



## Questions and Answers

- **General (1 – 10)**
- **Specific Features of the Colorado Roadless Rule (11-19)**

### General

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#### 1. What is a roadless area?

Roadless areas are generally greater than 5,000 acres unless contiguous to existing wilderness areas or other designated areas. These areas are often characterized by:

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 contemporary state-specific rule that provides management direction for conserving and managing roadless areas on NFS lands in Colorado.

#### 3. Why is this important?

Colorado roadless areas are of great importance to the people of Colorado and the Nation. Colorado has 4.2 million acres of roadless areas which provide a variety of resources and open space opportunities for all Americans. These areas provide the setting and backdrop for recreational experiences of all kinds, including non-motorized and/or motorized recreation trail use. They are sources of clean 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 Colorado Roadless Rule seeks a balanced management approach between local and national interests that sustains roadless area characteristics now and for future generations.

#### **4. How was the public involved in developing this Rule?**

Public interaction, comment and involvement throughout the process of the rule were very important. There were five public comment periods held by the State or the Forest Service generating over 310,000 individual comments:

<b>Date</b>	<b>Number of Comments</b>
<b>July 2005</b>	40,000
<b>December 2007</b>	88,000
<b>July 2008</b>	106,000
<b>August 2009</b>	22,000
<b>April 2011</b>	56,000

The most recent comment period occurred in April 2011 when the proposed Colorado Roadless Rule and Revised Draft EIS (RDEIS) were made available for a 90-day public comment period ending in July, 2011. During this time, members of the public submitted feedback to the Forest Service on the RDEIS and proposed Rule. Of the 56,000 comments received from individuals, organizations and government entities, 800 were original responses or unique letter forms with additional material and the remaining 55,200 were organized campaign responses. Comments were received from across the country with the concentration of comments coming primarily from Colorado, California, New York, and Texas. Based on comments received during the comment period and public meetings, adjustments were made to the RDEIS and proposed Rule. The FEIS contains a response to substantive comments section where these issues are addressed.

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

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), providing the opportunity for defensible space around communities, providing for water development, and providing opportunities for jobs important to Colorado and the nation, such as in coal mines and ski areas. A final Colorado Roadless Rule will be determined by the Secretary's direction on how these NFS lands in Colorado are to be managed and conserved 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. How does the 10<sup>th</sup> Circuit Ruling on the 2001 Rule affect the Colorado Roadless Rule?**

On October 21, 2011 the Tenth Circuit Court of Appeals reversed the District Court of Wyoming's order to set aside and permanently enjoin the 2001 Roadless Area Conservation Rule (2001 Roadless Rule). The denial on February, 16, 2012 for rehearing en banc by the 10th Circuit and subsequent mandate on February 24, 2012 makes the 2001 Roadless Rule the controlling management direction for roadless areas in Colorado as well as the rest of the nation, except Idaho. The Tenth Circuit rulings changed what is considered the "no action alternative" in the EIS. In the April 2011 RDEIS, the no action alternative was considered to be Alternative 3, Forest Plans. Alternative 1, 2001 Roadless Rule, is now the no action alternative and environmental baseline.

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

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

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

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

**9. How many Roadless areas are there in Colorado and where are they located?**

Each National Forest in Colorado contains a portion of the 363 Roadless areas.

National Forest	Number of Colorado Roadless Areas	Total Acres
Arapaho Roosevelt	28	347,100
Grand Mesa, Uncompahgre, Gunnison	76	901,100
Manti La-Sal	1	7,700
Pike San Isabel	66	774,700
Rio Grande	53	518,600
Routt	29	433,600

San Juan	20	566,100
White River	90	636,700

**10. What is the difference between the proposed 2008 Colorado Roadless Rule to that proposed in 2011?**

The 2011 RDEIS and Proposed Rule are revised versions of the original 2008 Proposed Draft Environmental Impact Statement (DEIS) and Proposed Rule. Revisions of the 2011 version from the 2008 version include addition and subsequent expansion of upper tier acreage in the alternatives, and tighter restrictions on activities permitted within upper tier acres.

**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 459,100 acres where roadless area characteristics have been substantially altered.
- The Colorado Roadless Rule identifies 1.2 million acres as upper tier acres and conserves roadless area characteristics at a higher level than the 2001 Rule.
- Temporary road construction for fuel treatment and ecosystem composition, structure and processes is limited to a ½ mile area around at-risk communities.
- Regional Forester approval is required for all LCZs and a subset of the tree cutting and road construction exceptions.
- The Currant Creek CRA, a critical wildlife habitat area for a variety of wildlife species, has been removed from the North Fork coal mining exception acreage.
- Language has been added to protect occupied native cutthroat trout habitat.
- Linear Construction Zones have been defined and restricted.
- Use of LCZs are prohibited for all future oil and gas leases, or utility lines in upper tier acres.
- No surface occupancy stipulations (NSOs) have been placed for future oil and gas leases on all upper tier acreages.

Road construction is not allowed for the construction, reconstruction or maintenance of future utility structures; or for the management of livestock grazing

**Specific Features of the Colorado Roadless Rule**

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**11. What is a Linear Construction Zone?**

A Linear Construction Zone is a temporary linear area over 50 inches wide that is used for motorized transport by vehicles or construction equipment to install a linear facility. An LCZ is not engineered to be used as a motorized route and does not meet road specifications. The Colorado Roadless Rule prohibits the use of LCZs within CRAs with three exceptions, all of which require Regional Forester determination. LCZs for electrical power lines, telecommunication lines, and pipelines are restricted in non-upper tier acres. Water conveyance structures with a pre-existing water court decrees filed prior to

promulgation of the final rule are allowed in upper tier acres. The rule prohibits LCZs for future oil and gas leases, and utility lines in upper tier acres.

## **12. What is upper tier and why was it added to the Rule?**

Upper tier designation provides for a higher level of conservation of roadless area characteristics and was added based on public concern that the exceptions for road construction and tree cutting needed to be balanced with areas of additional restrictions (less exceptions).

Within upper tier areas, requirements for activities are more restrictive than under the 2001 rule. The exceptions allow road construction and reconstruction as allowed by statutes or treaties, and reserved or outstanding rights; and temporary road construction for public health and safety in case of an imminent threat of a catastrophic event that would cause the loss of life or property. Tree cutting incidental to an activity and for personal or administrative use is not prohibited by the Colorado Roadless Rule.

## **13. How will water rights be treated in the implementation of the rule?**

The Colorado Roadless Rule allows road construction, reconstruction and maintenance and use of LCZs to develop existing water rights and water conveyance structures (these include reservoirs) in non-upper tier acres. Only LCZs can be used in upper tier acres. Based on review of public comments pertaining to water rights and development, the Forest Service in conjunction with the State of Colorado, revised the rule to accommodate water right applications filed before the effective date of the rule. These rights must be filed prior to the effective date of the rule and eventually adjudicated to meet the exception. Water rights filed after the effective date of the rule will not be considered a pre-existing water court decree which is provided for under the final rule.

## **14. How is the North Fork coal mining area treated in the rule?**

Based on public comment and wildlife values, the Currant Creek CRA (9,000 acres) was not added to the North Fork coal mining area. For the Final Rule, there are 19,100 acres where temporary roads may be allowed, mostly to facilitate underground coal mining activities, including methane venting for miner safety. The roads will not be open to the public and are expected to be in place three to five years; after which they will be decommissioned to restore the landscape following use. Of the 19,100 acres in the North Fork coal mining area, 4,000 have existing coal leases.

**15. How will Henderson Mine be treated in regards to the rule?**

The Henderson Mine remains an economically viable mine in Colorado, providing the locatable mineral Molybdenum. Under the General Mining Law of 1872 the United States has a possessory right to locatable minerals. Mineral exploration, location and development at Henderson Mine and other mining operations are protected under the 1872 mining law and would not be subject to the restriction of the final Colorado Roadless Rule, or any National Roadless Rule. Mine expansion and other activities are subject to provisions of the National Environmental Policy Act (NEPA) and would require a site-specific analysis.

**16. What about future oil and gas leases?**

Like the 2001 Rule, the Colorado Roadless Rule does not allow road construction for oil and gas leases issued after promulgation. Any oil or gas lease issued within a CRA after the promulgation of the Colorado Roadless Rule will include stipulations that prohibit road construction and reconstruction. Leasing without road construction or reconstruction may be allowed, and leases will require a mandatory no-waiver stipulation prohibiting road construction. In addition, on upper tier acreage, No Surface Occupancy (NSO) stipulations will be required for all future oil and gas leases. The Rule identifies regulatory requirements for any LCZ associated with such leases and LCZs are prohibited for future oil and gas leases in upper tier acres. Eight conditions would be established to be considered during analysis of surface use plans of operation for both existing and future leases in CRAs.

**17. Why were ski areas removed from Colorado roadless areas?**

The Rule removes 8,300 acres associated with 10 existing ski area permits (6,000 acres) and ski area development allocations (1,700 acres) within forest plans from CRAs. The State requested that the Forest Service take this action to better balance the social and economic importance of ski areas with the need to conserve 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 would require a site-specific NEPA process.

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

The Rule supersedes forest plan direction within Colorado Roadless Areas. Forest plan direction that further restricts road construction or tree cutting would be followed. The rulemaking process does not require amendments or revisions to forest plans.

## **19. 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, and 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.