



Questions and Answers

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General

1. What is a roadless area?

Roadless areas are areas designated pursuant to either the 2001 Roadless Rule (Inventoried Roadless Areas) or under the proposed Colorado Roadless Rule (Colorado Roadless Areas), which are identified in a set of maps maintained at the national headquarters office of the Forest Service. These areas are often characterized by the following resources or features:

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.

2. What is the Colorado Roadless Rule?

The Colorado Roadless Rule is a state-specific rule that provides management direction for conserving and managing roadless areas on National Forest System lands in Colorado.

3. Why is this important?

Colorado roadless areas are of great importance to the people of Colorado and the Nation. There are about 4.2 million acres of roadless areas in Colorado, which provide a variety of resources and open space opportunities for all Americans. They provide the setting and backdrop for recreational experiences of all

kinds, including non-motorized and/or motorized recreational trail use. They are sources of clean and safe public drinking water. They contain habitat for species dependent on large, undisturbed areas of land. The scenic quality of the natural-appearing landscapes is among the highest in the Nation. These areas serve as bulwarks against the spread of non-native invasive plant species and provide reference areas for study and research. The proposed Colorado Roadless Rule seeks a balanced management approach between local and national interests that sustains roadless area characteristics now and for future generations.

4. What will happen after the comment period is over?

Comments received during the 90-day comment period will be reviewed and all substantive comments will be identified, evaluated and responded to by the Forest Service in one of the following ways:

- Modify alternatives including the proposed action;
- Develop and evaluate alternatives not previously considered;
- Supplement, improve or modify the analyses;
- Make factual corrections; or
- Explain why the comment does not warrant further agency response.

The Forest Service will host open-house style public meetings to provide the public an opportunity to discuss the details of the proposed rule enhance their understanding and engage with the Forest Service.

A final rule and final environmental impact statement will be published after the comments are analyzed and appropriate modifications made to the documents. A record of decision will also be published, that will document which, if any, rule is selected for implementation. The selected rule would become a Federal Regulation and would guide management of roadless areas in Colorado.

5. Why does Colorado need a roadless rule? Why not follow the 2001 Rule?

The legal status of the 2001 Rule has generally been unclear since it was promulgated, and as of this date its application to the State of Colorado is still legally uncertain. The Colorado Roadless Rule was initiated as an opportunity to refine and update the 2001 rule. Rule development has included updating the acreage (including 409,500 acres not identified in the 2001 rule), clarifying aspects of the rule that were less clear (such as fuel treatments for defensible space and the use of linear construction zones) and providing opportunities for jobs important to Colorado and the nation, such as in coal mines that provide supercompliant coal (20,000 acres) and ski areas (8,300 acres).

A final Colorado Roadless Rule will be the Secretary's direction on how these National Forest System lands in Colorado would be managed and protected for the benefit of all Americans. Colorado's roadless areas are the headwaters for much of the water supply for Southwestern United States, and any final rule by the Secretary will consider a well-balanced approach for managing and protecting these lands.

6. Who is the decision-maker on the Colorado Roadless Rule?

The Secretary of Agriculture is the decision-maker for the Colorado Roadless Rule.

7. What was the Forest Service’s involvement with the State of Colorado in preparation of the State petition?

The Forest Service has cooperated with the State of Colorado during the development of its petitions. The State is a cooperating agency with the Forest Service in developing an environmental impact statement for the rule.

8. How can I be involved in the process?

The public can review the Revised Draft EIS and Proposed Colorado Roadless Rule and provide comments during the 90-day comment period. These comments will help inform the final EIS. The public is also invited to attend any of the public meetings to be held in Durango, Monte Vista, Grand Junction, Glenwood Springs, Steamboat Springs, Pueblo, Fort Collins, Denver and in Washington D.C.

Background

9. Wasn’t a proposed Colorado Roadless Rule published earlier?

After a proposed roadless rule for Colorado was published in July 2008, the Governor of Colorado decided to revise the State’s petition based on public comment received. The State of Colorado then sought additional public comment on revised petition language in August 2009. The new revised petition submitted by the State reflects changes made in response to this additional public comment.

10. What’s different about the proposed Colorado Roadless Rule to that proposed in 2008?

The State Senate Bill (05-243) (approved on June 8, 2005) that established the Colorado Roadless Task Force stated that the Task Force should use the 2001 rule “as the starting point for its deliberations.” Through administration changes at both the state and national levels, this process has continued forward toward bipartisan consensus-building. The proposed rule updates, clarifies, and provides state-specific exceptions to the 2001 rule. By adding an Upper Tier, about 562,000 acres, 13% of these acres have a higher level of protection than the 2001 rule.

Other major changes since the 2008 proposed rule include:

- The inventory has been updated to add 409,500 acres of high-quality roadless areas and removed 458,800 acres where roadless characteristics have been substantially altered.
- The proposed Colorado Roadless Rule identifies 562,200 acres as Upper Tier acres and gives those acres more protection than the 2001 rule.
- Temporary road construction for fuel treatment is limited to a ½ mile area around communities.
- Regional Forester approval is required in all cases where the revised proposed Colorado Roadless Rule allows exceptions not allowed by the 2001 rule.
- The Currant Creek area, critical wildlife habitat for a variety of wildlife species, has been removed from the North Fork coal mining exception acreage.
- Language has been added to protect the headwaters of native cutthroat trout streams.

- Linear construction zones have been defined and restricted.
- No roads are allowed for powerlines or pipelines and their use for water conveyance structures is limited.

Specific Features of the Colorado Roadless Rule

11. What is the Upper Tier and why was it added to the proposed Rule?

The Upper Tier designation was added based on public concern that exceptions found in the previous proposal would allow roads and tree cutting anywhere within CRAs. On Upper Tier acres, requirements are more restrictive than under the 2001 rule. The exceptions allow only road construction and reconstruction as allowed by statutes or treaties, and reserved or outstanding rights; and tree-cutting incidental to an activity not prohibited by the Colorado Roadless Rule and for personal or administrative use. The provisions and exceptions are the same in Alternative 2 and 4; however, the acreage applied to the upper tier is different. In Alternative 2, acres were selected for upper tier from current and draft forest plans for a total of 562,200 acres. In Alternative 4, feedback received from groups was used to select a total of 2.6 million acres. These acres were included in the alternative so that the analyses would support a broad range of upper tier designations in the final rule.

12. How is the North Fork coal mining area treated in the proposed rule?

Based on public comment and wildlife values, the Currant Creek area (9,000 acres) has been removed from the North Fork coal mining area. For this proposed rule, there are 20,000 acres where temporary roads will be allowed- mostly for removing methane from underground mines for miner safety. The roads will not be open to the public, are expected to last three to five years, and will be decommissioned to restore the landscape following use. Of the 20,000 acres in the North Fork, 4,000 have existing coal leases.

13. What about future oil and gas leases?

Like the 2001 rule, the Colorado Roadless Rule allows no roads or tree cutting for oil and gas leases issued after the promulgation of the rule. After this rule becomes effective, any oil or gas leases issued within a CRA would include stipulations that prohibit road construction and reconstruction. Only leasing that can be accomplished without road construction or reconstruction would be allowed, and the leases would require mandatory and non-waiveable stipulations prohibiting road construction. The proposed rule identifies regulatory requirements that would be imposed for any linear construction zone associated with such leases. Eight conditions would be established to be considered during analysis of Surface Use Plans of Operation for both existing and future leases in CRAs.

14. How does the proposed rule address “Gap Leases”?

The proposed rule does not establish restrictions to be applied retroactively to oil and gas leases within CRAs. Consistent with other past USDA rulemakings concerning roadless area management, this rule is not designed or intended to address prior decisions but instead establishes prospective management direction for the protection and management of CRAs. Nevertheless, the proposed rule would establish requirements for the exercise of future discretionary decisions concerning such leases. Specifically, the proposed rule requires roads be only temporary and prohibits the agency from authorizing the Bureau of Land Management to grant any request for a waiver, exception, or modification to any oil or gas lease if doing so would result in any road construction or tree cutting within a Colorado Roadless Area beyond that authorized by the terms and conditions of the lease at the time of issuance. Unlike the 2001 rule, the proposed rule does not allow for existing leases to be extended, renewed or reissued.

For both current and future leases, eight conditions would be established to be considered during analysis of Surface Use Plans of Operation for both existing and future leases in CRAs.

15. Why were ski areas removed from Colorado roadless areas?

The proposed rule removes from the Colorado roadless areas 8,300 acres that are within existing ski permits or identified for ski area development allocations in the land management plans. The State requested that the Forest Service take this action in order to better balance the social and economic importance of ski areas with the need to protect roadless area characteristics. Under the rule these 8,300 acres would be managed according to the provisions in the applicable forest plan. Any road construction or tree cutting will still need to go through a site-specific NEPA process.

16. Will the Colorado Roadless Rule supersede forest plans or require an amendment of forest plans?

The roadless rule supersedes forest plan direction. The rulemaking process does not require amendments or revisions to forest plans. While the Forest Plan provides overall management direction for both roaded and roadless areas within a national forest, the Colorado Roadless Rule takes precedence. Forest plan direction that further restricts road construction or tree cutting would be in compliance with the Colorado Roadless Rule.

17. Did consultation with American Indian Tribes take place?

Yes. The federal government has a unique government-to-government relationship and trust responsibility with federally recognized tribes based on a variety of laws, executive orders, and court decisions designed to protect tribal interests. The two resident tribes in Colorado, Ute Mountain Ute and Southern Ute, retain some of their traditional land base as reservations through a series of treaties, agreements, and laws. The two tribes retain specific hunting rights and other aboriginal rights throughout their traditional territory, which includes portions of some roadless areas in Colorado. Over a dozen other tribes located outside Colorado maintain tribal interests, including aboriginal and ceded territories, and inherent aboriginal rights within Colorado.

The Forest Service has consulted with all potentially affected tribes about the Colorado Roadless Rule through letters as well as follow-up phone calls, e-mails, or meetings, from October 2007 through the present. Issues raised by the tribes during consultation have been considered and incorporated into the analysis. Consultation with interested or affected tribes will continue throughout the analysis and decision-making process.