

National Forest Management Act

- Clearcutting in the 1960's and 1970's under Multiple-Use Sustained-Yield Act
- Local resentment
- Rising costs for the FS
- Senate report setting out guidelines for harvesting
- Environmental challenges
- Mood change in Congress in 1976 after clearcutting controversy



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National Forest Management Act

- Mood change in Congress in 1976 after clearcutting controversy
- Senator Hubert Humphrey proposed that legislation be shaped to prevent the FS from “turning the national forests into tree production programs which override other values.”
- Created three central elements of timber planning



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National Forest Management Act

Timber Planning

- **Determining the suitable land base or inventory**
- **Calculating the allowable cut, and**
- **Deciding upon the appropriate method for harvesting and regenerating the timber**



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National Forest Management Act

Land Resource Management Plans

- **LRMPs developed during the 1980's**
- **Environmental challenges regarding**
 - **NFMA**
 - **NEPA**
 - **APA**
 - **ESA**



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LRMPs Cont'd

- 1990's began revising plans to give ecological sustainability a higher priority
- Bush Administration delayed implementation of the new rules pending further study



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National Forest Management Act

Central Provisions

- Physical suitability
- Economic suitability: “below-cost timber sales” issue
- Diversity



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National Forest Management Act

Physical Suitability: 16 U.S.C. § 1604(g)(3)(E)

- Regulations and forest plans must insure that timber will be harvested only where—
 - i. soil, slope, or other watershed conditions will not be irreversibly damaged;
 - ii. there is assurance that such lands can be adequately restocked within five years after harvest; [and]



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National Forest Management Act

Physical Suitability Cont'd

- iii. Protection is provided for . . . water bodies . . . where harvests are likely to seriously and adversely affect water conditions or fish habitat . . .



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National Forest Management Act

Economic Suitability

- 16 U.S.C. § 1604(k): must consider “physical, economic, and other pertinent factors to the extent feasible”
- 16 U.S.C. § 1604(l): must establish a process for comparing costs and receipts and report annually to Congress on below-cost sales



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National Forest Management Act

Diversity: 16 U.S.C. § 1604(g)(3)(B)

- LRMPs must “provide for diversity of plant and animal communities based on the suitability and capability of the specific land area in order to meet overall multiple use objectives . . . and to provide, where appropriate, to the degree practicable, for steps to be taken to preserve the diversity of tree species similar to that existing in the region controlled by the plan.”



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Roadless Area Rule

Note that while 38 states and Puerto Rico have inventoried roadless areas on National Forest System lands within their boundaries, 56.6 million acres, or 97%, of all inventoried areas are contained in 12 states: Alaska, Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming.



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Roadless Area Rule

Roadless Area Conservation, 66 Fed. Reg. 3,244 (Jan. 12, 2001)

- Changed the land management on 58.5 million acres of inventoried roadless areas in 120 national forests.
- Originally scheduled to take effect on March 12.
- Secretary of Agriculture extended the effective date until May 12, 2001, to permit the new Administration to review the rule.



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Roadless Area Rule

Advanced Notice of Proposed Rulemaking (ANPR) 66 Fed. Reg. 35,918 (July 10, 2001)

- Concerns raised by—
 - local communities
 - tribes
 - states



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Roadless Area Rule Cont'd

ANPR Cont'd

- *Local* versus *National* Planning Process
 - Decisions should be made on basis of (1) local information and knowledge and (2) best available science.
 - Should not apply one standard uniformly to every inventoried area, regardless of location.



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Roadless Area Rule Cont'd

Special Areas, ANPR,
68 Fed. Reg. 41,864 (July 15, 2001)

- Inviting specific comments on applicability of rule to *the Tongass and the Chugach National Forests in Alaska*.
- *Alaska v. USDA*
 - Alleging violations of the Alaska National Interest Lands Conservation Act (ANILCA)
 - Settlement required publishing new rules with respect to those forests



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Roadless Area Rule Cont'd

There are just two national forests in Alaska, the Tongass and the Chugach, but they are the largest in the nation.



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Roadless Area Rule Cont'd

Special Areas, NPR, Tongass 68 Fed. Reg. 41,865 (July 15, 2001)

- ANILCA – Congress's specific direction with respect to public lands in Alaska
- Most southeast Alaska communities significantly impacted
- Roadless areas are common, not rare, in the Tongass National Forest
- Different approach needed for the Tongass



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Roadless Area Rule Cont'd

Litigation

- Nine lawsuits: Idaho, Utah, North Dakota, Wyoming, Alaska, and the District Columbia.
- District of Idaho issued a preliminary injunction prohibiting implementation of the rule (May 10, 2001).
- Tenth Circuit permanently enjoined the rule (July 14, 2003).

Tongass National Forest



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Roadless Area Rule Cont'd

The Rule Lives?

- **Bush Administration announced on June 9, 2003 that it would reinstate the Roadless Area Rule.**
- **But wanted “a balanced approach that protects the environment and responds to rural communities that need roads for their protection and livelihood”.**



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Tongass National Forest, Alaska

**Special Areas; Roadless Area
Conservation: Applicability to the
Tongass National Forest, Alaska, 68
Fed. Reg. 75,136 (December 30, 2003)**

- **Exempts Tongass for Roadless Area Rule until USDA promulgates a final rule regarding Alaska**
- **ANILCA**
- **1990 Tongass Timber Reform Act**
- **1997 Tongass Forest Plan**
- **Social and economic impacts**



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Roadless Area Rule Today

Special Areas; State Petitions for Inventoried Roadless Area Management, 70 Fed. Reg. 25,654 (May 13, 2005)

- Establishes criteria for petition from Governor of any state that wants to establish its own management requirements for forests within that state
- Establishes an advisory committee to help implement the rule



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Roadless Area Rule Today Cont'd

What Must the Petition Address?

- Conserving roadless area values and characteristics
- Protecting human health and safety
- Reducing hazardous fuels and restoring essential wildlife habitats



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Roadless Area Rule Today Cont'd

What Must the Petition Address Cont'd?

- **Maintaining existing facilities such as dams, or providing reasonable access to public and private property or public and privately owned facilities**
- **Technical corrections to existing maps such as boundary adjustments to remove existing roaded areas**



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Roadless Area Rule Today Cont'd

Other Requirements of the Petition

- **A description of how the recommended management requirements—**
 - **Differ from existing management plans**
 - **Compare to existing state or local LRMPs**
 - **Would affect fish and wildlife that use the lands in question and their habitat**



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Roadless Area Rule Today Cont'd

Other Requirements of the Petition

- A description of public involvement in the development of the petition
- A commitment to participate as a cooperating agency in any environmental analysis for a rulemaking process



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Healthy Forests Restoration Act of 2003

The Need for Legislation

- 190 million acres of public land at elevated risk of severe wildfires.
- In 2000 and 2002, US suffered two of its worst wildland fire seasons in 50 years.
- In 2003, 88,458 fires burned roughly 7 million acres, destroyed more than 800 structures, and took the lives of 23 firefighters.



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Healthy Forests Restoration Act Cont'd

The Need for Legislation Cont'd

- New Mexico, Oregon, Colorado, and Arizona registered their worst fires in modern history in 2002.
- California suffered its worst wildland fire season in 2003 over 739,000 acres, burning more than 3,600 homes, killing 22 civilians, and costing \$250 million to contain.



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Healthy Forests Restoration Act Cont'd

White House Remarks

- Strengthens public participation in developing high priority forest health projects;
- Reduces the complexity of environmental analysis allowing federal land agencies to use the best science available to actively manage land under their protection;



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Healthy Forests Restoration Act Cont'd

White House Remarks Cont'd

- Provides a more effective appeals process encouraging early public participation in project planning; and
- Issues clear guidance for court action against forest health projects.



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Healthy Forests Restoration Act Cont'd

Select Provisions

- *Enhanced* NEPA
 - Categorical Exclusions – § 103(b)(1)
 - EAs
 - Expedited Review – § 104
 - Must only consider proposed plan and one alternative (d)(1)
 - Must consider only the proposed plan (d)(2)



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Healthy Forests Restoration Act Cont'd

Select Provisions Cont'd

- **New Consultation Procedure Under ESA to Accelerate Reviews**
 - **Training USDA biologists to meet the requirements**
 - **Eliminating “routine and often duplicative informal consultations and allow[ing] them to focus on proposed actions that are more likely to have a more significant impact on a listed species”**
 - **No change in standards**



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Healthy Forests Restoration Act Cont'd

Criticisms

- **Horizontal Forest Initiative – more about the timber industry’s wishes than reducing risk of fires.**
- **Provides money for commercial logging in national forests but not for clearing on private land where people and structures are most at risk.**
- **Underfunding puts old-growth stands at risk.**

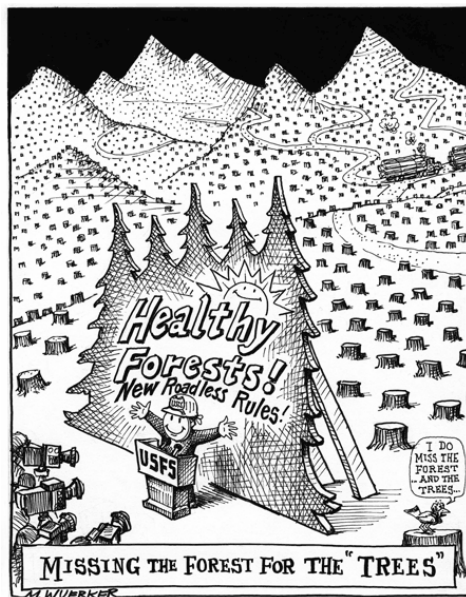


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Healthy Forests Restoration Act Cont'd



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