



Submitted via <https://regulations.gov>

October 6, 2026

Joshua White
Acting Director
Ecosystem Management Coordination
USDA Forest Service
201 14th Street SW, Mailstop 1108
Washington, DC 20250

**RE: Special Areas; Roadless Area Conservation; Proposed Rule
Request for Public Comment; 91 Fed. Reg. 53,827 (Aug. 20, 2026);
Docket ID No. FS-2025-0001**

Dear Mr. White,

The National Mining Association (NMA) and the Western Energy Alliance (WEA) appreciate the opportunity to comment on the Forest Service's proposed rule rescinding the 2001 Roadless Area Conservation Rule (2001 Roadless Rule), which prohibits road construction, road reconstruction, and timber harvesting in inventoried roadless areas, with limited exceptions, on approximately 58.5 million acres of National Forest System (NFS) lands, including Alaska.¹ The NMA and WEA strongly support the rescission of the 2001 Roadless Rule, which adopted an overly restrictive "one-size-fits-all" approach that failed to give appropriate weight to local considerations. The proposed action appropriately restores decision-making authority to the land management planning framework established by Congress, reduces unnecessary regulatory burdens, and better aligns management of NFS lands with the multiple-use mandates that govern the Forest Service. In furtherance of these efforts, the NMA and WEA provide additional suggestions below to enhance the efficacy of the proposed rule.

¹ 91 Fed. Reg. 53,827 (Aug. 20, 2026)

I. Statement of Interest

The NMA is the only national trade organization that serves as the voice of the U.S. mining industry and the hundreds of thousands of American workers it employs before Congress, the federal agencies, the judiciary and the media, advocating for public policies that will help America fully and responsibly utilize its vast natural resources. NMA's members work to ensure America has secure and reliable supply chains, abundant and affordable energy, and American-sourced materials that are delivered under world leading environmental, safety and labor standards. Headquartered in Washington, D.C., the NMA has a membership of more than 250 companies and organizations involved in every aspect of mining, from producers and equipment manufacturers to service providers. America's mining industry supplies the essential materials necessary for nearly every sector of our economy – from technology and healthcare to energy, agriculture, transportation, infrastructure, and national security. Many NMA members conduct mining activities on NFS lands and therefore have a substantial interest in regulations governing access. The existing Roadless Rule ignores myriad federal statutes designed to promote mineral exploration and development and allows Forest Service roadless-area decisions to override those statutory objectives.

WEA has been at the forefront of public lands and energy issues for over five decades. WEA has been deeply engaged in policies to promote the responsible exploration and production of oil and natural gas on federal lands in the West. WEA's 165 members are independent and integrated producers and associated companies who operate on federal, tribal, and nonfederal lands in the West. As such, WEA collectively has detailed knowledge and expertise on how to responsibly expand oil and natural gas production on federal lands, how best to implement the multiple use mandates of the U.S. Forest Service and the Bureau of Land Management, and how best to ensure the rulemaking efforts align with applicable federal land management and leasing statutes.

II. Background

As explained in the notice and the proposed rule, the regulatory history of the 2001 Roadless Rule is lengthy and complicated. Since its proposal, NMA and WEA have been vocal critics. The NMA provided comments at each stage of the rulemaking highlighting the agency's failure to consider various statutes governing access to minerals on NFS lands as well as the multiple use mandate required by the Multiple-Use-Sustained-Yield-Act of 1960

(MUSYA).² After the 2001 Roadless Rule was finalized, nine separate lawsuits were filed in six judicial districts and in four Federal circuits challenging the legality of the rule. In the *State of Wyoming v. USDA*, the court held that the Forest Service's failure to comply with existing statutory mandates from the National Environmental Policy Act (NEPA),³ and the Wilderness Act of 1964,⁴ were so egregious that the 2001 Roadless Rule was enjoined.⁵

In a bid to bring stability and acquiesce to the concerns of local communities, tribes, states, and other impacted stakeholders, the Forest Service subsequently issued an advanced notice of proposed rulemaking (ANPRM)⁶ requesting comment on how to "best proceed with long-term protection and management of inventoried roadless areas." Due to overwhelming response from nearly 726,000 commenters and intervening litigation, a second ANPRM was published on July 15, 2003,⁷ with a proposed rule following on July 16, 2004.⁸ In the proposed rule, the Forest Service took a fresh approach and suggested replacing the 2001 rule with a process allowing governors to petition to establish management requirements for NFS inventoried roadless areas within their states.

The NMA provided comments in support of the new approach, highlighting the benefits of a more localized and cooperative approach. Additionally, the NMA stated that while the 2001 rule was incongruous with statutory authority, the 2004 rule was consistent with statutory authorities, including the MUSYA.

The Forest Service finalized the state petition rule on May 13, 2005, and subsequently Idaho and Colorado petitioned to develop state-specific roadless rules. Thus, the 2001 Roadless Rule no longer applied to more than 9 million acres in Idaho and more than 4 million acres in Colorado. Litigation over certain aspects of the 2001 and 2005 rules, especially applicability in Alaska, continued for two decades. Twice the U.S. Supreme Court rejected petitions to determine the 2001 Roadless Rule's legality.

² 16 U.S.C. § 528, et. seq.

³ 42 U.S.C. § 4321, et. seq.

⁴ 16 U.S.C. § 1131, et. seq.

⁵ 277 F. Supp. 2d 1197 (D. Wy., 2003)(Decision subsequently vacated by the U.S. Court of Appeals for the Tenth Circuit).

⁶ 66 Fed. Reg. 35,918

⁷ 68 Fed. Reg. 41,864

⁸ 69 Fed. Reg. 42,636

III. General Comments

In September 2025, the NMA submitted preliminary comments on the Forest Service's notice of intent regarding this rulemaking.⁹ Those comments and observations are as prescient today as they were a year ago. We have included the comments as well as suggestions to enhance legal durability.

a. Rescission is Required to Respond to Changes from the Executive Branch

Not only is the 2001 Roadless Rule contrary to statutory intent, but it also fails to align with requirements enumerated in several recent executive orders designed to promote resource development on federal lands. For example, Executive Order (E.O.) 14192, Unleashing Prosperity Through Deregulation, tasked agencies with eliminating overcomplicated and burdensome barriers that hamper American business and innovation.¹⁰ In E.O. 14154, Unleashing American Energy,¹¹ the President established policy directives to encourage exploration and mineral production by removing agency actions and roadblocks that impose an undue burden on identification, development, or use of domestic energy and mineral resources. Additionally, Executive Order 14153, Unleashing Alaska's Extraordinary Resource Potential, section 3(c), directs that the Secretary of Agriculture "shall reinstate" the 2020 Alaska Roadless Rule¹² (which exempted the Tongass National Forest from the 2001 Roadless Rule. Finally, E.O. 14241, Immediate Measures to Increase American Mineral Production,¹³ aimed to reduce reliance on foreign imports of minerals by fast-tracking permitting of domestic minerals projects and prioritizing federal lands for mineral projects. The 2001 Roadless Rule as it stands creates undue burden on production of the Nation's timber and identification, development, and use of domestic energy and mineral resources, and is incongruous to the mandates issued by this administration.

b. The Proposal Returns Consistency with Other Statutory Obligations

The NMA's 2004 comments supported the rule's new approach to complementing local-level forest planning under the National Forest

⁹ See National Mining Association Comments on Forest Service Roadless Rule Amendments, available at <https://www.regulations.gov/comment/FS-2025-0001-218892>. (last accessed Sept. 28, 2026)

¹⁰ 90 Fed. Reg. 9,065 (Jan. 31, 2025)

¹¹ 90 Fed. Reg. 8353 (Jan. 20, 2025)

¹² 85 Fed. Reg. 68,688

¹³ 90 Fed. Reg. 13,673 (March 25, 2025).

Management Act of 1976 (NFMA).¹⁴ Local-level forest planning has long been the mechanism used to develop forest plan decisions by the people most knowledgeable about NFS lands. Local forest plans are developed through an open public process by agency personnel, industry representatives, environmentalists, elected officials, and community stakeholders. As the Forest Service points out in its notice, a national top-down, one-size-fits-all roadless conservation rule is no longer appropriate. Such rigidity undermines the cooperative dialogue that takes place during each forest's plan revision and cancels out years of research, scientific analyses, collaboration, and compromise. Not only was the 2001 Roadless Rule contrary to NFMA, but a national rule is also not necessary to protect roadless areas within the NFS. The 2001 rule provided no evidence that a nationwide prohibition on road construction would improve upon the prior system under which local agency officials made decisions regarding road construction on a case-by-case basis. The 2005 petition process appropriately allowed for recognition of local situations and provided for greater input by the interested parties most affected by roadless management decisions.

As discussed above, MUSYA imposes a multiple use mandate on the Forest Service, a mandate that could not be met through a nationwide prohibition on roads. MUSYA permits the Forest Service to prefer some uses over others based on relative resource values but with the recognition that site-specific or local factors are the key to setting any use preferences. In explaining the Act's multiple-use directive, the House Report discusses the "relative values" analysis as follows:

One of the basic concepts of multiple use is that all of these resources in general are entitled to equal consideration, but in particular or localized areas relative values of the various resources will be recognized....In practice, the priority of resource use will vary locality by locality and case by case. In one locality timber use might dominate; in another locality use of the range by domestic livestock; in another outdoor recreation or wildlife might dominate. Thus, in particular localities the various resource uses might be given priorities because of particular circumstances.¹⁵

The 2001 Roadless Rule effectively elevated one set of land-management objectives over the other congressionally recognized uses through a nationwide limitation that does not account for substantial differences

¹⁴ 16 U.S.C. 1600

¹⁵ H.R. Rep. No. 1551, 86th Cong., 2d Sess. --- (1960), reprinted in 1960 U.S.C.C.A.N. 2377, 2379.

among forests, ecosystems, resource conditions, and local community needs. Based on the symbiotic nature of these statutory authorities, it is imperative that the final rule explicitly incorporates a more fulsome discussion on the statutory requirements of the NFMA and MUSYA.

c. Rescission Better Accommodates Mineral and Coal Development

While the NMA and WEA are supportive of the Forest Service proposal to rescind the 2001 Roadless Rule, as the agency considers next steps, it must fully respect the statutes governing mineral development, such as the Mining Law of 1872, the Mineral Leasing Act (MLA) and other statutes particular to mineral development.¹⁶ Mining is unique, because federally owned minerals and coal are primarily managed by the Department of the Interior not the Forest Service. As such, the Forest Service has a limited role in the regulation of mineral resources. The authority the Forest Service derives from the laws it administers generally for activities that affect its surface resources do not supersede the more specific mandates and requirements of the mineral laws.

The Mining Law allows for “free and open exploration and purchase” of “[a]ll valuable mineral deposits in lands belonging to the United States.”¹⁷ The subsequently enacted Organic Administration Act of 1897,¹⁸ which established the NFS and the 1905 Act transferring authority over the forests to the Department of Agriculture explicitly limited the ability to impede mining activities. For example, the Organic Administration Act of 1897, which remains a central statutory authority for the Forest Service today, does not provide the authority to limit locatable mineral exploration and mining on NFS lands. To the contrary, the Act explicitly warns: “nor shall anything herein prohibit any person from entering . . . national forests for all proper and lawful purposes, including that of prospecting, locating and developing mineral resources. . . .”¹⁹ Similarly, the 1905 Act limits the agency’s authority by “excepting such laws as affect the surveying, prospecting, locating, appropriating, entering, relinquishing, reconveying, certifying, or patenting of any such lands.”²⁰ For decades, this qualification has been construed consistently as withholding administrative power over

¹⁶ Other relevant statutes include: the Surface Mining Control and Reclamation Act of 1977 30 U.S.C. ch. 25 § 1201 et seq.; Federal Coal Leasing Amendments Act of 1975, 30 U.S.C. §§ 181-263; and the Mining and Minerals Policy Act of 1970, 30 U.S.C. § 21a.

¹⁷ 30 U.S.C. § 22

¹⁸ 30 Stat. 11 (Jun. 4, 1897)

¹⁹ 16 U.S.C. § 478.

²⁰ 16 U.S.C. § 472; 30 Stat. 628 (Feb. 1, 1905)

locatable mineral exploration and mining activity on NFS lands from the Department of Agriculture.²¹

Likewise, the disposition of solid minerals subject to the leasing laws cannot be impaired by unilateral action by the Forest Service under the guise of its general authority to manage surface resources within the NFS. The MLA governs the disposition and development of federal coal and other leasable minerals under NFS lands and establishes specific land use planning considerations for their availability. The 2001 rule ignored the important reserve base of federal coal located on NFS lands. Access to this supply of domestic energy is important to ensure affordable and reliable electricity in a time of exponential growth in energy demand.

Although the 2001 Roadless Rule did not eliminate mining outright, its restrictions on road-related access often created substantial obstacles to exploration, development, maintenance, and operation of mineral projects. The proposed rescission better harmonizes forest management with Congress's direction that federal lands remain available for responsible mineral development consistent with applicable environmental protections. The Forest Service correctly notes that mineral development activities will remain subject to all applicable environmental statutes, permitting requirements, and land management plan provisions. Thus, rescission restores management flexibility without diminishing legal protections.

IV. Additional Suggestions for Legal Durability

Since its adoption in 2001, the Roadless Rule has been the subject of extensive litigation, injunctions, administrative reversals, and competing regulatory approaches. To ensure the final rescission survives judicial review under the Administrative Procedure Act (APA), NMA and WEA urge the agency to incorporate the following legal and factual elements into the final rule's preamble and administrative record.

²¹ See, e.g., H.H. Yard, 38 Pub. Lands Dec. 59, 61-65, 1909 WL 936 (D.O.I. July 3, 1909) (stating that the Transfer Act of 1905 "recognized the right, authority, power, and jurisdiction [over surveying, entering, patenting, prospecting, and appropriating] as already existent and vested and declares that such power and authority shall remain where now seated, viz: with the Interior Department."); Apex and Extralateral Rights Issues Raised By The Stillwater Mineral Patent, 93 Interior Dec. 369, 384 n. 2, 1986 WL 222959 (D.O.I. Apr. 18, 1986) ("The Interior Department has the statutory responsibility to administer the Mining Law of 1872, . . . on National Forest lands.").

a. Demonstrate that Rescission Does Not Run Afoul of the APA

While the Forest Service rescission enumerates many developments over the last quarter of a century that warrant greater management flexibility, the final rule should include a more robust administrative record.²² The Forest Service should anticipate challenges under the APA's arbitrary and capricious standard under 5 U.S.C. § 706 for any proposed change in position. Under the APA, federal agencies are required to demonstrate that they engaged in a reasoned, rather than arbitrary, decision-making process when engaging in regulation or deregulation. An agency's decision to change existing policy was discussed by the U.S. Supreme Court in its 2024 decision in *Food and Drug Administration v. Wages & White Lion Investments*.²³ In that case, the Court formally coined the term "change-in-position doctrine" finding that under that doctrine, "[a]gencies are free to change their existing policies as long as they provide a reasoned explanation for the change, display awareness that they are changing position, and consider serious reliance interests."²⁴ And while an agency generally need not "provide a more detailed justification than what would suffice for a new policy created on a blank slate," it nonetheless "must be cognizant that longstanding policies may have engendered serious reliance interests that must be taken into account."²⁵ A more detailed justification is also required when an agency's "new policy rests upon factual findings that contradict those which underlay its prior policy."²⁶

The Forest Service should fortify the administrative record with extensive evidence showing that conditions have materially changed since 2001 including providing data regarding increased acreage burned by wildfires, drought-related forest stress, and growth in deferred forest management needs. Providing empirical evidence and support for the change will demonstrate that the rescission was not made arbitrarily. The Forest Service should also stress that courts have consistently recognized that the 2001 Roadless Rule itself was a discretionary exercise of agency authority rather than a statutory mandate. The same statutory discretion that authorized adoption of the 2001 Roadless Rule, authorizes its rescission when supported by a reasoned explanation and administrative record.

²² See 91 Fed. Reg. 53827, 53828 (the Forest Service highlights increased wildfire frequency and severity; expanded insect and disease infestations; drought-related forest health concerns; changes in national resource priorities; and improvements in the Forest Service's planning regulations and landscape-management tools).

²³ 604 U.S. 542, 566 (2025)

²⁴ *Id.* at 568.

²⁵ *Id.* at 570.

²⁶ See, *F.C.C. v. Fox Television Stations, Inc.*, 556 U.S. 502, 515 (2009)

Aside from demonstrating that the Forest Service engaged in reasoned decision-making to avoid triggering arbitrary and capricious review, the Forest Service should proactively address reliance interests in the final rule. The Forest Service should anticipate that parties opposed to rescission will argue reliance on the previous framework. The Supreme Court emphasized in *Department of Homeland Security v. Regents of the University of California*, that agencies changing course must meaningfully consider serious reliance interests.²⁷ Specifically, the Court held that "[W]hen an agency changes course, as DHS did here, it must be cognizant that longstanding policies may have engendered serious reliance interests that must be taken into account."²⁸ The Court emphasized that reliance interests need not be economic only. They can include planning decisions, institutional arrangements, and expectations built over many years.²⁹

A challenger to Roadless Rule rescission would likely argue that there had been community and state planning around protected roadless areas, tribal dependency on protection of cultural landscapes, and environmental and conservation organization projects surrounding protection of watersheds and other landscapes. Under *Regents*, the Forest Service cannot simply mention these interests. It must meaningfully evaluate them. The final rule should acknowledge that parties relied on the 2001 Roadless Rule, explain why the reliance interests are outweighed by the changed conditions and alternative protections, and distinguish between reliance on the rule itself and reliance on wilderness-like management that can still be achieved through forest plans.

b. Existing Environmental Standards are Sufficient

An important point for the Forest Service to emphasize in the final rule is that rescission does not create a regulatory vacuum. The final rule should include a detailed analysis of how environmental protections remain. For example, modern mineral development already operates within a comprehensive environmental regulatory framework that provides multiple layers of review, mitigation, monitoring, and enforcement. As a result, rescinding the Roadless Rule does not eliminate environmental protections; it simply ensures that lawful activities can proceed while remaining subject to existing safeguards.

Existing safeguards and protections that will remain when the rescission is finalized, including those under:

²⁷ 591 U.S. 1 (2020)

²⁸ *Id.* at 30-31.

²⁹ *Id.* at pg. 31 (quoting *Fox Television*, 556 U.S. at 515)

NEPA:

Any future proposal involving timber harvest, road construction, vegetation management, or mineral development would remain subject to NEPA analysis.³⁰ NEPA requires federal agencies to analyze environmental impacts, evaluate alternatives, and incorporate design criteria to avoid or mitigate harm. Rescission does not eliminate project-level environmental analysis. Additionally, the final rule should emphasize that rescission does not authorize any site-specific activity.

Endangered Species Act (ESA) Section 7:

Projects affecting listed species or designated critical habitat would remain subject to Section 7 of the ESA, which requires federal agencies to consult with the U.S. Fish and Wildlife Service or National Marine Fisheries Service when an action may affect a listed species or critical habitat.³¹ Rescission of the 2001 Roadless Rule would not alter these obligations and would not exempt future projects from consultation requirements. The final rule should specifically discuss how ESA consultation continues to protect critical habitats and threatened and endangered species.

Clean Water Act (CWA):

The final rule should fully discuss the continuing role of the CWA, especially for road construction and timber management. Stream crossings, road construction, and route maintenance must adhere to state water quality standards, best management practices and non-point source pollution controls to prevent sedimentation and runoff into watersheds.³² Because protection of municipal watersheds was one of the principal rationales for the original 2001 Roadless Rule, the Forest Service should explain how these existing requirements continue to protect water resources.³³

National Historic Preservation Act (NHPA) Section 106:

Future projects would also remain subject to the NHPA, particularly Section 106 review requirements. Under Section 106 of NHPA, cultural and historic resource surveys remain mandatory before expanding access or opening routes that could impact historic, prehistoric, or sacred Tribal sites.³⁴

³⁰ 7 CFR § 1b.7(h)

³¹ 16 U.S.C. §§ 1531-1544

³² See 33 U.S.C. § 1329 and 33 U.S.C. § 1344

³³ See 66 Fed. Reg. 3244, 3245

³⁴ 54 U.S.C. § 306108

NFMA:

As previously mentioned, the NFMA remains the primary statute governing the management of NFS lands.³⁵ The NFMA requires forest plans to address ecological integrity, watersheds, species diversity, recreation, cultural resources, and multiple-use management objectives. A more detailed discussion would help demonstrate that roadless values remain subject to enforceable planning requirements.

Additional Forest Planning Oversight:

The proposed rule makes clear that current land management plans will continue to govern these areas after rescission and may themselves contain restrictions on roads, timber harvest, and other activities. Rescission merely removes the nationwide overlay. Additionally, project-level review and administrative oversight would remain. Forest supervisors and regional foresters would continue to approve projects individually, supported by technical analyses, public participation, and judicial review. The proposal specifically notes that future actions would still have to comply with applicable laws and remain consistent with governing forest plans.

V. Conclusion

The proposed rescission appropriately restores management of inventoried roadless areas to the statutory framework established by Congress under NFMA and MUSYA. Existing environmental laws will continue to protect NFS resources while allowing local managers to make site-specific decisions based on current conditions and community needs. Furthermore, the proposal will improve management flexibility, reduce unnecessary regulatory burdens, provide greater regulatory certainty, enhance the legal durability of federal land management decisions, and better accommodate responsible

³⁵ 16 U.S.C. § 1604

mineral development consistent with statutory authority. For these reasons, the NMA and WEA support rescission and respectfully urge the Forest Service to finalize the proposed rescission with our suggested edits. If you have questions regarding these comments, please contact Dominique at dchristianson@nma.org.

Sincerely,

A handwritten signature in black ink that reads "Dominique Christianson". The script is cursive and fluid, with the first name and last name clearly legible.

Dominique Christianson
Associate General Counsel
National Mining Association

A handwritten signature in black ink. It appears to be "MS" followed by a long, sweeping horizontal line that extends to the right.

Melissa M. Simpson
President
Western Energy Alliance