per acre for treatments in the WUI (and equal to the Proposed Rule). Lowest cost per acre for treatments in CPWS areas if using significant risk determination for CPWS; otherwise, cost per acre is second highest for CPWS areas.

<sup>1</sup> Percentage of average harvest on all NF land within Idaho that occurred between 2002 and 2006. Harvest primarily attributable to stewardship and treatments for forest health and fuels management.

<sup>2</sup> The alternatives do not provide direction on where and when OHV use would be permissible.

<sup>3</sup> Suitability based on areas with acceptable slopes for leasing (<40% slope).

CPZ = Community Protection Zone

CPWS = Community Public Water System

GFRG = General Forest, Rangeland, and Grassland theme

NF = National Forest

SAHTS = Special Areas of Historical and Tribal Significance theme

WUI = Wildland Urban Interface

TABLE 3—SUMMARY OF DISTRIBUTIONAL EFFECTS AND ECONOMIC IMPACTS

	2001 rule	Existing plans	Proposed rule	Final rule
<b>Timber Cutting</b>				
Jobs per year (1) .....	17 .....	75 .....	35 .....	30.
Labor income per year (1) .....	\$452,700 .....	\$1,902,800 .....	\$849,600 .....	\$741,900.
Location of jobs: BEA Economic Areas (EA).	Northern EA (Idaho Panhandle NF).	Northern (Idaho Panhandle), Southeastern (Caribou/Targhee NF), and Central (Clearwater and Nez Perce NF) EAs.	Northern (Idaho Panhandle), and Southeastern (Caribou/Targhee NF) EAs.	Northern (Idaho Panhandle), and Southeastern (Caribou/Targhee NF) EA.
<b>Leasable Minerals: Phosphate</b>				
Jobs and labor income per year (1).	No changes in jobs (582/year) or labor income (\$23.5 million) contributed by phosphate on existing leases within IRAs, due to the fact that none of the alternatives affect existing leases. No new leases in roadless areas likely to be feasible.			
		Jobs and income from new leases on unleased phosphate reserves within IRAs in the southeastern EA are expected to occur in the future over an extended period of time (50 or more years).		
<b>Road Construction</b>				
Jobs per year (1) .....	2 .....	12 .....	4 .....	4.
Labor income per year (1) .....	\$52,900 .....	\$462,500 .....	\$162,400 .....	\$135,600.
Location of jobs: BEA Economic Areas (EA).	Northern and Southeastern EAs.	Northern, Southeastern, and Central EAs.	Northern and Southeastern EAs.	Northern and Southeastern EAs.
<b>Revenue Sharing and Resource-Dependent Counties</b>				
Resource-dependent counties where potential opportunities decrease.	Opportunities increase for all timber-dependent counties under the Final or Proposed Rule relative to the 2001 Rule. Opportunities for mining-dependent counties (e.g., Caribou, Oneida, Power, and Bannock) remain the same based on reasonably foreseeable phosphate output (over next 15 years) that remains constant across alternatives. Potential opportunities decrease for the following timber-dependent counties under the Final and Proposed Rule relative to Existing Plans (2): Northern EA: Boundary, Bonner, Kootenai, Benewah, Latah, Ferry (WA), Pend Oreille (WA), Shoshone, and Stevens (WA). Central EA: Clearwater, Idaho, Lewis, Nez Perce, and Asotin (WA). Southeastern EA: Bear Lake.			
Revenue sharing .....	Payments to counties are expected to remain the same under all alternatives as long as the Secure Rural Schools and Community Self-Determination Act remains in effect. Mineral-based payments to states are a function of leasable receipts, but no differences in phosphate production are projected across alternatives over the next 15 years.			
Adverse impacts to small entities.	Greatest potential given prohibitions in roadless areas; most protective of sectors that benefit from resource conditions associated with roadless areas.	Least potential given fewest prohibitions and theme assignments; least protective of sectors that benefit from resource conditions associated with roadless areas.	Limited potential for losses of small entity opportunities. Opportunity losses are not expected to result in significant adverse economic impacts and/or affect substantial numbers of small entities, including recreational special use permit holders that may benefit from resource conditions associated with roadless characteristics.	

(1) Jobs and income contributed annually (2007\$). Based on projected levels of timber harvest, road construction, and phosphate mining output per year, conversion of physical output to final demand (\$) and application of regional economic multipliers.

(2) Counties where 10% of total labor income is attributable to timber-related sectors and that are located in economic areas (EAs) where there is a significant net decrease in acreage assigned to the GFRG theme.

*Proper Consideration of Small Entities*

This final rule has also been considered in light of E.O. 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.). The Forest Service with the assistance of the State of Idaho has determined that this action will not have a significant economic impact on a substantial number of small entities as defined by the E.O. 13272 and SBREFA,

because the final rule does not subject small entities to regulatory requirements. Therefore, a regulatory flexibility analysis is not required for this final rule.

For many activities and/or program areas, small entity opportunities under the final rule are projected to increase, relative to the 2001 Rule alternative (i.e., baseline or no-action alternative) as a result of (1) easing of restrictions on selected activities under the BCR management theme under the final rule, and (2) adopting the less-restrictive GFRG theme for some roadless acres

under the final rule. There is some potential for reasonably foreseeable decreases in small entity opportunities to occur for special uses (recreation—outfitters and guides) under the final rule, relative to the 2001 Rule alternative. When comparing the impacts to entities associated with wood products, the number of jobs under the final rule are projected to increase relative to the 2001 Rule, though the magnitude of this increase is less than corresponding increases projected to occur under existing plans or the Proposed Rule. None of these

opportunity losses are expected to result in significant economic impacts and/or affect a substantial number of small entities.

Jobs and income related to timber harvest are projected to increase under the final rule relative to the 2001 Rule for all EAs, in large part, because prohibitions on road construction and timber cutting are eased under the GFRG theme and some areas under the BCR theme (e.g., CPZs). In contrast, jobs and income decrease under the final rule, relative to the Existing Plans alternative primarily for the northern and central EAs, implying potential decreases in small entity opportunities associated with timber harvest (opportunities are not expected to decrease significantly in other EAs). However, the decrease in jobs associated with timber cutting in roadless areas under the final rule is only 45 jobs relative to the Existing Plans alternative. This number of jobs is relatively small (less than 1%) when compared to 4,581 workers employed by small business establishments within the forestry/logging/sawmill sectors in Idaho. The decreases in timber harvest projected under the final rule for these EAs are representative of volumes from roadless acres only, and it should be noted that recent harvests from IRAs, as represented by projected harvests under the 2001 Rule alternative have been equal to or less than the volumes projected under the final rule. As a consequence, reasonably foreseeable opportunities for timber harvest from roadless areas under the final rule are projected to be equal to or larger than timber volumes harvested from IRAs in recent years or volumes projected under the 2001 Rule alternative. Timber sales to small businesses are currently exceeding established small business shares in all forest units within the northern and central EAs, with the exception of the Kanisku portion of the Idaho Panhandle NF. This suggests that economic impacts to small businesses in the wood product sectors are not expected to be significant nor are a substantial number of small businesses likely to be adversely affected under the final rule.

In the context of special use permits for recreation (320 outfitter and guide permits are associated with Idaho's NFs, as of fall 2006), none of the four alternatives address the processing or administration of special use permits directly. All decisions regarding existing and future special use permits will be project-specific and require compliance with all environmental regulations. Relative to the 2001 Rule alternative, increases in timber harvest

opportunities projected for roadless areas under the final rule suggest the potential for losses in desirable resource conditions and corresponding decreases in small business opportunities for outfitters and guides for the southeastern EA. However, the magnitude of these decreases is expected to be small given minimal overlap between existing permit locations and the location of projected harvests on IRAs, as well as the relatively small percentage of roadless areas projected to be affected by timber cutting (less than 0.01% of roadless area per year) within the southeastern EA. Economic impacts to small businesses are therefore not expected to be significant in this EA. Similar effects in the northern EA (approximately 0.02% of roadless areas affected by timber cutting per year) are also not expected to result in significant economic impacts, nor affect a substantial number of small businesses (22 of the 320 outfitter and guide permits are associated with the Idaho Panhandle NF in the northern EA).

Reasonably foreseeable opportunities for small businesses linked to phosphate mining over the next 15 years are expected to remain the same across all alternatives because projected phosphate output from existing leases is not projected to vary across alternatives. In the long-term, a greater number of acres associated with unleased known phosphate reserves would be made accessible under the final rule, relative to the 2001 Rule, implying greater opportunities for small businesses. Unleased phosphate acreage accessible under the Existing Plans alternative (13,620 acres) and the Proposed Rule alternative (13,190 acres) is greater than corresponding acreage under the final rule (5,770 acres), but the impacts of these differences are expected to occur over a period of 50 years or more. It is also noted that none of the companies currently operating phosphate mines in Idaho can be classified as small businesses. Adverse economic impacts are therefore not expected to occur to small entities associated with phosphate mining in the reasonably foreseeable future.

There are no changes in small business opportunities under the final rule compared to the 2001 Rule alternative because opportunities for geothermal development are negligible under both alternatives due to prohibitions on road construction for this purpose. Under the Existing Plans and Proposed Rule alternatives, road construction associated with geothermal development is permitted primarily in acres assigned to the GFRG theme.

Given the stated permission for road construction for geothermal development under the Existing Plans and Proposed Rule alternatives, and the corresponding prohibition of road construction for geothermal purposes under the final rule, there is some potential for decreases in opportunities for geothermal development under the final rule. However, the absence of existing geothermal leases on NFS land in Idaho, combined with evidence that 11 of 14 pending or authorized geothermal leases on BLM land in Idaho are held by a company that cannot be considered a small business per the definitions set forth by the Small Business Administration, suggests that these opportunity losses will not result in significant economic impacts nor affect a substantial number of small businesses in the reasonably foreseeable future.

Decreases in small entity opportunities under the final rule are expected to be minimal or negligible for other sectors, including construction (*i.e.*, roads), saleable minerals, oil and gas, livestock, non-forest timber products, ski areas, and other special uses (energy corridors).

Thirty eight of Idaho's 44 counties are considered small with population size of less than 50,000. Thirty five of these small counties are considered rural and are natural resource-dependent counties. Opportunities increase for all timber-dependent counties under the final rule or Proposed Rule alternative relative to the 2001 Rule alternative. Opportunities for mining-dependent counties (e.g., Caribou, Oneida, Power, and Bannock) remain the same based on reasonably foreseeable phosphate output (over the next 15 years) that remains constant across alternatives. When comparing the final rule or the Proposed Rule alternative relative to the Existing Plans alternative, potential opportunities may be decreased for the following timber-dependent counties: *Northern EA*: Boundary, Bonner, Kootenai, Benewah, Latah, Ferry (WA), Pend Oreille (WA), Shoshone, and Stevens (WA); *Central EA*: Clearwater, Idaho, Lewis, Nez Perce, and Asotin (WA); and *Southeastern EA*: Bear Lake.

Revenue sharing with counties (*i.e.*, secure payments to counties, payments in lieu of taxes) is expected to remain the same under all alternatives as long as the Secure Rural School and Community Self-Determination Act (SRSA) remains in effect. Counties that may experience losses in funding associated with 25% revenue-sharing, in the event that SRSA is not reauthorized, are those counties that share land with national forests where revenue-

generating opportunities potentially decrease. These counties may include timber-dependent counties in the northern and central EAs when comparing the final rule to the Existing Plans or Proposed Rule alternatives. However, reasonably foreseeable levels of revenue-sharing from timber harvest from roadless areas under the final rule are expected to be equal to or larger than revenue shares derived from harvest projected to occur under the 2001 Rule or volumes harvested from roadless areas in recent years. Revenue-sharing opportunities increase or remain the same for all counties under the final rule compared to the 2001 Rule, indicating that the final rule is not expected to have a significant adverse economic impact on small government entities. Mineral-based payments to states are a function of receipts from leasable minerals, including receipts from phosphate operations, but no differences in phosphate production are projected across alternatives. Opportunities for mining-dependent counties (e.g., Caribou, Oneida, Power, and Bannock) are therefore expected to remain the same in the reasonably foreseeable future (15 years).

Mitigation measures for small entity impacts associated with the final rule are not relevant in many cases, because the final rule eases restrictions on a number of activities in many areas, implying increases in potential opportunities for small entities, as noted above. Mitigation measures associated with existing programs and laws regarding revenue sharing with counties and small business shares or set-asides will continue to apply (e.g., SRSA).

#### *Environmental Impact*

The Agency has prepared a FEIS in concert with this rule. In it, the direct, indirect, and cumulative effects of the final rule and alternatives are disclosed. The FEIS may be viewed at <http://www.roadless.fs.fed.us/idaho>.

The Agency has prepared a biological assessment on the potential effects of the final rule on threatened, endangered, and proposed species and formally consulted with the FWS and NOAA. The biological opinions can be found at <http://roadless.fs.fed.us/idaho.shtml> and effects are discussed in the FEIS at sections 3.7 Botanical Resources, 3.8 Aquatic Species, and 3.9 Terrestrial Animal Habitat and Species.

#### *Energy Effects*

This final rule has been reviewed under E.O. 13211 of May 18, 2001, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. It has been

determined that this final rule does not constitute a significant energy action as defined in the Executive order.

As explained in greater detail in the FEIS, this final rule is not expected to significantly affect energy supplies, distribution, or use. The final rule does not disturb existing access or mineral rights, restrictions on saleable mineral materials are narrow, and no oil and gas leasing is currently underway or projected for these lands. The final rule is not expected to have a significant impact on wind or biomass energy. Opportunities for geothermal development are negligible under both the final rule and the 2001 Rule alternative.

No novel legal or policy issues regarding adverse effects to supply, distribution, or use of energy are anticipated beyond what has already been addressed in the FEIS or the Regulatory Impact Analysis. None of the proposed corridors designated for oil, gas, and/or electricity under section 368 of the Energy Policy Act of 2005 are within IRAs.

The final rule also provides a regulatory mechanism for consideration of requests for modification of restrictions if adjustments are determined to be necessary in the future. Therefore, this action is not a significant energy action and no Statement of Energy Effects is required.

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

This rule does not call for any additional record keeping or reporting requirements or other information collection requirements as defined in 5 CFR part 1320 that are not already required by law or not already approved for use and, therefore, imposes no additional paperwork burden on the public. Accordingly, the review provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) and its implementing regulations at 5 CFR part 1320 do not apply.

#### *Federalism*

The Department has considered this rule under the requirements of E.O. 13132 issued August 4, 1999, *Federalism*. The Department assessed that the rule conforms with the Federalism principles set out in this Executive order; would not impose any 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, nor on the distribution of power and responsibilities among the various levels of government. Therefore, the Department concludes that this rule

does not have Federalism implications. This rule is based on a petition submitted by the State of Idaho under the Administrative Procedure Act at 5 U.S.C. 553(e) and pursuant to Department of Agriculture regulations at 7 CFR 1.28. The State's petition was developed with involvement of local governments. The State has been a cooperating agency for the development of the EIS for this rule. State and local governments were encouraged to comment on this rule in the course of this rulemaking process.

#### *Consultation With Indian Tribal Governments*

Pursuant to E.O. 13175 of November 6, 2000, "Consultation and Coordination with Indian Tribal Governments," the Agency has assessed the impact of this rule on Indian Tribal governments and has determined the rule does not significantly or uniquely affect Indian Tribal governments. The rule deals with future permitted road construction, timber cutting, and certain mineral development projects in IRAs and has no direct effect on the current occupancy or use of these NFS lands. The rule does not waive any applicable requirements regarding site-specific environmental analysis, public involvement, consultation with Tribes, and other agencies or compliance with applicable laws. Nor does the rule modify the unique relationship between the United States and Indian Tribes that requires the Federal Government to work with federally recognized Indian Tribes government-to-government as provided for in E.O. 13175. Nothing herein limits or modifies prior existing Tribal rights, including those involving hunting, fishing, or gathering. The Agency has also determined this rule does not impose substantial direct compliance costs on Indian Tribal governments. This rule does not mandate Tribal participation in NFS planning. Rather, the rule recognizes the responsibility of Forest Service officials to consult early with Tribal governments and to work cooperatively with them where planning issues affect Tribal interests.

#### *No Takings Implications*

This rule has been analyzed in accordance with the principles and criteria in E.O. 12630, Governmental Actions and Interference with Civil Constitutionally Protected Rights. It has been determined that the rule does not pose the risk of a taking of private property. The rule effects only NFS lands and contains exemptions that prevent the taking of constitutionally protected private property.

### Civil Justice Reform

This final rule has been reviewed under E.O. 12988, Civil Justice Reform. The Department has not identified any State or local laws or regulations that are in conflict with this regulation or that would impede full implementation of this rule. Nevertheless, in the event that such a conflict was to be identified, the final rule, if implemented, would preempt the State or local laws or regulations found to be in conflict. However, in that case (1) no retroactive effect would be given to this final rule and (2) the Department 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 final rule on State, local, and Tribal governments and the private sector. This rule does not compel the expenditure of \$100 million or more by any State, local, or Tribal governments or anyone in the private sector. Therefore, a statement under section 202 of the Act is not required.

### List of Subjects in 36 CFR Part 294

National Forests, Navigation (air), Recreation areas, State petitions for inventoried roadless area management. ■ Therefore, for the reasons set forth in the preamble, the Forest Service proposes to amend part 294 of Title 36 of the Code of Federal Regulations by adding new subpart C to read as follows:

### PART 294—SPECIAL AREAS

#### Subpart C—Idaho Roadless Area Management

Sec.	
294.20	Purpose.
294.21	Definitions.
294.22	Idaho Roadless Areas.
294.23	Road construction and reconstruction in Idaho Roadless Areas.
294.24	Timber cutting, sale, or removal in Idaho Roadless Areas.
294.25	Mineral activities in Idaho Roadless Areas.
294.26	Other activities in Idaho Roadless Areas.
294.27	Corrections and modifications.
294.28	Scope and applicability.
294.29	List of designated Idaho Roadless Areas.

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

#### § 294.20 Purpose.

The purpose of this subpart is to provide, in the context of multiple-use

management, State-specific direction for the conservation of inventoried roadless areas in the national forests within the State of Idaho. This subpart sets forth the procedures for management of Idaho Roadless Areas consistent with the Multiple-Use Sustained-Yield Act of 1960 (16 U.S.C. 528–531).

#### § 294.21 Definitions.

The following terms and definitions apply to this subpart.

*At-risk community:* As defined under section 101 of the Healthy Forests Restoration Act (HFRA).

*Community protection zone:* An area extending one-half mile from the boundary of an at-risk community or an area within one and a half miles of the boundary of an at-risk community, where any land:

(1) Has a sustained steep slope that creates the potential for wildfire behavior endangering the at-risk community;

(2) Has a geographic feature that aids in creating an effective fire break, such as a road or a ridge top; or

(3) Is in condition class 3 as defined by HFRA.

*Fire hazard and risk:* The fuel conditions on the landscape.

*Fire occurrence:* The probability of wildfire ignition based on historic fire occurrence records and other information.

*Forest Plan Special Area:* Certain lands identified on the Idaho Roadless Area Maps, § 294.22(c) and listed in § 294.29 shall be managed pursuant to applicable land management components. These lands include areas such as research natural areas, designated and eligible wild and scenic river corridors, developed recreation sites, or other specified management purposes, as described in the Roadless Area Conservation; National Forest System Lands in Idaho, Final Environmental Impact Statement, Appendix Q.

*Forest road:* As defined at 36 CFR 212.1, the term means a road wholly or partly within or adjacent to and serving the National Forest System that the Forest Service determines is necessary for the protection, administration, and use of the National Forest System and the use and development of its resources.

*Forest type:* A forest stand that is essentially similar throughout its extent in composition under generally similar environmental conditions, including temporary, permanent, climax, and cover types.

*Hazardous fuels:* Excessive live or dead wildland fuel accumulations that increase the potential for

uncharacteristically intense wildland fire and decrease the capability to protect life, property, and natural resources.

*Idaho Roadless Areas:* Areas designated pursuant to this rule and identified in a set of maps maintained at the national headquarters office of the Forest Service.

*Municipal water supply system:* As defined under section 101 of the Healthy Forests Restoration Act, the term means the reservoirs, canals, ditches, flumes, laterals, pipes, pipelines, and other surface facilities and systems constructed or installed for the collection, impoundment, storage, transportation, or distribution of drinking water.

*Responsible official:* The Forest Service line officer with the authority and responsibility to make decisions about protection and management of Idaho Roadless Areas pursuant to this subpart.

*Road:* As defined at 36 CFR 212.1, the term means a motor vehicle route over 50 inches wide, unless identified and managed as a trail.

*Road construction and reconstruction:* As defined at 36 CFR 212.1, the terms mean supervising, inspecting, actual building, and incurrence of all costs incidental to the construction or reconstruction of a road.

*Road decommissioning:* As defined at 36 CFR 212.1, the term means activities that result in the stabilization and restoration of unneeded roads to a more natural state.

*Road maintenance:* The ongoing upkeep of a road necessary to retain or restore the road to the approved road management objective.

*Road realignment:* Activity that results in a new location of an existing road or portions of an existing road, and treatment of the old roadway.

*Roadless characteristics:* Resources or features that are often present in and characterize Idaho Roadless Areas, including:

(1) High quality or undisturbed soil, water, and air;

(2) Sources of public drinking water;

(3) Diversity of plant and animal communities;

(4) Habitat for threatened, endangered, proposed, candidate, and sensitive species, and for those species dependent on large, undisturbed areas of land;

(5) Primitive, semi-primitive non-motorized, and semi-primitive motorized classes of dispersed recreation;

(6) Reference landscapes;

(7) Natural appearing landscapes with high scenic quality;

(8) Traditional cultural properties and sacred sites; and

(9) Other locally identified unique characteristics.

*Substantially altered portion:* An area within an Idaho Roadless Area where past road construction, timber cutting, or other uses have materially diminished the area's roadless characteristics.

*Temporary road:* As defined at 36 CFR 212.1, the term means a road necessary for emergency operations or authorized by contract, permit, lease, or other written authorization that is not a forest road and that is not included in a forest transportation atlas. Temporary roads are available for administrative use until decommissioned.

*Uncharacteristic wildland fire effects:* An increase in wildland fire size, severity, and resistance to control; and the associated impact on people, property, and fire fighter safety compared to that which occurred in the native system.

#### § 294.22 Idaho Roadless Areas.

(a) *Designations.* All National Forest System lands within the State of Idaho listed in § 294.29 are hereby designated as Idaho Roadless Areas.

(b) *Management classifications.* Management classifications for Idaho Roadless Areas express a management continuum. The following management classifications are established:

- (1) Wild Land Recreation;
- (2) Special Areas of Historic or Tribal Significance;
- (3) Primitive;
- (4) Backcountry/Restoration; and
- (5) General Forest, Rangeland, and Grassland.

(c) *Maps.* The Chief shall maintain and make available to the public a map of each Idaho Roadless Area, including records regarding any corrections or modifications of such maps pursuant to § 294.27.

(d) Activities in Idaho Roadless Areas shall be consistent with the applicable management classification listed for each area under § 294.29.

#### § 294.23 Road construction and reconstruction in Idaho Roadless Areas.

(a) *Wild Land Recreation, Special Areas of Historic or Tribal Significance, or Primitive.* Road construction and reconstruction are prohibited in Idaho Roadless Areas designated as Wild Land Recreation, Special Areas of Historic or Tribal Significance, or Primitive. However, the Regional Forester may authorize a road to be constructed or reconstructed in an area designated as Wild Land Recreation, Special Area of Historic or Tribal Significance, or

Primitive if pursuant to statute, treaty, reserved or outstanding rights, or other legal duty of the United States.

(b) *Backcountry/Restoration.* (1) Road construction and reconstruction are only permissible in Idaho Roadless Areas designated as Backcountry/Restoration where the Regional Forester determines:

(i) A road is needed to protect public health and safety in cases of an imminent threat of flood, wildland fire, or other catastrophic event that, without intervention, would cause the loss of life or property;

(ii) A road is needed to conduct a response action under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) or to conduct a natural resource restoration action under CERCLA, section 311 of the Clean Water Act, or the Oil Pollution Act;

(iii) A road is needed pursuant to statute, treaty, reserved or outstanding rights, or other legal duty of the United States;

(iv) A road realignment is needed to prevent irreparable resource damage that arises from the design, location, use, or deterioration of a road and cannot be mitigated by road maintenance. Road realignment may occur under this subsection only if the road is deemed essential for public or private access, natural resource management, or public health and safety;

(v) Road reconstruction is needed to implement a road safety improvement project on a road determined to be hazardous based on accident experience or accident potential on that road; or

(vi) The Secretary of Agriculture determines that a Federal Aid Highway project, authorized pursuant to Title 23 of the United States Code, is in the public interest or is consistent with the purpose for which the land was reserved or acquired and no other reasonable and prudent alternative exists.

(2) A responsible official may authorize temporary road construction or road reconstruction for community protection zone activities pursuant to § 294.24(c)(1)(i) if in the official's judgment the community protection objectives cannot be reasonably accomplished without a temporary road.

(3) The Regional Forester may approve temporary road construction or road reconstruction to reduce hazardous fuel conditions outside a community protection zone where in the Regional Forester's judgment the circumstances set out below exist. Temporary road construction or road reconstruction to reduce hazardous fuel conditions under

this provision will be dependent on forest type and is expected to be infrequent.

(i) There is a significant risk that a wildland fire disturbance event could adversely affect an at-risk community or municipal water supply system pursuant to § 294.24(c)(1)(ii). A significant risk exists where the history of fire occurrence, and fire hazard and risk, indicate a serious likelihood that a wildland fire disturbance event would present a high risk of threat to an at-risk community or municipal water supply system.

(ii) The activity cannot be reasonably accomplished without a temporary road.

(iii) The activity will maintain or improve one or more roadless characteristics over the long-term.

(c) *General Forest, Rangeland, and Grassland.* (1) A forest road may be constructed or reconstructed or a temporary road may be constructed in Idaho Roadless Areas designated as General Forest, Rangeland, and Grassland, unless prohibited in § 294.25(e).

(2) Forest roads constructed or reconstructed pursuant to § 294.23(c)(1) must be conducted in a way that minimizes effects on surface resources and must be consistent with land management plan components as provided for in § 294.28(d).

(d) *Temporary roads.* (1) Temporary road construction must be conducted in a way that minimizes effects on surface resources, is consistent with land management plan components as provided for in § 294.28(d), and may only be used for the specified purpose(s).

(2) Temporary roads must be decommissioned upon completion of the project or expiration of the contract or permit, whichever is sooner. A road decommissioning provision will be required in all such contracts or permits and may not be waived.

(e) *Road maintenance.* Maintenance of temporary and forest roads is permissible in Idaho Roadless Areas.

(f) *Roads associated with mineral activities.* Road construction or reconstruction associated with mineral activities is provided for in § 294.25.

#### § 294.24 Timber cutting, sale, or removal in Idaho Roadless Areas.

(a) *Wild Land Recreation.* The cutting, sale, or removal of timber is prohibited in Idaho Roadless Areas designated as Wild Land Recreation under this subpart, except:

(1) For personal or administrative use, as provided for in 36 CFR part 223; or

(2) Where incidental to the implementation of a management

activity not otherwise prohibited by this subpart.

(b) *Special Areas of Historic or Tribal Significance and Primitive.* (1) The cutting, sale, or removal of timber is prohibited in Idaho Roadless Areas designated as a Special Area of Historic or Tribal Significance or as Primitive under this subpart, except:

(i) To improve threatened, endangered, proposed, or sensitive species habitat;

(ii) To maintain or restore the characteristics of ecosystem composition, structure, and processes;

(iii) To reduce the risk of uncharacteristic wildland fire effects to an at-risk community or municipal water supply system;

(iv) For personal or administrative use, as provided for in 36 CFR part 223; or

(v) Where such cutting, sale or removal is incidental to the implementation of a management activity not otherwise prohibited by this subpart.

(2) Any action authorized pursuant to paragraphs § 294.24(b)(1)(i) through (iii) shall be limited to situations that:

(i) Maintain or improve one or more of the roadless characteristics over the long-term;

(ii) Use existing roads or aerial harvest systems;

(iii) Maximize the retention of large trees as appropriate for the forest type, to the extent the trees promote fire-resilient stands;

(iv) Are consistent with land management plan components as provided for in § 294.28(d); and

(v) Is approved by the regional forester.

(c) *Backcountry/Restoration.* (1) The cutting, sale, or removal of timber is permissible in Idaho Roadless Areas designated as Backcountry/Restoration only:

(i) To reduce hazardous fuel conditions within the community protection zone if in the responsible official's judgment the project generally retains large trees as appropriate for the forest type and is consistent with land management plan components as provided for in § 294.28(d);

(ii) To reduce hazardous fuel conditions outside the community protection zone where there is significant risk that a wildland fire disturbance event could adversely affect an at-risk community or municipal water supply system. A significant risk exists where the history of fire occurrence, and fire hazard and risk, indicate a serious likelihood that a wildland fire disturbance event would present a high risk of threat to an at-risk

community or municipal water supply system;

(iii) To improve threatened, endangered, proposed, or sensitive species habitat;

(iv) To maintain or restore the characteristics of ecosystem composition, structure, and processes;

(v) To reduce the risk of uncharacteristic wildland fire effects;

(vi) For personal or administrative use, as provided for in 36 CFR part 223;

(vii) Where incidental to the implementation of a management activity not otherwise prohibited by this subpart; or

(viii) In a portion of an Idaho Roadless Area designated as Backcountry/Restoration that has been substantially altered due to the construction of a forest road and subsequent timber cutting. Both the road construction and subsequent timber cutting must have occurred prior to October 16, 2008.

(2) Any action authorized pursuant to paragraphs § 294.24(c)(1)(ii) through (v) shall be approved by the Regional Forester and limited to situations that, in the Regional Forester's judgment:

(i) Maintains or improves one or more of the roadless characteristics over the long-term;

(ii) Maximizes the retention of large trees as appropriate for the forest type to the extent the trees promote fire-resilient stands; and

(iii) Is consistent with land management plan components as provided for in § 294.28(d).

(3) The activities in paragraph § 294.24(c)(1) may use any forest roads or temporary roads, including those authorized under § 294.23(b)(2 and 3) until decommissioned.

(d) *General Forest, Rangeland, and Grassland.* Timber may be cut, sold, or removed within Idaho Roadless Areas designated as General Forest, Rangeland, and Grassland but shall be consistent with the land management plan components as provided for in § 294.28(d).

#### **§ 294.25 Mineral activities in Idaho Roadless Areas.**

(a) Nothing in this subpart shall be construed as restricting mineral leases, contracts, permits, and associated activities authorized prior to October 16, 2008.

(b) Nothing in this subpart shall affect mining activities conducted pursuant to the General Mining Law of 1872.

(c) *Wild Land Recreation, Special Areas of Historic or Tribal Significance, or Primitive.* (1) For mineral leases, contracts, permits, and other associated activities authorized after the effective date of this subpart the Forest Service

will not recommend, authorize, or consent to road construction, road reconstruction, or surface occupancy associated with mineral leases in Idaho Roadless Areas designated as Wild Land Recreation, Special Areas of Historic or Tribal Significance, or Primitive themes.

(2) After October 16, 2008, the Forest Service will not authorize sale of common variety mineral materials in Idaho Roadless Areas designated as Wild Land Recreation, Special Areas of Historic or Tribal Significance, or Primitive themes.

(d) *Backcountry/Restoration.* (1) For mineral leases, contracts, permits, and other associated activities authorized after the effective date of this subpart, the Forest Service will not recommend, authorize, or consent to road construction or road reconstruction associated with mineral leases in Idaho Roadless Areas designated as Backcountry/Restoration. Surface use or occupancy without road construction or reconstruction is permissible for all mineral leasing unless prohibited in the applicable land management plan.

(2) After October 16, 2008, the Forest Service may authorize the use or sale of common variety mineral materials, and associated road construction or reconstruction to access these mineral materials, in Idaho Roadless Areas designated as Backcountry/Restoration only if the use of these mineral materials is incidental to an activity otherwise permissible in backcountry/restoration under this subpart.

(e) *General Forest, Rangeland, and Grassland.* (1) For mineral leases, contracts, permits, and other associated activities authorized after October 16, 2008, the Forest Service will not recommend, authorize, or consent to road construction or reconstruction associated with mineral leases in Idaho Roadless Areas designated as General Forest, Rangeland, and Grassland theme; except such road construction or reconstruction may be authorized by the responsible official in association with phosphate deposits as described in Figure 3–20 in section 3.15 Minerals and Energy in the Roadless Area Conservation; National Forest System Lands in Idaho Final Environmental Impact Statement. Surface use or occupancy without road construction or reconstruction is permissible for all mineral leasing unless prohibited in the land management plan components.

(2) After October 16, 2008, the Forest Service may authorize the use or sale of common variety mineral materials, and associated road construction or reconstruction to access these mineral materials, in Idaho Roadless Areas designated as General Forest,

Rangeland, and Grassland only if the use of these mineral materials is incidental to an activity otherwise permissible in General Forest, Rangeland, and Grassland under this subpart.

(3) Road construction or reconstruction associated with mining activities permissible under this subsection may only be approved after evaluating other access options.

(4) Road construction or reconstruction associated with mining activities permissible under this subsection must be conducted in a manner that minimizes effects on surface resources and must be consistent with land management plan components as provided for in § 294.28(d). Roads constructed or reconstructed must be decommissioned upon completion of the project, or expiration of the lease, or permit, or other authorization, whichever is sooner.

**§ 294.26 Other activities in Idaho Roadless Areas.**

(a) *Motorized travel.* Nothing in this subpart shall be construed as affecting existing roads or trails in Idaho Roadless Areas. Decisions concerning the future management of existing roads or trails in Idaho Roadless Areas shall be made during the applicable travel management process.

(b) *Grazing.* Nothing in this subpart shall be construed as affecting existing grazing permits in Idaho Roadless Areas. Future road construction associated with livestock operations shall conform to this subpart.

(c) *Motorized equipment and mechanical transport.* Nothing in this subpart shall be construed as affecting the use of motorized equipment and mechanical transport in Idaho Roadless Areas.

**§ 294.27 Corrections and modifications.**

Correction or modification of designations made pursuant to this subpart may occur under the following circumstances:

(a) *Administrative corrections.* Administrative corrections to the maps of lands identified in § 294.22(c) include, but are not limited to, adjustments that remedy clerical errors, typographical errors, mapping errors, or improvements in mapping technology. The Chief may issue administrative corrections after a 30-day public notice and opportunity to comment.

(b) *Modifications.* The Chief may add to, remove from, or modify the designations and management classifications listed in § 294.29 based on changed circumstances or public need. The Chief shall provide at least a 45-day public notice and opportunity to comment for all modifications.

**§ 294.28 Scope and applicability.**

(a) After October 16, 2008 subpart B of this part shall have no effect within the State of Idaho.

(b) This subpart does not revoke, suspend, or modify any permit, contract, or other legal instrument authorizing the occupancy and use of National Forest System land issued prior to October 16, 2008.

(c) This subpart does not revoke, suspend, or modify any project or activity decision made prior to October 16, 2008.

(d) The provisions set forth in this subpart shall take precedence over any inconsistent land management plan component. Land management plan components that are not inconsistent with this subpart will continue to provide guidance for projects and activities within Idaho Roadless Areas; as shall those related to protection of threatened and endangered species.

This subpart does not compel the amendment or revision of any land management plan.

(e) The prohibitions and permissions set forth in the subpart are not subject to reconsideration, revision, or rescission in subsequent project decisions or land and resource management plan amendments or revisions undertaken pursuant to 36 CFR part 219.

(f) This subpart shall not apply to Forest Plan Special Areas within Idaho Roadless Areas.

(g) Nothing in this subpart waives any applicable requirements regarding site-specific environmental analysis, public involvement, consultation with Tribes and other agencies, or compliance with applicable laws.

(h) This subpart does not modify the unique relationship between the United States and Indian Tribes that requires the Federal Government to work with federally recognized Indian Tribes government-to-government as provided for in treaties, laws or Executive orders. Nothing herein limits or modifies prior existing tribal rights, including those involving hunting, fishing, gathering, and protection of cultural and spiritual sites.

(i) If any provision of the rules in this subpart or its application to any person or to certain circumstances is held invalid, the remainder of the regulations in this subpart and their application remain in force.

**§ 294.29 List of designated Idaho Roadless Areas.**

The acronyms used in the list are Wild Land Recreation (WLR), Backcountry/Restoration (BCR), General Forest, Rangeland, and Grassland (GFRG), Special Areas of Historic or Tribal Significance (SAHTS) and Forest Plan Special Areas (FPSA).

Forest	Idaho roadless area	#	WLR	Primitive	BCR	GFRG	SAHTS	FPSA
Boise	Bald Mountain	019			X			X
Boise	Bear Wallow	125		X				X
Boise	Bernard	029			X			X
Boise	Black Lake	036			X			X
Boise	Blue Bunch	923			X			X
Boise	Breadwinner	006			X			X
Boise	Burnt Log	035			X			X
Boise	Cathedral Rocks	038		X				X
Boise	Caton Lake	912			X	X		X
Boise	Cow Creek	028		X				
Boise	Danskin	002		X				X
Boise	Deadwood	020		X	X			X
Boise	Elk Creek	022			X			X
Boise	Grand Mountain	007			X			X
Boise	Grimes Pass	017			X	X		X
Boise	Hanson Lakes	915	X	X				X
Boise	Hawley Mountain	018		X				
Boise	Horse Heaven	925			X	X		
Boise	House Mountain	001		X				X
Boise	Lime Creek	937		X				

Forest	Idaho roadless area	#	WLR	Primitive	BCR	GFRG	SAHTS	FPSA
Boise	Lost Man Creek	041		X				X
Boise	Meadow Creek	913			X	X		X
Boise	Mt Heinen	003		X				
Boise	Nameless Creek	034			X			
Boise	Needles	911	X	X	X	X		X
Boise	Peace Rock	026		X	X			X
Boise	Poison Creek	042			X			
Boise	Poker Meadows	032			X			X
Boise	Rainbow	008		X				X
Boise	Red Mountain	916	X	X	X	X		X
Boise	Reeves Creek	010			X			
Boise	Sheep Creek	005		X				X
Boise	Smoky Mountains	914		X				X
Boise	Snowbank	924		X				
Boise	Steel Mountain	012		X				X
Boise	Stony Meadows	027		X	X			
Boise	Ten Mile/Black Warrior	013	X	X		X		X
Boise	Tennessee	033			X			X
Boise	Whiskey	031			X			
Boise	Whiskey Jack	009		X				
Boise	Whitehawk Mountain	021			X	X		
Boise	Wilson Peak	040		X				
Caribou	Bear Creek	615		X	X	X		X
Caribou	Bonneville Peak	154			X	X		X
Caribou	Caribou City	161	X		X			X
Caribou	Clarkston Mountain	159			X	X		
Caribou	Deep Creek	158			X	X		X
Caribou	Dry Ridge	164			X	X		
Caribou	Elkhorn Mountain	156			X	X		
Caribou	Gannett-Spring Creek	111		X	X	X		X
Caribou	Gibson	181			X	X		
Caribou	Hell Hole	168				X		X
Caribou	Huckleberry Basin	165			X	X		
Caribou	Liberty Creek	175			X	X		X
Caribou	Meade Peak	167		X	X	X		X
Caribou	Mink Creek	176			X	X		X
Caribou	Mount Naomi	758	X		X	X		X
Caribou	North Pebble	155			X	X		
Caribou	Oxford Mountain	157			X	X		X
Caribou	Paris Peak	177			X	X		
Caribou	Pole Creek	160			X	X		
Caribou	Red Mountain	170		X	X			
Caribou	Sage Creek	166			X	X		
Caribou	Schmid Peak	163			X	X		
Caribou	Scout Mountain	152			X	X		X
Caribou	Sherman Peak	172			X	X		
Caribou	Soda Point	171			X	X		X
Caribou	Station Creek	178			X	X		
Caribou	Stauffer Creek	173			X			
Caribou	Stump Creek	162		X	X	X		X
Caribou	Swan Creek	180			X			
Caribou	Telephone Draw	169			X	X		X
Caribou	Toponce	153		X	X			
Caribou	West Mink	151			X	X		X
Caribou	Williams Creek	174			X	X		X
Caribou	Worm Creek	170			X	X		X
Challis	Blue Bunch Mountain	923			X			
Challis	Borah Peak	012	X		X			X
Challis	Boulder-White Clouds	920	X		X			
Challis	Camas Creek	901			X			
Challis	Challis Creek	004			X			
Challis	Cold Springs	026			X			
Challis	Copper Basin	019			X			
Challis	Diamond Peak	601			X			X
Challis	Greylock	007			X			
Challis	Grouse Peak	010			X			
Challis	Hanson Lake	915			X			
Challis	Jumpoff Mountain	014			X			
Challis	King Mountain	013			X			
Challis	Lemhi Range	903			X			X
Challis	Loon Creek	908			X			
Challis	Pahsimeroi Mountain	011			X			
Challis	Pioneer Mountains	921	X		X			X
Challis	Prophyry Peak	017			X			

Forest	Idaho roadless area	#	WLR	Primitive	BCR	GFRG	SAHTS	FPSA
Challis	Railroad Ridge	922			X			
Challis	Red Hill	027			X			
Challis	Red Mountain	916			X			
Challis	Seafoam	009			X			
Challis	Spring Basin	006			X			
Challis	Squaw Creek	005			X			
Challis	Taylor Mountain	902			X			
Challis	Warm Creek	024			X			
Challis	White Knob	025			X			
Challis	Wood Canyon	028			X			
Clearwater	Bighorn-Weitas	306			X		X	X
Clearwater	Eldorado Creek	312			X		X	
Clearwater	Hoodoo	301	X		X		X	
Clearwater	Lochsa Face	311		X	X		X	X
Clearwater	Lolo Creek (LNF)	805			X			
Clearwater	Mallard-Larkins	300	X	X	X			
Clearwater	Meadow Creek—Upper North Fork	302		X	X			
Clearwater	Moose Mountain	305		X	X			
Clearwater	North Fork Spruce—White Sand	309	X	X	X			
Clearwater	North Lochsa Slope	307		X	X		X	X
Clearwater	Pot Mountain	304			X			X
Clearwater	Rackliff-Gedney	841			X			X
Clearwater	Rawhide	313		X	X			
Clearwater	Siwash	303			X			
Clearwater	Sneakfoot Meadows	314	X	X	X			X
Clearwater	Weir-Post Office Creek	308			X		X	X
Idaho Panhandle	Beetop	130			X			
Idaho Panhandle	Big Creek	143			X			
Idaho Panhandle	Blacktail Mountain	122			X			X
Idaho Panhandle	Blacktail Mountain	161			X			
Idaho Panhandle	Buckhorn Ridge	661			X			
Idaho Panhandle	Continental Mountain	004			X			
Idaho Panhandle	East Cathedral Peak	131			X			X
Idaho Panhandle	East Fork Elk	678				X		
Idaho Panhandle	Gilt Edge-Silver Creek	792			X			
Idaho Panhandle	Graham Coal	139			X			X
Idaho Panhandle	Grandmother Mountain	148	X		X	X		X
Idaho Panhandle	Hammond Creek	145			X			
Idaho Panhandle	Hellogearing	128				X		
Idaho Panhandle	Katka Peak	157			X	X		
Idaho Panhandle	Kootenai Peak	126				X		
Idaho Panhandle	Little Grass Mountain	121			X			
Idaho Panhandle	Lost Creek	137			X			X
Idaho Panhandle	Magee	132			X			
Idaho Panhandle	Mallard-Larkins	300	X		X			X
Idaho Panhandle	Maple Peak	141			X			
Idaho Panhandle	Meadow Creek-Upper N. Fork	302			X			X
Idaho Panhandle	Midget Peak	151			X			X
Idaho Panhandle	Mosquito-Fly	150			X			X
Idaho Panhandle	Mt. Willard-Lake Estelle	173			X			X
Idaho Panhandle	North Fork	147			X			X
Idaho Panhandle	Packsaddle	155			X			
Idaho Panhandle	Pinchot Butte	149			X			
Idaho Panhandle	Roland Point	146			X			
Idaho Panhandle	Saddle Mountain	154			X			
Idaho Panhandle	Salmo-Priest	981	X					X
Idaho Panhandle	Schafer Peak	160			X	X		
Idaho Panhandle	Scotchman Peaks	662	X		X			X
Idaho Panhandle	Selkirk	125	X		X	X		X
Idaho Panhandle	Sheep Mountain-State Line	799			X			X
Idaho Panhandle	Skitwish Ridge	135			X			
Idaho Panhandle	Spion Kop	136			X			X
Idaho Panhandle	Stevens Peak	142			X			
Idaho Panhandle	Storm Creek	144			X			
Idaho Panhandle	Tepee Creek	133			X			
Idaho Panhandle	Trestle Peak	129			X			
Idaho Panhandle	Trouble Creek	138			X			X
Idaho Panhandle	Trout Creek	664			X			X
Idaho Panhandle	Upper Priest	123			X			X
Idaho Panhandle	White Mountain	127			X	X		
Idaho Panhandle	Wonderful Peak	152			X			
Kootenai	Mt. Willard-Lake Estelle	173			X			X
Kootenai	Roberts	691			X			
Kootenai	Scotchman Peaks	662			X			

Forest	Idaho roadless area	#	WLR	Primitive	BCR	GFRG	SAHTS	FPSA
Kootenai	West Fork Elk	692			X			
Nez Perce	Clear Creek	844			X			
Nez Perce	Dixie Summit—Nut Hill	235			X			X
Nez Perce	East Meadow Creek	845		X				X
Nez Perce	Gospel Hump	921			X			
Nez Perce	Gospel Hump Adjacent to Wilderness.				X			
Nez Perce	John Day	852			X			
Nez Perce	Lick Point	227			X			
Nez Perce	Little Slate Creek	851			X			
Nez Perce	Little Slate Creek North	856			X			X
Nez Perce	Mallard	847			X			
Nez Perce	North Fork Slate Creek	850			X			
Nez Perce	O'Hara—Falls Creek	226			X			X
Nez Perce	Rackliff—Gedney	841			X			X
Nez Perce	Rapid River	922	X					X
Nez Perce	Salmon Face	855			X			
Nez Perce	Selway Bitterroot			X				
Nez Perce	Silver Creek—Pilot Knob	849					X	
Nez Perce	West Fork Crooked River				X			
Nez Perce	West Meadow Creek	845			X			X
Payette	Big Creek Fringe	009			X			X
Payette	Caton Lake	912			X			X
Payette	Chimney Rock	006			X			X
Payette	Cottontail Point/Pilot Peak	004		X	X			X
Payette	Council Mountain	018		X				X
Payette	Crystal Mountain	005			X			X
Payette	Cuddy Mountain	016		X		X		X
Payette	French Creek	026		X	X	X		X
Payette	Hells Canyon/7 Devils Scenic	001		X				X
Payette	Horse Heaven	925			X			
Payette	Indian Creek	019		X				
Payette	Meadow Creek	913			X			
Payette	Needles	911	X	X	X			X
Payette	Patrick Butte	002		X	X			X
Payette	Placer Creek	008		X	X			X
Payette	Poison Creek	042			X			
Payette	Rapid River	922	X					X
Payette	Secesh	010	X	X	X			X
Payette	Sheep Gulch	017			X			
Payette	Smith Creek	007		X				
Payette	Snowbank	924		X				
Payette	Sugar Mountain	014			X			
Salmon	Agency Creek	512			X	X		
Salmon	Allan Mountain	946			X			X
Salmon	Anderson Mountain	942			X			
Salmon	Blue Joint Mountain	941		X				
Salmon	Camas Creek	901			X			
Salmon	Deep Creek	509				X		
Salmon	Duck Peak	518			X			X
Salmon	Goat Mountain	944			X			
Salmon	Goldbug Ridge	903			X			
Salmon	Haystack Mountain	507			X	X		
Salmon	Italian Peak	945			X			
Salmon	Jesse Creek	510			X			
Salmon	Jureano	506			X	X		
Salmon	Lemhi Range	903			X			X
Salmon	Little Horse	514			X			
Salmon	Long Tom	521			X			X
Salmon	McEleny	505			X			
Salmon	Musgrove	517			X	X		
Salmon	Napias	515				X		
Salmon	Napoleon Ridge	501			X	X		X
Salmon	Oreana	516			X			
Salmon	Perreau Creek	511				X		
Salmon	Phelan	508				X		
Salmon	Sal Mountain	513			X			
Salmon	Sheepeater	520			X	X		X
Salmon	South Deep Creek	509			X	X		
Salmon	South Panther	504			X			
Salmon	Taylor Mountain	902			X			
Salmon	West Big Hole	943		X	X	X		X
Salmon	West Panther Creek	504			X			
Sawtooth	Black Pine	003			X			X

Forest	Idaho roadless area	#	WLR	Primitive	BCR	GFRG	SAHTS	FPSA
Sawtooth	Blackhorse Creek	039		X				
Sawtooth	Boulder-White Clouds	920	X	X	X			X
Sawtooth	Buttercup Mountain	038		X				X
Sawtooth	Cache Peak	007			X	X		
Sawtooth	Cottonwood	010			X			
Sawtooth	Elk Ridge	019		X				
Sawtooth	Fifth Fork Rock Creek	023		X		X		
Sawtooth	Hanson Lakes	915	X	X	X			X
Sawtooth	Huckleberry	016			X			X
Sawtooth	Liberal Mountain	040		X		X		
Sawtooth	Lime Creek	937		X				X
Sawtooth	Lone Cedar	011				X		
Sawtooth	Loon Creek	908			X			
Sawtooth	Mahogany Butte	012				X		
Sawtooth	Mount Harrison	006		X	X	X		X
Sawtooth	Pettit	017			X			X
Sawtooth	Pioneer Mountains	921	X	X	X			X
Sawtooth	Railroad Ridge	922			X			X
Sawtooth	Smoky Mountains	914		X	X			X
Sawtooth	Sublett	005		X				
Sawtooth	Third Fork Rock Creek	009		X		X		
Sawtooth	Thorobred	013			X			
Targhee	Bald Mountain	614			X	X		
Targhee	Bear Creek	615			X	X		X
Targhee	Caribou City	161			X	X		
Targhee	Diamond Peak	601	X	X	X	X		X
Targhee	Garfield Mountain	961		X	X	X		X
Targhee	Garns Mountain	611			X	X		X
Targhee	Italian Peak	945	X		X			X
Targhee	Lionhead	963	X		X			X
Targhee	Mt. Jefferson	962		X	X	X		X
Targhee	Palisades	613	X		X			X
Targhee	Poker Peak	616		X				X
Targhee	Pole Creek	160			X			
Targhee	Raynolds Pass	603			X			
Targhee	Two Top	604		X				
Targhee	West Slope Tetons	610			X			X
Targhee	Winegar Hole	347		X	X			X
Wallowa-Whitman	Big Canyon Id	853			X			
Wallowa-Whitman	Klopton Creek—Corral Creek Id	854			X			

Dated: October 7, 2008.

**Mark Rey,**

*Under Secretary, Natural Resources and Environment.*

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