

Forest Service, USDA

§ 294.1

cross-country ski trails near existing resorts.

[50 FR 16231, Apr. 25, 1985]

§ 293.17 National Forest Primitive Areas.

(a) Within those areas of National Forests classified as *Primitive* on the effective date of the Wilderness Act, September 3, 1964, there shall be no roads or other provision for motorized transportation, no commercial timber cutting, and no occupancy under special-use permit for hotels, stores, resorts, summer homes, organization camps, hunting and fishing lodges, or similar uses: *Provided*, That existing roads over National Forest lands reserved from the public domain and roads necessary for the exercise of a statutory right of ingress and egress may be allowed under appropriate conditions determined by the Chief, Forest Service.

(b) Grazing of domestic livestock, development of water storage projects which do not involve road construction, and improvements necessary for the protection of the National Forests may be permitted, subject to such restrictions as the Chief, Forest Service, deems desirable. Within Primitive Areas, when the use is for other than administrative needs of the Forest Service, use by other Federal agencies when authorized by the Chief, and in emergencies, the landing of aircraft and the use of motorboats are prohibited on National Forest land or water unless such use by aircraft or motorboats has already become well established, the use of motor vehicles is prohibited, and the use of other motorized equipment is prohibited except as authorized by the Chief. These restrictions are not intended as limitations on statutory rights of ingress and egress or of prospecting, locating, and developing mineral resources.

(c) All prohibitions for those areas of National Forest classified as *Primitive* on the effective date of the Wilderness Act, September 3, 1964, are in part 261.

(78 Stat. 890, 16 U.S.C. 1131-1136; 74 Stat. 215, 16 U.S.C. 528-531)

[38 FR 5855, Mar. 5, 1973, as amended at 42 FR 35960, July 13, 1977]

PART 294—SPECIAL AREAS

Sec.

Subpart A—Miscellaneous Provisions

- 294.1 Recreation areas.
- 294.2 Navigation of aircraft within airspace reservation over the Boundary Waters Canoe Area Wilderness, Superior National Forest, Minnesota.
- 294.3-294.9 [Reserved]

Subpart B—State Petitions for Inventoried Roadless Area Management

- 294.10 Purpose.
- 294.11 Definition.
- 294.12 State petitions.
- 294.13 Petition process.
- 294.14 Petition contents.
- 294.15 Advisory committee review.
- 294.16 State-specific rulemaking.
- 294.17 Scope and applicability.
- 294.18 Severability.

Subpart C—Idaho Roadless Area Management

- 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.

Subpart A—Miscellaneous Provisions

AUTHORITY: 16 U.S.C. 472, 551, and 1131.

§ 294.1 Recreation areas.

Suitable areas of national forest land, other than wilderness or wild areas, which should be managed principally for recreation use may be given special classification as follows:

(a) Areas which should be managed principally for recreation use substantially in their natural condition and on which, in the discretion of the officer making the classification, certain other uses may or may not be permitted may be approved and classified by the Chief of the Forest Service or by

§ 294.2

36 CFR Ch. II (7-1-10 Edition)

such officers as he may designate if the particular area is less than 100,000 acres. Areas of 100,000 acres or more will be approved and classified by the Secretary of Agriculture.

(b) Areas which should be managed for public recreation requiring development and substantial improvements may be given special classification as public recreation areas. Areas in single tracts of not more than 160 acres may be approved and classified by the Chief of the Forest Service or by such officers as he may designate. Areas in excess of 160 acres will be classified by the Secretary of Agriculture. Classification hereunder may include areas used or selected to be used for the development and maintenance as camp grounds, picnic grounds, organization camps, resorts, public service sites (such as for restaurants, filling stations, stores, horse and boat liverys, garages, and similar types of public service accommodations), bathing beaches, winter sports areas, lodges, and similar facilities and appurtenant structures needed by the public to enjoy the recreation resources of the national forests. The boundaries of all areas so classified shall be clearly marked on the ground and notices of such classification shall be posted at conspicuous places thereon. Areas classified under this section shall thereby be set apart and reserved for public recreation use and such classification shall constitute a formal closing of the area to any use or occupancy inconsistent with the classification.

[38 FR 5859, Mar. 5, 1973, as amended at 66 FR 3272, Jan. 12, 2001]

§ 294.2 Navigation of aircraft within airspace reservation over the Boundary Waters Canoe Area Wilderness, Superior National Forest, Minnesota.

(a) *Description of areas.* Sections 294.2(b) to 294.2(f), inclusive, apply to those areas of land and water in the Counties of Cook, Lake, and St. Louis, State of Minnesota, within the exterior boundaries of the Superior National Forest, which have heretofore been designated by the Secretary of Agriculture as the Superior Roadless Area, the Little Indian Sioux Roadless Area, and the Caribou Roadless Area, respec-

tively, and to the airspace over said areas and below the altitude of 4,000 feet above sea level. Said areas are more particularly described in the Executive order setting apart said airspace as an airspace reservation (E.O. 10092, Dec. 17, 1949; 3 CFR 1949 Supp.). Copies of said Executive order may be obtained on request from the Forest Supervisor, Superior National Forest, Duluth, Minnesota (hereinafter called *Forest Supervisor*).

(b) *Emergency landing and rescue operations.* The pilot of any aircraft landing within any of said areas for reasons of emergency or for conducting rescue operations, shall inform the Forest Supervisor within seven days after the termination of the emergency or the completion of the rescue operation as to the date, place, and duration of landing, and the type and registration number of the aircraft.

(c) *Low flights.* Any person making a flight within said airspace reservation for reasons of safety or for conducting rescue operations shall inform the Forest Supervisor within seven days after the completion of the flight or the rescue operation as to the date, place, and duration of flight, and the type and registration number of the aircraft.

(d) *Official flights.* The provisions of §§ 294.2(b) and 294.2(c) do not apply to flights made for conducting or assisting in the conduct of official business of the United States, of the State of Minnesota or of Cook, St. Louis, or Lake Counties, Minnesota.

(e) *Conformity with law.* Nothing in these regulations shall be construed as permitting the operation of aircraft contrary to the provisions of the Civil Aeronautics Act of 1938 (52 Stat. 973), as amended, or any rule, regulation or order issued thereunder.

[38 FR 5859, Mar. 5, 1973, as amended at 50 FR 16232, Apr. 25, 1985; 66 FR 3272, Jan. 12, 2001]

§§ 294.3-294.9 [Reserved]

Subpart B—State Petitions for Inventoried Roadless Area Management

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

Forest Service, USDA

§ 294.14

SOURCE: 70 FR 25661, May 13, 2005, unless otherwise noted.

§ 294.10 Purpose.

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

§ 294.11 Definition.

Inventoried roadless areas—Areas identified in a set of inventoried roadless area maps, contained in the Forest Service Roadless Area Conservation, Final Environmental Impact Statement, Volume 2, dated November 2000, and any subsequent update or revision of those maps through the land management planning process.

§ 294.12 State petitions.

The Governor of any State or territory that contains National Forest System lands may petition the Secretary of Agriculture to promulgate regulations establishing management requirements for all or any portion of National Forest System inventoried roadless areas within that State or territory. Any such petition must be submitted to the Secretary of Agriculture not later than November 13, 2006.

§ 294.13 Petition process.

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

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

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

§ 294.14 Petition contents.

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

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

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

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

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

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

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

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

§ 294.15

(8) A commitment by the petitioner to participate as a cooperating agency in any environmental analysis for a rulemaking process.

(b) The petition contents described in paragraphs (a)(1) through (a)(8) of this section constitute an information collection requirement as defined by 5 CFR part 1320 and have been assigned Office of Management and Budget control number 0596-0178.

§ 294.15 Advisory committee review.

A National Advisory Committee shall review each petition and provide advice and recommendations to the Secretary within 90 days of receipt of a completed petition. The committee will also provide advice and recommendations to the Secretary on any subsequent State-specific rulemakings.

§ 294.16 State-specific rulemaking.

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

§ 294.17 Scope and applicability.

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

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

(c) Nothing in this subpart, nor any regulation promulgated pursuant to this petitioning process, shall prohibit the exercise of any valid existing rights.

§ 294.18 Severability.

In the event that any provision, section, subsection, or phrase of this subpart is determined by a court or body of competent jurisdiction to be invalid, unconstitutional, or unenforceable, the remaining provisions, sections, sub-

36 CFR Ch. II (7-1-10 Edition)

sections, or phrases shall remain in full force and effect.

Subpart C—Idaho Roadless Area Management

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

SOURCE: 73 FR 61489, Oct. 16, 2008, unless otherwise noted.

§ 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 in-

cidental 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

§ 294.22

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

§ 294.25

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.

36 CFR Ch. II (7-1-10 Edition)

(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.

§ 294.29

36 CFR Ch. II (7–1–10 Edition)

(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				
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

Forest Service, USDA

§ 294.29

Forest	Idaho roadless area	#	WLR	Primitive	BCR	GFRG	SAHTS	FPFA
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			
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	
Clearwater	Lochsa Face	311		X			X	X
Clearwater	Lolo Creek (LNF)	805			X			

Forest	Idaho roadless area	#	WLR	Primitive	BCR	GFRG	SAHTS	FPFA
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	Hellroaring	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			
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

Forest Service, USDA

§ 294.29

Forest	Idaho roadless area	#	WLR	Primitive	BCR	GFRG	SAHTS	FPSA
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
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

Forest	Idaho roadless area	#	WLR	Primitive	BCR	GFRG	SAHTS	FPSA
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
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			

**PART 296—PROTECTION OF AR-
CHAEOLOGICAL RESOURCES:
UNIFORM REGULATIONS**

- Sec.
- 296.1 Purpose.
- 296.2 Authority.
- 296.3 Definitions.
- 296.4 Prohibited acts and criminal penalties.
- 296.5 Permit requirements and exceptions.
- 296.6 Application for permits and information collection.
- 296.7 Notification to Indian tribes of possible harm to, or destruction of, sites on public lands having religious or cultural importance.
- 296.8 Issuance of permits.
- 296.9 Terms and conditions of permits.
- 296.10 Suspension and revocation of permits.
- 296.11 Appeals relating to permits.
- 296.12 Relationship to section 106 of the National Historic Preservation Act.
- 296.13 Custody of archaeological resources.
- 296.14 Determination of archaeological or commercial value and cost of restoration and repair.
- 296.15 Assessment of civil penalties.
- 296.16 Civil penalty amounts.
- 296.17 Other penalties and rewards.

- 296.18 Confidentiality of archaeological resource information.
- 296.19 Report.
- 296.20 Public awareness programs.
- 296.21 Surveys and schedules.

AUTHORITY: Pub. L. 96-95, 93 Stat. 721, as amended, 102 Stat. 2983 (16 U.S.C. 470aa-mm)(Sec. 10(a). Related Authority: Pub. L. 59-209, 34 Stat. 225 (16 U.S.C. 432, 433); Pub. L. 86-523, 74 Stat. 220, 221 (16 U.S.C. 469), as amended, 88 Stat. 174 (1974); Pub. L. 89-665, 80 Stat. 915 (16 U.S.C. 470a-t), as amended, 84 Stat. 204 (1970), 87 Stat. 139 (1973), 90 Stat. 1320 (1976), 92 Stat. 3467 (1978), 94 Stat. 2987 (1980); Pub. L. 95-341, 92 Stat. 469 (42 U.S.C. 1996).

SOURCE: 49 FR 1027, Jan. 6, 1984, unless otherwise noted.

§ 296.1 Purpose.

(a) The regulations in this part implement provisions of the Archaeological Resources Protection Act of 1979, as amended (16 U.S.C. 470aa-mm) by establishing the uniform definitions, standards, and procedures to be followed by all Federal land managers in providing protection for archaeological resources, located on public lands and Indian lands of the United